



2021 IJC Forum Reducing Overrepresentation and Closing the Gap Justice Targets

On 16 June, the [Indigenous Justice Clearinghouse](#) (IJC) brought together 175 policy makers, program designers, practitioners, researchers, and community organisations to lead a forum discussion around overrepresentation and Closing the Gap justice targets.

The forum provided practitioners in the Indigenous justice field with quality, accessible information about 'what works' to try and reduce overrepresentation and improve community safety. The forum provided a platform for Indigenous voices to be embedded into literature and research, so that policymakers, educator's and health practitioners can learn to create environments that better suit the needs of our Indigenous people.

Attendees discussed innovative initiatives which will help shape our response to Closing the Gap targets. You can access the stream here - [Direct Stream Replay](#) and view the highly engaging graphically recorded [snapshot here](#)

National Agreement on Closing the Gap

National Indigenous Australians Agency and Coalition of Aboriginal Peaks

- The [National Agreement](#) took effect on 27 July 2020.
- For the first time, the Commonwealth, states and territories, local government and the Coalition of Peaks are jointly accountable for the outcomes and targets under the National Agreement.
- The Closing the Gap National Agreement has included justice targets
 - **Target 10:** By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent.
 - **Target 11:** By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent.
- This is a unique agreement developed and negotiated with Aboriginal and Torres Strait Islander people as represented by the Coalition of Peaks. It was developed in genuine partnership between the Commonwealth, the Coalition of Peaks, State and Territory governments and the Australian Local Government Association.
- The [Coalition of Peaks](#) formed in 2019. It now includes more than 50 community-controlled organisations. It came together to change the way Australian governments work with Aboriginal and Torres Strait Islander people, organisations and communities on Closing the Gap.
- Through consultation led by the Coalition of Peaks came the four Priority Reforms including the National Agreement:
 - Formal partnerships and shared decision making
 - Building the community-controlled sector
 - Transforming government organisations
 - Shared access to data and information at a regional level

- There are also 17 targets however, negotiations are underway to include Community infrastructure and inland waters.
- Implementation phase - All parties will develop implementations plans for release in mid-2021. The plans will provide an increased level of transparency and accountability and will be reported on annually. This process will be bolstered three yearly review conducted by the Productivity Commission, followed by an Indigenous-led review.
- The implementation of the agreement is monitored by the Joint Council which includes equal representation between government and Coalition of Peaks representatives.

The Partnership working group of Senior officials currently meet monthly, with a working group of officials meeting more regularly still to progress the delivery of specific commitments under the National Agreement.

- The first data dashboard reporting on targets was released on 23rd June 2021 by the Productivity Commission. The disaggregation of the data will continue to become more granular providing a richer picture of outcomes and individual experiences. There will also be an Annual data compilation report.
- The Priority Reforms have targeted actions to progress. Priority Reform one – by 2022, the Joint Council will establish a joined up policy approach to five priority areas, including on justice.
- Recognising the urgent and enduring nature of the justice issue, at its meeting on 16 April 2021 the Joint Council agreed to accelerate the establishment of a justice policy partnership. Joint Council will be considering the terms and scope of this partnership when they next meet, and if agreed the justice policy partnership will meet for the first time in August 2021.

Northern Territory Aboriginal Justice Draft Agreement Aboriginal Justice Unit Northern Territory Department of the Attorney General and Justice

- This is the first [Northern Territory Aboriginal Justice Agreement](#). It is in its final stages and is progressing through Government.
- The Agreement's content was captured by conducting a total of 160 consultations over three years including 120 visits to communities, meetings with Aboriginal organisations and workshops with key experts that all contributed to an evidence process.
- A second document, '[The Pathways to the Northern Territory Aboriginal Justice Agreement](#)' showcases the narratives from community consults and validates these with statistics, and other evidence. It establishes the rationale for implementing an Aboriginal Justice Agreement
- The Agreement is a partnership between Aboriginal Territorians and the Northern Territory Government holding all parties accountable. The Agreement reflects the unique demographic and geographic features of the Northern Territory which are fed into the commitments, alongside and supported by a robust governance, monitoring and evaluation framework.
- The three aims of the Agreement are:
 - To reduce offending and imprisonment of Aboriginal Territorians
 - Engage and support Aboriginal leadership
 - Improve justice responses and services for Aboriginal Territorians

- In the Northern Territory, 85% of the adult prison population and almost 100% of youth in detention are Aboriginal.
- Feedback from on-ground consultations and submissions from those consulted or from the 51 submissions received all contributed to the development of the final 13 commitments. Broadly the commitments: address systemic racism; provide platforms that promote and restore Aboriginal leadership; highlight the importance of Aboriginal role models and mentors; enable Aboriginal people access and use of services no matter where they reside and establish Law and Justice groups and Community Courts. The Agreement recognises the need for stronger leadership and change in values and behaviours; ownership and accountability and lack of platforms for Aboriginal people to raise and tackle safety or cultural concerns about their communities or regional centres.
- The consultations and data align with the National Closing the Gap Framework and other strategies inside and outside of government in the Northern Territory.
- It is anticipated the first Northern Territory Aboriginal Justice Agreement will be launched in the coming months.

Justice Reform: Reducing Avoidable Remand

Aboriginal Justice Transformation Unit, Department of Justice Western Australia

- The Justice Planning and Reform Committee (JPRC) was established in July 2017 to drive a whole of justice sector reform program to increase community safety, reduce Aboriginal imprisonment and overrepresentation and provide value for money.
- The cross-agency Justice Reform project team representing DPC, Courts and Corrective Services, WA Police and Communities and Treasury was established in March 2018 where evidence-based initiatives were developed for consideration to support the intended reforms.
- In March 2019 Government approved funding of four Justice Reform initiatives: Expanding electronic monitoring; Increasing Appropriate Access to Parole; Reducing Avoidable Remand and Increasing Sentencing Flexibility. Rigorous governance process was established to ensure buy-in, and that the projects achieved intended outcomes.
- The Reducing Avoidable Remand Project commenced a four-year funding (2020 – 2023) proposal on 6 April 2020. Offering services delivered by Aboriginal Legal Services WA (ALSWA) and Legal Aid WA by providing eligible clients earlier access to bail through two elements of the project: Prison In-reach Legal Service and a Bail Support Service. This operates in Perth for clients who are appearing in the Perth Magistrates Court and a Bail Support Service (BSS). This operates in Perth for clients who are appearing in the Perth Magistrates Court and a BSS also operates in Broome for clients appearing at Broome or Derby Magistrates Court.
- The aim of the pilot project is to reduce the number of people remanded in custody, allowing a reduction in the remand population and subsequently reduce Aboriginal incarceration rates.
Of the 7,998 remand receptions in 2016-17:
 - 41% of the people remanded with bail already set were Aboriginal. These people remained in custody for 20 days on average
 - 46% of the people received into prison with no bail set but who were subsequently released on bail were Aboriginal, equating to an average daily population of 265 prisoners.
 - 24% of remand receptions that were denied bail outright were ultimately sentenced to a fine or a Community Based Order.
- The cost per year to keep an offender in custody in 2017-18 was estimated at \$108,000, with receptions at Hakea (remand centre) costing \$217 each day a person is remanded in custody (DOJ July 2020)

- The social costs relating to avoidable remand, particularly for Aboriginal people, are profound and they include, but are not limited to:
 - Disruption to the person's work, family and community responsibilities
 - Disconnection/interruption to a person's social connections with family, friends, community and others
 - Potential for the person to gain criminal relationships and associated skills in prison.

Early Outcomes as at 31 January 2021

- Aboriginal Legal Service WA received 184 referrals to the metropolitan BSS and 28 referrals to the Kimberley BSS and made 229 bail applications/variations or case resolutions.
- Legal Aid WA assisted 372 persons through the BSS and made 551 bail applications/variations or case resolutions.

Project Evaluation

- The four Justice Reform initiatives include funding for evaluation, to be undertaken by the Western Australian office of Crime Statistics and Research (WACSAR)
- Evaluation will inform decision makers if initiatives are effective in achieving objectives; whether they should be continued, expanded or ceased. It will measure achievements towards key strategies, including Closing the Gap outcomes, along with contributing to a future review of sentencing legislation to consider more flexible sentencing options.

Reducing Aboriginal over-representation in the justice system

Department of Justice and Community Safety Victoria, Commissioner for Children and Young People

- The [Victorian Aboriginal Justice Agreement](#) (AJA) is the longest running, continuous Justice Agreement of its kind in Australia.
- In 2012, Victoria adopted targets to eliminate Aboriginal over-representation in the youth and adult justice systems by 2031.
- Victoria's targets are broad, covering both community-based and custodial involvement in the justice system, as this aligns with the broad-based, holistic approach taken under the AJA.
- The Government-Aboriginal community partnership under the AJA has operated for over 20 years and resulted in many significant initiatives including Koori Courts (in the Children's, Magistrates' and County Courts), liaison roles in Police, Youth Justice, Corrections, and Sheriffs. Community based prevention and early intervention and diversion responses for young people and adults.
- The Attorney General, Minister for Corrections, Minister for Police, and Minister for Aboriginal Affairs are all signatories to the AJA as are all members of the Aboriginal Justice Caucus.
- Caucus includes elected Chairpersons from nine Regional Aboriginal Justice Advisory Committees (RAJACs), and senior Aboriginal representatives from Aboriginal community organisations, and justice programs www.aboriginaljustice.vic.gov.au/aboriginal-justice-caucus

The Government – Aboriginal community partnership structures that support the Aboriginal Justice Agreement operate at local (Local Aboriginal Justice Action Committee); regional (Regional Aboriginal Justice Advisory Committee) and State-wide (Aboriginal Justice Caucus, Aboriginal Justice Forum) levels.

- *Burra Lotjpa Dungaludja* (which means ‘Senior Leaders Talking Strong’ in Yorta Yorta language) is the fourth phase of the AJA (AJA4) launched in August 2018 www.aboriginaljustice.vic.gov.au/the-agreement
- It reflects Aboriginal community aspirations for greater self-determination and significant structural and system changes, and seeks to progress self-determination towards a justice system which values, promotes and requires greater involvement of Aboriginal communities in decision-making, policy and program design and delivery.
- More than \$85 million dollars has been invested in AJA4 across the 2018/2019, 2020/2021 and 2021/2022 State Budgets. This includes \$22.8 million for Aboriginal youth justice initiatives.
- In Victoria, we are on track to close the gap by 2031, but recognise the path ahead is challenging and we need to sustain and build on current efforts.
- There has been a 46% reduction in the rate (per 1,000 population) of Aboriginal young people (10-17 years) under youth justice supervision on an average day over 10 years to 2019-20.
- While over-representation remains, it has decreased by 27 per cent since 2015-16.

The Our Youth Our Way Report

Koori Youth Justice Taskforce

- The Koori Youth Justice Taskforce was established in 2018 as an initiative of the Aboriginal Justice Agreement. It involved an audit of 296 case files of Aboriginal young people involved in youth justice between Oct 2018 – March 2019.
- Taskforce findings are documented in Our Youth, Our Way Report which includes 75 recommendations related to ten key themes: Self-determination; Just and age-appropriate system; A child centred system; Family, community and culture; A safe and caring home; Wellbeing; Education and learning; Entering the youth justice system; Pathways out of the youth justice system and Safe custody.
- Some recommendations include:
 - Empower Aboriginal communities to control parts of the youth justice system
 - Raise the age of criminal responsibility
 - Therapeutic, home-like accommodation for bail and as alternatives to remand and custody
 - Amendments to the Bail Act
 - Community led prevention, early intervention and justice reinvestment
 - Healing centres and youth hubs
 - A peak body for Aboriginal youth sector workers and organisations.

Aboriginal Women’s Commonwealth funded programs

Department of Communities and Justice NSW

- Corrective Services received funding in 2018 under Commonwealth Indigenous Advancement strategy and support commitments made by the NSW Government under the Council of Australian Governments Prison to work action plan. Funding was provided to the following programs:
- **Gundanha Aboriginal Women’s employment program** – \$1,815,000 mil

Gundanha means 'shelter' - a dedicated employment and training facility where women can work 'on the tools' on site and then complete their two days education modules, and criminogenic programs such as EQUIPS.

- **Employment and training hub** – \$865,000

The program provides employment training for Aboriginal women by offering vocational training in hospitality and construction.

- **Caring and working – Aboriginal Mothers work readiness pilot program-** \$955,000

The program is run by Aboriginal women in partnership with local services to support women post release. It provides Aboriginal mothers with tailored support through programs, employment, and skills development ensuring the women have access to Aboriginal Elders and Aboriginal communities. It provides a culturally safe places for both women and children and offers practical parenting skills including a vital Elders program giving mothers an opportunity to model positive parenting. It offers trauma and loss support delivered by Strong Aboriginal Women and ensure service providers are trained in culturally informed practice ensuring supports are provided through an Aboriginal lens.

- Successes include:

- Five participants gaining cert II in hospitality
- 20 participants completed 40 hours in the Pathways to the Future program
- Two gardens have been built with education pathways with 10 participants engaged
- 15 participants have completed ASPOT cultural programs
- 14 completed the Cultural Strengthening Identity Program

- UTS are undertaking evaluation of Employment and Training Hub and Caring and Working Aboriginal Mother's work readiness program, which will include a gap analysis of each program and other outcomes.

- **Time to Work Employment service** is a National employment 'in-prison' service linking women in preparation for employment three months prior to their release from custody. There are co-located FACS workers at every prison across the state which assist women to understand their orders post release and helps to reconnect women with their children.

Te Pae Oranga: Iwi Community Panels

Māori Pacific and Ethnic Services (MPES), New Zealand Police

- [Te Pae Oranga](#) means *to talk, to listen and to become well*
- The Indigenous people of Aotearoa New Zealand comprise of 15% of the general population and 51% of the prison population.
- The current importuned justice models focus on punishment rather than prevention and rehabilitation does not work for Māori or reflect New Zealand cultural context, leaving cultural competency at a low. Individuals, whanau, and communities feel unsupported and disempowered. This called for transformational change and better use of funding to address the underlying cause of crime. The need for prevention expenditure allowing Māori led solutions using a health, welfare, wellbeing approach acknowledging tradition and values to decolonise the system and create a preventative approach.

- Common law authority allowed for Police to work with a restorative justice practices to enable non court resolutions. They were given access to work with Māori service providers and Iwi service providers to create partnerships and offer an alternative to prosecution before the courts.
- The Te Pae Oranga model utilises the ‘prevention first’ and the ‘Turning of the tides’ Indigenous Strategy, together with Iwi and Māori people to build relationships and bring together the different perspectives enabling a co-centred approach.
- In 2013-2016 three panels were set up in south Auckland enabling a graduated response to low level offending. The panels are a proven successful circuit breaker and help change behaviours
- Public Interest test - Police have three options under New Zealand Law – release, warn or prosecute.
- Te Pae Oranga provides a report back mechanism on the outcome of the process to make an appropriate decision avoiding prosecution.

Te Pae Oranga Eligibility Criteria: Not a “soft option” What works for Māori, works for everyone!

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| <ul style="list-style-type: none"> • are aged 18 years or older • Have admitted responsibility for the offence • There is sufficient evidence to prosecute | <ul style="list-style-type: none"> • The offence carries a maximum sentence of less than six months • The offence is not related to family violence |
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Potential to expand to high level offence via the referral process

- Delivered by Māori community organisations in partnership with Police
- Panel of respected iwi and community leaders hold people to account for low level offending. It leverages existing iwi/Māori community infrastructure to provide an alternative to prosecution. It assists to put right the harm and create pathways to support, training, and employment
- Effective for people of all ages, genders, and ethnicities, to reduce harm from reoffending and support victims and whanau. Victims are encouraged to attend and participate.
- Extensive Evaluation space providing a mixed methods approach – quantitative and qualitative data – data and lived experience that tell the story.
 - Participant committed 22.5% less harm from reoffending than comparison group
 - 74% of participants who completed Te Pae Oranga in 2017/18 did not re-offend in the following 12mths
 - There were 3000 referrals in 2018-19 with 47% being Māori and 53% non- Māori
 - Fewer participants were reconvicted for new offences, they committed less harm toward the community, had fewer convictions overall, and abstained from offending for longer periods.
- Iwi Māori service providers and Police, shifting from a punitive to restorative mindset, worked to ensure 8,858 participants were referred to Te Pae Oranga from October 2017 to March 2021, as opposed to prosecuted at court.
- Te Pae Oranga Budget 2021
 - \$70m over 4 years & out-years
 - 12 new Adult TPO – (30 in total) 9 new Rangatahi – (12 in total)
 - 35 FTE over 4 years includes 24 TPO Liaison Officers Process Improvements Enhanced monitoring & reporting

Summary produced by the Indigenous Justice Clearinghouse.

Please contact ijc@justice.nsw.gov.au or visit www.indigenousjustice.nsw.gov.au for more information.