



Aboriginal Justice Agreement

AJAC
Aboriginal Justice Advisory Council

The Hon Bob Debus
NSW Attorney General

Introduction

One of the most significant challenges facing the criminal justice system in NSW is in providing effective and appropriate services to Aboriginal people and to Aboriginal communities. The rate at which Aboriginal people come into contact with the criminal justice system is massively disproportionate to their population within the NSW community.

Currently Aboriginal people comprise approximately 1.7% of the NSW population, however Aboriginal people constitute approximately 19% of the adult prisoners in NSW gaols and approximately 40% of juveniles in detention.

Not only are Aboriginal people over represented as offenders in the criminal process but the rate at which Aboriginal people are victims of crime is also of serious concern. During 1999 Aboriginal people were the victims in 9% of all common assaults and 14% of all assaults occasioning grievous bodily harm. The need to examine new ways to meet the needs of Aboriginal communities in the criminal justice system is real and critical.

In addressing this profound problem the Attorney General and the Aboriginal Justice Advisory Council are adopting an innovative approach. An approach that can place the criminal justice system within a holistic framework, one which encourages innovation and is empowering, one that respects Aboriginal people and has confidence that Aboriginal people can develop their own solutions to their own problems and concerns. We must acknowledge that the most successful programs and initiatives are those that are developed, owned and implemented by local Aboriginal communities in response to local concerns.

The Justice Agreement

The Aboriginal Justice Agreement gives formal recognition to the real and honest partnership between the Attorney General and the Aboriginal Justice Advisory Council in working to reduce Aboriginal peoples involvement in the criminal justice system; improve community safety for Aboriginal people; and lead the development of the New South Wales Aboriginal Justice Plan. The overall aims of the Aboriginal Justice Agreement are:

1. To improve Aboriginal access to justice.
2. To improve the quality and relevance of justice that Aboriginal people receive.
3. To provide a framework for ongoing partnership between the Aboriginal Justice Advisory Council and the Attorney General in addressing justice issues.
4. To allow Aboriginal people to take a leadership role and make key decisions in solving their own justice concerns.

To achieve this end the Aboriginal Justice Agreement will comprise two basic elements, the set of principles to guide policy-making and interaction with Aboriginal people and the set of actions to put those principles into practice.

The Aboriginal Justice Agreement marks the completion of the first phase in the development of the New South Wales Aboriginal Justice Plan. Work carried out under the terms of the Agreement will culminate in a whole of Government, whole of community Aboriginal Justice Plan consistent with the resolutions of the Ministerial Summit into Aboriginal Deaths in Custody. The Justice Plan will be completed and implemented in 2003.

Key Principles

The NSW Attorney General and the Aboriginal Justice Advisory Council are fundamentally committed to providing a fair and workable justice system for Aboriginal people. To achieve this we will adopt a set of key principles to underpin the development of policy and initiatives to address the justice needs of Aboriginal people in NSW. These key principles are:

1. Accepting that Aboriginal people know their own problems and issues and that Aboriginal people are best situated to solve those problems.
2. Actively encouraging and supporting local Aboriginal community innovation which aim to address justice problems and concerns.
3. Recognising and respecting the significant cultural diversity in the NSW Aboriginal community and that each Aboriginal community has its own distinct problems and needs.
4. Acknowledging that crime in Aboriginal communities has a deep set of underlying causes and that we share responsibility in addressing these causes.

Actions

1. Achieving ongoing policy and structural change

The causes of Aboriginal over representation in the NSW criminal justice system are profound and complex. Effectively addressing the problems experienced by Aboriginal people in the justice system will require long term commitment and the engagement of a broad number of government agencies and Aboriginal communities.

New South Wales Aboriginal Justice Plan

The Royal Commission into Aboriginal Deaths in Custody identified a range of key structural reforms that need to occur to provide an effective and realistic justice system for Aboriginal people. Since the Royal Commission handed down its final reports a range of other issues have arisen which also demand attention.

The Aboriginal Justice Plan will provide a comprehensive whole of government framework for action in addressing the justice needs of Aboriginal people in NSW as well as providing an overall framework for government and Aboriginal communities to work cooperatively to reduce Aboriginal incarceration and develop safer communities.

The development of the Plan will require a conceptual change in the development of initiatives and policy aimed at meeting the justice needs of Aboriginal communities. The Plan will focus on achieving outcomes negotiated between government and Aboriginal communities, establishing forums and mechanisms for greater government cooperation and resource sharing at regional and local level, and, most importantly, developing ways to empower Aboriginal communities within the criminal justice system and to develop local solutions to local problems. The Plan will focus on justice system services but will also identify the underlying causes of Aboriginal over representation and require a whole of government effort to redress those causes.

The Aboriginal Justice Plan is a significant commitment to addressing the over representation of Aboriginal people within the justice system and will provide an ongoing framework for continued innovation and development.

Aboriginal Impact Statements in Justice Proposals

To ensure that the justice needs of Aboriginal people, and the current levels of representation of Aboriginal people in the criminal justice system are reflected in ongoing policy making, all legislative and cabinet proposals developed by the Attorney General will contain an assessment of their impact on Aboriginal people.

These Aboriginal Impact Statements will assess the potential impact on the overall level of Aboriginal contact with the criminal justice system and specifically address rates of Aboriginal arrest, imprisonment, social disadvantage, Aboriginal victims needs and community well-being.

Aboriginal Client Service Specialists

The Aboriginal Client Service Specialist Program is designed to improve service delivery to Aboriginal people through Local Courts. Aboriginal Client Specialists provide direct support, assistance and case management to Aboriginal defendants, victims of crime, witnesses and their families who attend the Local Court.

Aboriginal Client Specialists liaise extensively with Aboriginal communities and with other justice and community based agencies in their local area to ensure that Aboriginal court users are aware of their options and are able to access services that are effectively coordinated.

Specialists provide valuable advice and community feedback to the Court so that processes and procedures can be restructured to meet the needs of Aboriginal clients. Since the establishment of the Aboriginal Client Specialist Program, Specialists have responded to Aboriginal community concerns by developing strategies aimed at improving services and programs addressing those concerns.

The Attorney General and the Aboriginal Justice Advisory Council are committed to the continued expansion of the Aboriginal Client Service Specialist Program. Given the success of the program, it has already been expanded to employ thirteen Specialists across twelve locations. The Program will continue to be extended until Aboriginal Client Specialists are employed in every Local Court that serves a significant number of Aboriginal clients.

2. Working in partnership with Aboriginal people

It is recognised that Aboriginal people must be at the forefront of change and innovation within the NSW Criminal Justice System. To that end the Attorney General will have adopted specific measures to enhance Aboriginal involvement in policy making and to place Aboriginal people in a position to influence real and ongoing change within the criminal justice process at both a senior government level and within local Aboriginal communities.

NSW Aboriginal Justice Advisory Council

The NSW government recognises the Aboriginal Justice Advisory Council as the key independent community based advisory body to government on the justice concerns of Aboriginal people.

The make up and scope of the Council has been broadened so that it can directly consider the justice concerns of Aboriginal communities through a range of Aboriginal community representatives. The Council will also draw on the specific knowledge and expertise of Aboriginal people with specific skill in law and human and social services.

The Council will further strengthen its voice by providing for the specific input of young Aboriginal people. The council has a youth representative and will develop an AJAC Youth Network comprised of young Aboriginal people from across NSW in order to facilitate their concerns on criminal justice issues.

Local Aboriginal Community Justice Forums

At a local level we will host a number of Aboriginal community justice forums. The forums will provide a mechanism for local Aboriginal communities to come together to explore their own local justice concerns and to work together to develop local plans that can meet their justice needs.

These local Aboriginal community justice forums will provide a direct voice for Aboriginal communities in solving their own problems and will provide a framework for local communities and regional government service providers and agencies to work cooperatively to improve the justice system, and reduce Aboriginal contact with that system.

3. Encouraging and supporting Aboriginal community justice

Engaging local Aboriginal communities in the operations of the criminal justice system has significant potential to increase the level of confidence in the administration of justice, to provide more effective and appropriate outcomes from the justice system, to reduce offending and repeat offending in Aboriginal communities. Local Aboriginal justice mechanisms can also ensure that Aboriginal victims of crime have an avenue to address their problems and that Aboriginal communities are able to take an active role in solving their own problems.

Aboriginal Community Justice Groups

Community justice groups are representative groups of local Aboriginal people that come together to examine the crime and offending problems in their communities and develop ways to solve those problems. Community justice groups also work with different elements in the criminal justice system to make sure they work better for the people in their communities. Community Justice Groups work on the idea that local Aboriginal people know their own communities and problems better than anyone else and that more and more Aboriginal people want to become involved in solving those problems. They also work on the idea that local community problems are best solved by local community developed solutions.

Community Justice Groups deal with a large number of local issues in cooperation with police, courts, probation service, juvenile justice as well as developing crime prevention programs and activities.

Not only can community justice groups engage with the criminal justice system to make it work better, but they can also play a crucial role in reducing crime.

Community justice groups will do a number of things.

- Work with police to issue cautions
- Establish diversionary options
- Support Offenders when they are arrested
- Work with courts to help people get bail
- Providing advice to courts on defendants
- Manage court orders
- Develop local crime prevention initiatives

Circle Sentencing

Circle Sentencing takes the sentencing court to a community setting where community members and the Magistrate sit in a circle to discuss the offence and the offender. The circle will also talk about the background and effects of the offence and to develop a sentence that's best for that offender. Circle sentencing will involve victims of offences as well as offender's families and other respected community people.

The process involves offenders applying to a court to have their matter dealt with by circle sentencing after pleading guilty or being found guilty by the court. An offender would need to demonstrate that they have support from members of the local Aboriginal community in their application. If their application is successful a circle court will be convened and the matter dealt with, an unsuccessful application would be returned to the court for sentencing in the regular way.

Circle sentencing will complement existing diversionary schemes and provide a further sentencing format for NSW magistrates. It will allow greater Aboriginal involvement in the criminal justice process, particularly at the community level and aim to increase Aboriginal satisfaction with the operations of the criminal justice system.

Circle Sentencing aims to:

- Establish a sentencing format which allows for Aboriginal community involvement
- Establish a sentencing format which allows for Aboriginal community control
- Empower Aboriginal communities in the sentencing process
- Increase Aboriginal community confidence in the sentencing process
- Reduce barriers between Aboriginal communities and courts
- Provide more appropriate sentencing options for Aboriginal offenders
- Provide effective support to Aboriginal defendants when completing sentences
- Provide support to Aboriginal victims of crime
- Reduce offending in Aboriginal communities

4. Encouraging local Aboriginal community innovation

It is fundamentally recognised in this agreement that Aboriginal people know their own problems and issues and that Aboriginal people are best situated to solve those problems. To assist this some resources are being committed to encourage and develop local Aboriginal community innovations that actively address the causes of juvenile crime and act to strengthen the communities where those crimes occur.

Koori Youth Crime Prevention Grants

This Grants Program was established in late 2000 when funding was distributed to 16 projects across the State. The grants were awarded to projects that reduce or prevent the involvement of young Aboriginal people in unlawful or anti-social behaviour and/or reduce the number of young Aboriginal people entering the criminal justice system.

Project examples range from the Cummeragunja 'Finding Yourself' program that has assisted at risk young people to complete their education and gain permanent jobs; to the Namatjira "Go Karts" project that has dramatically reduced car theft by involving young people in building and racing 'Go Karts' under the supervision of the local Sporting Association.

The Koori youth crime prevention grants are being offered again in 2002 and will continue to support Aboriginal community innovation in working with young people.

Aboriginal Community Patrols

In 1998 four Aboriginal Night Patrols and a Night Patrol Evaluation project were funded by the Attorney General's Crime Prevention Division. Under this project volunteer patrols, operated by local Aboriginal people, pick up "young people at risk" from public places and transport them home or to some other safe place. An evaluation of the project by the University of Sydney Koori Centre in February 2000 found that night patrols can achieve a reduction in the involvement of young people in anti-social behaviour and crimes such as malicious damage, street offences and vehicle theft.

In some locations volunteers found the Patrol also proved to be effective in enhancing community safety and minimising harm associated with consumption of alcohol and other drugs. Night Patrol buses have also been used for other community

strengthening purposes such as transporting children to school and sporting events and generally increasing access to a range of services for young people. They have since been renamed Aboriginal Community Patrols to more accurately reflect their multiple roles.

Given the success of the Patrols the project is being expanded across the state, with eight new Patrols announced in February 2002 and several more under development.

Culture Camps

Three very different culture camp models are currently being funded and evaluated in order to assist with identifying good practice. These camps involve the cooperative efforts of Land Councils, Aboriginal Corporations, Youth Services, the National Parks and Wildlife Service, the Department of Juvenile Justice and the Attorney General's Department. The implementation of all three camps will be documented for the benefit of other communities interested in establishing youth camp programs to strengthen the resilience of Aboriginal young people.

Community Managed "Outstation" Facilities

A number of Aboriginal communities have for some time been actively exploring ways in which they can prevent their young people coming into contact with the justice system. One idea that has been consistently raised by several communities is the establishment of facilities for young people to receive drug and alcohol treatment as well as cultural and vocational education.

These facilities emphasise ongoing cultural education for participants and provide a positive, strengthening environment where Aboriginal young people can have their immediate problems addressed and the enriching aspects of their cultural heritage reinforced. The facilities will be owned and operated by local Aboriginal communities and will provide those communities with a real opportunity to take control of their own local issues.

Broad support has been given to establishing a number of these outstation facilities in regional areas for those Aboriginal young people at risk of drug abuse and crime. Work will commence on these facilities in 2003 following a process of government and community negotiation.

Signatories to the Aboriginal Justice Agreement

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