



Western Australian Aboriginal Justice Agreement

A partnership between
Justice-related State Government Agencies
and the
Aboriginal and Torres Strait Islander Commission

March 2004



Australian Government
Aboriginal and Torres Strait Islander Services



Department of Justice
Government of Western Australia



Department for Community Development
Government of Western Australia



Department of Indigenous Affairs
Government of Western Australia



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Foreword

The Western Australian Aboriginal Justice Agreement is a significant justice initiative for Aboriginal people in Western Australia developed under the *Statement of Commitment to a New and Just Relationship*. The Agreement is jointly developed by the Department of Justice, Department for Community Development, Department of Indigenous Affairs, Western Australia Police Service, the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Services and the Aboriginal Legal Service of Western Australia for improving justice-related outcomes for Aboriginal people in Western Australia.

A sustained commitment from government and the Aboriginal and Torres Strait Islander Commission to work in partnership with Aboriginal people and their communities is crucial in achieving the three justice outcomes contained in the Agreement for Aboriginal people in Western Australia, namely:

- Safe and sustainable communities;
- Reduction in the number of victims of crime; and
- Reduction of over-representation of Aboriginal people in the criminal justice system.

In addition, the Agreement recognises the importance of a joined up collaborative approach for government agencies to work together through joint planning and decision-making at the State, regional and local levels to improve justice outcomes for Aboriginal people.

The principles contained in the Western Australian Aboriginal Justice Agreement will guide the relationship between government and Aboriginal people. The five strategic focus areas, namely, community safety, security and well-being; individual and family well-being; criminal justice system; programs and service delivery; and public sector reform and resource flexibility, identified in the Agreement will enable the development of strategic actions for implementation in the State, regional and local Aboriginal justice plans.

We commend the Western Australian Aboriginal Justice Agreement as a genuine commitment by both the government and the Aboriginal and Torres Strait Islander Commission to work in partnership with Aboriginal people to improve justice-related outcomes for Aboriginal people and their communities. We look forward to the implementation of the Western Australian Aboriginal Justice Agreement in delivering justice outcomes for Aboriginal citizens in Western Australia.



Hon Michelle H Roberts
Minister for Police and Emergency Services;
Justice; Community Safety



Mr Brian Champion
Acting Chairperson, ATSIC WA State Council

Executive Summary

The Western Australian Aboriginal Justice Agreement (Agreement) is a partnership framework jointly developed between the Western Australian justice-related portfolio agencies (Department of Justice, Department of Indigenous Affairs, Department for Community Development and the Western Australia Police Service), the Aboriginal and Torres Strait Islander Commission (ATSIC), the Aboriginal and Torres Strait Islander Services (ATSIS) and the Aboriginal Legal Service of Western Australia (ALSWA).

The *Statement of Commitment to a New and Just Relationship* provides for a partnership framework that will incorporate and be informed by a series of agreements including a justice agreement. This Agreement has been developed in the context of a number of Western Australian and Commonwealth Government commitments, policies and initiatives and is consistent with the principles contained in them.

The aim of the Agreement is to provide a framework for improving justice-related outcomes for Aboriginal people including:

- Establishing safe, secure and just communities;
- Increasing the capacity of government and Aboriginal people to work in partnership;
- Ensuring government meets its obligation to provide equitable access to justice-related services across the State;
- Reducing contact with the justice system; and
- Lowering the incarceration rate of Aboriginal people.

The Agreement contains a set of principles that underpin the relationship between government and Aboriginal people and will guide the development of policies, programs and services for Aboriginal people.

The Agreement commits ATSIC and the Government to work in partnership with Aboriginal people to achieve the following three outcomes:

- Safe and sustainable communities;
- Reduction in the number of victims of crime; and
- Reduction of the over-representation of Aboriginal people in the criminal justice system.

The Agreement establishes the following five strategic focus areas that will enable the development of a set of strategic actions for implementation in the Western Australian Aboriginal Justice Implementation Plan:

- Community safety, security and well-being;
- Individual and family well-being;
- Criminal justice system;
- Programs and service delivery; and
- Public sector reform and resource flexibility.

The Agreement contains a framework for monitoring and reporting, and the negotiation of State, regional and local plans.

Contents

Foreword	.....	i
Executive Summary	.....	ii
Contents	.....	1
1. Introduction	.....	2
1.1 Background	.....	2
1.2 Linkages to government commitments and initiatives	.....	3
1.3 Development of the Agreement	.....	4
1.4 Scope of the Agreement	.....	5
1.5 Elements of the Aboriginal Justice Agreement	.....	5
2. Aim	.....	6
3. Principles	.....	7
4. Outcomes	.....	8
4.1 Safe and sustainable communities	.....	8
4.2 Reduction in the number of victims of crime	.....	8
4.3 Reduction in the over-representation of Aboriginal people in the criminal justice system	..	9
5. Strategic Focus Areas	.....	10
5.1 Community safety, security and well-being	.....	10
5.2 Individual and family well-being	.....	11
5.3 Criminal justice system	.....	11
5.4 Programs and service delivery	.....	12
5.5 Public sector reform and resource flexibility	.....	12
6. Monitoring and Reporting	.....	13
7. Future Directions	.....	14
8. Duration of the Agreement	.....	15
9. Signatories to the Agreement	.....	16
Appendix 1	Policy context of the Aboriginal Justice Agreement	17
Appendix 2	Terms of Reference	19
Appendix 3	Key stakeholders consulted	21
Glossary	.....	22
References	.....	24

1. Introduction

The Western Australian Aboriginal Justice Agreement (Agreement) is a partnership framework jointly developed by the Department of Justice (DOJ), the Department of Indigenous Affairs (DIA), the Department for Community Development (DCD), the Western Australia Police Service (WAPS), the Aboriginal and Torres Strait Islander Commission (ATSIC), the Aboriginal and Torres Strait Islander Services (ATSIS) and the Aboriginal Legal Service of Western Australia (ALSWA). The Agreement will enable justice-related State Government agencies to work collaboratively and in partnership with Aboriginal people* to ensure that they experience the same justice outcomes as other Western Australian citizens by: developing safer and sustainable communities; reducing the number of victims of crime; and reducing over-representation of Aboriginal people in the criminal justice system.

The Agreement is designed to establish an active and sustained commitment by all parties towards achieving improved justice and justice-related outcomes for Aboriginal people and their communities (metropolitan, regional and remote). The Agreement is broad in its approach to enable flexibility in its application across all justice-related sectors that provide policy, programs and services for Aboriginal people.

The term 'partnership' used in this Agreement refers to a relationship between government and Aboriginal people built on mutual respect and commitment in which both parties agree to work together sharing responsibilities, decision-making, risks and benefits for the achievement of specific goals. The Agreement recognises that partnership may take different forms in different locations or situations.

1.1 Background

Western Australia has the highest rate of Aboriginal imprisonment in Australia followed by New South Wales and the Northern Territory (ABS, 2003). In Western Australia, the rate at which Aboriginal people come into contact with the criminal justice system is grossly disproportionate to their population within the State. Currently, Aboriginal people comprise 3 per cent of the Western Australian population (with approximately 43 per cent living in the metropolitan and Great Southern Region). However, Aboriginal people constitute approximately 35 per cent of the total adult prison population and approximately 73 per cent of youth in detention, including supervised bail (Department of Justice, 2003).

* The term 'Aboriginal people' used in this Agreement refers to Aboriginal and Torres Strait Islander people, where appropriate.

The rate at which Aboriginal people are victims of crime is also alarming. Aboriginal people are five times more likely to be victims of crime than non-Aboriginal people, with a rate of 55.2 violent offences per 1,000 Aboriginal people compared with a rate of 11.5 offences per 1,000 non-Aboriginal people (Ferrante, A. and Loh, N. 2003).

Given the highly disproportionate rate of Aboriginal over-representation both as victims and offenders in the criminal justice system, government and Aboriginal communities are faced with the challenge of developing innovative ways to address these issues. In addition, issues that have resulted in Aboriginal disadvantage such as social and economic disadvantage, direct, indirect or systemic racism and discrimination, effects of past government policies of protection, assimilation and integration need to be addressed. Furthermore, the poor socio-economic conditions of Aboriginal people including limited opportunities for education, training, employment, poor health, poor housing, poverty, domestic violence, and alcohol and drug abuse contribute to the over-representation of Aboriginal people in the criminal justice system.

A coordinated approach, which empowers and supports Aboriginal people to identify solutions to their problems, needs to be developed in partnership with government agencies and Aboriginal people. This will require a paradigm shift in the relationship between Aboriginal people and government at all phases of planning, policy and service delivery.

1.2 Linkages to government commitments and initiatives

This Agreement has been developed in the context of a number of Western Australian and Commonwealth Government commitments, policies and initiatives and is consistent with the principles contained in them (Appendix 1). The Agreement also establishes links to the following key government commitments and initiatives and is consistent with the principles contained in them.

The *Statement of Commitment to a New and Just Relationship (2001)* provides for a partnership framework that will incorporate and be informed by a series of agreements in the health, housing, essential services, native title, justice and other issues that impact on Aboriginal people in Western Australia. The Western Australian Aboriginal Justice Agreement provides a State-wide framework for improving justice outcomes for Aboriginal people and for joint planning and decision-making at the State, regional and local levels. In addition, the Agreement recognises the importance of the existing bilateral agreements on health and housing in addressing some of the underlying issues affecting justice outcomes. The framework endorsed by this Agreement is also consistent with the State strategy being developed for Aboriginal Economic Development.

The Agreement supports the principles contained in *Putting People First – The Western Australian State Government’s Action Plan for Addressing Family Violence and Child Abuse in Aboriginal Communities (2002)* which aims to develop collaborative relationships with the Aboriginal community to address social justice issues, particularly those related to child sexual abuse and family violence. The Agreement also recognises the regional engagement model developed in response to the Gordon Inquiry as the basis for negotiation of regional and local justice planning.

The Agreement is also consistent with the State Government’s commitment to the following key principles contained in the *Machinery of Government Taskforce Report (2001)*: inclusiveness; engaging the community; building the capacity of individuals, families and communities; and collaboration and coordination. The regional planning process is consistent with the framework of this Agreement (draft *Regional Planning as a Way Forward, unpublished*).

The Agreement is informed by the *Royal Commission into Aboriginal Deaths in Custody (1991)*, the *Ministerial Summit into Aboriginal Deaths in Custody (1997)* and *Bringing Them Home (1997)* reports.

The Agreement is aligned to the *Council of Australian Government (COAG) Reconciliation Framework (2000)* particularly in relation to *Overcoming Indigenous Disadvantage: Key Indicators (2003)*.

1.3 Development of the Agreement

The Agreement was developed in partnership with the Aboriginal and Torres Strait Islander Commission (ATSIC), the Aboriginal and Torres Strait Islander Services (ATSIS) together with the Aboriginal Legal Service of Western Australia (ALSWA) and the following Western Australian justice-related portfolio agencies:

- Department of Indigenous Affairs (DIA);
- Department for Community Development (DCD);
- Department of Justice (DOJ); and
- Western Australia Police Service (WAPS).

The Terms of Reference endorsed by the Indigenous Affairs Advisory Council (IAAC) is contained in Appendix 2. A working group consisting of representatives from the justice-related portfolio agencies, ATSIC, ATSIS and ALSWA was involved in drafting the Agreement. Key stakeholder workshops attended by representatives from Aboriginal communities across the State, ATSIC and government agencies informed the development of the Agreement (Appendix 3). A wider consultation process has been proposed to progress the Agreement.

1.4 Scope of the Agreement

The Agreement is developed in partnership with justice-related agencies, ATSIC, ATSIIS and ALSWA and is focussed on justice-related outcomes for Aboriginal people and their communities. The Agreement recognises that there are a number of areas outside the criminal justice system that have direct and indirect influence on the contact of Aboriginal people with the criminal justice system. In order to achieve tangible results for Aboriginal people and their communities, action must be directed more broadly than the criminal justice system. The *Statement of Commitment to a New and Just Relationship (2001)* provides for separate agreements in health, housing, essential services, native title, justice and other issues that impact on Aboriginal people in Western Australia. These agreements are expected to address significant underlying issues related to the over-representation of Aboriginal people in the criminal justice system.

1.5 Elements of the Agreement

The Agreement contains the following elements:

- Aim;
- Principles;
- Outcomes;
- Strategic focus areas;
- Monitoring and reporting;
- Future directions;
- Duration of the Agreement; and
- Signatories to the Agreement.

2. Aim

The aim of the Agreement is to provide a framework for improving justice-related outcomes for Aboriginal people including:

- Establishing safe, secure and just communities;
- Increasing the capacity of government and Aboriginal people to work in partnership;
- Ensuring government meets its obligation to provide equitable access to justice-related services across the State;
- Reducing contact with the justice system; and
- Lowering the incarceration rate of Aboriginal people.

The above aim will be supported by:

- Providing a means of increasing Aboriginal communities' capacity to determine their own justice outcomes;
- Defining and committing to processes that ensure Aboriginal people are partners in policy development, planning, provision and monitoring of justice-related programs and services that impact on them;
- Ensuring a State-wide structure that supports cross-agency cooperation and coordination of policy development, planning, provision and monitoring of justice-related programs and services that impact on Aboriginal people; and
- Developing short, medium and long-term benchmarks and other accountability mechanisms (including the COAG benchmarks).

3. Principles

Recognising the uniqueness and diversity of Aboriginal culture, societies and histories, key principles have been developed to address the justice needs of Aboriginal people in Western Australia. These principles reflect the intent and principles contained in the *Statement of Commitment to a New and Just Relationship (2001)*. The following principles will underpin the relationship between government and Aboriginal people and will guide the development of policies, programs and services for Aboriginal people.

- Aboriginal people are entitled to live in safe communities;
- Aboriginal people are entitled to exercise the same rights and experience equivalent justice outcomes as other Australians including the principles of natural justice and procedural fairness;
- Women and young people are involved in broadly based inclusive processes for regional and local planning; and
- Full partnership between government (Commonwealth, State and Local) and Aboriginal people at all stages of planning, service delivery and monitoring to enable negotiated outcomes.

4. Outcomes

4.1 Safe and sustainable communities

The Agreement commits both ATSIC and government to work in partnership with Aboriginal people to create safe and sustainable communities.

The elements of this outcome include:

- Greater sense of community, family and individual well-being;
- Increased capacity of communities to enable full participation in partnership arrangements;
- Communities making enforceable decisions on justice issues;
- Reduced level of crime and anti-social behaviour;
- Improvement of the safety of vulnerable people in the community including women, children and the elderly;
- Wider access to policing services which empower communities;
- Increased reporting of criminal offences; and
- Better protection for victims and their families who report crime.

4.2 Reduction in the number of victims of crime

The Agreement commits both ATSIC and government to work in partnership with Aboriginal people to reduce the number of victims of crime.

The elements of this outcome include:

- Availability of appropriate early intervention and prevention mechanisms;
- Enhanced re-integration processes for offenders;
- Establishment of restorative justice mechanisms;
- Equality of protection for both Aboriginal and non-Aboriginal people through appropriate responses to crime;
- Access to increased support services for victims; and
- Empowering victims to speak out without fear of retribution.

4.3 Reduction of over-representation of Aboriginal people in the criminal justice system

The Agreement commits both ATSIC and government to work in partnership with Aboriginal people to reduce the over-representation of Aboriginal people in the criminal justice system.

The elements of this outcome include:

- Targeting resources for the development of early intervention, prevention and diversionary programs;
- Reduced number of people, particularly children, entering the justice system;
- Increased use of alternative dispute resolution methods;
- Imprisonment recognised as the sanction of last resort as a matter of practice;
- Improved opportunities for input from Aboriginal people into sentencing options;
- Enhanced Aboriginal leadership in the criminal justice system; and
- Developing an evidence base specific to Aboriginal people to ensure the effectiveness of penalties used.

5. Strategic Focus Areas

The Agreement establishes five strategic focus areas to provide a way forward for justice-related government agencies and ATSIC to work together in partnership with Aboriginal people. Complementary strategies are being developed by other government agencies in partnership with Aboriginal people to strengthen the confidence, governance, health, education, essential services, infrastructure, and economic sustainability of communities. The strategic areas of focus identified in this Agreement will enable the development of a range of priority strategic actions for the implementation of the Western Australian Aboriginal Justice Implementation Plan.

The five strategic areas of focus are explained below:

5.1 Community safety, security and well-being

Eliminating conditions that lead to crime is an important aspect of improving safety outcomes for Aboriginal people. A fundamental shift in the way government currently works with Aboriginal communities is required to develop mutually beneficial partnerships to improve justice outcomes for Aboriginal people. It is recognised that the improvement of community safety, security and well-being requires a broad approach that includes government and non-government agencies; and private sector organisations. Strengthening Aboriginal governance and increasing community participation in the development of policy, programs, service delivery, monitoring and review is also required. This strategic area will focus action on:

- Governance;
- Access to adequate policing and justice services;
- Whole of community involvement in reducing crime;
- Improving community well-being;
- Building on community capacity; and
- Targeting crime prevention strategies.

5.2 Individual and family well-being

Creating strong and resilient individuals and families by strengthening individuals at risk and those in contact with the criminal justice system is an important area of focus. The provision of effective support and coping mechanisms is important for reducing involvement of Aboriginal people with the criminal justice system. Aboriginal children, young people and women are disproportionately represented as victims of crime including child abuse, sexual assault, and family and domestic violence. This strategic area will focus action on:

- Family violence and child abuse;
- Cultural security for Aboriginal people and communities;
- Alcohol, substance abuse and gambling;
- Broad range of community and government support mechanisms for children, young people and families;
- Economic development and security for individuals and family units; and
- Contribution to improved health, housing, education and employment.

5.3 Criminal justice system

Aboriginal people are grossly over-represented at all points of contact with the criminal justice system (except in regard to staffing and access to victim services wherein they are grossly under-represented). A major change in the relationship between Aboriginal communities and all levels of the justice system must take place to achieve better justice outcomes for Aboriginal people. A key element in the change in relationship is the empowering of Aboriginal people and communities to positively participate in the justice system. This will enable the criminal justice system to become more responsive to the values and cultural practices of Aboriginal people. This strategic area will focus action on:

- Early intervention strategies for young people;
- Targeting intervention strategies for first offenders;
- Developing new service delivery models for police and justice services;
- Aboriginal customary law;
- Participation of Aboriginal people in the administration of justice;
- Local Aboriginal community justice mechanisms;
- Alternative dispute resolution mechanisms;
- Broader range of sentencing options;
- Safety and security of individuals in custody;
- Education, training and rehabilitation programs;
- Access to information on justice-related services including complaints procedures; and
- Aboriginal input into the review and reform of justice-related legislation and policies.

5.4 Programs and service delivery

Effective coordination and strategic whole of government approaches are essential for improving justice-related outcomes. It is essential that partnership with the community is developed to ensure approaches are designed, developed, resourced, delivered and monitored in ways which are effective and which reinforce cultural security. This strategic area will focus action on:

- Services planned in partnership with the community and delivered in a coordinated way without unnecessary duplication;
- Optimising opportunities and increasing the capacity for community delivered services;
- Service design and delivery to be evidence based;
- Negotiated indicators and benchmarks for service outcomes;
- Inclusion of economic, employment, education, housing and health indicators in service planning and monitoring;
- Better allocation of resources to develop appropriate intervention, prevention and diversionary programs; and
- Information sharing and joint case management by government and community agencies.

5.5 Public sector reform and resource flexibility

The Agreement acknowledges the failure of existing resourcing arrangements to adequately respond to community needs and commits to flexible resourcing arrangements based on partnership agreements with communities. A mechanism that enables flexible resource and service agreements needs to be developed with Aboriginal communities in order to strengthen Aboriginal families and communities to improve justice outcomes. This will require building the capacity of government through shared understanding, shared vision and shared commitment to sustainable change. This strategic area will focus action on:

- Public sector training to achieve cultural and attitudinal shifts within government in line with implementing government's response to the Gordon Inquiry;
- Integrating the Agreement with other State strategies and community initiatives;
- Capacity across government to fund and allocate resources around agreed priority community needs and principles;
- Regional and local plans within justice agreements setting out service agreements, partnership processes and 'joined up' planning and service delivery;
- Regional and local managers to be given capacity, fiscal responsibility and authority to enter into agreements in partnership with the community;
- Stable and secure funding and resourcing arrangements;
- Resources allocated to community development and engagement; and
- Ongoing review and reform of justice-related legislation and policies.

6. Monitoring and Reporting

This Agreement commits to the monitoring and reporting of the following justice-related areas:

- Commissioning of independent statistical reporting on Aboriginal justice outcomes in community safety, victimisation, offending rates, custody and court outcomes;
- Monitoring and reporting on the commitments in and outcomes of the Agreement;
- Monitoring and reporting on progress on an agreed range of specific justice-related recommendations of the *Royal Commission into Aboriginal Deaths in Custody (1991)*; and
- The Government's response to the Gordon Inquiry.

This Agreement commits to reporting annually to Parliament through the IAAC and the Cabinet Standing Committee on Social Policy.

7. Future Directions

The Agreement was initiated by the IAAC under the *Statement of Commitment to a New and Just Relationship (2001)*. It will be driven by a partnership between the Human Services Directors General Group and ATSIC.

At the State level, this partnership will negotiate specific actions in the strategic focus areas to meet identified outcomes. These actions will form an agreed Western Australian Aboriginal Justice Implementation Plan.

Under the Regional Planning Framework agreed between ATSIC and the Government, regional Aboriginal justice plans will be negotiated in the context of the existing regional engagement planning and agreement making processes. These regional justice plans would be informed by community driven and negotiated local justice plans. The Western Australian Aboriginal justice planning framework is illustrated in Figure 1.

It is recognised that the engagement process will require Government to provide resources to enable Aboriginal representatives and communities to participate as partners in the planning process. Monitoring, reporting and evaluation will be included in the planning frameworks.



Figure 1: Western Australian Aboriginal Justice Planning Framework

8. Duration of the Agreement

This Agreement is for a period of five years from the date of signing.

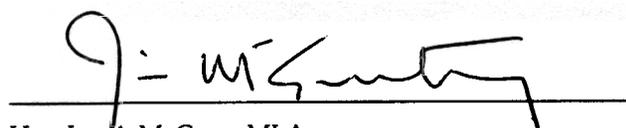
9. Signatories to the Agreement

The signatories to the Agreement are:



Hon Michelle H Roberts MLA

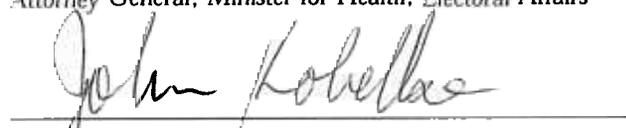
Date 31-3-04



Hon Jim A McGinty MLA

Attorney General; Minister for Health; Electoral Affairs

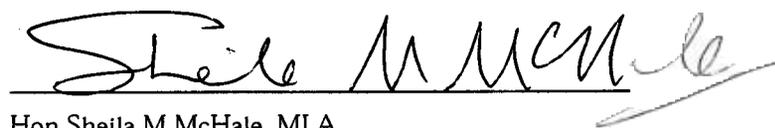
Date 31.3.04



Hon John C Kobelke MLA

Minister for Indigenous Affairs; Consumer and Employment Protection;
Minister Assisting the Minister for Public Sector Management

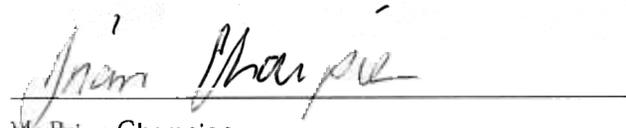
Date 31-3-04



Hon Sheila M McHale, MLA

Minister for Community Development; Women's Interests; Seniors and Youth;
Disability Services; Culture and the Arts

Date 31/3/04



Mr Brian Champion

Acting Chairperson, Aboriginal and Torres Strait Islander Commission,
Western Australia State Council

Date 31 MARCH 04'



Ms Colleen Hayward

Acting Manager, Aboriginal and Torres Strait Islander Services, Western Australia

Date 31/3/04



Mr Ronald 'Doc' Reynolds

President, Aboriginal Legal Service of Western Australia

Date 31st March 04

Appendix 1

Policy context of the Aboriginal Justice Agreement

The Agreement has been developed in the context of the following Western Australian and Commonwealth Government commitments, policies and initiatives and is consistent with the principles contained in them.

- ***Statement of Commitment to a New and Just Relationship (2001)*** is an agreement between the Government of Western Australia and Aboriginal people in Western Australia to work together in partnership to build a new and just relationship. The Statement contains a set of principles and a process for parties to negotiate a State-wide framework to facilitate agreements at the local and regional levels. The partnership framework seeks to establish separate agreements in justice, health, housing, essential services, native title and other issues that impact on Aboriginal people in Western Australia.
- ***Royal Commission into Aboriginal Deaths in Custody (RCIADIC) (1992)*** is a comprehensive report of Aboriginal law and justice issues and contains underlying issues which bring Aboriginal people into contact with the criminal justice system. The findings of RCIADIC indicate that over-representation of Aboriginal people in the custody of police, prisons and juvenile detention centres contributed to the high number of Aboriginal deaths in custody. Furthermore, the existence of widespread disadvantage and discrimination in the treatment of Aboriginal people in contemporary Australian society were noted as factors that lead to over-representation in the criminal justice system.
- ***Ministerial Summit into Aboriginal Deaths in Custody (1997)*** - Commonwealth, State and Territory Ministers for justice, policing, correctional services and Indigenous affairs met with representatives of Indigenous communities to examine issues in relation to the implementation of RCIADIC. They resolved *'to address the over-representation of Indigenous people in the criminal justice system, Ministers agreed, in partnership with Indigenous peoples to develop strategic plans for the coordination of Commonwealth, State and Territory funding and service delivery for Indigenous programs and services, including working towards the development of multilateral agreements between Commonwealth, State and Territory Governments and Indigenous peoples and organisations to further develop and deliver programs.'*
- ***Putting People First – The Western Australian State Government's Action Plan for Addressing Family Violence and Child Abuse in Aboriginal Communities (2002)*** is the Western Australian Government's response to the Gordon Inquiry Report and an agreement to develop collaborative relationships with the Aboriginal community to address social justice issues, particularly those related to child sexual abuse and family violence.

- **Council of Australian Government (COAG) Reconciliation Framework (2000)** is an agreement for the Commonwealth and the State and Territory Governments to work constructively towards a shared vision for economic and social development of Aboriginal people and their communities. The reconciliation plan contains three priority areas for government action: investing in community leadership and governance initiatives; reviewing and re-engineering programs and services; and forging greater links between the business sector and Indigenous communities to promote economic independence.
- **Overcoming Indigenous Disadvantage: Key Indicators (2003)** - In April 2002, COAG agreed to produce a regular report against key indicators of Indigenous disadvantage to determine the impact of program and policy interventions. The following three priority outcomes were identified: safe, healthy and supportive family environments with strong communities and cultural identity; positive child development and the prevention of violence, crime and self-harm; and improved wealth creation and economic sustainability for individuals, families and communities.
- **Western Australian COAG Trial (2002)** is one of ten pilot national trials identified under the COAG commitment. The COAG trials have been set up to trial government agencies working together and in partnership with Aboriginal communities. The purpose of the COAG trials as expressed in the Indigenous Affairs Advisory Committee Communiqué of 7 June 2002 is to ‘.. agree on key issues for a collaborative approach to improve economic and social outcomes for Indigenous people in Western Australia.’
- **Aboriginal Justice Agreements** – Victoria, Queensland and New South Wales have developed Aboriginal Justice Agreements. The Victorian Aboriginal Justice Agreement (2000) aims to reduce Indigenous over-representation in the criminal justice system by improving accessibility, utilisation and effectiveness of justice-related programs and services. The Queensland Aboriginal and Torres Strait Islander Justice Agreement (2001), a plank in a whole of government approach, aims to reduce the number of Aboriginal and Torres Strait Islander people incarcerated by 50 per cent by 2011. The New South Wales Aboriginal Justice Agreement (2002) aims to improve Aboriginal access to justice; the quality and relevance of justice that Aboriginal people receive; provide a framework for ongoing partnership between the Aboriginal Justice Advisory Council and the Attorney General in addressing justice issues; and to allow Aboriginal people to take a leadership role and make key decisions in solving their justice concerns.

Appendix 2

Terms of Reference

Purposes of the Proposed Western Australian Aboriginal Justice Agreement

The primary purposes of the Aboriginal Western Australian Justice Agreement (Agreement) are:

1. To define and commit to processes that ensure Aboriginal people are involved in policy development, planning, provision and monitoring of justice-related programs and services that impact on them.
2. To develop a State-wide structure that supports cross-agency cooperation and coordination of policy development, planning, provision and monitoring of justice-related programs and services which impact on Aboriginal people.
3. To improve justice-related outcomes for Aboriginal people including provision of safe, secure and just communities; reduced contact with the justice system; and lowering the incarceration rate of Aboriginal people.
4. Develop short, medium and long-term benchmarks (consistent with, but not limited to the COAG benchmarks) and other accountability mechanisms.

The Agreement will cover justice-related administration and services including policing, courts, prisons, juvenile justice, community-based initiatives and community development, as well as addressing underlying issues.

Developing the Agreement

The Working Group will manage the preparation of a consultation draft of a proposed Aboriginal Justice Agreement to be considered by the Indigenous Affairs Advisory Committee (IAAC) in November 2003.

In developing the Agreement, the Working Group will:

1. Develop a set of principles to underpin the development of policy, planning, provision and monitoring of justice-related programs and services which impact upon Aboriginal people.
2. Develop a strategic planning and program delivery framework aimed at reducing Aboriginal people contact with the justice system and providing for safer communities. The Framework must incorporate and add value to existing policy, planning, program delivery and monitoring structures and processes, where appropriate.

3. Ensure appropriate key linkages between the proposed Agreement and other key areas of Aboriginal policy development and strategies of Government for achieving justice-related outcomes.
4. Recommend a process for implementing the Aboriginal Justice Agreement (the 'Western Australian Aboriginal Justice Implementation Plan').
5. Recommend a process for monitoring and reporting on the implementation of the Aboriginal Justice Agreement to be incorporated into the Western Australian Aboriginal Justice Implementation Plan.

Project References

The Aboriginal Justice Agreement will be consistent with the *Statement of Commitment to a New and Just Relationship (2001)* between the Government of Western Australia and Aboriginal Western Australians and the *Council of Australian Governments' Reconciliation Framework (2000)*. In undertaking this project the following reports shall be taken into account, but will not be limited to:

- *Royal Commission Into Aboriginal Deaths In Custody Report (1991)*;
- *Bringing Them Home Report (1997)*;
- *Putting the Picture Together – Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (2002)*;
- *Putting People First – The Western Australian State Government's Action Plan for Addressing Family and Child Abuse in Aboriginal Communities (2002)*;
- *Human Rights and Equal Opportunity Commission Reports on Law and Justice Issues*;
- *Australian Law Reform Commission Report on Customary Law (and developments in WA)*;
- *Victorian, Queensland and New South Wales Aboriginal Justice Agreements*;
- *Western Australian Aboriginal Justice Plan (2000)*;
- *Family Violence Policy Statement (2003)*; and
- *Regional Planning as a Way Forward (unpublished)*.

Appendix 3

Key Stakeholders Consulted

- Department of Justice
- Department of Health
- Aboriginal and Torres Strait Islander Commission
- Aboriginal and Torres Strait Islander Services
- Department for Community Development
- Office of Crime Prevention
- Aboriginal Legal Service of Western Australia
- Department of Indigenous Affairs
- Department of the Premier and Cabinet
- Department of Education and Training
- Office of the Inspector of Custodial Services
- Western Australia Police Service

Glossary

Capacity building - *“The knowledge, ability and commitment for individuals, families, groups and organisations to: maintain their cultural identity; interact confidently and effectively with the dominant Australian society; identify goals; determine strategies to achieve their goals; and work effectively with government and the private sector to access the resources necessary to implement those strategies”* (Capacity Building Forum convened by the Ministerial Council on Aboriginal and Torres Strait Islander Affairs, 2002).

Capacity building *“is the ability to recognise, utilise and develop and supplement existing resources to address key problems. It involves the development and maintenance of partnerships, transfer of knowledge, problem solving and the investment in social, human and capital investment. A capacity building approach focuses on assets and strengthens rather than deficits or needs”* (Queensland Crime Prevention Strategy, 2002).

Cultural security - *“is the maintenance and protection of cultural identity. ... is the next step in strengthening community leadership, for attitudinal and behavioural change in mainstream society and within the Aboriginal community”* (Western Australian Aboriginal Health Strategy, 2000).

Community - *“Community may mean the residents of a certain geographically defined place, or it may imply a community of interests. Community implies a diversity of attitudes, interests and cultural values, cohesion and shared identity, the development of norms and networks that enable groups and individuals to cooperate for mutual benefit and the possession of local knowledge”* (Queensland Crime Prevention Strategy, 2002).

Governance - *“The processes, structures and institutions (formal and informal) through which a group, community or society: makes decisions; distributes and exercises authority and power; determines strategic goals; organises corporate, group and individual behaviours; and develops rules and assigns responsibility”* (Northern Territory Indigenous Governance Conference, 2003).

Aboriginal governance - *Governance processes and the development of Aboriginal community capacity are essential for achieving meaningful change. Governance does not abrogate the responsibility of mainstream service providers to delivering a normalised level of service to Aboriginal communities.*

Justice - *“ is about consistency, quality, access and the thread of equality that pulls us together. Justice must be transparent and always be viewed as a right and not a privilege. Justice is based on respect for other people, no matter what their circumstance and a sense of fairness.”* (Queensland Aboriginal and Torres Strait Islander Justice Agreement, 2001).

Partnership – *is a relationship between government and Aboriginal people built on mutual respect and commitment in which both parties agree to work together sharing responsibilities, decision-making, risks and benefits for the achievement of specific goals.*

Restorative justice – *“ is the corrections model that emphasises restitution for harms committed and brings the needs of victims into focus” (Van Ness, D. and Strong, K. 1997).*

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