

**Aboriginal Justice Caucus Submission on Improving the Response of the Justice System to Sexual Offences to the Victorian Law Reform Commission**

The Aboriginal Justice Caucus (AJC) is a self-determining body that works in partnership with the Victorian Government to improve Aboriginal justice outcomes, family and community safety, and reduce over-representation in the criminal justice system. Its members are the Chairs of the Regional Aboriginal Justice Advisory Committees, Aboriginal community leaders, and representatives from Aboriginal peak bodies and Aboriginal Community Controlled Organisations. The AJC are signatories to *Burra Lotjpa Dungaludja* (Aboriginal Justice Agreement phase 4).

The AJC is a conduit between the Aboriginal community and justice system in order to provide leadership, advocacy and spur change to address the drivers of offending, and to amend policy and systemic reform within the criminal justice system.

February 2021



**Aboriginal  
Justice Caucus**

The Aboriginal Justice Caucus acknowledge the Traditional Custodians and their connection to the land and waters throughout Australia. We pay respects to Elders past, present and emerging.

Note on terminology: The word *Aboriginal* is the preferred terminology used in Victoria and is used throughout this document. The AJC recognise the right of various language groups to identify specific language nations and groups, however for the purpose of this document the word Aboriginal will be used and includes reference to Torres Strait Islander people.

This report will use the terms **accused/perpetrator/offender** and **victim/survivor**: The AJC acknowledge that using the term victim does not diminish the strength of people who experience sexual offences.

Content Warning: This submission contains sensitive Information throughout the document around sexual trauma, sexual assault, rape, and childhood sexual abuse.

The Aboriginal Justice Caucus (AJC) hope that the Victorian Law Reform Commission (VLRC) will be able to use the following broad recommendations to develop the Commission's own recommendations on how the justice system can better respond to sexual offences, and ultimately also help reduce sexual offending.

The AJC have identified the following;

1. Sexual harm is considerably underreported by Aboriginal women, children, and men – the nondisclosure or lack of reporting of sexual harms is influenced by social, historical and cultural factors, systemic racism, and a distrust of the justice system ingrained from colonisation and the harm that institutions have caused to Aboriginal people, families and communities.
2. The AJC endorse establishing independent specialist sexual assault service with separate cohorts for women, children and men. Such a service must be adequately resourced to provide discrete, holistic, culturally safe assistance to those who have experienced sexual harm.
3. It is estimated that the majority of Aboriginal women who are incarcerated are the victim/survivor of sexual assault. Additionally, Aboriginal women are the fastest growing prison population a concern for the AJC. These issues are a priority focus of the AJC.
4. A long-term priority for the AJC is a residential diversion program for Aboriginal women similar to Wulgunggo Ngalu Learning Place. An Aboriginal designed and operated residential program would provide opportunities for Aboriginal women involved in the justice system to reconnect with, or further strengthen, their culture and participate in programs to help address their physical, spiritual, social and emotional wellbeing.
5. Wrap around, trauma informed service provision for victims of sexual harm are essential for the social and emotional wellbeing and healing of Aboriginal people, their families and communities. Access to these services ought to be provided to Aboriginal people in custody, including youth justice facilities.
6. A priority area of work which requires immediate attention is building capacity for both the Aboriginal Community Controlled Sector and the mainstream sector to provide culturally safe, responsive and effective services and supports for Aboriginal victims of sexual violence.
7. There is evidence that Aboriginal people charged with crimes are likely to have been untreated victims of crime before offending themselves. Any justice system responses will further entrench issues that have led to the overrepresentation of Aboriginal people in the justice system. Early intervention and prevention are critically important to enhancing social and emotional wellbeing and other protective factors. These areas require greater resourcing, particularly across Aboriginal communities.
8. For Aboriginal people, social and emotional wellbeing encompasses all aspects of life. Providing young Aboriginal people with safe spaces in which they can be engaged and

empowered to speak up is important to build their self-esteem and to nurture cultural connections.

9. The strength and resilience of Aboriginal people, families and communities is challenged by complex problems, including historical and ongoing dispossession, unresolved grief and trauma, marginalisation, racism, past policies of forced removal and cultural assimilation. The criminal justice system is a place of trauma and mistrust for many Aboriginal people.
10. Self-determination is the key strategy to generate sustainable and systemic change to benefit the cultural, physical, spiritual, economic, social and emotional wellbeing for Aboriginal people, families and communities.
11. Alternative justice responses to sexual offending need to be designed, delivered and evaluated by a specialised Aboriginal organisation, guided in development by the AJC, which holds expertise in this area. Programs and services must also be developed in consultation with the local Aboriginal community. When Elders, community members and other local Aboriginal organisations are engaged in consultative and development processes the most important needs of the community can be identified and the most appropriate methods of implementation can be identified.
12. There is evidence to support Restorative Justice processes can be effective in responding to sexual offending. However, design, development and implementation of these justice responses will take time, and must be community led. Responses must be aligned with Aboriginal Community values, victim-centred and responsive to the community in which it is developed.