

# National Indigenous Law and Justice Framework 2009-2015

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Prepared by the Standing Committee of Attorneys-General Working Group on Indigenous Justice

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## Purpose

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The National Indigenous Law and Justice Framework is a national approach to addressing the serious and complex issues that mark the interaction between Aboriginal people and Torres Strait Islanders and the justice systems in Australia.

The strategies and actions in the Framework are intended to be flexible rather than prescriptive to enable implementation that is responsive to local needs and consistent with jurisdictional priorities and resource capacity.

The Framework is intended to support the COAG agenda to Close the Gap in Indigenous disadvantage, particularly in relation to community safety and will be instrumental in achieving COAG objectives.

The Framework provides an opportunity for governments, non-government and community organisations, and Aboriginal and Torres Strait Islander peoples to build on existing partnerships and agreements to identify and develop the most appropriate response to law and justice issues adversely affecting Aboriginal people and Torres Strait Islanders.

## Vision

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The National Indigenous Law and Justice Framework aims to eliminate Indigenous disadvantage in law and justice.

All Australian governments, Aboriginal and Torres Strait Islander peoples and relevant stakeholders work together as partners to close the gap in law and justice outcomes between Indigenous and non-Indigenous Australians. All partners embrace the values of reconciliation, trust and goodwill, with an ongoing commitment to innovative and sustainable approaches.

**All governments should take ownership  
of the Framework and jointly undertake  
to truly cooperate on the development  
of a long term response  
to Aboriginal disadvantage.**

Law Council of Australia

# Introduction

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## PURPOSE

The National Indigenous Law and Justice Framework (the Framework) has been developed by the Standing Committee of Attorneys-General (SCAG) as a national approach to addressing the serious and complex issues that mark the interaction between Aboriginal and Torres Strait Islander peoples and the justice systems in Australia. The Framework seeks to build a sustainable whole of government and community partnership approach to law and justice issues to reduce the evident levels of disadvantage that are directly related to adverse contact with the justice systems.

The Framework does not set out to prescribe strategies or actions to be adopted by governments or service providers. Rather it articulates an agreed 'good practice' approach, based on available evidence, that provides government agencies and service providers with a framework from which to identify the most appropriate responses to specific issues at the local, regional, state or territory level. The Framework draws on existing State and Territory instruments such as Aboriginal and Torres Strait Islander justice agreements.

SCAG is also considering some multi-jurisdictional project and research work under the Framework. This will serve to model a collaborative approach on law and justice issues and build the evidence base. The Commonwealth has announced funding for use in evaluating existing initiatives that respond to issues highlighted in the Framework and are considered promising practice. These evaluations will give greater knowledge and understanding to underpin improved law and justice outcomes for Indigenous individuals, families and communities throughout Australia.

Indigenous Australians are not only more likely to be imprisoned than non-Indigenous Australians, both adults and youth, but they are also more likely to be victims of crime, including violent crime. For instance, Indigenous Australians are hospitalised for assault at 17 times the rate of non-Indigenous Australians, and 13 times more likely than non-Indigenous persons to be in prison. At any one time, Indigenous young people represent half of the youth detention population.

These statistics paint a dismal picture. However by building relationships based on respect, commitment and responsibility, as well as a preparedness to look at and implement innovative and sound responses, these outcomes can be improved. Indeed without significant and

sustained improvements in law and justice outcomes for Indigenous people, particularly family and community safety, it is difficult to see how improvements in the other 'closing the gap' targets can be achieved or maintained.

## COAG

There are clear links between the Framework and the work being undertaken by the Commonwealth and State and Territory Governments through the Council of Australian Governments (COAG) to 'close the gap' between Indigenous and non-Indigenous Australians in relation to key life outcomes, particularly life expectancy, child mortality, education, health and employment. COAG has identified a number of 'building blocks' that are critical to 'closing the gap', with the safe communities building block most significant in the context of the Framework. The COAG Senior Officials Meeting in May 2009 agreed that the safe communities building block would be addressed through three national policy vehicles, including the National Indigenous Law and Justice Framework. The other two are the Time For Action: the National Council's Plan to Reduce Violence against Women and their Children 2009-2021 and the National Framework for Protecting Australia's Children 2009-2020.

SCAG will ensure that the Framework remains consistent with and informs and strengthens relevant reform proposals under COAG. In August 2009, SCAG members agreed to develop justice 'closing the gap' targets which could be utilised in future COAG reforms. The Framework and the justice 'closing the gap' targets could be directly linked to the COAG National Indigenous Reform Agreements (NIRA) and provide a vehicle for more directly addressing the safe communities building block.

## HISTORY

The Framework has its genesis in the National Aboriginal Advisory Committee Justice Summit in November 2003. The Summit recommended that the Commonwealth Government engage with Indigenous communities and other governments to articulate a National Indigenous Justice Framework and work with peak Indigenous organisations and government networks to canvass support for a National Framework.

Since that time there have been a number of public consultation processes. In late 2007 a consultative draft was prepared by the Commonwealth Attorney-General's Department (AGD) and distributed to relevant Commonwealth, State and Territory government departments,

non-government and community sector agencies, the legal fraternity including bar associations and law societies, and research and policy institutions. It was also made available for public comment on the AGD website. Extensive feedback was received with over 70 submissions from the government, community and private sectors.

In August 2008 a revised draft Framework, reflecting the key issues raised in the consultation, was provided by the Commonwealth to the SCAG Working Group on Indigenous Justice (SCAG Working Group), to be developed into a genuinely national approach for consideration and agreement by SCAG members. In May 2009, following extensive revision by the SCAG Working Group, a draft National Indigenous Law and Justice Framework was released for a further three month consultation period. Over 40 submissions were received with strong support for the direction taken in the draft document.

The Framework incorporates the key issues raised in stakeholder feedback. Respondent feedback and academic critique indicate that the inter-dependent and multi-causal nature of Indigenous disadvantage is best tackled through collaborative and integrated strategies. Issues have for too long been 'siloed' by governments at a jurisdictional and national level. The Framework addresses issues of fairness and equity for Indigenous people in their dealings with the justice systems, the challenges of ensuring adequate and responsive service delivery, and the differences in these challenges between regional and remote communities and urban environments.

## VISION

The Framework articulates a vision that Australian governments, Aboriginal and Torres Strait Islander peoples, service providers and other relevant stakeholders can close the gap in law and justice outcomes experienced by Indigenous people. This vision can be achieved through working collaboratively with a commitment to innovative and sustainable approaches, and embracing the values of reconciliation, trust and good will.

There are five inter-related goals, which are to:

1. improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner
2. reduce over-representation of Aboriginal and Torres Strait Islander offenders, defendants and victims in the criminal justice system

3. ensure that Aboriginal and Torres Strait Islander peoples feel safe and are safe within their communities
4. increase safety and reduce offending within Indigenous communities by addressing alcohol and substance abuse, and
5. strengthen Indigenous communities through working in partnership with governments and other stakeholders to achieve sustained improvement in justice and community safety.

Set out under each of these goals are objectives with strategies and actions that could be undertaken by jurisdictions. Information on current good practice initiatives in each of the jurisdictions is included at Appendix A.

## MONITORING AND IMPLEMENTATION

SCAG members have undertaken to implement the Framework in a number of ways. The SCAG Working Group will continue to drive and monitor implementation and report to SCAG annually.

At an overarching level the Framework will be available for all jurisdictions as a guide and reference as they develop and implement initiatives and assess outcomes. The SCAG Working Group will annually identify a particular priority area of the Framework for national analysis and discussion. This will have the effect of showcasing good practice and engaging with stakeholders on the practical applications and areas for improvement, and could take the form of a conference or forum.

The proposed joint evaluations and any other joint initiatives including research will provide additional clarification and evidence to be incorporated into the Framework. These and other learnings from the implementation of the Framework will link to and build on existing information resources such as the National Justice Chief Executive Officers Indigenous Justice Clearinghouse.

The outcomes of all implementation reporting will be fed back into the Framework. Ministerial councils responsible for policing, corrections, drug and alcohol reform and youth justice have also been invited to provide input into the Framework. Its value will be fully realised if it continues to be relevant and responsive – reflecting changing priorities and findings of associated research. It is proposed that a comprehensive review of the Framework be undertaken in 2013-2014.

## Principles

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The principles will form the foundation of successful partnerships between Commonwealth and State and Territory governments and Aboriginal and Torres Strait Islander peoples to realise the vision of the National Indigenous Law and Justice Framework.

Commonwealth and State and Territory governments and other relevant stakeholders agree to the following principles of recognition:

1. the diversity of Indigenous communities and cultures is recognised and respected
2. the negative impact of dispossession, the removal of children from their families and past policies and the need for healing within Indigenous communities is acknowledged
3. Aboriginal and Torres Strait Islander peoples have the right to their individual safety and contribute to the safety of their communities
4. Aboriginal and Torres Strait Islander peoples have the right to live free from victimisation, racism and discrimination
5. Australia is a party to a range of International human rights instruments that have implications for this Framework
6. Aboriginal and Torres Strait Islander peoples have the right to live peaceful, productive and empowered lives, and
7. Aboriginal and Torres Strait Islander peoples have a right to procedural fairness.

Commonwealth and State and Territory governments and other relevant stakeholders agree to the following principles of action:

8. acknowledge the Report of the Royal Commission into Aboriginal Deaths in Custody, particularly its findings on causal and related issues, as a foundation document guiding the work of governments in this area
9. comprehensively respond to factors contributing to violent and criminal behaviour in Indigenous communities in particular mental health issues and the misuse and abuse of alcohol and other substances
10. cooperate through the building of partnerships across jurisdictions and with Aboriginal and Torres Strait Islander peoples in the development, implementation and evaluation of Indigenous justice initiatives
11. exercise leadership and responsibility by committing to cooperative whole of government and across government relationships to develop holistic responses to address the underlying causes of Indigenous crime and victimisation
12. work collaboratively with stakeholders in identifying, agreeing upon and targeting the key issues and promote evidence based approaches and rigorous evaluation of Indigenous justice initiatives, and
13. support and encourage innovation in service delivery across justice and related sectors, and rigorous and transparent governance arrangements, long term commitment, and endeavour to provide sufficient levels of funding and resourcing to implement actions.



## Goals

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- 1** Improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner
- 2** Reduce over-representation of Aboriginal and Torres Strait Islander offenders, defendants and victims in the criminal justice system
- 3** Ensure that Aboriginal and Torres Strait Islander peoples feel safe and are safe within their communities
- 4** Increase safety and reduce offending within Indigenous communities by addressing alcohol and substance abuse
- 5** Strengthen Indigenous communities through working in partnership with governments and other stakeholders to achieve sustained improvements in justice and community safety

Diagram A: Framework Logic and Whole of Government Linkages



1

Improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner

**A justice policy would not be complete unless it also prioritised the removal of discrimination against Indigenous Australians.**

Victorian Legal Aid

**The Framework should emphasise the importance of the participation of Indigenous community members in justice initiatives.**

North Australian Aboriginal Justice Agency

All governments have a responsibility to ensure that Aboriginal and Torres Strait Islander peoples are treated equitably before the law and are protected against discrimination. It is also important that governments ensure that Aboriginal and Torres Strait Islander peoples realise their right to positive participation in the justice system.

Much of the contact between Aboriginal and Torres Strait Islander peoples and Australian justice systems is administered by individuals working in the justice system in a professional and appropriate manner. However, both the system and individual practices can be improved so that the contact Aboriginal and Torres Strait Islander peoples have with the justice system is fair and equitable.

One of the ways governments can begin to eliminate racism where it exists within the justice system is through increased positive participation of Aboriginal and Torres Strait Islander peoples and targeted institutional reform.

Stakeholders must also ensure that Aboriginal and Torres Strait Islander peoples in urban, regional and remote settings have improved access to effective, inclusive, responsive, equitable and efficient justice services. These initiatives must be properly evaluated so that they deliver just outcomes for Aboriginal and Torres Strait Islander peoples.

The Royal Commission into Aboriginal Deaths in Custody identified areas of the justice system where Aboriginal people and Torres Strait Islanders could be more justly treated. Drawing on areas of contemporary relevance from this watershed work will assist in improving law and justice outcomes for Aboriginal and Torres Strait Islander peoples.

## Goal

1

Improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner

## Objective

- 1.1 Eliminate systemic racism where it exists within the justice system
- 1.2 Provide Aboriginal and Torres Strait Islander peoples in urban, regional and remote settings with access to services that are effective, inclusive, responsive, equitable and efficient
- 1.3 Ensure that the findings of RCIADIC continue to guide governments, service providers and communities to address current issues in law and justice for Aboriginal and Torres Strait Islander peoples

1.1 Eliminate systemic racism where it exists within the justice system

Strategy		Action	
1.1.1	Ensure that the justice system respects the culture, wisdom and knowledge of Aboriginal and Torres Strait Islander peoples and actively engage them in the development, implementation and evaluation of policies and programs that impact upon them	1.1.1a	Establish and support local Indigenous law groups to provide advice to police, youth justice, courts and corrections in urban, regional and remote settings
		1.1.1b	Establish and support effective mechanisms at the State and Territory and national levels to provide independent advice to respective governments on law and justice issues affecting Aboriginal and Torres Strait Islander peoples
		1.1.1c	Increase employment and retention of Aboriginal and Torres Strait Islander peoples in justice and justice-related programs, policy management and service delivery
		1.1.1d	Support Indigenous courts to provide a culturally responsive environment for Indigenous court users

1.1 Eliminate systemic racism where it exists within the justice system (continued)

Strategy		Action	
1.1.2	Ensure that procedural fairness exists across the criminal justice system	1.1.2a	Review procedural fairness guidelines in the criminal justice system and identify key issues affecting Aboriginal and Torres Strait Islander peoples for implementation and review
		1.1.2b	Review and, where possible, reform existing legislation and service delivery that appears to adversely impact upon Aboriginal and Torres Strait Islander peoples
		1.1.2c	Scrutinise all proposed legislation to determine potential discriminatory impact on Aboriginal and Torres Strait Islander peoples
		1.1.2d	Provide interpreter and related support services for Aboriginal and Torres Strait Islander peoples where required to address language and cultural barriers to understanding
1.1.3	Eliminate discriminatory attitudes, practices and impacts where they exist within police, youth justice, courts and corrective services and other justice related agencies	1.1.3a	Develop and implement an agreed model to undertake periodic reviews of key justice institutions to assess levels of discriminatory practice and cultural competency
		1.1.3b	Deliver programs to improve attitudes, raise awareness and increase cultural competency about discriminatory practices amongst individuals working in the justice system
		1.1.3c	Review the effectiveness of cultural awareness and competency training across the justice system, including for judicial officers
		1.1.3d	Develop and implement, where none exist, Reconciliation Action Plans in relevant justice agencies and service providers

1.2 Provide Aboriginal and Torres Strait Islander peoples in urban, regional and remote settings with access to services that are effective, inclusive, responsive, equitable and efficient

Strategy		Action	
1.2.1	Provide the services needed to realise sustainable improvements in community safety in urban, regional and remote settings	1.2.1a	Identify good practice, service gaps and duplication in the delivery of justice services in Indigenous communities
		1.2.1b	Deliver necessary justice services in Indigenous communities
		1.2.1c	Develop and implement community action plans in partnership with Aboriginal and Torres Strait Islander people and broader community to realise sustainable improvements in community safety in urban, regional and remote settings
1.2.2	Ensure that service providers engender trust within the Aboriginal and Torres Strait Islander peoples they serve	1.2.2a	Identify and promote good practice to enable mainstream and Indigenous-specific service providers to build and maintain effective working relationships with Aboriginal and Torres Strait Islander peoples
		1.2.2b	Develop and incorporate community feedback mechanisms into service delivery models to enable prompt recognition of emerging justice issues and responsive action
1.2.3	Address the barriers that prevent Aboriginal and Torres Strait Islander peoples from accessing services relevant to civil, criminal, family and child protection law systems	1.2.3a	Identify barriers that prevent Aboriginal and Torres Strait Islander peoples from accessing relevant justice services and develop and implement strategies to address these barriers
		1.2.3b	Increase the capacity of relevant services to provide effective outreach to Aboriginal and Torres Strait Islander peoples
		1.2.3c	Improve cultural competency in mainstream justice-related service providers in urban, regional and remote settings
		1.2.3d	Review case-management and implement integrated service delivery models to support Indigenous clients with complex and inter-dependent issues
		1.2.3e	Develop and implement strategies to address victims' possible fear of retribution from perpetrators and other community members when accessing victim services
		1.2.3f	Improve provision of law and justice related information to Aboriginal and Torres Strait Islander peoples
		1.2.3g	Improve logistical support to increase access to justice services
		1.2.3h	Identify and implement protocols to maximise coordination amongst government and service providers

1.2 Provide Aboriginal and Torres Strait Islander peoples in urban, regional and remote settings with access to services that are effective, inclusive, responsive, equitable and efficient (continued)

Strategy		Action	
1.2.4	Ensure that the design of Indigenous justice programs and initiatives includes an evaluation mechanism	1.2.4a	Review current monitoring and evaluation practices for Indigenous specific and mainstream law and justice initiatives and develop good practice monitoring and evaluation models
		1.2.4b	Implement good practice monitoring and evaluation models for all newly funded law and justice initiatives
		1.2.4c	Promote and disseminate evaluation findings between relevant stakeholders

1.3 Ensure that the findings of RCIADIC continue to guide governments, service providers and communities to address current issues in law and justice for Aboriginal and Torres Strait Islander peoples

Strategy		Action	
1.3.1	Analyse the RCIADIC findings to identify those of contemporary relevance	1.3.1a	Cross reference key findings of the analysis with the Framework and develop Strategies and Actions in response to key findings that are not captured in the Framework

## 2

### Reduce over-representation of Aboriginal and Torres Strait Islander offenders, defendants and victims in the criminal justice system

**The formal criminal justice system needs to be more analytically reflexive when examining issues of diversion so that it can more capably recognise which of its practices exacerbate contact with the formal criminal justice system and which discourage it.**

Nyoongar Patrol

**Provide a holistic model of support and intervention for adult and young offenders leaving prison so that they do not return to prison at such high rates.**

Outcare

Indigenous women, men and youth are more likely to enter the criminal justice system earlier than non-Indigenous Australians, incarcerated at higher rates than non-Indigenous Australians, and are more likely to re-offend than non-Indigenous Australians.

The over-representation of Aboriginal people and Torres Strait Islanders in the criminal justice system is symptomatic of the combined impact of Indigenous disadvantage in a whole range of areas including education, employment and health. Reducing the over-representation of Indigenous people in the criminal justice system is a precursor to improvements in the areas being addressed by COAG through the Closing the Gap on Indigenous disadvantage agenda, and will have a positive effect on Indigenous communities and families in both the short and long term.

To address the over-representation governments must ensure that contact between Aboriginal and Torres Strait Islander peoples and the criminal justice system is appropriate, equitable and fair.

It is always important that serious offences be dealt with by the criminal justice system in a proportionate manner. However, Aboriginal and Torres Strait Islander peoples are sometimes incarcerated for relatively minor matters such as fine default.

Access to and use of rehabilitative, preventative, and diversionary responses to criminal behaviour provide vital opportunities to break the offending cycle. To be most effective, these responses should be gender specific and culturally relevant.



## Goal

**2** Reduce over-representation of Aboriginal and Torres Strait Islander offenders, defendants and victims<sup>1</sup> in the criminal justice system

### Objective

- 2.1 Increase the use of effective crime prevention programs to reduce the rate of offending for Aboriginal people and Torres Strait Islanders
- 2.2 Increase the use of effective diversionary options and other interventions for Indigenous offenders
- 2.3 Promote opportunities to reduce negative contact of Indigenous women, men and youth at all levels of the criminal justice system
- 2.4 Achieve progressive reductions in the rate of recidivism for Aboriginal people and Torres Strait Islanders

2.1 Increase the use of effective crime prevention programs to reduce the rate of offending for Aboriginal people and Torres Strait Islanders

Strategy		Action	
2.1.1	Implement a broad range of crime prevention initiatives responsive to local needs	2.1.1a	Identify culturally competent and effective crime prevention approaches and promote good practice relevant to urban, regional and remote settings
		2.1.1b	Implement identified good practice local level crime prevention initiatives [links to 3.2.1]
		2.1.1c	Develop and trial innovative crime prevention initiatives in partnership with communities
2.1.2	Improve support for vulnerable Indigenous children and youth	2.1.2a	Review existing youth at risk programs and initiatives and identify and promote culturally competent good practice and initiatives
		2.1.2b	Increase the number of and access to culturally competent targeted support for vulnerable children and youth in partnership with Indigenous communities

<sup>1</sup> Strategies and actions addressing the over-representation of Aboriginal and Torres Strait Islander victims in the criminal justice system are primarily found in Goal 3.

**2.2 Increase the use of effective diversionary options and other interventions for Indigenous offenders**

<b>Strategy</b>		<b>Action</b>	
2.2.1	Expand and implement the range of diversionary options and other interventions for Indigenous adult and youth: <ul style="list-style-type: none"> <li>• first-time offenders</li> <li>• offenders beginning to develop offending cycles, and</li> <li>• habitual offenders</li> </ul>	2.2.1a	Review and implement culturally competent diversionary and other interventions for Indigenous adults and youth at all stages of the offending cycle, capturing all points of contact with the criminal justice system

**2.3 Promote opportunities to reduce negative contact of Indigenous women, men and youth at all levels of the criminal justice system**

<b>Strategy</b>		<b>Action</b>	
2.3.1	Ensure the effective use of all policing and sentencing options for Indigenous offenders	2.3.1a	Develop and implement police training to promote the use of caution with arrest as a sanction of last resort where appropriate
		2.3.1b	Develop training for the judiciary in consultation with Departments of Justice and the National Judicial College of Australia to promote effective discretionary use of sentencing options
		2.3.1c	Conduct legislative review of non-violent and minor offences leading to custodial sentences, and provide the courts with more effective sentencing options to manage the underlying issues
2.3.2	Implement a holistic response to address the factors leading to over-representation in the criminal justice system of: <ul style="list-style-type: none"> <li>• Indigenous women</li> <li>• Indigenous men, and</li> <li>• Indigenous youth</li> </ul>	2.3.2a	Identify the factors driving over-representation of Indigenous women, men and youth as discrete groups in the justice system
		2.3.2b	Develop and implement culturally competent action to address identified drivers of over-representation of Indigenous women, men and youth in the justice system
		2.3.2c	Identify barriers to procedural fairness in justice pathways and develop mechanisms to eliminate those barriers [links to 1.1.2]
		2.3.2d	Establish Indigenous driver licensing and training programs to reduce minor offending and increase safety [links to 3.2.1]

2.3 Promote opportunities to reduce negative contact of Indigenous women, men and youth at all levels of the criminal justice system (continued)

Strategy		Action	
2.3.3	Ensure that all levels of the justice system respond effectively to the mental health needs of Aboriginal and Torres Strait Islander peoples	2.3.3a	Develop and implement specialised training to enable police to better identify Aboriginal and Torres Strait Islander peoples with mental health issues
		2.3.3b	Develop and implement appropriate referral pathways to enable police to better respond to Aboriginal and Torres Strait Islander peoples with mental health issues
		2.3.3c	Review court-based mental health initiatives to identify and promote culturally competent good practice
		2.3.3d	Increase use of effective court-based mental health diversionary options
		2.3.3e	Review current mental health care in corrective settings and develop and implement culturally competent mental health throughcare programs

2.4 Achieve progressive reductions in the rate of recidivism for Aboriginal people and Torres Strait Islanders

Strategy		Action	
2.4.1	Increase the availability and scope of effective rehabilitative interventions to holistically respond to the causal (risk, needs and responsivity) factors that drive ongoing offending behaviour amongst Indigenous women, men and youth.	2.4.1a	Develop culturally competent programs that respond to the causal factors and complexity of need of individual offenders
		2.4.1b	Identify and implement good practice therapeutic and other rehabilitative models for Aboriginal people and Torres Strait Islanders in communities and prisons
		2.4.1c	Investigate increased offending and incarceration amongst Indigenous women and develop culturally competent programs [links to 2.3.2]
		2.4.1d	Implement good practice programs for Indigenous men, women and youth to support and maintain family relationships during periods of incarceration

2.4 Achieve progressive reductions in the rate of recidivism for Aboriginal people and Torres Strait Islanders (continued)

Strategy		Action	
2.4.2	Increase the availability, scope and effectiveness of transition support programs for offenders	2.4.2a	Review current reintegrative approaches for offenders, and develop and implement culturally competent good practice programs that address such things as integrated treatment, cognitive and behavioural issues and family and community relationships
		2.4.2b	Expand and improve the scope of gender specific, culturally competent throughcare programs to assist prisoners to successfully reintegrate into the community
2.4.3	Increase the capacity of prisons and youth detention centres to prevent re-offending	2.4.3a	Identify organisational culture, practice, and procedures in prisons and detention centres that can compound criminogenic factors and develop and implement action plans to manage identified key issues
2.4.4	Increase the capacity of adult and youth community corrections to prevent re-offending	2.4.4a	Review and implement identified good practice initiatives in adult and youth community corrections to prevent re-offending

**Without significant and sustained improvements in law and justice outcomes, particularly family and community safety, improvements in other closing the gap targets will be difficult to can be achieved or maintained.**

NPY Women's Council

**An understanding of 'what works' for Indigenous offenders in the community is essential or programs will continue to deliver in ways that do not work for Indigenous people.**

FaHCSIA

Aboriginal and Torres Strait Islander peoples, like all Australians, have a right to be protected from violence and abuse. However, despite the efforts of successive governments and community service providers, Aboriginal people and Torres Strait Islanders are more likely to be victims of crime than non-Indigenous people. Of particular concern is the unacceptably high level of family violence, with Indigenous women being 35 times more likely to be hospitalised due to family violence than non-Indigenous women.

Reducing both the incidence and impacts of family violence requires a holistic strategy in which perpetrators, victims' families and the wider community are engaged.

Factors contributing to the broader pattern of crime and sense of hopelessness within many Indigenous communities include alcohol and substance abuse, overcrowded housing, unemployment, poor educational outcomes and limited opportunities more broadly.

To effectively address these issues, Commonwealth and State and Territory governments and service providers must work as partners with Indigenous communities in the identification, development and implementation of solutions. The sense of community ownership and responsibility proceeding from such foundations is the basis upon which progressive and sustained improvements in community safety can be realised.

## Goal

3

Ensure that Aboriginal and Torres Strait Islander peoples feel safe and are safe within their communities

## Objective

- 3.1 Reduce the incidence and impacts of all forms of family violence within Indigenous families, including sexual abuse
- 3.2 Recognise and strengthen Indigenous community responses to justice issues to support community ownership of safety and crime prevention
- 3.3 Provide the necessary support to heal and empower Indigenous victims of crime, particularly women and children

3.1 Reduce the incidence and impacts of all forms of family violence within Indigenous families, including sexual abuse

Strategy		Action	
3.1.1	Ensure that police, courts and community services provide an effective crisis response to family violence [links to 3.3.1]	3.1.1a	Develop and implement community education programs to encourage Indigenous victims to report incidents of family violence
		3.1.1b	Provide sufficient levels of policing in communities and implement good practice community policing models to ensure effective responses to family and community violence [links to 1.2.2]
		3.1.1c	Work in partnership with Aboriginal and Torres Strait Islander peoples and other relevant service providers to develop and implement integrated responses to family violence crises

3.1 Reduce the incidence and impacts of all forms of family violence within Indigenous families, including sexual abuse (continued)

Strategy		Action	
3.1.2	Ensure that all agencies engaged in responding to family violence provide an effective, culturally competent response to the management and rehabilitation of perpetrators and offenders	3.1.2a	Develop and implement culturally competent programs to assess the risk, needs, and responsivity factors of family violence perpetrators and offenders
		3.1.2b	Develop and implement culturally competent, community based early intervention programs for low risk perpetrators and offenders
		3.1.2c	Develop and implement culturally competent intensive community and prison based behavioural change programs for medium and high risk perpetrators and offenders
		3.1.2d	Develop and implement community reintegration programs for perpetrators and offenders who are returning to their communities after a period of exclusion because of civil orders or imprisonment
		3.1.2e	Establish mechanisms to ensure that victims are consulted in planning for the reintegration of individual offenders
		3.1.2f	Establish mechanisms that, subject to any legislative requirements, ensure information pertaining to any risk that a perpetrator or offender poses to their families is, as a matter of priority, reported to the victim and/or those responsible for managing the victim's safety
3.1.3	Reduce the incidence and impacts of violence related to family law cases involving Aboriginal people and Torres Strait Islanders	3.1.3a	Increase Aboriginal people and Torres Strait Islanders' access to, and use of family support services during relationship breakdown and/or after separation
		3.1.3b	Assist survivors of violence to access and effectively use family law support services
		3.1.3c	Develop and implement community legal education programs to make family law more understandable and accessible to Aboriginal people and Torres Strait Islanders

3.1 Reduce the incidence and impacts of all forms of family violence within Indigenous families including sexual abuse (continued)

Strategy		Action	
3.1.4	Implement a comprehensive response to sexual abuse where it occurs in urban, regional and remote settings	3.1.4a	Develop and implement good practice protocols and methods for identifying levels of sexual abuse in Indigenous communities
		3.1.4b	Increase the number of and access to effective early intervention programs to protect at risk children and youth from sexual abuse
		3.1.4c	Increase the number of and access to healing treatment services for survivors of sexual abuse
		3.1.4d	Implement culturally competent educational and attitudinal change programs to reinforce positive social norms and reduce sexual abuse
		3.1.4e	Develop and implement programs for survivors of sexual abuse aimed at preventing the onset of offending behaviour and cycles of abuse
3.1.5	Provide a holistic response to child abuse and neglect in urban, regional and remote settings	3.1.5a	Identify barriers to the delivery of integrated services for survivors of child abuse, and develop and implement strategies to overcome these barriers
		3.1.5b	Identify factors which contribute to child neglect in Indigenous communities, and develop and implement strategies to holistically address these factors
		3.1.5c	Identify good practice support services for victims of child abuse and neglect and support the implementation of these services
		3.1.5d	Develop and implement child specific education programs to encourage reporting of child abuse and neglect



**3.2** Recognise and strengthen Indigenous community responses to justice issues to support community ownership of safety and crime prevention

<b>Strategy</b>		<b>Action</b>	
3.2.1	Support the development, implementation and monitoring of community safety plans	3.2.1a	Identify and support local safety and crime prevention initiatives [links to 2.1.1 and 2.3.2]
		3.2.1b	Promote Indigenous community engagement with justice agencies, service providers, local government and other partners to develop community safety action plans
		3.2.1c	Work in partnership with Aboriginal and Torres Strait Islander peoples and the broader community to implement local community safety initiatives

**3.3** Provide the necessary support to heal and empower Indigenous victims of crime, particularly women and children

<b>Strategy</b>		<b>Action</b>	
3.3.1	Increase the number of and access to effective support services through Indigenous-specific and mainstream service providers for Indigenous victims of crime	3.3.1a	Provide culturally competent screening, assessment, healing, therapeutic and court support services for women, children and men
		3.3.1b	Provide programs for victims of crime to prevent the possible development of coping addictions, including drug and alcohol abuse [links to 4.3.1b]
		3.3.1c	Provide community legal education to Aboriginal and Torres Strait Islander peoples to increase knowledge of victims' rights and available services
		3.3.1d	Identify and address service delivery gaps in and barriers to legal assistance for victims of family violence

**Since health, substance misuse and wellbeing issues are closely linked to Indigenous violence, offending and incarceration, interventions that address alcohol and other drug misuse have the potential to significantly reduce the over-representation of Indigenous Australians in our correctional system**

National Indigenous Drug and Alcohol Committee

Alcohol and substance abuse is a significant factor contributing to the incidence of violence and other crime in many Indigenous communities. High risk alcohol consumption and substance abuse are directly related to offending behaviour and have been linked to Indigenous arrest rates, family violence and sexual abuse.

To address the issue of alcohol and other substance abuse, Aboriginal people and Torres Strait Islanders must be active partners in the development, implementation and evaluation of policies and programs relating to substance abuse in their communities. Active involvement in issues such as the supply and regulation of alcohol will ensure that solutions address issues at a local level and meet the needs of communities.

Efforts to reduce alcohol and drug related violence and crime must also be holistic, integrated and sustained. Aboriginal people and Torres Strait Islanders must have increased access to integrated alcohol and substance abuse related violence prevention and treatment services. Further, justice agencies must improve their capacity to identify and address co-existing substance abuse and mental health issues in Aboriginal people and Torres Strait Islanders.

It is also important that communities are involved in early intervention and awareness raising initiatives aimed at increasing understanding of alcohol and substance abuse, community safety and prevention and harm minimisation.

Sustained reductions over the long term in alcohol and substance abuse should reduce rates of offending behaviour and arrest and consequently impact positively on family stability, health, employment, and education.

## Goal

**4** Increase safety and reduce offending within Indigenous communities by addressing alcohol and substance abuse

## Objective

- 4.1 Ensure that Aboriginal people and Torres Strait Islanders are actively engaged in the development, implementation and evaluation of policies and programs relating to alcohol and substance abuse
- 4.2 Implement a holistic response to alcohol and drug related violence and crime in Indigenous communities
- 4.3 Improve community engagement and understanding of alcohol and substance abuse issues

4.1 Ensure that Aboriginal people and Torres Strait Islanders are actively engaged in the development, implementation and evaluation of policies and programs relating to alcohol and substance abuse

## Strategy

## Action

Strategy	Action
4.1.1 Enhance the capacity of Aboriginal and Torres Strait Islander peoples to be centrally involved in policies and programs relating to alcohol and substance abuse	4.1.1a Encourage and support the establishment of local alcohol management committees
	4.1.1b Support partnerships between local alcohol management committees, alcohol industry and vendors and relevant government agencies and non-government organisations to ensure adherence to responsible drinking protocols within Indigenous communities
	4.1.1c Support local alcohol management committees, relevant Indigenous stakeholders, government agencies and service providers in the development, implementation and evaluation of programs and services relating to alcohol and substance abuse

#### 4.2 Implement a holistic response to alcohol and drug related violence and offending

Strategy		Action	
4.2.1	Work with offenders and individuals at risk to identify and address alcohol and substance abuse	4.2.1a	Increase the number of and access to alcohol and substance abuse related violence prevention services
		4.2.1b	Develop effective referral and case management arrangements to provide an integrated and ongoing response to alcohol and drug related violence
		4.2.1c	Increase access to community based Indigenous specific alcohol and substance abuse programs for offenders and young people
		4.2.1d	Strengthen community, police and court-based diversionary options to address alcohol and drug related offending
		4.2.1e	Increase the number of and access to culturally competent alcohol and substance abuse treatment and throughcare programs within correctional settings
4.2.2	Work with offenders and individuals at risk to address co-existing alcohol and substance abuse and mental health issues	4.2.2a	Develop the capacity of police, courts and corrections to identify associated mental health care needs in Aboriginal people and Torres Strait Islanders presenting with alcohol and substance abuse issues [links to 2.3.4]

#### 4.3 Improve community engagement and understanding of alcohol and substance abuse issues

Strategy		Action	
4.3.1	Increase community based interventions to reduce alcohol and substance abuse	4.3.1a	Identify and address the barriers that prevent or discourage Aboriginal people and Torres Strait Islanders with alcohol and substance abuse issues from accessing treatment
		4.3.1b	Work in partnership with Indigenous communities and relevant agencies to establish culturally competent treatment services to manage withdrawal, detoxification and rehabilitation in community and custodial settings
		4.3.1c	Increase early intervention and education services for children and youth at risk of developing alcohol and/or substance abuse problems
		4.3.1d	Work in partnership with Indigenous communities to develop a comprehensive awareness strategy focused on alcohol and substance abuse prevention, community safety and harm minimisation

# 5

Strengthen Indigenous communities through working in partnership with governments and other stakeholders to achieve sustained improvements in justice and community safety

**Key measures of success should incorporate aspects which are relevant and determined with the individual community in which the programs are delivered.**

Department of the Attorney General, Western Australia

**To reduce Indigenous disadvantage in law and justice, there has to be significant improvements in the underlying issues, such as poor housing conditions, poor health, education and employment outcomes.**

Public Interest Advocacy Centre

Aboriginal people and Torres Strait Islanders face multiple forms of disadvantage. Despite recent improvements in some areas, wide gaps persist in outcomes between Indigenous and non-Indigenous Australians in areas such as health, education, housing and employment, contributing to the likelihood of Aboriginal people and Torres Strait Islanders engaging in offending behaviour.

Sustained improvements in law and justice outcomes for Aboriginal and Torres Strait Islander peoples can be achieved only if all stakeholders, including Indigenous people and communities, governments, service providers, and the corporate sector, build and maintain an effective holistic response to the underlying factors bringing Aboriginal people and Torres Strait Islanders into adverse contact with the criminal justice system. Aboriginal people and Torres Strait Islanders must be genuine partners in this process.

Justice agencies, working together and in concert with other agencies, must therefore seek and act on opportunities to contribute to the social, economic and cultural resilience of Indigenous communities. Strengthening the capacity of Aboriginal and Torres Strait Islander peoples to maintain not simply functional but thriving communities, healthy families and individual wellbeing is crucial to improving justice outcomes.

For this to occur, service delivery by non-justice related services needs to be strengthened at a sectoral level and coordination improved across jurisdictions and sectors to ensure integrated service delivery. Joined-up problems require joined-up solutions. This will help Aboriginal and Torres Strait Islander peoples to build socially, culturally and economically strong families and communities, leading to sustained improvements in justice and safety.

## Goal

**5** Strengthen Indigenous communities through working in partnership with governments and other stakeholders to achieve sustained improvements in justice and community safety

### Objective

- 5.1 Strengthen the capacity of Aboriginal and Torres Strait Islander peoples to build and maintain functional communities and individual wellbeing
- 5.2 Integrate service delivery in justice and non-justice related areas in urban, regional and remote settings with a focus on partnership and engagement with Aboriginal and Torres Strait Islander peoples
- 5.3 Strengthen the economic capacity of Aboriginal and Torres Strait Islander peoples

5.1 Strengthen the capacity of Aboriginal and Torres Strait Islander peoples to build and maintain functional communities and individual wellbeing

Strategy		Action	
5.1.1	Contribute to the provision of measures needed to sustain the social and cultural resilience of strong communities	5.1.1a	Provide necessary support for Aboriginal and Torres Strait Islander peoples to develop ongoing community leadership capacity
		5.1.1b	Provide support to increase the capacity of Aboriginal and Torres Strait Islander peoples to engage in community affairs, policy development and service delivery in a cohesive and inclusive manner
		5.1.1c	Support the development, implementation and review of good practice models of governance arrangements for community organisations
		5.1.1d	Provide necessary support to increase the capacity of Aboriginal and Torres Strait Islander peoples to develop and implement programs which enhance the cultural resilience of communities

5.2 Integrate service delivery in justice and non-justice related areas in urban, regional and remote settings with a focus on partnership and engagement with Aboriginal and Torres Strait Islander peoples

Strategy		Action	
5.2.1	Strengthen engagement mechanisms to assist Aboriginal and Torres Strait Islander peoples to provide meaningful input to key service providers and government departments	5.2.1a	Work in partnership with Aboriginal and Torres Strait Islander peoples to review local and regional service delivery and identify gaps in community engagement
		5.2.1b	Support the capacity of community justice groups to link with health, education, housing, employment and welfare service providers to facilitate an integrated approach to community initiatives [links to 1.1.1a]
		5.2.1c	Work in partnership with Aboriginal and Torres Strait Islander peoples and relevant agencies to develop and implement of whole of government integrated plans for service delivery

5.3 Strengthen the economic capacity of Aboriginal and Torres Strait Islander peoples

Strategy		Action	
5.3.1	Strengthen the capacity of Aboriginal and Torres Strait Islander peoples to engage with the wider economy	5.3.1a	Improve employment and career prospects for Aboriginal and Torres Strait Islander peoples by supporting comprehensive training, education, mentoring and career counselling services
		5.3.1b	Support initiatives that equitably remunerate Aboriginal and Torres Strait Islander peoples for the services they perform as part of the justice system.
		5.3.1c	Support initiatives to improve Aboriginal and Torres Strait Islander peoples' knowledge of consumer rights and obligations and available services
		5.3.1d	Improve Aboriginal and Torres Strait Islander peoples access to consumer protection programs

## Monitoring and Implementation

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Monitoring and implementation of the Framework will occur at a number of levels. While the Framework's specific strategies and actions provide a guide, the degree of implementation depends upon the policy priorities and resource capacity of each jurisdiction. At an overarching level, the Framework's objectives can be used by jurisdictions to assess activity and progress towards improving law and justice outcomes for Aboriginal and Torres Strait Islander peoples. At a project specific level, any joint projects and research undertaken under the Framework will be implemented and evaluated as agreed by the participants. Regular reports will be provided to SCAG.

### Overarching Level

This will occur in a number of ways and will be coordinated by the SCAG Working Group on Indigenous Justice.

- Jurisdictions will provide information on good practice initiatives addressing each of the objectives within the Framework and include reference to strategies and actions where relevant. (Appendix A) The Appendix will be amended annually to reflect progress and evaluation of initiatives.
- The SCAG Working Group will annually identify a particular priority area of the Framework for national analysis and discussion. This would have the effect of showcasing good practice and engaging with stakeholders on the practical applications and areas for improvement. This could take the form of a conference or forum.
- The Commonwealth Government is considering the establishment of a national Indigenous advisory body on law and justice issues. This body could have a role in providing advice on the programs and policies encompassed in the Framework.

Monitoring of national progress against the Framework's objectives in the future may be possible through a linkage to COAG's National Indigenous Reform Agreement (NIRA). Similarly the justice 'Closing the Gap' targets to be developed by SCAG may provide a future mechanism to measure achievement against targeted outcomes.

Monitoring and evaluation at this level will draw on the input of relevant Ministerial Councils (such as those dealing with policing, corrections, drug and alcohol reform and youth justice), outcomes from relevant COAG initiatives such as the Remote Services Delivery National Partnership and advice from the proposed Indigenous justice advisory body.

### Project Specific Level

The Commonwealth Government has identified funding for the evaluation of targeted good practice initiatives, identified through the Framework. The details will be developed by the SCAG Working Group and agreed by the National Justice Chief Executive Officers (NJCEOs). The Commonwealth Government has suggested an initial focus on programs for young offenders and youth at risk and programs working with perpetrators of violence. The evaluations would consider the programs in urban, regional, rural and remote settings.



Members of the SCAG Working Group may agree to implement cross-jurisdictional projects, both research and operational in nature. Where this occurs monitoring of the projects could be undertaken by both the SCAG Working Group and the proposed advisory body. Evaluation of these projects could be undertaken externally where relevant and agreed to by project participants.

### **Framework Review/Evaluation**

To be effective the National Indigenous Law and Justice Framework needs to be a responsive and dynamic document, reflecting changes in the policy area and incorporating emerging knowledge and demonstrated good practice. In order to capture this function, two levels of review are proposed.

#### **Annual Review**

The direction and content of the Framework will be reviewed every year (first review in 2010). In this review process the SCAG Working Group will consider factors including:

- outcomes of evaluations identifying successful initiatives with critical factors for success and lessons learned
- input from cross-jurisdictional projects or research implemented under the Framework, and
- feedback from stakeholders on their application of the Framework in the development of law and justice initiatives for Aboriginal people and Torres Strait Islanders.

The SCAG Working Group will prepare an annual report to SCAG following the review of the Framework.

#### **Evaluation**

A comprehensive evaluation of the Framework will be undertaken in 2013-2014. This evaluation will consider the policy and program changes in the intervening period at a national level and at a state and territory level, as well as issues identified in the application of the Framework. The Terms of Reference for the evaluation will be developed and agreed by SCAG in 2012.