



*Cultural Diversity Within the Judicial Context:
Existing Court Resources*

Table of Contents

About this paper	4
Executive Summary.....	6
Australia’s Cultural and Linguistic Diversity: A demographic overview	8
Australia’s court and tribunal system	10
Legal Needs.....	11
Federal courts: overview	12
Federal courts: existing resources that support courts to deliver services to culturally diverse clients	14
Australian Capital Territory (ACT) Government’s approach to diversity.....	24
ACT courts: overview	28
ACT courts: existing resources that support courts to deliver services to culturally diverse clients	29
New South Wales (NSW) Government’s approach to diversity	32
NSW courts: overview.....	36
NSW courts: existing resources that support courts to deliver services to culturally diverse clients	38
Northern Territory (NT) Government’s approach to diversity	46
NT courts: overview	49
NT courts: existing resources that support courts to deliver services to culturally diverse clients	50
Queensland (QLD) Government’s approach to diversity	52
QLD courts: overview	55
QLD courts: existing resources that support courts to deliver services to culturally diverse clients	56
South Australian (SA) Government’s approach to diversity	59
SA courts: overview	60
SA courts: existing resources that support courts to deliver services to culturally diverse clients	61
Tasmanian (TAS) Government’s approach to diversity	65
TAS courts: overview	66
TAS courts: existing resources that support courts to deliver services to culturally diverse clients	67
Victorian (VIC) Government’s approach to diversity	69
VIC courts: overview	74
VIC courts: existing resources that support courts to deliver services to culturally diverse clients	75
Western Australian (WA) Government’s approach to diversity	83

WA courts: overview..... 88
**WA courts: existing resources that support courts to deliver services to culturally diverse clients
..... 90**
Appendix A – International initiatives 94

About this paper

Background to this paper

This paper consolidates the outcomes and findings of a scoping study conducted by Maria Dimopoulos, managing director of MyriaD Consultants. The study was commissioned by the Migration Council Australia on behalf of the Judicial Council on Cultural Diversity.

The purpose of the Scoping Study was to identify existing resources that support courts to deliver services to culturally diverse clients, inclusive of Aboriginal and Torres Strait Islander peoples. The Study involved a review of existing policies, protocols and procedures relevant to cultural diversity within the judicial context and was intended to enable an informed analysis of existing gaps and avoid duplication in the Council's future activities.

The Judicial Council on Cultural Diversity (JCCD)

The Judicial Council on Cultural Diversity (JCCD) is an independent advisory body established to assist Australian courts, judicial officers and administrators to positively respond to evolving community needs arising from Australia's increasing cultural diversity.

Its key purpose is to develop a framework to support procedural fairness and equality of treatment for all court users, and to promote public trust and confidence in Australian courts and the judiciary. The development of this framework is focused on adapting court policies and procedures and not the content of the law. Enabling cultural considerations does not provide advantage, rather it provides an assurance that all Australians are treated equally before the law and have access to justice.

The JCCD reports to the Council of Chief Justices and will provide policy advice and recommendations to it. It is chaired by the Hon Wayne Martin AC, Chief Justice of Western Australia. Membership of the Council is predominantly composed of judicial officers from all Australian geographical jurisdictions and court levels. There is an Indigenous representative and legal and community bodies are also represented. The Migration Council Australia serves as secretariat for the Council.

The JCCD members are:

- Chief Justice Wayne Martin AC, Supreme Court of Western Australia
- Justice David Berman, Family Court of Australia
- Justice Jenny Blokland, Supreme Court of the Northern Territory
- Dr Bernadette Boss, ACT Magistrates Court
- Mr Nigel Browne, CEO, Larrakia Development Corporation
- Ms Samantha Burchell, CEO, Judicial College of Victoria
- Ms Maria Dimopoulos, MyriaD Consultants
- Magistrate Anne Goldsbrough, Magistrates' Court of Victoria
- Justice Emiliou Kyrou, Court of Appeal, Supreme Court of Victoria
- Justice Lucy McCallum, Supreme Court of New South Wales
- Ms Leisha Lister, Executive Advisor, Family Court of Australia
- Justice Melissa Perry, Federal Court of Australia
- Professor Greg Reinhardt, Director, Australasian Institute of Judicial Administration
- Judge Nick Samios, District Court of Queensland
- Mr Ernie Schmatt, Judicial Commission of New South Wales
- Judge Rauf Soulio, District Court of South Australia
- Judge Josephine Willis, Federal Circuit Court of Australia
- Ms Carla Wilshire, CEO, Migration Council Australia
- Justice Helen Wood, Supreme Court of Tasmania

Key Terms and Definitions

There are a number of concepts and terms utilised in this paper that require clarification:

Indigenous

Aboriginal people comprise diverse Aboriginal nations, each with their own language and traditions and have historically lived on mainland Australia, Tasmania or on many of the continent's offshore islands. Torres Strait Islander peoples come from the islands of the Torres Strait, between the tip of Cape York in Queensland and Papua New Guinea. Torres Strait Islanders are of Melanesian origin with their own distinct identity, history and cultural traditions. Many Torres Strait Islanders live on mainland Australia.

In this report the term 'Indigenous people/s' refers to both the Aboriginal and Torres Strait Islander peoples of Australia. Aborigines and Torres Strait Islanders are referred to as 'peoples'. This recognises that Aborigines and Torres Strait Islanders 'have a collective, rather than purely individual, dimension to their livelihoods. ... The use of the term 'Indigenous' has evolved through international law'.¹

Cultural and Linguistic Diversity

Definitions of 'Cultural and Linguistic Diversity' vary, but common to most is the notion that this is a very broad concept, encompassing the differences that exist between people, such as language, dress, traditions, food, societal structures, art and religion.

¹ Aboriginal and Torres Strait Islander Social Justice Commissioner, Social Justice Report (2009), vi.

Executive Summary

Australia is one of the most culturally and linguistically diverse countries in the world.

The Aboriginal and Torres Strait Islander population is diverse and spread through urban, regional and remote areas of the country. There are approximately 145 Aboriginal languages and three main languages spoken by Torres Strait Islander peoples.

In addition to our rich Indigenous history, Australia is a nation built on migration. Our migration program sources people from more than 200 countries and over one quarter of Australia's population was born overseas. In total, over 300 languages are spoken in Australian households.

This diversity has benefited Australia enormously, both in economic and social terms. However, it also presents systemic challenges in maintaining a level playing field. One area in which this is evident is the justice system – individuals from culturally and linguistically diverse backgrounds can experience significant barriers to accessing justice. In order for accessible, equitable and fair justice to be delivered to all, the justice system must recognise, understand and respond to the needs of culturally diverse communities.

Australia's justice system has responded to this challenge with a range of approaches and activities. Some are guided by the policy and legislative context in which each jurisdiction operates; others are initiatives introduced by courts and tribunals to address their broader operating environments.

Overview of paper

This paper starts with a demographic overview of Australia's cultural and linguistic diversity, followed by a brief summary of Australia's court and tribunal system.

The paper then provides a jurisdiction by jurisdiction overview of Federal, State and Territory policies and procedures, and activities undertaken by the Courts, that are currently in place in relation to culturally diverse population groups, including Indigenous Australians.

The paper concludes with a brief selection of relevant international initiatives.

Key findings

The study has identified significant gaps amongst policies, protocols and procedures across jurisdictions. Major gaps include:

- A lack of coordination across the judiciary in addressing areas of concern arising from cultural and linguistic diversity;
- The absence of national competencies in relation to cultural diversity;
- Lack of consistency in the requirements for engaging interpreters, as well as under-utilisation and concerns about interpreter quality;
- Few resources or formal structures dedicated to supporting judicial officers and administrative staff to design or implement cultural diversity policies.

The scoping study did identify a number of initiatives by courts to engage with Indigenous and multicultural communities at the local level. While in some jurisdictions, there are many opportunities for such engagement, engagement was sporadic in the majority. As a result, courts are likely missing out on significant opportunities to embed an understanding of their role within culturally and linguistically diverse communities.

Further, while the study highlighted the range of significant and innovative approaches being implemented by the courts in relation to access to justice for Aboriginal and Torres Strait Islander communities, this was generally not replicated in relation to multicultural communities. It is however likely that there are significant lessons from Indigenous initiatives that could be readily drawn upon in designing resources that meet the needs of migrant and refugee communities. Though there are obvious differences between the two communities, synergies can be found.

Recognising the potential indicators of inequality requires knowledge on the part of those involved in the court process – judicial officers, lawyers and court staff. This report therefore recommends that the first step in lifting cultural and language barriers in accessing justice is to increase awareness and understanding of the issues.

In terms of tools to support the judiciary in managing multicultural cases, three jurisdictions have adopted benchbooks relating to equality before the law, which is a positive step. Moreover, there is some cross-utilisation of these resources by jurisdictions that do not have their own benchbooks.

Further, there are various continuing professional development opportunities available to judicial officers and court staff. However, the availability of these varies across jurisdictions and uptake is voluntary. Although annual Harmony Day activities are seen to contribute to cultural awareness, staff training and ongoing judicial education with respect to cultural diversity were clear gaps.

Even among those with an awareness of the issues, there was a tendency to see these issues as ‘additional’ or ‘marginal’ to the broader issues associated with ‘access to justice’. Overcoming such attitudes requires a shift in culture that can only be brought about through leadership and active policies that challenge complacency.

It should be noted that a number of courts at the Federal and State level have adopted the International Framework for Court Excellence and are actively working on integrating policies that respond to the range of Framework areas. The Framework is based on the premise that the Court’s administration and judiciary must work hand in glove to ensure access to justice and that a client’s capacity to participate in court processes is significantly influenced by the quality of information and level of support they receive prior to their day in court.

The Framework acknowledges that to improve access to justice, courts must:

- develop the infrastructure (IT, training, physical, performance development and more) needed to support actions;
- recognise that a one size fits all approach does not deliver justice equally;
- improve understanding of, and address the complexities and barriers experienced by, different client groups when accessing court;
- acknowledge that most individuals do not neatly fit into a single client group and adopt a flexible model of service delivery that accommodates the needs of each individual;
- play a role in providing information and linking clients to community organisations that can provide support services.

The Framework provides an opportunity and guidance for courts to upgrade protocols that could assist in rectifying cultural and linguistic barriers.

Conclusion

It is envisaged that this report will be a useful resource for courts on the types of policies that are being implemented across jurisdictions, as well as identifying areas for improvement.

The JCCD welcomes feedback on the report and any suggested additional inclusions.

Australia's Cultural and Linguistic Diversity: A demographic overview

The Australian Bureau of Statistics most recent Census², in 2011, provides a picture of Australia's cultural and linguistic diversity.

Indigenous Population Profile

- There were an estimated 669,900 Indigenous Australians in Australia in 2011, accounting for approximately 3.0 per cent of the total Australian population.
- The proportion of people who identified as Indigenous was significantly higher in the NT (26.8 per cent) than in any other jurisdiction.
- Nationally, the Indigenous population is projected to grow to between 907,800 and 945,600 people in 2026.³

Language Diversity

- The majority of Indigenous Australians (83 per cent) in 2011 spoke only English at home. 11 per cent spoke an Indigenous language at home. 82 per cent of Indigenous Australians who spoke an Indigenous language at home reported speaking English well or very well, while 17 per cent reported not speaking English well or at all.
- Aboriginal and Torres Strait Islander people aged 25 to 44 years were most likely to speak an Indigenous language at home (13 per cent), followed closely by those aged 15 to 24 years and those aged 45 years and over (both 11 per cent). Aboriginal and Torres Strait Islander children aged 14 years and under were least likely to speak an Indigenous language (10 per cent) and most likely to speak only English at home (85 per cent).
- The Northern Territory has over half (56.1 per cent) of Australia's Indigenous language speakers, with most of the remainder in Queensland (19.8 per cent), Western Australia (15.6 per cent) and South Australia (5.9 per cent).
- The most common Indigenous languages differ between states and territories reflecting the origins of particular Aboriginal groups and their continuity with their traditional lands.
- Of the 145 indigenous languages still spoken in Australia, 110 are critically endangered.⁴

Multicultural/CALD Population Profile

- 24.6 per cent of Australians were born overseas. 43.1 per cent of people have at least one parent who was born overseas.
- The largest overseas born group comprised people born in the United Kingdom (4.23 per cent of the total population) followed by New Zealand (2.2 per cent), then China (1.5 per cent) and India (1.4 per cent). No other country accounted for more than 1 per cent.
- The State with the largest number of overseas born was New South Wales (1,778,544 people) followed by Victoria (1,405,332 people) and Queensland (888,636 people).

Linguistic Diversity

- Collectively, Australians speak over 200 languages.
- Australian Indigenous languages are spoken by about 0.3 per cent of the total population.
- About 18 per cent of Australians speak a language other than English.
- The most common languages other than English are: Mandarin, Italian, Arabic, Cantonese, Greek, and Vietnamese.
- Collectively, Chinese languages (including Cantonese, Mandarin and other Chinese languages) have the greatest number of speakers after English, accounting for approximately 3 per cent of the total population.

² <http://www.abs.gov.au/census>

³ ABS (2014) Estimates and projections, Aboriginal and Torres Strait Islander Australians, 2001 to 2026. Available at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0>

⁴ <http://www.creativespirits.info/aboriginalculture/language/>

- The languages other than English spoken at home vary between the states.

Diversity of religious and spiritual beliefs

- The 2011 Census recorded over 120 different religious denominations each with 250 or more followers.
- Christians represented 61 per cent of the population. Non-Christians represented about 8 per cent of the population. 22.3 per cent of the population stated they had no religion.
- Among non-Christian religions represented in Australia:
 - Buddhism is the largest non-Christian religion and accounts for 2.5 per cent of the total population.
 - Islam, the second largest non-Christian religion represented in Australia, accounts for 2.2 per cent of the total population.
 - Hindus account for 1.3 per cent of the total population
 - Jews account for 0.5 per cent of the total population.

Australia's Migration Programme

Australia operates a large annual migration program which directly impacts on Australia's cultural and linguistic diversity.

- 59 per cent of Australia's population increase is through migration.
- The total migration programme outcome for 2013-14 was 190,000 places, on target with its planning level of 190,000.⁵ This comprised:
 - Skill stream: 67.7 per cent
 - Family stream: 32.2 per cent
 - Within the Family stream 78.1 per cent (or 47,752 places) comprised partners (including spouses, fiancés or partners of Australian citizens and permanent residents).
- The major source countries in the migration programme were India, China and the United Kingdom.
- In 2013-14, 13,768 visas were granted under Australia's Humanitarian Program, fully meeting the planning level of 13,750. Of these, 47.2 per cent were Refugee visas and 32.8 per cent were visas granted under the Special Humanitarian Program. The remaining 20 per cent were Protection visas and other visas granted onshore.⁶
 - In 2013–14, 50 per cent per cent of all Offshore visas were granted to persons born in Asia, 35 per cent to persons born in the Middle East and 15 per cent to persons born in Africa. The main groups resettled were:
 - Afghans located in Iran, Pakistan and Indonesia;
 - Iraqi minorities from a range of countries, but particularly located in Syria, Turkey and Jordan;
 - Refugees from Myanmar from camps along the Thai–Myanmar border, Malaysia and India;
 - Syrians located in Lebanon;
 - Bhutanese from Nepal; and
 - Refugees from the Democratic Republic of the Congo and Ethiopia located in a range of countries in Africa.

⁵ See: 2013–14 Migration Programme Report at www.border.gov.au

⁶ See Australia's Offshore Humanitarian Programme: 2013 – 14 at www.border.gov.au.

Australia's court and tribunal system

Federal courts and tribunals

There are four principal federal courts:

- High Court of Australia
- Federal Court of Australia
- Family Court of Australia
- Federal Circuit Court of Australia

The main federal Tribunal is the Administrative Appeals Tribunal (AAT). The Migration Review Tribunal, Refugee Review Tribunal and Society Security Appeals Tribunal merged with the AAT on 1 July 2015.

State and Territory courts and tribunals

In addition, each State and Territory has their own court and tribunal system. Each is headed by a Supreme Court with different approaches to intermediate (eg District and County Courts) and lower courts (eg Local and Magistrates Courts) in each jurisdiction.

Legal Needs

Legal Australia-Wide Survey (LAW Survey)⁷

The Legal Australia-Wide Survey (LAW Survey) provides a comprehensive quantitative assessment across Australia of an extensive range of legal needs on a representative sample of the population. It examines the nature of legal problems, the pathways to their resolution, and the demographic groups that struggle with the weight of their legal problems.

Legal Needs of Indigenous Peoples⁸

The Survey found that Indigenous people who experience legal problems have an increased likelihood of experiencing multiple legal problems. Further, compared to others, Indigenous people have an increased vulnerability to particular types of legal problems, multiple legal problems and multiple substantial legal problems. Certain Indigenous subpopulations were found to experience an even higher number of legal problems and substantial legal problems. Compared to others, Indigenous people were also found to be more disadvantaged according to several indicators of disadvantage.

Indigenous respondents were found to have a higher level of multiple disadvantages, and Indigenous background was found to heighten vulnerability to multiple legal problems independent of age, gender and level of disadvantage. Multiple disadvantages have a 'compounding' effect on vulnerability to multiple legal problems and multiple substantial legal problems that appears to be stronger for Indigenous people than for others. These findings highlight the need to further consider how legal services can be better tailored to the legal needs of Indigenous people, and particularly those Indigenous subpopulations with heightened vulnerability to multiple legal problems.

Legal Needs of CALD/NESB

People whose main language is not English are less likely to take action or seek advice to resolve their legal problems compared to other Australians. Knowledge of the socio-demographic characteristics of people whose main language is not English is essential for planning initiatives and services to assist and encourage them to resolve their legal problems.

LAW Survey data showed that there are two very different groups of people whose main language is not English. One group speak only languages other than English and are more likely to be female, be older, be retired, have a disability and be less educated. The other group speak English as a second language and are more likely to be male, younger, students, well-educated and either working or unemployed. Both groups are more likely to have low incomes and live in major cities. Providing legal services for people whose main language is not English is therefore likely to require a variety of approaches to target the different groups of people involved.

Indigenous Legal Needs Project, James Cook University, Cairns⁹

The Indigenous Legal Needs Project (ILNP) is a comprehensive national study of Indigenous civil and family law needs in Australia. It seeks to identify and analyse legal needs of Indigenous communities in non-criminal legal areas and improve Indigenous access to civil and family law justice. The ILNP was preceded by a project on Indigenous civil and family law needs in New South Wales (NSW) funded by Legal Aid NSW.¹⁰

The ILNP is funded by an Australian Research Council linkage grant, commencing in 2011 and ending in 2014. It is being undertaken with the assistance of ILNP project partners – Aboriginal and Torres Strait Islander Legal Services (ATSILS), Legal Aid Commissions (LACs) and Indigenous Family Violence Prevention and Legal Services in the Northern Territory.

⁷ [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)

⁸ [http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/\\$file/UJ_36_Indigenous_multiple_legal_problems_and_disadvantage_FINAL.pdf](http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/$file/UJ_36_Indigenous_multiple_legal_problems_and_disadvantage_FINAL.pdf)

⁹ <http://www.jcu.edu.au/ilnp/>

¹⁰ The NSW report, Cunneen, C and Schwartz, M (2008) *The Family and Civil Law Needs of Aboriginal People in New South Wales*, UNSW, is available at: http://www.jcu.edu.au/ilnp/public/groups/everyone/documents/technical_report/jcu_083446.pdf

Federal courts: overview

Federal courts

Chapter III of the Australian Constitution establishes the High Court of Australia and empowers the Commonwealth Parliament to create other federal courts and to vest federal judicial power in state and territory courts.¹¹

There are four principal federal courts:

- The **High Court of Australia** is the highest court and the final court of appeal in Australia. It hears matters involving a dispute about the meaning of the Constitution, as well as final appeals in civil and criminal matters from all courts in Australia.
- The **Federal Court of Australia**¹² is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.

The objectives of the Court are to:

- Decide disputes according to law – promptly, courteously and effectively and, in so doing, to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfil the role of a court exercising the judicial power of the Commonwealth under the Constitution;
- Provide an effective registry service to the community;
- Manage the resources allotted by Parliament efficiently.

The Federal Court also provides registry services for the Federal Circuit Court of Australia's (FCCA) general federal law work.

At 25 January 2015 there were 46 judges of the Court.

The Court's administration is supported by a national registry structure, with a Principal Registry responsible for managing national issues and supporting the corporate services functions of the Court, and a District Registry in each State and Territory which supports the work of the Court at a local level.

From 1 July 2012, the Court assumed responsibility for administering the **National Native Title Tribunal**.¹³ The President and Members of the Tribunal, assisted by the Registrar, under delegation from the Registrar of the Federal Court of Australia, are responsible for managing the administrative affairs of the Tribunal.

- The **Family Court of Australia**¹⁴ (FCOA) and the **Federal Circuit Court of Australia**¹⁵ (FCC) (prior to April 2013 known as the Federal Magistrates Court) were merged into a single FMA Act Agency¹⁶ from 1 July 2013, known as the Family Court and Federal Circuit Court.

The Family Court and Federal Circuit Court have a single program under which all services are provided. The program objectives for the Family Court and Federal Circuit Court are managed via three separate components:

1. Family Court of Australia

The FCOA is a superior court of record established by Parliament in 1975 under Chapter 3 of the Constitution. It commenced operations on 5 January 1976 and consists of a Chief Justice, a Deputy Chief Justice and other judges. The Court maintains registries in all Australian states and territories except Western Australia. The Court assists Australians to resolve their

¹¹ <http://www.ag.gov.au/LegalSystem/Courts/Pages/default.aspx>

¹² <http://www.fedcourt.gov.au/>

¹³ www.nntt.gov.au

¹⁴ <http://www.familycourt.gov.au>

¹⁵ <http://www.federalcircuitcourt.gov.au>

¹⁶ Financial Management and Accountability Act 1997 (FMA Act) Agencies

most complex legal family disputes. The objective of the FCOA is to support Australian families involved in complex family disputes by deciding matters according to the law, promptly, courteously and effectively. This involves:

- providing decisions in complex family disputes for separating Australian couples and families through the determination of matters; and
- providing national coverage as the appellate court in family law matters.

The Court has 31 judges and 19 family law registries in all states and territories except Western Australia, which has its own family court.

2. Federal Circuit Court of Australia

The FCCA was established by the *Federal Circuit Court of Australia Act 1999* (Cth) (formerly the *Federal Magistrates Act*) and its jurisdiction at inception was conferred by the *Federal Magistrates (Consequential Amendments) Act 1999*. The Court is an independent federal court under the Australian Constitution. It is a federal court of record and a court of law and equity.

The Court is constituted by the Chief Judge and judges as appointed. Judges are appointed in accordance with Chapter III of the Australian Constitution.

The objective of the FCCA is to provide a simple and accessible alternative to litigation in the Family Court and Federal Court. Where practical, parties are encouraged to resolve their disputes through dispute resolution and negotiation methods.

The jurisdiction of the FCCA is broad and includes family law and child support, administrative law, admiralty law, bankruptcy, copyright, human rights, industrial law, migration, privacy and trade practices – sharing those jurisdictions with the Family Court of Australia and the Federal Court of Australia. The Court deals with approximately 95 per cent of migration and bankruptcy applications filed in the federal courts. Approximately 90 per cent of the court's workload is in the area of family law, representing nearly 80 per cent of all family law matters filed in the federal courts (excluding Western Australian family law matters).

The Federal Court of Australia is the first point of appeal from a general law decision of the FCCA.

The Court has 62 judges, has 15 registries and sits in 45 locations nationwide.

3. Family Court and Federal Circuit Court administration

The administration section assists the courts to achieve their stated purpose by:

- maintaining an environment that enables judicial officers to make determinations;
- providing effective and efficient registry services;
- effectively and efficiently managing resources; and
- providing effective information and communication technologies.

The Federal Circuit Court of Australia and the Family Court of Australia in Cairns engage a consultant Indigenous Liaison Officer, on a case by case basis.

Federal courts: existing resources that support courts to deliver services to culturally diverse clients

Federal Court of Australia

Policies

Workplace Diversity Plan

- The Court remains strongly committed to diversity in the workplace and continued to use a range of flexible employment conditions to accommodate the needs of staff.

The Reconciliation Action Plan 2013-2015¹⁷

- The National Native Title Tribunal's RAP, which was approved by Reconciliation Australia on 8 July 2013, establishes a range of actions supported by measurable targets to enhance relationships and cultural understanding, to foster respect for Aboriginal and Torres Strait Islander peoples, and to provide development and professional opportunities for Indigenous staff members.
- An annual review of the RAP benchmarks is conducted to assess the Tribunal's achievement of its specific objectives as well as the broader goal of reconciliation. In the annual review process Indigenous Advisory Group members identify opportunities and risks as well as achievements.

Agency Multicultural Plan 2013-2015¹⁸

- The Federal Court's Agency Multicultural Plan (AMP) aims to ensure that culturally and linguistically diverse (CALD) clients are not disadvantaged in their dealings with the Court, particularly arising from the inability of a party or a witness in a Court proceeding to speak or understand the English language. The AMP recognises that all court users must have every reasonable means of understanding the course of court proceedings and be treated with due courtesy and respect.
- Actions contained in the Plan that were progressed in 2013-14 include:
 - Development of key performance indicators for the timely provision of interpreters;
 - Reviewing and updating the Court's language allowance policy and skills register;
 - Consultation with front-line staff (court officers and client service staff) to obtain their suggestions for actions that will assist culturally and linguistically diverse clients. As a result of these consultations the Court is developing a plain-English version of the migration form guide and affidavit guide for translation into relevant languages;
 - Preparation and distribution within the Court of a Guide for presenting to a Culturally and Linguistically Diverse Group.

Committees / working group structures

Court's National Consultative Committee (NCC)

- Includes an Indigenous representative.

NNTT's Indigenous Advisory Group

- The National Native Title Tribunal's Indigenous Advisory Group (IAG) is convened by the Registrar and comprises Aboriginal and Torres Strait Islander staff of the Tribunal and of the Federal Court.
- The IAG provides advice to the Tribunal's Executive on policy issues as they relate to Indigenous staff members and is an important reference point for a broad range of matters within the Tribunal.

International Programs Unit

- Part of the Federal Court's Principal Registry in Sydney, the Unit is responsible for the Court's portfolio of international judicial development programs partnering judiciaries around the world. Its

¹⁷ <http://www.nntt.gov.au/Reporting%20Publications/Reconciliation%20Action%20Plan%202013%20-%202015.pdf>

¹⁸ <http://www.fedcourt.gov.au/about/corporate-information/agency-multicultural-plan>

activities include designing and providing technical assistance; capacity building; and institutional strengthening projects.

Relevant operational protocols

Court User Satisfaction Survey

- As part of its commitment to court excellence, the Court conducts a Court User Satisfaction Survey to understand how litigants, lawyers and others who visit the courts regard services.

Translation of ticketing options

- Ticketing options in the NSW Registry queue management system are translated for users.

Interpreting and translating policies, procedures and protocols

Court's interpreter and translation policy

- The Court has established a system to provide professional interpreter services. Court policy is to provide these services for litigants who are unrepresented and who do not have the financial means to purchase the services, and for litigants who are represented but are entitled to an exemption from payment of court fees, under the Federal Court and Federal Circuit Court Regulation.
- In the past year over 300 interpreter bookings were made for cases before the Federal Court and Federal Circuit Court.

Court's Judges Benchbook

- The Federal Court is undertaking a revision of the Judges Benchbook section on interpreters and is preparing an explanatory book on court processes for interpreters.

Language Allowance and Skills Register

- A language allowance is payable where staff have cause to use foreign and indigenous language skills for work purposes.

Public outreach / education activities targeting diverse communities

Indigenous

- The Court participated in the Indigenous Clerkship Programme run by the Victorian Bar.
- The President of the NNTT delivered a number of conference papers and participated in other presentations including:
 - Indigenous Sea Rights – the Grotius Heritage, The Annual Richard Cooper Memorial Lecture;
 - Agreement making in Indigenous contexts, World Indigenous Legal Conference;
 - Mining, native title and the impacts on Indigenous Australians: when the mining stops, Environmental Law conference.

CALD/Multicultural

- Chief Justice Allsop attended the Affinity Intercultural Foundation, 2013 Friendship & Dialogue Iftar Dinner at NSW Parliament House.

Resources and materials developed to assist in educating court users

NNTT's Indigenous Land Use Agreement fact sheets¹⁹

- An important aspect of the Tribunal's client engagement has been to build the capacity of clients to be effective participants in native title processes. An Indigenous Land Use Agreement (ILUA) Resources Project produced plain English fact sheets in relation to ILUAs, with a particular focus on

¹⁹ <http://www.nntt.gov.au/ILUAs/Pages/default.aspx>

agreement making, the authorisation process making an application for registration, objections and registration. The fact sheets are published on the Tribunal's website.

DVD: *Being a Witness in a Native Title Case & Preparing for a Native Title Hearing*

- The Federal Court has produced a DVD called *Being a Witness in a Native Title Case & Preparing for a Native Title Hearing* for Indigenous people who may be witnesses in a native title hearing and their lawyers. Copies of the DVD have been provided to all Native Title Representative Bodies and Service Providers.

Learning and development training

Indigenous

- Staff in each Tribunal office engaged in specially-tailored, cross-cultural 'immersion' experiences, each of which was conducted by Indigenous Australians and sought to impart knowledge and enhance cross-cultural understanding and competence.

CALD/Multicultural

- The Court offered training opportunities to its in-house mediators, including sessions on 'Dealing with Parties from Culturally Diverse Backgrounds' and 'Dealing with Parties with High Conflict Personalities'.

Family Court of Australia and Federal Circuit Court of Australia

Policies

Access and Equity Framework

- The Access and Equity Framework serves as a guide to supporting access to justice for all. It is based on the premise that a client's capacity to participate in Court processes is significantly influenced by the quality of information and level of support they receive prior to their day in court.
- The Framework acknowledges that to improve access to justice the Court must:
 - develop the infrastructure (IT, training, physical, performance development and more) needed to support actions;
 - recognise that a one size fits all approach does not deliver justice equality;
 - improve understanding of, and address the complexities and barriers experienced by, different client groups when accessing Court;
 - acknowledge that most individuals do not neatly fit into a single client group and, as such, the Courts must adopt a flexible model of service delivery that recognises the needs of each individual;
 - play a role in providing information, and linking clients to community organisations that can provide support services
- The Access and Inclusion Strategy requires the Court to develop and implement the following:
 - Multicultural Plan
 - Family Violence Plan
 - Indigenous Action Plan
 - Disability Action Plan
 - Mental Health Support Plan
- The individual plans commit the administrative arm of the courts to specific actions that support the needs of particular client groups. Responsibilities are assigned, timelines set and performance targets quantified. These plans aim to address the needs of both self-represented and represented litigants.

Family Court's Indigenous Action Plan for 2014-2016²⁰

- The Plan recognises that Indigenous communities experience multiple barriers when trying to access the Court including literacy and language barriers, a lack of understanding about the family law system and a lack of service access for communities in regional and remote areas. These barriers often exist alongside concerns about Western notions of child-rearing, kinship and family. The plan commits the Court to continue working to overcome such barriers.
- With this plan, the Court strives to translate its commitment to access to justice into practical approaches and policies that deliver equitable outcomes for Aboriginal and Torres Strait Islander communities.
- The Court interacts with Indigenous communities and community leaders, including Aboriginal Legal Services, health liaison officers, Native Title groups and the like. Members of the Court engage with their State and Territory counterparts and with their colleagues in the Federal Circuit Court and the Family Court of Western Australia.
- Any approach adopted by the Family Court is considered in a child focused way having regard to the lifestyle, culture and traditions of the child, and his or her family. This must include the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture and the impact any parenting order may have on such rights.
- In developing this plan, the Indigenous Working Group and Committee has:
 - developed actions under the guidance of Reconciliation Australia's RAP *Minimum Elements for an Innovate RAP*;
 - responded to the finding and recommendations in the Family Law Council's 2012 report: *Improving The Family Law System for Aboriginal and Torres Strait Islander Clients*;
 - responded to the presentation to the Family Law Council – '*Expert Reports In Matters Involving Aboriginal Children*' – tabled at the Family Law Council Meeting 20-21 February 2014, by the Directors of Aqua Dreaming Ltd., Ms Colleen Wall, Mrs Lynette Johannessen and Ms Cheryl Viellaris;
 - responded to the finding and recommendations in Stephen Ralph's 2012 report – *Indigenous Australians and Family Law Litigation: Indigenous Perspectives on Access to Justice*;
 - built on the Family Court's *Indigenous Plan 2010–2013* and associated *End of Plan Report* (Family Court of Australia, 2014); and
 - aligned actions to the Family Court of Australia and Federal Circuit Court of Australia's *Statement of Strategic Intent* (2012).

Federal Circuit Court of Australia's Reconciliation Action Plan 2014-2016²¹

- The first RAP to be developed by an Australian court, the Federal Circuit Court's RAP outlines real and practical measures to achieve reconciliation, build stronger relations with Aboriginal and Torres Strait Islander peoples and provide Aboriginal and Torres Strait Islander clients with better access to justice and the family law system through tailored services and procedures. It contains 13 specific practical measures that the Court will adopt across four focus areas, including:
 - relationships – providing access to justice for Aboriginal and Torres Strait Islander peoples in the Federal Circuit Court and providing opportunities for Aboriginal and Torres Strait Islander peoples to build relationships with judges, court and registry staff;
 - respect – improving awareness within the Court by developing appropriate cultural competency training to better enhance the Court's delivery of judicial services to Aboriginal

²⁰http://www.familycourt.gov.au/wps/wcm/connect/FCOA/home/about/publications/Papers/Papers+and+Reports/FCOA_pr_ia_plan

²¹http://www.federalcircuitcourt.gov.au/pubs/docs/FCC_RAP_2014.pdf

- and Torres Strait Islander clients and establishing productive partnerships with appropriate Aboriginal and Torres Strait Islander agencies and elders;
 - opportunities – developing opportunities for members of the Aboriginal and Torres Strait Islander community to enhance their educational and career prospects, through offering placements and work experience opportunities for law students/graduates and through establishing traineeships and work experience for other Aboriginal and Torres Strait Islander peoples; and
 - tracking progress and reporting – reporting on achievements and challenges to Reconciliation Australia and investigating other means to track the RAP progress and report on what has been achieved.
- Since the launch, the Aboriginal and Torres Strait Islander Access to Justice Committee has undertaken a great deal of work to implement the RAP. Reconciliation Week activities were conducted across various registries of the Court including Adelaide, Brisbane, Cairns, Darwin, Newcastle, Parramatta, Sydney, and Townsville. These events provided an opportunity for community members to visit the registry and observe it in operation, as well as learn about the Federal Circuit Court and other stakeholders such as the Aboriginal Legal Service, Legal Aid and Family Relationship Centres.
 - Further activities and events are being planned and developed which are consistent with the objectives identified in the RAP, including trials of expanded services to Indigenous litigants.

Agency Multicultural Plan 2013-2015²²

- The Family Court of Australia and Federal Circuit Court of Australia were one of the first agencies to adopt the national Multicultural Access and Equity Policy. The plan was developed with advice and guidance from the Courts' Multicultural Committee, a group with judicial and administrative representation from both the Family Court of Australia and the Federal Circuit Court of Australia.
- In developing this plan, the Courts:
 - developed actions which meet, as a minimum, the courts' obligations as set out in the Australian Government's Multicultural Access and Equity Policy;
 - responded to the Family Law Council's 2012 report – 'Improving The Family Law System for Clients from Culturally And Linguistically Diverse Backgrounds' – on how to meet the needs of CALD clients of both courts within existing resources including identifying how the courts can ensure proper information is provided to this client group, internally and externally;
 - reviewed the Family Court's National Cultural Diversity Plan (Family Court of Australia, 2004); and
 - aligned actions to the courts' Statement of Strategic Intent.
- Actions set out in the plan are focused on the administrative area of the courts and cover areas such as:
 - community education/legal literacy;
 - building cultural competence of staff;
 - enhancing service integration; and
 - enhancing the use of interpreters.
- The plan is being championed at the highest level, by the Chief Justice of the Family Court of Australia, the Chief Judge of the Federal Circuit Court of Australia and the CEO of both courts. Its implementation is being monitored and assured by the Multicultural Committee who will also provide advice regarding any corrective actions that may be required. The Multicultural Committee reports annually on the plan's progress to the Family Law Courts Advisory Group. A

²² <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/about/policies-and-procedures/multicultural-plan>

working group has been set up with responsibility for progressing and supporting many of the actions within the plan.

Committees / working group structures

Joint Access to Justice Committee

- Oversees the Court's cultural diversity plan and provides advice to the Chief Justice and Chief Executive Officer on cultural diversity issues, special needs of Aboriginal and Torres Strait Islander people and unrepresented litigants. Comprised of the Cultural Diversity, Aboriginal and Torres Strait Islander and Unrepresented Litigants Committees.

Aboriginal and Torres Strait Islander Access to Justice Committee (Federal Circuit Court)

This committee examines how the Federal Circuit Court can improve access to justice in for Indigenous litigants.

Indigenous Advisor

- The Court employs, in an advisory and awareness raising capacity, Stephen Ralph, a forensic psychologist who has extensive experience in the field of family law and child protection.
- If required, the Court will try to appoint a person who understands Indigenous culture to help it decide the best arrangements for an Indigenous family. An Indigenous adviser may be appointed when the parties see a family consultant, a registrar or a judicial officer. The adviser does not represent the Indigenous person or translate; they help the Court understand the relevant cultural issues so the Court can provide a culturally appropriate service. They make sure:
 - the court process is not culturally biased;
 - the Indigenous party (parties) has a good chance to present their views, and
 - the court process is sensitive to and responsive to Indigenous needs.

Relevant operational protocols

Diversity Protocol

- The Diversity Protocol offers a one page step by step process of steps that must be followed for all clients of the Courts who identify as CALD. It covers:
 - checking if the client needs assistance from an interpreter;
 - engaging an interpreter if required;
 - checking for upcoming events of a client where an interpreter may be needed and arranged; and
 - ensuring the interpreter booking is recorded.

Diversity tips and scripts sheet

- The Diversity tips and scripts sheet covers words that a staff member can use where a language barrier presents. It covers:
 - simple questions to ascertain need for interpreter; and
 - arranging an interpreter.

Feedback and Complaints statement

- The Interpreter and Translator Policy includes a Feedback and Complaints statement which encourages feedback on the standard of translating services.

Interpreting and translating policies, procedures and protocols

Courts Interpreter and Translator Policy and Procedures

- All Registries provide language services and use either ONCALL or Translating and Interpreting Services as their main provider.

Indigenous interpreter

- Court staff can arrange an Indigenous interpreter if a person is having difficulty understanding the staff or communicating in English.

Community language allowance project

- The courts' new Community Language Allowance Policy aims to better encourage staff who have another language, and who have regular client contact, to develop and use their language skills at the counter and over the telephone. Under the policy, eligible staff are paid to achieve and maintain their NAATI or equivalent qualifications.

Public outreach / education activities targeting diverse communities

The courts undertake conduct ongoing engagement with local communities, community-based organisations, law societies, family law pathway networks, volunteer networks and other government agencies. Examples can be found in the Family Court's Annual Report 2013-14 and the Federal Circuit Court's Annual Report 2013-14. They include:

Indigenous

- Family Law Aboriginal Roadshow as part of National Reconciliation Week activities.
- Local launches of the RAP including the display of a major artwork which hangs in 12 Registries.
- Involvement of Judges and other senior court staff in the planning and conduct of Aboriginal Family Law Pathways meetings and public events.

CALD/Multicultural

- Local Action plans for each court registry include building partnerships with the local multicultural community and celebrating Harmony Day (21 March) each year.
- Meetings were held with a wide range of community organisations on the issue of forced marriage, with the outcome being that the courts are now tapped into, and provide information to, an Attorney-General's Department working group who are developing forced marriage resources.
- The Family Court and Federal Circuit Court were awarded the *Diversity and the Law* award by the Migration Council Australia in 2014.
- On 14 May 2014 Chief Justice Diana Bryant launched the book 'Islamic Family Law in Australia: To recognise or not to recognise' written by Dr Ghena Krayem.
- Dandenong registry hosted an Access and Equity Forum to inform the wider family law community about African communities within family law. The session was sponsored by the Victorian Family Law Pathways Network. Dandenong registry was chosen because the city has significant cultural diversity and is one of the Victorian migrant settlement hubs for new and emerging African communities.

External resources made available to judicial officers and staff

Indigenous

- The **Justice Resource documents** contain information about important dates and resources relevant to Aboriginal and Torres Strait Islander justice issues and have been developed to provide assistance for the courts, for members of the legal profession and for people who come before the courts.
- In 2012, the National Judicial College of Australia funded a project to develop a resource to inform courts and lawyers about many of the distinct Indigenous communities in Queensland. A committee of judges and magistrates in Queensland worked together on the **Aboriginal and Torres Strait Islander Community Profiles** project.²³

²³ <http://www.datsima.qld.gov.au/aboriginal-torres-strait-islander/government/programs-and-initiatives/justice-resource>

The documents profile the history and contemporary circumstances of many different Aboriginal and Torres Strait Islander communities in Queensland as diverse as from Coen to Palm Island to Cunnamulla. They can be read together or used individually. All of the documents on the website have been approved by the representatives of the community to whom they relate. One document deals with common issues and should be read in conjunction with the other documents. Judges and magistrates hope that the lawyers who appear before them will find the documents helpful and make such use of them as is appropriate and relevant to people who appear in the courts. The documents are not themselves evidence and so are not determinative for example in native title applications.

CALD/Multicultural

- **Ethnic naming practices project** – through a collaboration with the Department of Human Services (DHS), court staff now have intranet access to DHS's online guide to ethnic naming practices. Covering the naming conventions of 66 languages, including some from newly emerging Australian communities, the guide provides information on:
 - the order in which a name appears;
 - how children are named;
 - if and how a woman's name changes after marriage, divorce or death of a partner; and
 - pronunciation of names.

This guide is particularly helpful for counter staff, staff at the National Enquiry Centre and court officers who have frequent contact with culturally diverse clients.

- **TIS Working with interpreters training DVD** – a DVD produced by TIS National giving advice on how to access and use interpreters. It has three chapters: a guide to TIS National services, working with interpreters, and services for medical practitioners.

Resources and materials developed to assist in supporting and educating court users

NEC Post Telephone Inquiry Email

The post-telephone inquiry email, sent by the NEC to clients, includes updated and improved links to support people who need interpreters, mental health support, indigenous families, family violence and language assistance.

Application for Divorce Form – Hover Text on Portal

This project aimed to improve understanding of the family law terminology used in online forms – particularly for self-represented litigants and litigants experiencing language barriers. As a result of this project the Commonwealth Portal's application for divorce form:

- uses hover text to provide plain English definitions for commonly used Family Law terminology;
- provides links to the Family Law Termfinder which provides translations and definitions of Family Law terminology in five commonly used languages.

Indigenous

- **Brochure: Indigenous families and the courts** – a plain English guide for Indigenous people in relation to the approach taken by the Family Court and the Federal Circuit Court. The document also provides information in relation to the range of legal and relationship support services across the family law system that attempt to support Aboriginal and Torres Strait Islander families such as the Aboriginal and Torres Strait Islander Legal Services and the Family Violence Prevention Legal Services.

CALD/Multicultural

- The courts now provide links to the **Family Law Term Finder**²⁴ on the courts' websites and in emails sent to clients. A joint project between the Federal Attorney-General's Department and Macquarie University, LawTermFinder provides a consistent and maintained source of plain English and translated (Arabic, Vietnamese, Simplified and Traditional Chinese) definitions of family law terms.

Diversity data collected

Indigenous

- **Indigenous status on court forms** - some court forms ask a non-compulsory question about a person's culture, including Indigenous status. Responses assist the Court to plan and deliver services to Indigenous people.
- When a person indicates they are of Aboriginal or Torres Strait Islander origin, the Court provides them with information about specific services for Indigenous families. The information is kept on the person's Court file and is available only to Court staff involved in the case; for example, the judicial officer, the parties to the proceedings and their lawyers.

CALD/Multicultural

- A considerable amount of language and country of origin data is collected but this is not consistent across all Registries.

Learning and development training

- **Indigenous cultural competence** – Aboriginal Forensic Psychologist, Mr Stephen Ralph, was commissioned to develop and deliver two training sessions that were held in Sydney in February 2014 and Townsville in May 2014. All staff located at these registries were required to attend, with a representative from nearby registries also attending. As a result of this training initiative, there is now a staff member in each region (and most sub-registries) who is trained in how to approach assessments with Aboriginal litigants.

CALD/Multicultural

Cultural competency e-learning project:

- This aims to improve the cultural competence of staff through the use of an e-learning package that provides information and inspires staff to then undertake work-based learning activities. Originally adopted from a similar initiative by the Office of Multicultural Interests (WA) the new package has been updated and made court specific.
- It covers:
 - Multicultural Australia;
 - Understanding culture;
 - Intercultural communication;
 - New arrivals to Australia;
 - Working with interpreters and translators;
 - Using plain English.
- The program aims to:
 - Improve knowledge and understanding of the wide range of culturally diverse communities who access the Courts;
 - Use critical reflection to understand the impact of stereotypes, imposing one's own cultural and professional paradigms and judgements;
 - Help staff build the practical skills needed to adapt and deliver services to meet the needs of culturally and linguistically (CALD) communities.

²⁴ <http://lawtermfinder.mq.edu.au/>

Staff induction training:

- All registries cover cultural diversity as part of staff induction training. The training is undertaken independently via the Courts intranet system and includes:
 - a workplace discrimination video series;
 - a video based case study on family violence inclusive of diversity issues;
 - the Courts Interpreter and Translator Policy and Procedures;
 - the Courts Diversity Protocols, Tips and Scripts; and
 - In Our Hands: A Guide to Human Rights for Australian Public Servants.
- The Adelaide Registry undertake a more thorough induction process by utilising the Family Court of Australia *Integrated Client Service Delivery Program* training as part of staff induction. They are also in the process of distributing the TIS working with Interpreters DVD as an additional training tool for Registry staff.
- New Family Consultants also undertake a cultural diversity research project as part of their training.

Australian Capital Territory (ACT) Government's approach to diversity

Whole of Government Strategies

Indigenous

ACT Whole of Government Aboriginal and Torres Strait Islander Agreement²⁵

The ACT Whole of Government Aboriginal and Torres Strait Islander Agreement sets out the ACT Government's commitment to work with Aboriginal and Torres Strait Islander Canberrans to improve the delivery of health, housing, economic and social services. It provides a framework for relations between the Aboriginal and Torres Strait Islander communities and the ACT Government by articulating the principles of good communication and partnership, and aims to ensure service delivery agencies have effective strategies and performance measurement mechanisms in place to meet the needs of, and improve outcomes, the Aboriginal and Torres Strait Islander community.

ACT Reconciliation Action Plan 2014-2017²⁶

The 2014-2017 Reconciliation Action Plan was developed through consultations with staff across the directorate, Aboriginal and Torres Strait Islander clients and local Aboriginal and Torres Strait Islander communities and other community partners.

CALD/Multicultural

ACT Multicultural Framework 2014-2018 discussion paper – Capital Culture²⁷

The *ACT Multicultural Framework 2014-2018 discussion paper – Capital Culture*, released in October 2014, seeks to provide guidance to assist ACT Government agencies in meeting their obligations under Australian and ACT laws, and the human rights principles which the ACT Government is committed to.

The focus of the Framework is to maximise the benefits of the ACT's multicultural way of life while providing accessible and responsive services to members of the ACT's culturally diverse community. The Framework is organised around three key themes:

- Accessible and Responsive Services
- Citizenship, Participation and Social Cohesion
- Capitalising on the Benefits of our Cultural Diversity

2012-2016 ACT Languages Policy²⁸

The 2012-2016 ACT Languages Policy supports ACT Government directorates in developing effective communication between staff and clients to improve service delivery to all Canberrans, expresses the importance of learning English as a means for individuals to fully participate in the city's cultural, social and economic life, and recognises the value of acquiring languages in addition to English.

The ACT's Language Policy states at section 4.1 that "the ACT Government is committed to facilitating access to accredited interpreters (as a first choice where available) for use by Canberrans who do not speak English well or at all or who are Deaf or hearing impaired and wish to gain access to government funded services and programs. However, *the ACT Government acknowledges that this policy cannot bind the ACT Law Courts and Tribunal in the discharge of its responsibilities.*" (emphasis added)

²⁵ <http://www.communityservices.act.gov.au/atsia>

²⁶ www.communityservices.act.gov.au/_data/assets/pdf_file/0009/662094/CSD-Reconciliation-Action-Plan-2014-2017.pdf

²⁷ <http://www.cmcf.org.au/wp-content/uploads/2014/10/Capital-Culture-a-Discussion-Paper.pdf>

²⁸ <http://www.communityservices.act.gov.au/multicultural/publications/amended-act-languages-policy>

Key Government Department: ACT Justice and Community Safety Directorate (JACS)²⁹

The Justice and Community Safety Directorate comprises several agencies and is responsible for a wide range of activities and services in the areas of justice, the law, emergencies, commercial practices and government elections.

Key strategic objectives include:

- accessible justice system;
- safe community;
- safe community – emergency services;
- effective regulation and enforcement; and
- promotion and protection of rights and interests.

The Directorate participates in and coordinates the development of criminal justice reforms, including policy relevant to victims of crime and Aboriginal and Torres Strait Islander justice; and coordinates crime prevention strategies that involve a whole-of-government and community approach to identifying and responding to crime priorities and community safety concerns.

Justice programs include:

- Crime prevention strategies and research
- Restorative justice pathways
- Aboriginal and Torres Strait Islander Justice programs
- Victims of crime support
- Sexual assault reforms
- Domestic violence

Note: Due to the smaller scale size of the Territory and the ACT Public Service, whole of government policies have been developed and implemented that apply to all nine for the ACT Public Service Directorates and their staff. As such, services provided to the community by the ACT Law Courts and Tribunal administration must operate in accordance with whole of government policies relating to cultural diversity.

Indigenous

Justice and Community Safety Reconciliation Action Plan 2013 – 2015³⁰

This is the Directorate's second Reconciliation Action Plan. It seeks to build on the actions of the initial RAP by continuing and enhancing key initiatives including engaging with Aboriginal and Torres Strait Islander staff members and with the broader community; raising awareness of Aboriginal and Torres Strait Islander cultures across JACS; and promoting opportunities for Aboriginal and Torres Strait Islander people in the ACT.

Aboriginal and Torres Strait Islander Justice Agreement³¹

On 2 August 2010, the ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 was signed by the Government and representatives of the Aboriginal and Torres Strait Islander community. The Agreement was a Justice and Community Safety Directorate policy that aimed to:

- improve community safety and improve access to law and justice services for Aboriginal and Torres Strait Islander people in the ACT;
- reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system as both victims and offenders;
- improve collaboration between stakeholders to improve justice outcomes and service delivery for Aboriginal and Torres Strait Islander people;

²⁹ <http://www.justice.act.gov.au/>

³⁰ <http://www.justice.act.gov.au/page/view/3366/title/reconciliation-action-plan>

³¹ http://www.justice.act.gov.au/resources/attachments/Agreement_ATSIJusticeAgreement_LPB_20101.pdf

- facilitate Aboriginal and Torres Strait Islander people taking a leadership role in addressing their community justice concerns;
- reduce inequalities for Aboriginal and Torres Strait Islander people in the justice system.

The Agreement incorporated a reporting framework including a requirement that a Report Card be provided to the Legislative Assembly after 2 years. The Report Card³² by the ACT Government and the ACT Aboriginal and Torres Strait Islander Elected Body highlighted that the issue of over representation of Aboriginal and Torres Strait Islander people in the justice system remained a major issue: while accounting for 1.5 per cent of the ACT population, Aboriginal and Torres Strait Islander people account for approximately 15.7 per cent of people in the ACT criminal justice system.

Justice Reinvestment

Justice reinvestment involves the rebalancing of criminal justice expenditure from custody to community-based initiatives that tackle the causes of crime rather than the results of crime. Justice reinvestment approaches form part of the ACT Government's commitment to a safe community and improving outcomes for all Canberrans. This commitment is underpinned by:

- strong investment in early intervention, prevention and diversion services as the most effective way to improve social outcomes;
- access to efficient and effective services;
- integrated responses to meet individual needs;
- a strong evidence base to inform policy and service system responses.

Substantial work has already been undertaken in the ACT to progress the development of justice reinvestment in Australia. This work includes:

- Exploring the feasibility of Justice Reinvestment in the ACT workshop and associated report (November 2011);³³
- Justice Reinvestment Forum – Is Justice Reinvestment needed in Australia? and associated report (August 2012);³⁴
- Inclusion of justice reinvestment in a number of youth justice policy documents, including:
 - 2011 Discussion Paper: Toward a diversionary framework in the ACT;³⁵
 - Blueprint for Youth Justice in the ACT 2012 – 2022.³⁶

Aboriginal Justice Centre in the ACT³⁷

The Aboriginal Justice Centre (AJC) in the ACT is a government-funded, community controlled organisation committed to improving justice outcomes and access to services for Aboriginal and Torres Strait Islander people in the ACT and local region. The primary objective of the AJC is to reduce the incarceration rates of Aboriginal and Torres Strait Islander people in the ACT. AJC provides and coordinates prevention and case management programs to support those at risk or vulnerable groups. Case Managers are employed to provide support to clients in custody and in the community setting.

³² [http://www.justice.act.gov.au/resources/attachments/02_AJA_Report_Card_Cab_Sub_Attachment_A_\(version_ix\)-_26_July_12_\(FINAL\).pdf](http://www.justice.act.gov.au/resources/attachments/02_AJA_Report_Card_Cab_Sub_Attachment_A_(version_ix)-_26_July_12_(FINAL).pdf)

³³ Guthrie J A, Adcock F, Dance P, 'Exploring the feasibility of Justice Reinvestment in the Australian Capital Territory', AIATSIS Workshop Report, November 2010. http://ncis.anu.edu.au/lib/doc/JR_workshop_report_nov2011.pdf

³⁴ Guthrie, J. A. (ed.) 2012: 'Is Justice Reinvestment Needed in Australia?' Unpublished report and edited transcript of a one - day forum held on the 2 August 2012: http://ncis.anu.edu.au/lib/doc/jrf_proceedings.pdf Further information available from http://ncis.anu.edu.au/events/past/jr_forum.php

³⁵ Department of Disability, Housing and Community Services.(2011) Discussion Paper: Towards a Diversionary Framework for the ACT. Canberra: ACT Government. Available online at:

http://www.dhcs.act.gov.au/data/assets/pdf_file/0003/188274/Towards_a_diversionary_framework_for_the_ACT_Discussion_Paper.pdf.

³⁶ Youth Justice Implementation Taskforce (2012). Blueprint for Youth Justice in the ACT, 2012-2022. Canberra: ACT Government. Available online at: http://www.dhcs.act.gov.au/data/assets/pdf_file/0009/337590/Blueprint_for_Youth_Justice_in_the_ACT_2012-22.pdf.

³⁷ <http://www.actajc.org.au>

Restorative Justice Unit³⁸

The Restorative Justice Unit (RJU) undertakes additional activities to support Aboriginal and Torres Strait Islander youth through the restorative justice process including outreach assessments, home visits, support with travel, and community based placements involving culturally appropriate support. It is victim focused and participation is voluntary for all involved. Referrals can be made at any stage of the criminal justice system, as a diversion or in conjunction with criminal proceedings, pre or post sentence.

The RJU have an Indigenous Guidance Partner³⁹ position, established to provide guidance and assistance to Aboriginal and Torres Strait Islander youth and victims referred to or involved in restorative justice.

Aboriginal and Torres Strait Islander Programs within Alexander Maconochie Centre

The Alexander Maconochie Centre runs a number of specific programs for Aboriginal and Torres Strait Islander offenders. These programs cover care management, counselling and training support.

The Minister for Corrections appoints the Aboriginal and Torres Strait Islander Official Visitor. The role includes visiting and inspecting the Alexander Maconochie Centre and any places where Aboriginal and Torres Strait Islander detainees are directed to work, inquiring into complaints by Aboriginal and Torres Strait Islander detainees, and conducting investigations into complaints.

Front Up Program

Judicial procedures are mostly for breach of bail offences and the Front Up Program is designed to redress this situation by allowing Indigenous people to voluntarily surrender themselves to the court without having to be processed by the ACT Watch House. ACT Corrective Services are also working with a number of Indigenous agencies within the ACT to maximise the opportunity for offenders to comply with the conditions of Court orders.

³⁸ The ACT scheme is governed by the *Crimes (Restorative Justice) Act 2004*: <http://www.legislation.act.gov.au/a/2004-65/default.asp>

³⁹ <http://www.justice.act.gov.au/page/view/3356/title/indigenous-support>

ACT courts: overview

Introduction

- The **ACT Supreme Court**⁴⁰ is a superior court of record enjoying civil, criminal and appellate jurisdiction. Generally the original and appellate jurisdiction of the Court is exercisable by a single judge. Criminal trials may be heard before a judge and jury, or by judge alone at the election of the accused. In civil matters the Court has an unlimited monetary jurisdiction, although claims for less than \$250,000 are usually brought in the Magistrates Court. An appeal lies to the Supreme Court from the Magistrates Court, the Children's Court, and the ACT Civil and Administrative Tribunal (ACAT) (including the ACT Administrative Appeals Tribunal).

The Supreme Court comprises a Chief Justice, three resident judges, seventeen additional judges (each of whose primary commission is as a Judge of the Federal Court of Australia), and a Master who has broad jurisdiction in personal injuries matters. In addition three Acting Judges were appointed in 2010.

The Court consists of three main administrative units that answer directly to a Courts Administrator:

- the Registry, which is responsible for maintaining up-to-date records of the Court, processing judgments and orders, listing cases and securing court records;
 - the Sheriff's Office, which is responsible for serving and executing the civil process of the Court, administering the jury system, court security and providing court attendants; and
 - the Russell Fox Library, which is the main legal reference resource for the ACT courts.
- The **ACT Magistrates Court**⁴¹ deals with less serious criminal cases and civil matters involving amounts of less than \$250,000. It also has a number of other jurisdictions such as workers compensation and fair trading matters. The Magistrates Court is presided over by a single magistrate in both criminal and civil matters.

The Children's Court is part of the Magistrates Court and deals with criminal cases involving defendants under 18 years of age and matters relating to the care of children and young people under 18 years of age.

The Coroners Court also operates as part of the Magistrates Court and is responsible for inquiring into the cause and manner of a person's death where a person dies in certain specified circumstances. It also inquires into the cause of fires that destroy or damage property and, if requested to do so by the Attorney-General, it inquires into the cause and origins of a disaster.

- The **ACT Civil and Administrative Tribunal (ACAT)** was established under the *ACT Civil and Administrative Tribunal Act 2008* and commenced operation in February 2009. It is administered by the ACT Law Courts and Tribunal Administration within the Justice and Community Safety Directorate.

ACAT considers and resolves applications lodged by individuals, businesses, government agencies and occupational regulatory authorities. Applications can be made about a range of matters, not limited to:

- the review of administrative decisions;
- discrimination complaints;
- guardianship, financial management and enduring powers of attorney;
- mental health treatment and care;
- residential tenancies disputes;
- energy and water hardship and complaints;
- civil disputes valued at under \$10,000;

⁴⁰ <http://www.courts.act.gov.au/supreme/>

⁴¹ <http://www.courts.act.gov.au/magistrates/>

- unit titles disputes;
- liquor licensing.

ACT courts: existing resources that support courts to deliver services to culturally diverse clients

ACT Supreme Court

Policies

Multicultural Strategy 2014-2018 – see above

2012-2016 ACT Languages Policy – see above

The Aboriginal and Torres Strait Islander Justice Agreement – see above

Justice and Community Safety Reconciliation Action Plan 2013-2015 – see above

Public outreach / education activities targeting diverse communities

NJCA Sentencing Conference Program

- The Chief Justice is a member of the National Judicial College of Australia committee overseeing the annual sentencing conference program.

Interpreting and Translating Policies, Procedures and Protocols

- In the ACT Supreme Court and the ACT Magistrates Court the engagement of interpreters for parties in proceedings is as follows:
 - Civil jurisdictions – the parties to proceedings are required to engage an interpreter at their own cost.
 - Criminal jurisdiction – the Office of the Director of Public Prosecutions arranges for interpreters for Supreme Court matters, the Australian Federal Police arrange interpreters for summary matters.

Learning and development training

Learning and Development Plan 2014-2017

- The Justice and Community Safety Directorate is currently revising its *Learning and Development Plan 2014-2017* to align with:
 - The Learning and Development Section of the Directorate Enterprise Agreements;
 - JACS Strategic Plan 2012-17; and
 - ACT Public Service Performance Framework.

All JACS employees are required to attend mandatory training on, but not limited to

- Respect, Equity and Diversity; and
- Aboriginal & Torres Strait Islander Cultural Awareness

Work Experience and Support Program (WESP)

- The Law Courts and Tribunal administration has participated in the Work Experience and Support Program, administered by the Office of Multicultural Affairs, on a number of occasions – accepting the placement of participants in its various administrative areas.
- The WESP is “designed to help Canberrans from culturally and linguistically diverse backgrounds enter the workforce by providing an opportunity to improve skills and confidence, as well as develop important networks within the ACT Public Service. WESP participants are offered four weeks of formal office skills training plus an eight-week work experience placement within the ACT Public

Service. Successful WESP graduates will receive nationally recognised qualifications in Business and Government”.

ACT Magistrates Court

Policies

Multicultural Strategy 2014-2018 – see above

2012-2016 ACT Languages Policy – see above

The Aboriginal and Torres Strait Islander Justice Agreement – see above

Justice and Community Safety Reconciliation Action Plan 2013-2015 – see above

Relevant operational protocols

Galambany Circle Sentencing Court⁴²

- The Galambany Court has been part of the ACT Magistrates Court jurisdiction since 2004.⁴³ The aim of the Court is to provide a culturally sensitive framework that recognises the ongoing disadvantage experienced by many Aboriginal and Torres Strait Islander people in the criminal justice system.
- The purpose of the Circle Sentencing Court is to provide a culturally relevant sentencing option in the ACT Magistrates Court jurisdiction for eligible Aboriginal and Torres Strait Islander people who have offended. Eligible defendants are able to be referred to the Galambany Court if they identify as Aboriginal or Torres Strait Islander, have ties to an Aboriginal or Torres Strait Islander community in the ACT or elsewhere and have pleaded guilty to their offences.
- The process also gives the ACT Aboriginal and Torres Strait Islander community an opportunity to work collaboratively with the ACT criminal justice system to address over representation issues and offending behaviour.
- The court aims to:
 - involve Indigenous communities in the sentencing process;
 - increase the confidence of Indigenous communities in the sentencing process;
 - reduce barriers between the courts and the Indigenous communities;
 - provide culturally relevant and effective sentencing options for Indigenous offenders;
 - provide offenders with support services that will aim to assist in reducing offending behaviour;
 - provide support to victims of crime and enhance the rights and place of victims in the sentencing process;
 - reduce repeat offending in Indigenous communities.
- Until recently the ACT Circle Sentencing Court only dealt with adult defendants but has now expanded to include young people who have offended. The Circle Court differs from mainstream sentencing processes in a number of ways:
 - The Circle Court Magistrate sits alongside panel members and Elders who are invited by the Magistrate to contribute to the sentencing process;
 - Panel members and Elders contribute to the process in a variety of ways and have a major role in explaining culturally relevant details to the Court; and
 - Panel members and Elders also have a role to let the defendant know that they do not accept or tolerate criminal behaviour in the Aboriginal and Torres Strait Islander

⁴² <http://www.courts.act.gov.au/supreme/page/view/1363>

⁴³ The Ngambra Circle Sentencing Court was established by a Magistrates Court practice direction in 2004. The change of name from “Ngambra” to ‘Galambany’ was recommended by participants in the Circle Court and agreed to by the ACT Elected Body and Ngunnawal Council of Elders in 2010. Galambany means “we all, including you”. By the Courts Legislation Amendment Act 2011 the Government gave formal recognition to the circle sentencing process by inserting Chapter 4C into the Magistrates Court Act 1930. The chapter provides that when the Magistrates Court is sitting to provide circle sentencing it is known as the Galambany Court.

community. They also have an opportunity to speak with the defendant to explore ways in which criminal behaviour can be avoided in the future.

- The operation and procedures of the Galambany Court are guided by Practice Direction No 1 of 2012, which came into effect in 2012.⁴⁴
- The Galambany Court recognises that victims have a right to participate in sentencing matters. To enable victims to be part of the sentencing process the Galambany Court Coordinator provides Victim Support ACT (VSACT) with:
 - the name of the defendant;
 - the charges and charge numbers; and
 - the name and contact details of the victim.
- VSACT will advise the victim of his or her right to attend the sentencing hearing. Where a victim indicates to VSACT that he or she wishes to attend the sentence hearing, VSACT will assist the victim to attend the sentence hearing.
- A dedicated hearing room for the Galambany Court has been launched. The room has a strong sense of being a culturally safe and appropriate place with the presence of paintings by local Aboriginal and Torres Strait Islander artists, some of them Alexander Maconochie Centre detainees.
- Referrals to the Galambany Court are made at the request of a Magistrate, defendant or their lawyer. There was a 4 per cent increase in referrals in 2013-14 (52) compared to 2012-13 (50). Overall, the Galambany Court received an average of 4.3 referrals per month across 2013–14, compared to an average of 4.1 referrals per month in 2012-13.

Interpreting and Translating Policies, Procedures and Protocols – see above

Resources and materials developed to assist in educating court users

- In the ACT Magistrates Court, an “Important Notice” in 12 languages, together with pamphlets “Time for a Plea” and “What Happens Now” are given to defendants in criminal matters when they are served with their summons to attend court.

Learning and development training – see above

ACT Civil and Administrative Tribunal

Policies

Multicultural Strategy 2014-2018 – see above

2012-2016 ACT Languages Policy – see above

The Aboriginal and Torres Strait Islander Justice Agreement – see above

Justice and Community Safety Reconciliation Action Plan 2013-2015 – see above

Interpreting and Translating Policies, Procedures and Protocols

- The ACT Civil and Administrative Tribunal will arrange and pay for an interpreter in Mental Health, Guardianship and Energy and Water matters for the person that the case is about. This will be arranged on request, or if the Tribunal itself deems it necessary or desirable. Interpreters can be used for other cases but the person requiring the interpreter must arrange and pay for the service. A case will not usually be adjourned if a party needs an interpreter, but has not arranged one before attending a hearing or conference.

Learning and development training – see above

⁴⁴http://cdn.justice.act.gov.au/resources/uploads/Magistrates/Practice_Direction_1_of_2012_Galambany_Court.pdf

New South Wales (NSW) Government's approach to diversity

Whole of Government Strategies

Indigenous

NSW Government Plan for Aboriginal Affairs (OCHRE: opportunity, choice, healing, responsibility, and empowerment)⁴⁵

OCHRE: the NSW Government Plan for Aboriginal affairs was launched on 5 April 2013 in Parliament House. The plan was created through the Ministerial Taskforce on Aboriginal Affairs which brought together four Aboriginal leaders, seven government Ministers and senior government officials.

OCHRE commits to a number of core initiatives including Opportunity Hubs, Language and Culture Nests⁴⁶ and Local Decision Making, which are being introduced in partnership with a select number of Aboriginal communities. A key commitment in OCHRE is a new accountability framework, including an Aboriginal voice independent of Government to report on the delivery of its programs.

CALD/Multicultural

Multicultural NSW's Harmony in Action Plan 2014-17⁴⁷

The three year *Harmony in Action Plan 2014-17* outlines the NSW Government's vision for multiculturalism in the state. The Plan has four main Strategic Priorities or focus areas: Community Engagement; Policy and Research; Innovation, Language Services and Communication; and Sustainability, with 16 desired outcomes that frame the work of the organisation. Key reforms under Harmony in Action include a revitalised grants program, which will focus on initiatives that bring people from different faiths and culture together. The Plan also specifically renamed the Community Relations Commission as 'Multicultural NSW'.⁴⁸

Multicultural Policies and Services Program⁴⁹

The Multicultural Policies and Services Program (MPSP) is a whole of government program, and public accountability mechanism, overseen by Multicultural NSW. The MPSP assists agencies to ensure that multicultural programs and services are based on agency planning, program evaluation, and supported by culturally competent staffing and resourcing enabling targeted and effective access and equity outcomes.

Premier's Memorandum M2012-19⁵⁰ states that each government agency is required to have a current multicultural plan – identifying strategic priorities, assign corporate responsibilities and detail / outline timeframes for implementation – which shows how it will conduct its business within a culturally, linguistically and religiously diverse society.

Multicultural NSW Language Services unit⁵¹

The provision of linguistic services through Multicultural NSW is part of the NSW Government's commitment to ensuring the full, fair and equal participation of all people in programs, services and processes, and enables the NSW Public Service to achieve community participation by breaking down barriers. Multicultural NSW offers a number of services designed to better link the 'community of communities' in NSW:

⁴⁵ <http://www.aboriginalaffairs.nsw.gov.au/nsw-government-aboriginal-affairs-strategy/>

⁴⁶ Five Aboriginal Language and Culture Nests have been identified and launched to support the revitalisation of language and culture and to increase the number of speakers and teachers.

⁴⁷ <http://web2.crc.nsw.gov.au/MNSWSP2014/files/assets/common/downloads/publication.pdf>

⁴⁸ Multicultural NSW proactively advises Government on the state of community relations within multicultural NSW through positive engagements with diverse communities, public sector agencies, non-government service providers, and the private sector. Multicultural NSW is the central point for raising and resolving issues that affect community harmony and social cohesion within NSW: <http://www.crc.nsw.gov.au/home>

⁴⁹ http://www.crc.nsw.gov.au/mpsp/what_is_mpsp

⁵⁰ http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2012/m2012_-19_multicultural_policies_and_services_program_-_endorsement_of_multicultural_plans

⁵¹ <http://www.crc.nsw.gov.au/services>

- **Community Language Allowance Scheme:** The NSW Government's Community Language Allowance Scheme (CLAS) is a fundamental tool in the provision of high quality customer service in a culturally diverse society. CLAS is an allowance paid to selected NSW public sector employees who have a basic level of competency in a language other than English and who work in locations where their language can be used to assist clients.
- **Interpreting and Translation:** Multicultural NSW is the NSW Government's main language service provider, offering interpreting and translation services in over 100 languages and dialects. Services are available to all Government departments and agencies, private and commercial organisations, community groups and individuals.

Key Government Department: Department of Justice NSW⁵²

The Department of Justice delivers legal, court and supervision services to the people of NSW by managing courts and justice services, implementing programs to reduce crime and reoffending, managing custodial and community-based correctional services, protecting rights and community standards and advising on law reform and legal matters.

The Department is made up of six divisions (Courts and Tribunal Services, Corrective Services NSW, Crime Prevention and Community Programs, Juvenile Justice NSW, Justice Policy and Legal Services and Corporate Services), and five offices (Office of the Director General, NSW Trustee and Guardian, Crown Solicitor, Bureau of Crime Statistics and Research, and the Office of the Solicitor General and Crown Advocate).

The Department supports the NSW 2021 Plan through its strategic goals:

- building safe communities;
- strengthening community crime prevention partnerships;
- an accessible and effective justice system;
- an innovative organisation that provides high quality services responsive to community needs;
- protection of rights and promoting responsibility in the community.

Indigenous

The Department manages a number of initiatives coordinated through the Aboriginal Programs Unit (APU) to reduce the number of Aboriginal people appearing before the courts and their over-representation in the criminal justice system.

Aboriginal Client Services Specialist Program

Aboriginal Client Service Specialists (ACSS) work at various Local Court sites to assist communication between the court and the Aboriginal community. The ACSS Program seeks to provide targeted and responsive service delivery to Aboriginal clients in order to improve access and equity, and enhance the ability of Aboriginal people to effectively participate in the justice system. ACSS also provide advice to the court to enable processes and procedures to be restructured to better meet the needs of Aboriginal clients.

In addition to this, ACSS are involved in community development and education programs aimed at preventing people from coming into contact with the criminal justice system, as well as in intervention work through mediation and seeking out alternative dispute resolutions.

Aboriginal Community Justice Groups⁵³

Aboriginal Community Justice Groups are representative groups of Aboriginal people who come together to examine the crime and offending problems in their communities and develop ways to address these issues. The Groups work with different parts of the criminal justice system to make sure the system works better for people in their communities.

⁵² <http://www.justice.nsw.gov.au/>

⁵³ http://www.childrencourt.justice.nsw.gov.au/agdbasev7wr/assets/childrencourt/m4100511771012/acss_factsheet_sept2011.pdf

Aboriginal Community Justice Groups work on a large number of local issues in co-operation with police, courts, probation services and juvenile justice such as:

- providing advocacy for Aboriginal people in relation to criminal justice issues;
- developing local crime prevention initiatives in partnership with local justice agencies and local Aboriginal people;
- working with police to issue cautions and warnings;
- supporting offenders once bail is granted;
- establishing diversionary programs for young people at risk;
- providing advice to courts on defendants;
- providing advice, services and information to link victims to support services;
- participating in Circle Sentencing assessments.

Juvenile Justice NSW – Aboriginal and Torres Strait Islander Cultural Respect Framework

Juvenile Justice NSW finalised the Aboriginal and Torres Strait Islander Cultural Respect Framework, which will allow the Department to better respond to the needs of Aboriginal and Torres Strait Islander clients by recruiting Aboriginal and Torres Strait Islander staff.

CALD / Multicultural

The Diversity Services Unit⁵⁴ within the Department of Justice implements innovative strategies to improve access to the justice system for people with disability as well as people from culturally diverse communities.

The unit provides the Department with advice on:

- equitable services to clients;
- awareness of rights and responsibilities;
- law, justice and legal reform; and
- access and equity issues for staff with disabilities.

Advice is based on consultations with various community representatives and other justice agencies to identify particular issues people with disabilities and people from culturally and linguistically diverse communities face when accessing the justice system.

Culturally Diverse Communities' Access Plan (CD CAP) 2009-2012⁵⁵

The Culturally Diverse Communities' Access Plan (CD CAP) outlines the Department of Justice's commitment to addressing the access and equity issues of the culturally and linguistically diverse communities of NSW.

The vision of the Plan is to create an inclusive environment in the Department of Justice for culturally and linguistically diverse staff and for the public through continuing improvements toward access and equity. The main object of the Plan is to identify, monitor and prioritise the complex and changing needs of CALD communities in NSW and to address significant issues of access to justice faced by CALD communities.

While Diversity Services has the predominant role of driving the Plan, and various business centres have responsibility for specific actions, the Department considers implementation of the Plan to be an obligation of all employees within their workplace.

NSW Justice Pacific Communities Action Plan

Diversity Services facilitated the Justice Pacific Communities Steering Committee and, through a partnership with the Council of Pacific Communities, secured approval for a Department-wide Pacific Communities Action Plan.

⁵⁴ http://www.diversityservices.justice.nsw.gov.au/divserv/ds_index.html

⁵⁵ http://www.diversityservices.justice.nsw.gov.au/agdbasev7wr/divserv/documents/pdf/cdcap2009_2012.pdf

The focus of the Steering Committee is to collate and analyse evidence-based data relating to Pacific communities' involvement in the criminal justice system. The aim of the committee is to advise on the most effective ways to reduce the number of members of Pacific communities coming into contact with the justice system.

The Department has now implemented the Justice Pacific Communities Action Plan, which aims to improve services for Pacific communities and build capacity within the community about legal issues.

Pacific Youth Cultural Reconnection Program

In 2009, the Australian Museum began collaborating with Juvenile Justice NSW and a range of other partners to introduce young offenders of Pacific heritage to its internationally renowned Pacific collections. Department of Juvenile Justice statistics indicate that there are more young people of Pacific Islander background in custody or on remand for violent offences than any other ethnic group in New South Wales. A central assumption of the program is that cultural isolation is a key risk factor for this group and that many young Pacific offenders struggle with cultural identity issues.

The aim is to build cultural awareness among 'at-risk' youths from Pacific communities and to provide young people with a sense of pride and dignity in relation to their cultural background. To do this young people are offered a range of programs. Workshops are held for offenders in the Museum's collection areas where cultural objects are handled and discussed and self-expression through traditional arts like weaving is encouraged. Creative workshops based on traditional and contemporary Pacific art are held for detainees at the Frank Baxter, Juniperina and Reiby Juvenile Detention Centres (in partnership with Southwest Multicultural and Community Centre (SMACC) and South West Youth Peer Education (SWYPE)).

Incarcerated youth can do work experience on day release with the Museum's cultural collections staff and the project also partners with the Pacifica Achievement to Higher Education (University of Western Sydney) to present to Pacific high school students at events around Sydney.

NSW Justice African Learning Circle

The learning circle program focuses on leaders from the Sudanese (the largest group of new arrivals), Liberian, Burundi, Ethiopian, Sierra Leone, Eritrean, Congolese, Somali and Rwandan communities who have settled in the Auburn, Blacktown, Parramatta and Holroyd local government areas.

Each circle focuses on a specific topic as selected by the small community-led advisory committee of the circle, such as alternative dispute resolution. It is anticipated that the topics may lead into the development of a training program for elders and leaders.

African Court Support Program

The Department of Attorney General and Justice established a court support program in 2011 at Blacktown local court. The program is staffed by Sudanese law students and provides support to African people appearing at Blacktown Court.

NSW courts: overview

Introduction

The Courts and Tribunal Services (CaTS) division of the Department of Justice administers the courts, tribunals, laws and justice programs in New South Wales (NSW). NSW courts and tribunals are conducted at 164 locations throughout NSW.⁵⁶

The State courts are:

- Supreme Court
- Industrial Relations Commission
- Land and Environment Court
- District Court
- Drug Court
- Local Court (encompassing the State Coroner's Court)
- Children's Court

The State tribunals are:

- Dust Diseases Authority
- NSW Civil and Administrative Tribunal

Judicial officers in NSW are also supported by the Judicial Commission of New South Wales,⁵⁷ an independent statutory corporation established by the *Judicial Officers Act 1986* and part of the judicial arm of government. The Commission's principal functions are to:

- assist the courts to achieve consistency in sentencing;
- organise and supervise an appropriate scheme of continuing education and training of judicial officers; and
- examine complaints against judicial officers.

The Commission may also give advice to the Attorney General on such matters as the Commission thinks appropriate; and liaise with persons and organisations in connection with the performance of any of its functions.

This paper considers the three most senior NSW courts:

- The **Supreme Court of NSW**⁵⁸ is the highest court in NSW. It has unlimited civil jurisdiction and hears the most serious criminal matters.

The Court has both trial and appellate jurisdictions. The trial work of the criminal and civil jurisdictions is divided between two Divisions, the Common Law Division and the Equity Division. The appellate courts are the Court of Appeal and the Court of Criminal Appeal.

The Judicial Officers of the Supreme Court of New South Wales are its Judges and Associate Judges. The Registrars of the Court have limited decision-making powers.

The Court operates with the support of the Registry, which provides administrative and clerical support to the Court.

- The **District Court of NSW**⁵⁹ is a state-wide court with defined jurisdiction in both criminal and civil matters. The Court is the intermediate Court in the State's judicial hierarchy. It is a trial court and also has appellate jurisdiction, special jurisdiction conferred by various statutes and a summary jurisdiction. In addition, Judges of the Court preside over the Medical Tribunal.

⁵⁶ http://www.courts.justice.nsw.gov.au/cats/catscorporate_index.html

⁵⁷ <http://www.judcom.nsw.gov.au/>

⁵⁸ <http://www.supremecourt.justice.nsw.gov.au/supremecourt>

⁵⁹ <http://www.districtcourt.justice.nsw.gov.au/districtcourt>

There are more than 60 judges of the District Court, who preside over cases throughout the state, along with acting judges.

The District Court also has a judicial registrar, who presides in Sydney and whose primary functions include setting directions for the case management of civil proceedings and determining notices of motion.

Other registrars throughout the state assist with the management of cases by conducting call-overs, making subpoena access orders and other case management orders.

- The **Local Court**⁶⁰ is the first point of contact many people have with the justice system in NSW. The Local Court has criminal and civil jurisdictions. The Local Court also determines other applications such as apprehended violence orders and appeals relating to driver's licences. The Local Court has limited jurisdiction under the Family Law Act 1975 to hear and determine family law matters, and can deal with applications such as property settlements and residence orders.

In some regional areas, the Local Court is also the Government Access Centre and provides services on behalf of other government agencies.

As at 14 August 2015, there were 132 Magistrates (124 full time Magistrates and 8 part time) who preside at 150 sitting locations throughout New South Wales.

Specialist jurisdictions

Magistrates can also exercise special jurisdiction to hear specific cases.

- Children's Court: The Children's Court is a specialist court that determines criminal cases concerning children and young people, as well as matters relating to the care and protection of children and young people.
- Coronial jurisdiction: The State Coroner is responsible for overseeing and co-ordinating all coronial services in NSW. All NSW magistrates are coroners and have jurisdiction to conduct an inquest.
- Industrial jurisdiction: Industrial magistrates may exercise civil and criminal jurisdiction under a broad range of State and Commonwealth legislation.

⁶⁰ <http://www.localcourt.justice.nsw.gov.au/localcourts/index.html>

NSW courts: existing resources that support courts to deliver services to culturally diverse clients

Judicial Commission of NSW

Committees / working group structures

Ngara Yura Program⁶¹

The Ngara Yura Program was established in 1992 in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody – that judicial officers should receive instruction and education on matters relating to Aboriginal customs, culture, traditions and society.

The program aims to increase awareness among judicial officers about contemporary Aboriginal social and cultural issues, and their effect on Aboriginal people in the justice system. Aboriginal people appear before all state courts in NSW as parties and witnesses in both criminal and civil proceedings. In order for justice to be done and be seen to be done, it is essential that judicial officers understand a wide range of issues relating to Aboriginal people, most particularly their history and customs (including behavioural norms and languages/dialects spoken and understood). It is delivered through three main strategies:

- visits by judicial officers to Aboriginal communities in NSW;
- conferences, workshops and seminars;
- publications.

An Aboriginal Project Officer is employed to assist with the development of programmes, seminars and community visits in order to raise the awareness of Aboriginal culture amongst judicial officers.

Ngara Yura Committee⁶²

Membership of the Ngara Yura Committee consists of:

- Judicial members: nominated by the Head of Jurisdiction and appointed from time to time;
- Aboriginal members: nominated by the Committee, invited to join by the Judicial Commission and appointed from time to time;
- The Judicial Commission's Chief Executive and Education Director are ex-officio members.

The Committee has been established to:

- develop the Judicial Commission's Ngara Yura Program and associated events including workshops, seminars and community visits;
- provide advice and recommendations to the Judicial Commission and its Education Committees regarding the learning needs of NSW judicial officers and about culturally appropriate education and training opportunities to meet those learning needs;
- provide advice to the Judicial Commission regarding trends and emerging issues associated with Aboriginal people before the courts and criminal justice system matters;
- assist the Judicial Commission to develop and implement programs designed to describe and explain Aboriginal culture, including society, customs and traditions, to judicial officers;
- provide culturally appropriate advice and support to judicial officers in relation to Aboriginal issues;
- provide opportunities for Aboriginal people to learn about the judicial process;
- share in the dissemination of culturally appropriate educational information, resources and associated material for the benefit of judicial officers and the judicial system.

Education Committees

- Standing Advisory Committee on Judicial Education
- Supreme Court Education Committee

⁶¹ <http://www.judcom.nsw.gov.au/Ngara-Yura>

⁶² <http://www.judcom.nsw.gov.au/Ngara-Yura/terms-of-reference>

- Land and Environment Court Education Committee
- Industrial Relations Commission Education Committee
- District Court Education Committee
- Local Court Education Committee
- Children’s Court Education Committee

Bench Book Committees

- Criminal Trial Courts Bench Book Committee
- Civil Trials Bench Book Committee
- Local Court Bench Book Committee
- Equality before the Law Bench Book Committee
- Sexual Assault Trials Handbook Committee
- Children’s Court Resources Handbook Committee

Resources made available to judicial officers and staff

Equality Before the Law Bench Book⁶³

The *Equality Before the Law Bench Book* aims to provide comprehensive statistical and contextual information about different groups in NSW and potential access to justice problems these groups may face. The bench book was originally published in 2006 but has been revised recently and is constantly under review. It includes:

- statistics and information about the different values, cultures, lifestyles, socioeconomic disadvantage and/or potential barriers in relation to full and equitable participation in court proceedings for nine different groups of people;
- guidance about how judicial officers might need to take account of this information in court – from the start to the conclusion of court proceedings. It provides guidance only and is not meant to be in any way prescriptive.

All judicial officers in NSW are able to access this resource.

Judicial Information Research System

The Judicial Information Research System (JIRS) is an online database for judicial officers and legal practitioners. JIRS provides rapid and easy access to information relevant to judicial decision-making. This includes comprehensive and current information relevant to cultural and linguistic diversity within the judicial context.

Circle Sentencing in NSW DVD and Monograph

The Circle Sentencing in NSW DVD was produced by the NSW Judicial Commission, greatly assisted by the expertise provided by the members of the Ngara Yura Committee. The DVD is primarily designed as an educational tool for judicial officers but may also benefit other participants in circle sentencing, including police prosecutors, defence lawyers, project officers and Aboriginal elders. It explains what circle sentencing is, why it works and how to go about conducting a circle court. Newly appointed judicial officers receive a copy of the monograph and DVD and both are available on the Judicial Information Research System and the Commission’s Website.

Public outreach / education activities targeting diverse communities

Ngara Yura Program – Community Visits⁶⁴

An initiative of the Ngara Yura Program has been to organise a series of visits by judicial officers to Aboriginal communities in NSW – both regional and metropolitan areas. These visits, undertaken at least once a year since 1992, have given judicial officers who attended the opportunity to enhance their understanding of the

⁶³ <http://www.judcom.nsw.gov.au/publications/benchbks/equality>

⁶⁴ <http://www.judcom.nsw.gov.au/Ngara-Yura/community-visits>

history and culture of Aboriginal society and provided a useful exchange of information and ideas on issues of mutual concern including cultural and language differences between members of the court and the Aboriginal community.

Community Awareness of the Judiciary Program – 2012, 2013 and 2014

This program for community leaders provided participants with a better understanding of what judicial officers do and exposed those judicial officers presenting in the program to a range of community views.

Learning and development training

Conference programs⁶⁵

The Judicial Commission offers an extensive conference and seminar program for judicial officers in each court. These include sessions on Indigenous issues and culturally and linguistically diverse groups in its conference programs.

Exchanging Ideas Conferences⁶⁶

The Ngarra Yura committee has organised two important conferences in May 2009 and September 2011 – the Exchanging Ideas conferences. These were two-day residential programs which provided an opportunity for social and professional interaction between judicial officers and Aboriginal community members, and some insights into Aboriginal culture. More than 80 participants attended the first weekend conference and about 70 attended the second conference, split evenly between judicial officers and Aboriginal community members.

- The first conference was structured around two interwoven themes: contemporary social issues which impact on Aboriginal communities, and contemporary legal matters arising from these issues.
- The second conference looked further at current issues impacting upon Aboriginal offenders which contribute to their over-representation in the criminal justice system. Participants gained an understanding as to the effect that custody has upon individuals, their families and communities, as well as the factors that contribute to recidivism.

Twilight Seminars

As part of the Ngarra Yura Program, the Judicial Commission also runs twilight seminars on Indigenous issues. Recent seminars have included:

- Constitutional Recognition of Indigenous Australians (2 October 2013)
- Understanding Kinship (10 April 2013)
- Indigenous Peoples in International Law (28 March 2012)

Published works

The Judicial Commission has published an extensive number of articles and publications on Aboriginal culture, the sentencing of Aboriginal offenders, and about cultural diversity.

Annual Program – Cultural Barriers in the Court Room/Interpreters

This is a full morning session at the National Judicial Orientation Program, delivered annually in conjunction with the National Judicial College of Australia, the Judicial Commission of NSW, the Australasian Institute of Judicial Administration and the Judicial College of Victoria.

⁶⁵ <http://www.judcom.nsw.gov.au/education/conferences-seminars-training>

⁶⁶ <http://www.judcom.nsw.gov.au/Ngarra-Yura/exchanging-ideas-conferences>

Supreme Court

Committees / working group structures

Supreme Court Education Committee

- The Supreme Court, in partnership with the Judicial Commission of New South Wales, provides continuing judicial education for Supreme Court Judges and Associate Judges.
- The Education Committee generally seeks to maintain a high standard of professional development and training for judges on the Court. The Committee develops programs around judicial professional development designed to cover issues of broad importance to the administration of justice and the development of the law. This has included Aboriginal awareness sessions and working with interpreter sessions.
- In addition, the Committee plans visits to correctional centres and other facilities in order to further understanding of the practical operation of other arms of government involved in the administration of justice.

Ngara Yura Committee – see above.

Standing Advisory Committee on Judicial Education – see above.

Public outreach / education activities targeting diverse communities

Sentencing Symposiums – 2014

- In early 2014, Chief Justice Bathurst hosted a number of symposiums in relation to criminal sentencing. The symposiums were held to facilitate a better understanding of the judiciary's work, particularly in relation to the process of sentencing offenders.
- On 20 May 2014, the Court held the third and final symposium for representatives of a wide range of community groups, including Aboriginal Justice groups. This seminar was filmed and the video is available for viewing.

Auburn Gallipoli Mosque

- For the last three years, with the assistance of the Muslim Legal Network, judges of the Supreme Court, other courts and members of the profession have attended a service at the Auburn Gallipoli Mosque to mark the opening of the new law term.

Law Shabbat Dinner

- Address by the Chief Justice at the Law Shabbat Dinner, Great Synagogue (Sydney).

Membership of Community/Cultural Bodies

- Examples include Justice Stephen Rothman AM - President of the New South Wales Jewish Board Deputy from 2000 to 2004, and also currently holds or has held a number of other Jewish communal positions. Awarded with membership of the Order of Australia (AM) in 2007, for work in the Jewish community.

External resources made available to judicial officers and staff

Equality before the Law Benchbook⁶⁷

Judicial Officers are able to access the NSW Judicial Commission's Equality before the Law Benchbook.

Learning and development training

As noted above, the Supreme Court, in partnership with the Judicial Commission of New South Wales, provides continuing judicial education for Supreme Court Judges and Associate Judges.

⁶⁷ <http://www.judcom.nsw.gov.au/publications/benchbks/equality>

Judges participate in the Ngara Yura Program and have attended seminars run by the Judicial Commission, including a twilight seminar – ‘Working Effectively with Interpreters in the Court’ – presented by Associate Professor Sandra Hale, Leader of the Interpreting and Translation Research Group, University of Western Sydney.

District Court

Policies

Court Values

‘Values of the Court’ include a focus on Access, Equality and Fairness:

Access

The Court is accessible to the public and those who need to use its services by:

- conducting proceedings openly, while allowing for closed hearings in specific circumstances;
- providing accessible and modern facilities;
- removing or minimising any barriers to appropriate participation in proceedings by the parties, representatives, witnesses, and observation by the press and the public;
- dealing courteously and responsively with those who appear before it;
- seeking to minimise costs and delays to the parties by regularly reviewing Court procedures;
- publishing news and information on the Court’s website.

Equality and fairness

The equal protection of the law to all by:

- acting in accordance with procedures which ensure fair judicial process;
- seeking consistency in decisions based on relevant legal considerations;
- delivering timely judgments in clear and unambiguous terms;
- having court records that are accurate and appropriately maintained;
- minimising geographical inequities in convenient and timely access to the Court;
- recognising issues impacting on individuals and groups with special needs.

District Court Strategic Plan 2012-2017⁶⁸

The Strategic Plan 2012-2017 identifies ways to adapt court procedures in order to be more responsive to diverse groups, including:

- exploring options for adopting innovative sentencing processes for Indigenous offenders;
- reviewing and modifying the Court’s processes to ensure that they are responsive to the needs of all community groups;
- consulting widely on an ongoing basis, including with court users, to explore and investigate ways to improve operations, processes and procedures and minimise the cost of litigation.

Committees / working group structures

Criminal Business Committee

- Consultation with court users is carried out through the Criminal Business Committee. The Terms of Reference of the Committee are to monitor, report and advise on any matter relating to the Court’s goal of providing a system for the earliest, most effective and efficient resolution to criminal matters. The Committee consists of representatives from the Judiciary, Criminal Listing Director, Law Society of NSW, Bar Association of NSW, Legal Aid, Commonwealth and State DPP’s, Aboriginal Legal Service, Public Defenders and Crown Prosecutors.

⁶⁸ http://www.districtcourt.justice.nsw.gov.au/agdbasev7wr/_assets/districtcourt/m41715112/district%20courtstrategicplandec2012.pdf

Involvement in Judicial Commission of New South Wales Committees – see above

- Equality before the Law Bench Book Committee
- District Court Education Committee
- Representation on the Judicial Commission’s Standing Advisory committee
- Membership of the Ngara Yura Committee
- Criminal Trial Courts Bench Book Committee

External resources made available to judicial officers and staff

Equality before the Law Bench Book

Judicial Officers are able to access the NSW Judicial Commission’s Equality before the Law Bench Book.

Learning and development training

District Court of NSW Annual Conference 22-23 April 2014

- A two-day program tailored to the educational needs of District Court judges. Included sessions on important developments in the Court of Appeal and Court of Criminal Appeal, jury directions, the Ngara Yura Program, the art of sentencing, programs for offenders, civil issues, developments in online resources, and the new Bail Act.

Ngara Yura Program

Judges participate in a range of Ngara Yura Program events. Examples include:

- ‘Understanding Kinship’ – Presentation by Ms Lynette Riley, Senior Lecturer, University of Sydney, Twilight Seminar – provided an introduction to Aboriginal kinship, roles and reciprocal responsibilities. Participants were taken through a kinship system replicating the components of moiety, totem, skin names, language and traditional affiliations, and individual identity. Through her presentation participants were able to see why Aboriginal people face particular problems when interacting with the mainstream Australian legal system.
- Additional material can be found on the Kinship Project website, which includes the Kinship online learning module. The Kinship online learning module is a condensed version of the 1.5-hour workshop developed and delivered by Lynette Riley. There are eight videos which explore the core themes of the Kinship module. The Aboriginal narratives are available to expand on issues raised in each sector within the module. Additionally, there is a series of questions and related resources to assist people who wish to learn more about Aboriginal kinship systems, cultural conflict and cultural competency.⁶⁹
- ‘Constitutional Recognition of Indigenous Australians’, Professor Megan Davis, Professor of Law, Faculty of Law, University of NSW, and Dr Sarah Pritchard SC – provided insight into the historical context of non-recognition; comparative and international recognition of Indigenous peoples; the Expert Panel and its methodology; the Expert Panel’s recommendations for recognition of Aboriginal and Torres Strait Islander peoples in the Constitution; approaches to a referendum, and process considerations.
- Community Visit to Campbelltown

Aboriginal Youth Diversion Programs

- Presentations by Tribal Warrior Association

⁶⁹ <http://sydney.edu.au/kinship-module/about/index.shtml>

Local Court

Relevant operational protocols

Criminal Justice Intervention programs and services

- Programs and services have a 'person-centred' approach, with cultural and/or religious requirements considered part of the structured assessment process. These include Forum Sentencing, DVICM, CREDIT, MERIT and Life on Track.

Aboriginal Client Service Specialist

- Aboriginal Client Service Specialists are located at a number of local courts to provide assistance and information. The program seeks to improve the quality of court related services for Aboriginal victims, court users and their families.

Circle Sentencing⁷⁰

Circle Sentencing is an alternative sentencing process for adult Aboriginal offenders. Based on traditional Indigenous forms of dispute resolution and customary law, Circle Courts are designed for more serious repeat Aboriginal offenders and are aimed at achieving full community involvement in the sentencing process.

Circle Sentencing directly involves local Aboriginal people in the process of sentencing offenders, with the aims of making the sentencing process more meaningful and improving confidence in the criminal justice system. It also empowers Aboriginal people to address criminal behaviour within their local communities.

As set out in Criminal Procedure Regulation 2010, the aims of Circle Sentencing are to:

- include members of Aboriginal communities in the sentencing process;
- increase the confidence of Aboriginal communities in the sentencing process;
- reduce barriers between Aboriginal communities and the courts;
- provide more appropriate sentencing options for Aboriginal offenders;
- provide effective support to victims of offences by Aboriginal offenders;
- provide for the greater participation of Aboriginal offenders and their victims in the sentencing process;
- increase the awareness of Aboriginal offenders of the consequences of their offences on their victims and the Aboriginal communities to which they belong; and
- reduce recidivism in Aboriginal communities.

NSW Youth Koori Court Pilot Program

The Parramatta Children's Court began trialling a dedicated court for young Aboriginal offenders in January 2015 to encourage them to turn their lives around. The Youth Koori Court aims to provide greater Aboriginal involvement in the court process ensuring it is culturally relevant, reduces the risk factors that impact on re-offending behaviour and ultimately reduces the number of young people being sentenced to a period of detention.

Unlike a mainstream court, the Koori Court is more informal with everyone sitting around a table talking 'plain' English rather than using technical legal jargon. An Elder will sit with the judicial officer to provide cultural advice about the Aboriginal offender. The Elders may talk directly to the young person about their circumstances and why they are in court. Before being sentenced by the magistrate or judge, an informal conference will be facilitated by a Children's Registrar with input from the young person, their family, Elders and staff from both government and non-government agencies.

⁷⁰

[http://www.lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/APU_Circle_Sentencing_Jan10_Webversion.pdf/\\$file/APU_Circle_Sentencing_Jan10_Webversion.pdf](http://www.lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/APU_Circle_Sentencing_Jan10_Webversion.pdf/$file/APU_Circle_Sentencing_Jan10_Webversion.pdf)

Victims will have an opportunity to prepare a victim's impact statement as part of the court process and can be present at sentencing to hear from those involved in the case. If the young person breaches the program the matter can be referred back to the Children's Court for normal sentencing.

The NSW Youth Koori Court adopts some features of the Circle Sentencing program that exists for adult Aboriginal offenders in NSW and the Children's Koori Court in Victoria. However, this new model will focus on addressing the needs of the young person—with a view to addressing the underlying causes of criminal behaviour as early as possible before it becomes entrenched. The Youth Koori Court will be trialled over a 12 month period and, if successful, could be introduced in other locations.

Interpreting and translating policies, procedures and protocols

Interpreters

The NSW Courts work closely with Multicultural NSW (formerly the NSW Community Relations Commission (CRC)) and the Chief Magistrate's office to ensure client access to interpreters when required. In the Sydney metropolitan area, local courts use a block booking system when required.

Public outreach / education activities targeting diverse communities

Sudanese Court Support

Three final year UWS students of Sudanese background are involved in the Sudanese Court Support program, which is part of the overall Pro Bono Students Australia volunteer program at UWS established by Professor Carolyn Sappideen. The students assist clients on the first and third Wednesday of each month, by translating and explaining court processes, and providing referrals to legal centres and other support services. All three students are proficient in Juba Arabic and Dinka.

External resources made available to judicial officers and staff

Equality before the Law Benchbook

Judicial Officers are able to access the Judicial Commission's Equality before the Law Benchbook.

Local Court Bench Book⁷¹

This resource, published by the Judicial Commission of New South Wales, is updated 3-4 times a year. It contains information about working with interpreters, including problems with working with interpreters; information about the taking of oaths and affirmations; and guidelines for magistrates and judges on working with interpreters.

Learning and development training

- The Local Court, in partnership with the Judicial Commission of New South Wales, provides a relevant and practical continuing judicial education program. This includes participation in the Judicial Commission's Ngara Yura Program.
- The Judicial Commission runs sessions at the Magistrate's Orientation Program on 'Communication' in which Ms Ruth Windeler, Education Director, Judicial Commission, discusses communication issues with Aboriginal and CALD people.

Committees / working group structures

Involvement in Judicial Commission of New South Wales Committees – see above

- Equality before the Law Bench Book Committee
- Local Court Education Committee
- Representation on the Judicial Commission's Standing Advisory committee
- Membership of the Ngara Yura Committee
- Local Court Bench Book Committee

⁷¹ <http://www.judcom.nsw.gov.au/publications/benchbks/local/index.html>

Northern Territory (NT) Government's approach to diversity

Whole of Government Strategies

Indigenous

Northern Territory's Language Services Policy⁷²

The Language Services Policy was developed to establish a common approach for all Northern Territory Government departments/agencies in delivering and using language services.

The policy outlines how and where language services can be accessed and why it is important to use them. The policy recommends that each Northern Territory Government department/agency adopt a systematic approach to language services when delivering services to clients with a first language other than English. The policy requires Departments to collect necessary data to guide the development of NT government language services. Data collection will include languages spoken, ethnicity, country of birth, English proficiency, and need for interpreter.

The Language Services Policy aims to:

- identify and provide services that will ensure all Territorians, irrespective of their language background, receive equitable access to Northern Territory Government programs, services and information;
- support Northern Territory Government departments and agencies to develop procedures and practices to ensure that speakers of languages other than English are not disadvantaged when accessing government services;
- develop and promote a unified approach to language services ensuring all clients have access to fair and equitable services;
- enhance Northern Territory Government use of interpreter and translation services to maximise service provision.

The following guidelines have also been developed to complement this plan:

- 'A Guide to Working with Interpreters and Translators', published by the Interpreting and Translating Service NT (ITSNT)⁷³
- 'Working with Interpreters', published by the Aboriginal Interpreter Services (AIS)⁷⁴

Aboriginal Interpreter Service

- The Northern Territory Aboriginal Interpreter Service (AIS) provides interpreting across the Northern Territory.⁷⁵ The AIS is established within the NT Government Department of Housing, Local Government and Regional Services, but provides services within an Aboriginal cultural framework. The AIS has more than 400 registered interpreters, making it one of the largest employers of Aboriginal people in Australia. Together these interpreters cover more than 100 languages and dialects of the Northern Territory.

Domestic and Family Violence Reduction Strategy 2014-2017 – Safety: Everyone's Right⁷⁶

Indigenous females in the Northern Territory are almost 22 times more likely to be victims of domestic violence than non-Indigenous females. Indigenous females represent 73 per cent of domestic violence victims in the Northern Territory.

The Department of the Attorney-General and Justice has led the development of the Whole of Government *Domestic and Family Violence Reduction Strategy 2014-2017 – Safety: Everyone's Right*. The Strategy, jointly

⁷² http://www.docs.nt.gov.au/_data/assets/pdf_file/0007/64537/Language_Services_Policy.pdf

⁷³ www.nt.gov.au/itsnt

⁷⁴ www.nt.gov.au/ais

⁷⁵ <http://www.ais.nt.gov.au/>

⁷⁶ <http://www.domesticviolence.nt.gov.au/>

funded by the Australian and Northern Territory Governments, is intended to reduce recidivism rates, increase the safety of women and their children, reduce rates of intergenerational transmission and establish systems that are sustainable and adaptable.

CALD/Multicultural

Multicultural policy, 'Building on the Territory's Diversity'⁷⁷

The Multicultural Policy is a key aspect of the Government's broader community engagement strategies and policy development processes. The policy identifies four key principles:

1. Valuing diversity
2. Fair access
3. Encouraging participation
4. Mutual respect

Under the policy it is every Government agency's responsibility to:

- operationalise the Multicultural Policy in their portfolio through its inclusion in strategic and business planning;
- implement active consultative mechanisms to involve people from diverse linguistic and cultural backgrounds in identifying and prioritising needs and in planning service and undertaking delivery;
- support staff to attend cross cultural training courses to ensure they have the skills needed to work in a culturally diverse society;
- arrange for interpreters in circumstances where clients have difficulties communicating in English; and
- implement mechanisms to ensure that Multicultural Policy-related strategies or actions are recorded and provided for inclusion in the Minister for Multicultural Affairs' annual report on the policy.

Guidelines for Implementing the Multicultural Policy⁷⁸ have been produced as a reference or tool for agencies in the implementation of the Northern Territory's Multicultural Policy; they are not intended to be prescriptive.

The People of Northern Territory⁷⁹

The People of Northern Territory is a major compilation of statistics on birthplace, language, religion and ancestry, drawn from the Australian Bureau of Statistics' 2011 Census of Population and Housing.

Key features of the publication include:

- ranked lists of birthplace, language, and religion for each Local Government Area (LGA) in the Northern Territory, with age profiles of selected birthplace and language groups, details on ancestry and birthplace of parents for all LGAs;
- age and gender profiles for the most common birthplace, language and ancestry groups in the Northern Territory;
- ancestry data by birthplace of parents; and
- English language competency by age, presenting the differing levels of competency amongst the various language and age groups.

Northern Territory's Language Services Policy – see above

⁷⁷ <http://www.nt.gov.au/dcm/multicultural/pdf/200504factEnglish.pdf>

⁷⁸ http://www.dcm.nt.gov.au/_data/assets/pdf_file/0007/43756/200602MulticulturalPolicyImplementGuide.pdf

⁷⁹ http://www.dcm.nt.gov.au/_data/assets/pdf_file/0003/62256/the_people_of_the_nt_census_2011.pdf

Key Government Department: Department of the Attorney-General and Justice⁸⁰

The Department is focused on providing strategic law and legal policy services to Government and delivering courts, prosecutions, advocacy, complaint resolution and registration services in line with the values of the Northern Territory Public Sector and the department.

Core business for the Department includes:

- providing legal services to government;
- providing support for the government's legislative program;
- providing support to victims of crime;
- providing support to the courts and independent offices to protect the community's legal rights;
- coordinating research and statistical data to support justice-related government policies.

Department of the Attorney-General and Justice Strategic Plan 2013-2016⁸¹

The Department of the Attorney-General and Justice's Strategic Plan articulates a vision of a fair and accessible legal system for the community, with three strategic drivers:

- advise and support the Attorney-General as the First Law Officer;
- provide a strong, responsive, contemporary justice system;
- protect and promote the rights of victims of crime, the vulnerable and the disadvantaged.

Pillars of Justice Strategy

The Territory Government's 'Pillars of Justice' law and order reform strategy, led by the Department of Justice, is a comprehensive policing, justice and corrections package. The Strategy has been driving reforms in five key areas – the streamlining of police procedures, reforming court sentencing, introducing youth justice intervention programs, correctional reform and increased victim support.

Indigenous

Elders Visiting program⁸²

The Elders visiting program (EVP) is an initiative of the NT Government Department of Correctional Services, and aims to assist in reducing high recidivism rates in NT prisons, as well as provide cultural and community links to incarcerated Aboriginal and Torres Strait Islanders.

The program recognises that cultural contact with community Elders can improve the reintegration prospects of Indigenous offenders by maintaining links to community and culture while in a correctional centre. The EVP aims to provide an important cultural link between Indigenous prisoners and corrections staff by advising staff on cultural and community issues that may impact on a prisoner's behaviour or ability to address their offending.

The Elders involved in the program keep the community informed of the prisoner's progress and correctional centre processes, such as attending funerals and conducting sorry business. They assist corrections staff and prisoners to work through the difficulties that a prisoner is likely to face upon their release, as well as striving to continue assisting prisoners while they transition back into their community.

⁸⁰ <http://www.nt.gov.au/justice/>

⁸¹ http://www.nt.gov.au/justice/general/documents/2013_2016_AGD_Strategic_Plan.pdf

⁸² <http://www.correctionalservices.nt.gov.au/RehabilitationAndIndigenousInitiatives/EldersVisitingProgram/Pages/default.aspx>

NT courts: overview

Introduction

Court Support Services are the responsibility of the Department of Justice, who are responsible for meeting the on-going needs of the Judiciary and general public.

- The **Supreme Court of the Northern Territory of Australia**⁸³ is the superior Court of the Northern Territory. It exercises both original and appellate jurisdictions. The Court has jurisdiction in all matters, civil and criminal, which are not expressly excluded by statute.

The Court consists of the Chief Justice, other Judges and the Master. The Court does not have formal divisions, and the work of the Judges is shared between them as the Chief Justice directs. The jurisdiction of Master is governed by Rules of Court.

The Registrar and the Registry support and assist the judiciary in its role of providing justice to the community.

- The expression **Magistrate Courts**⁸⁴ is a generic term covering a range of jurisdictions presided over by Northern Territory Magistrates. These jurisdictions include:
 - The Court of Summary Jurisdiction
 - Local Court
 - Work Health Court
 - Small Claims Court
 - Youth Justice
 - Mining Wardens Court
 - Coroners Court

The work of magistrates is varied and constitutes about 97 per cent of the contact of the court system with the citizens of the Northern Territory.

There are 14 magistrates in the Northern Territory. Nine magistrates (including the Chief Magistrate) are based in Darwin, four magistrates in Alice Springs and one in Katherine. Beyond these locations, all magistrates conduct circuit courts (usually on a monthly basis) to a large number of smaller towns and communities throughout the NT, mostly in Indigenous communities. These follow normal court processes and deal with the vast bulk of matters that arise in those communities.

- The **Community Justice Centre**⁸⁵(CJC) has been established by the NT Government to provide mediation services to the community to help people resolve their own disputes without legal action. The service is free, confidential, voluntary, timely, and easy to use.

The CJC recognises that it operates within a culturally diverse population and that culturally appropriate processes should be used in appropriate circumstances. In particular any mediation services being undertaken within Indigenous communities or involving Indigenous persons need to utilise and recognise any existing capacity and mediation skills within the relevant Indigenous community to resolve their own disputes drawing from their own skills, knowledge, culture and law.

⁸³ www.nt.gov.au/ntsc

⁸⁴ www.nt.gov.au/justice/ntmc/

⁸⁵ <http://www.cjc.nt.gov.au/>

NT courts: existing resources that support courts to deliver services to culturally diverse clients

Supreme Court

Committees / working group structures

Court user forums

Includes representation from the North Australian Aboriginal Justice Agency (NAAJA).

Interpreting and translating policies, procedures and protocols

Interpreters' Protocol⁸⁶

The Protocol provides guidance to the Court, interpreters and legal practitioners regarding the engagement of interpreters, the professional duties of interpreters, and the role of interpreters in Court. The Protocol was developed by The Hon Justice Jenny Blokland, in conjunction with the Aboriginal Interpreter Service, the Interpreting Translator Service, NAAJA, legal aid agencies, the Criminal Lawyers Association (NT) and representatives of the legal profession. This protocol has been adopted in other jurisdictions.

Language and the Law Conference

In May 2012, the Court held a conference on the subject of 'Language and the Law', with particular focus on the role and function of court interpreters, and how they are best able to be used in the courts. The wide range of speakers and topics discussed gave an in-depth understanding of the problems facing those whose first language is not English when appearing as a witness or litigant in a court, as well as tips on how best to overcome the problems of language.

The Court is holding a second 'Language and the Law' Conference from 28 to 30 August 2015. This is directed at interpreters and the broader legal profession. The themes include non-standard English, sign and non-standard sign language, interpreting new and emerging languages, as well as general interpreting issues before the courts.

Public outreach / education activities targeting diverse communities

Open Days

Activities include:

- Mock trial and sentencing presented by NT Barristers;
- Tours of the Courtrooms, holding cells and jury rooms;
- Informative displays by: Top End Women's Legal Service, Aboriginal Interpreter Services, and Interpreter and Translating Service NT;
- Sentencing forums – both in Darwin and Alice Springs.

Learning and development training

Aboriginal Interpreter Service's Mock Trial: 'You Understand, Don't You?'⁸⁷

This was filmed at the Language and the Law conference in 2012. It involved a role-play where the judicial system is staff entirely with Indigenous judges and lawyers speaking Yolngu Matha, an Aboriginal language from the Northern Territory. Justice Mildren must navigate the system as the defendant. The video is designed to give an insight into how non-English speakers experience court.

Visit by Judges to Elcho Island

Judges participated in a ceremony involving the community reducing traditional law to writing. The Court was presented with a written copy of the traditional laws generated in accordance with Aboriginal tradition.

⁸⁶ <http://www.supremecourt.nt.gov.au/media/documents/InterpreterProtocols.pdf>

⁸⁷ <http://www.indigitube.com.au/health/item/2477>

Magistrate Court

Relevant operational protocols

Indigenous Court Liaison Officer

Interpreting and translating policies, procedures and protocols

Bush court circuit interpreting service

Learning and development training

Aurora Native Title Internship

Internships are available at organisations working in policy development, social justice and Indigenous affairs more generally. Internships provide an excellent opportunity for students and graduates to consider careers in these fields, while at the same time providing additional resources to organisations in need of assistance.

Community Justice Centre

Committees / working group structures

Community Justice Consultative Council⁸⁸

The Council is appointed by the Attorney-General and Minister for Justice and operates with the purpose of making policy guidelines for the provision of mediation services, providing strategic direction to the CJC, dealing with complaints and making reports and recommendations to the Minister for Justice and Attorney-General in relation to the operation of the CJC. The Council comprises a panel of experts in their respective fields with a view to capturing a broad selection of expertise relevant to the provision of alternative dispute resolution services.

Relevant operational protocols

'Ponki' Mediator Training Project

The Community Justice Centre's 'Ponki' Mediator Training Project involved consulting, designing and delivering National Accredited Mediation training on the Tiwi Islands for the volunteer group known as the Ponki Mediators. The aim of the project was to build capacity on the islands to reduce the risk of violent conflict and trauma through peace-making skills that provides a corresponding reduction in interaction with the criminal and civil justice system, health and child protection systems.

The Ponki Mediators resolve a wide variety of intra-family disputes and promote healing between families affected by serious, violent crime by facilitating victim-offender mediations in Berrimah Prison before release. This collaborative project provides culturally experienced trainers at no cost and is supported in-kind by local Aboriginal Legal Aid and NGOs.

Interpreting and translating policies, procedures and protocols

Translated Information

Information about mediation is provided in a range of other languages, including some of the new and emerging languages such as Burmese, Kirundi, Somali, Swahili and Tamil.

⁸⁸ http://www.nt.gov.au/justice/courtsupp/cjc/consultative_council.shtml

Queensland (QLD) Government's approach to diversity

Whole of Government Strategies

Indigenous

Aboriginal and Torres Strait Islander Cultural Capability and Engagement Framework

The key objective of the Framework is to embed Aboriginal and Torres Strait Islander cultural capability in all public sector workforce and management practices and processes. Through the implementation of the Framework, the quality and level of government services to Aboriginal people and Torres Strait Islander people will be enhanced.

Language Services Policy and Guidelines⁸⁹

The Language Services Policy incorporates migrant and refugee languages, Aboriginal and Torres Strait Islander languages and Auslan (Australian sign language).

The Language Services Policy seeks to ensure that Queenslanders from culturally diverse backgrounds, with limited understanding of English, have access to the full range of government services through the use of interpreters and translated information. The policy aims to enhance access to interpreters and translated information to improve access to the full range of government and government-funded services for people requiring language support.

CALD/Multicultural

Queensland Cultural Diversity Policy⁹⁰

The Policy aims to drive improvements for culturally diverse Queenslanders across four key outcomes: language independence; education participation and attainment; economic independence and participation; and community participation.

Underpinning these outcomes is a commitment to ensuring the Queensland Government delivers effective, responsive services. Cultural Diversity Queensland has the whole-of-government lead for the implementation and monitoring of the Policy.

Queensland Cultural Diversity Action Plan⁹¹

The Queensland Cultural Diversity Action Plan outlines the steps the Queensland Government will take to achieve the outcomes identified in the Policy and ensure that all Queenslanders can fully participate in our economy and society.

The Action Plan focuses on making the best use of Queensland's diversity and reducing the barriers to economic and community participation through actions which: build English language proficiency delivered where people live; improve access to translated material and interpreters; support education participation and attainment; promote pathways to employment and business; and enable civic and community participation including to take on leadership roles. Progress in the implementation of the Action Plan will be published annually by agencies on their websites.

Language Services Policy and Guidelines – see above.

⁸⁹ www.datsima.qld.gov.au

⁹⁰ <http://www.datsima.qld.gov.au/resources/datsima/culturaldiversity/publications/cultural-diversity-policy.pdf>

⁹¹ <http://www.datsima.qld.gov.au/resources/datsima/culturaldiversity/publications/cdp-action-plan-final.pdf>

Key Government Department: Queensland Department of Justice and Attorney-General⁹²

The Department of Justice and Attorney-General (DJAG) is the government agency responsible for administering justice in Queensland. The Department also leads policy development and delivers services to ensure safe, fair and productive work environments which contribute to the social and economic wellbeing of Queenslanders.

Indigenous

Just Futures 2012-2015

The DJAG was one of several Queensland Government agencies involved in the development of Just Futures 2012-2015, a strategy to reduce the numbers of Aboriginal and Torres Strait Islanders entering the criminal justice system.

- The DJAG funds more than 50 **Community Justice Groups (CJGs)**⁹³ to provide information about court and justice processes to their respective communities. They support Aboriginal and Torres Strait Islander victims and offenders at all stages of the legal process, including encouraging diversionary and early intervention strategies. CJGs are split into two categories — statutory and non-statutory groups — with both groups carrying out local strategies to address justice issues and work towards reducing the over-representation of Indigenous people in the criminal justice system. Statutory justice groups also have a legislative role in dealing with alcohol management issues within their community.
- The **Indigenous Sentencing List**⁹⁴ assists Aboriginal and Torres Strait Islander people who have committed an offence, and who agree to participate with service providers and support agencies, to address the underlying cause of their offending behaviour. The program provides opportunities for offenders during the normal course of bail to engage with local non-government and government agencies to address issues relating to their offending.
- The **Mornington Island Restorative Justice (MIRJ)**⁹⁵ project is a community based dispute resolution service, inclusive of Island culture while conforming to the requirements of the criminal justice system. It has provided a range of diversionary victim-offender mediations, preventative crisis intervention mediations and planned inter-family conflict resolution services since November 2009.

The project originally operated as a partnership between DJAG and respected Elders until October 2011 when it was transitioned through a service agreement to the community based Junkuri Laka Justice Association. More than 100 mediations have been successfully finalised. Outcomes achieved through mediation have included the resolution of entrenched interfamily and interpersonal conflict, the prevention of escalating of violence, people not being charged, prosecutors withdrawing charges and diversion from incarceration.

Courts and Tribunals

Queensland's courts coordinate a number of proactive court diversion, treatment and sentencing initiatives designed to reduce repeat offending and the over-representation of Indigenous people in the criminal justice system:

- **Queensland Courts Referral** is a bail-based process which enables defendants to engage with non-government organisations and government agencies to address the causes of offending behaviour by assisting defendants with drug and/or alcohol dependency, mental illness, intellectual disability, cognitive impairment, and homeless people or those at risk of homelessness who come into contact with the criminal justice system.

⁹² <http://www.justice.qld.gov.au/>

⁹³ http://www.justice.qld.gov.au/_data/assets/pdf_file/0006/18528/Community_justice_groups.pdf

⁹⁴ http://www.courts.qld.gov.au/_data/assets/pdf_file/0008/205586/cip-fs-indigenous-sentencing-list-isl.pdf

⁹⁵ http://www.justice.qld.gov.au/_data/assets/pdf_file/0003/178338/Mornington-Island-Restorative-Justice-Project-Full-Report-and-Appendices.pdf

- **Development of community-specific justice resources** – during 2013-2014, departmental officers worked with the Indigenous Justice Issues Committee, which comprised judges from the Queensland Supreme and District Courts, magistrates of the Queensland Magistrates Court and judges of the Federal and Family Courts, to develop justice resource documents.

This included service listings to assist the courts and legal practitioners to understand the circumstances of, and deal with, Aboriginal people and Torres Strait Islander people who come before the courts. This project was supported by the National Judicial College of Australia.

- An **Interpreters and the Courts Committee** was recently established to conduct a review of Queensland Courts policy and procedures with a view to promoting best practice across jurisdictions and aligning procedures with government policy. Following the review the respective courts issued practice directions to streamline the process of engaging an interpreter in criminal proceedings (see further below).

The purpose of the practice directions was to promote a coordinated approach in addressing language barriers in Queensland Courts in line with the principles of the Queensland Government's Queensland Government Language Services Policy (as above).

Registry staff will engage an interpreter for criminal proceedings as directed by the court, and will use the Translating and Interpreting Service or Deaf Services Queensland (or other appropriate sign language interpreting service) to interpret when communicating with court users who contact or present at a court registry and either request the assistance of an interpreter or appear to have difficulty communicating in English.

Professional interpreters will be engaged unless unavailable.

CALD/Multicultural

Interpreters and the Courts Committee – see above.

QLD courts: overview

Introduction

- The **Supreme Court of Queensland**⁹⁶ is the highest court in Queensland and includes the trial division and the Court of Appeal.

The trial division hears the most serious criminal cases including murder, manslaughter and serious drug offences, where a jury is used to decide whether the defendant is guilty or not guilty. The division also hears all civil matters involving amounts of more than \$750,000. A jury may be used to decide these disputes.

The Court of Appeal hears appeals from the District and Supreme Courts, and from many tribunals. A dissatisfied party in either a civil or criminal case can seek an appeal, that is, a review of the court's decision or the sentence imposed.

As at February 2015, there were 28 judges of the Supreme Court.

- The **District Court of Queensland**⁹⁷ deals with serious criminal offences such as rape, armed robbery and fraud. Juries are used to decide if defendants are guilty or not guilty.

The District Court also hears appeals from cases decided in the Magistrates Court and disputes involving amounts of more than \$150,000, but less than \$750,000. A jury may be used to decide these financial disputes.

The judges of the District Court also sit in the:

- Planning and Environment Court which hears disputes over land, such as objections to rezoning and subdivisions;
- Children's Court of Queensland, which deals with cases where the accused (or defendant) is under the age of 17.

The District Court sits in 32 locations across Queensland. Judges also travel throughout the state to hear matters in regional and remote areas.

- The **Magistrates Court of Queensland**⁹⁸ is the first level of the Queensland Courts system. Most criminal cases are first heard, in some form, in this court. Most civil actions are also heard here.

A person charged with a criminal offence must be brought before the Magistrates Court as soon as possible after the charge is laid. The magistrate, who presides over the court, will decide whether there is enough evidence for the person to face trial and, if so, which court should hear the case. The magistrate may commit the case to the District or Supreme Court depending on the seriousness of the offence.

The Magistrates Court can deal with less serious offences (summary offences) such as traffic infringements, minor offences such as shoplifting or disorderly behaviour, and less serious offences involving burglary, assault, fraud and drugs.

Civil cases can be dealt with by the Magistrates Court if the amount in dispute is \$150,000 or less. If the amount is greater than \$150,000, the District or Supreme Court will deal with the case.

The Magistrates Court also deals with:

- some minor family law matters (although most go to the Family Court);
- some other Commonwealth matters, such as those covered by the Customs Act 1901, the Social Security Act 1991 and the Taxation Act 1953;

⁹⁶ <http://www.courts.qld.gov.au/courts/supreme-court>

⁹⁷ <http://www.courts.qld.gov.au/courts/district-court>

⁹⁸ <http://www.courts.qld.gov.au/courts/magistrates-court>

- most domestic violence matters;
- applications for child-protection orders.

QLD courts: existing resources that support courts to deliver services to culturally diverse clients

Supreme Court of Queensland

Committees / working group structures

Interpreters and the Courts Committee – see above

Interpreting and translating policies, procedures and protocols

Supreme Court Practice Direction Number 3 of 2010: Interpreters⁹⁹

- The purpose of this Practice Direction is to streamline the process of engaging an interpreter in criminal proceedings pursuant to an order of the court made under s131A of the *Evidence Act 1977*, and for bail applications and applications under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.
- The court will bear the cost of interpreting the proceeding to an accused person where the interests of justice require the appointment of an interpreter for that purpose.
- Unless the court orders otherwise, the costs of interpreting between the court and a witness will be borne by the party calling the witness or giving evidence.
- When the interests of justice require, the costs of interpreting between the court and an accused person giving evidence will be borne by the court.
- This Practice Direction does not affect the capacity of a party otherwise to engage, at that party's expense, an interpreter to assist a party's comprehension of a proceeding in court.
- The current practice in civil proceedings, where a party requiring the services of an interpreter engages the interpreter and bears the expense of doing so, will continue.

Resources made available to judicial officers and staff

Equal Treatment Benchbook

The Supreme Court of Queensland published the Equal Treatment Benchbook in 2005 and is currently in the process of updating it. The benchbook is available in hard copy and on the courts' webpage. It aims to provide information and background knowledge so that judges are alert to circumstances which, if overlooked, could result in an injustice or perceived injustice.

The benchbook includes sections on:

- Justice and equality;
- Ethnic diversity in Queensland;
- Religions in Queensland;
- Family diversity;
- Oaths and affirmations;
- Effective communication in Court Proceedings;
- Indigenous Queenslanders
- Indigenous Culture, Family and Kinship
- Indigenous Language and Communication;
- Indigenous People and the Criminal Justice System;
- Disability;
- Self Represented parties;
- Children;

⁹⁹ http://www.courts.qld.gov.au/_data/assets/pdf_file/0005/86432/sc-pd-3of2010.pdf

- Gender;
- Sexuality and Gender Identity.

District Court of Queensland

Committees / working group structures

Interpreters and the Courts Committee – see above

Interpreting and translating policies, procedures and protocols

District Court Practice Direction Number 1 of 2010: Interpreters¹⁰⁰

- The purpose of this Practice Direction is to streamline the process of engaging an interpreter in criminal proceedings pursuant to an order of the court made under s131A of the *Evidence Act 1977*.
- The court will bear the cost of interpreting the proceeding to an accused person where the interests of justice require the appointment of an interpreter for that purpose.
- Unless the court orders otherwise, the costs of interpreting between the court and a witness will be borne by the party calling the witness or giving evidence.
- When the interests of justice require, the costs of interpreting between the court and an accused person giving evidence will be borne by the court.
- A Registry officer will be designated to facilitate communications between the profession and the court, and between the interpreter and the court.
- This Practice Direction does not affect the capacity of a party otherwise to engage, at that party's expense, an interpreter to assist a party's comprehension of a proceeding in court.
- The current practice in civil proceedings, where a party requiring the services of an interpreter engages the interpreter and bears the expense of doing so, will continue.

Resources made available to judicial officers and staff

Equal Treatment Benchbook – see above

Magistrates Court of Queensland

Committees / working group structures

Interpreters and the Courts Committee – see above

Relevant operational protocols

Remote Justices of the Peace (Magistrates Court) Program¹⁰¹

- Initiated by the Queensland Government in 1993 as a component of its response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody 1991, the Program offers Indigenous community members, Elders and Respected persons opportunities to play positive roles within the criminal justice system. Currently Cherbourg, Kowanyama and Lockart River have regular monthly Remote Justices of the Peace (Magistrates Court) sittings, with Aurukun and Bamaga held on a needs basis. The Program seeks to assist Aboriginal and Torres Strait Islander people in overcoming the disadvantages that they may face in coming into contact with the criminal justice system, whether as a victim of a criminal act, an accused person, or otherwise.

Interpreting and translating policies, procedures and protocols

Magistrates Court Practice Direction Number 7 of 2010¹⁰²

- This Practice Direction applies only to criminal proceedings and bail applications before the Magistrates Court.

¹⁰⁰ http://www.courts.qld.gov.au/_data/assets/pdf_file/0005/85307/dc-pd-1of2010.pdf

¹⁰¹ http://www.courts.qld.gov.au/_data/assets/pdf_file/0003/205644/cip-fs-remote-jp-mag-court-program.pdf

¹⁰² www.courts.qld.gov.au/_data/assets/pdf_file/0007/85687/mc-pd-7of2010.pdf

- The purpose of the Practice Direction is to provide direction for the determination of when the court, rather than a party, will take responsibility for engaging an interpreter, and who will bear the cost of engaging an interpreter.
- Unless the court otherwise orders, a party calling a witness or giving evidence will be responsible for engaging an interpreter to interpret between the court and the witness.
- Unless the court otherwise orders, the cost of interpreting between the court and a witness will be borne by the party calling the witness or giving evidence.
- If the court is satisfied that the interests of justice require that an interpreter be appointed to assist a defendant's comprehension of the proceeding or to interpret between the court and a defendant giving evidence, the court will order the appointment of an interpreter and the court will bear the cost of interpreting between the court and the defendant.

Resources made available to judicial officers and staff

Equal Treatment Benchbook – see above

South Australian (SA) Government's approach to diversity

Whole of Government Strategies

Indigenous

South Australian Policy Framework: Aboriginal Languages Interpreters and Translators¹⁰³

This policy framework was developed in February 2014 by the SA Government as part of its commitment to 'Closing the Gap', through providing a coordinated policy approach across South Australian Government agencies and services for the effective provision and use of Aboriginal languages interpreting and translating services. The development of the Policy Framework followed a 2011 *Review of Aboriginal Language Interpreter Services in South Australia*,¹⁰⁴ which found that there had been no coordinated, whole-of-government policy framework for the use of Aboriginal languages interpreters and translators.

Cultural Inclusion Framework

South Australia's Cultural Inclusion Framework is a guide to assist agencies in the Public Sector to deliver culturally inclusive programs to Aboriginal peoples in South Australia.

CALD/Multicultural

Multicultural SA¹⁰⁵ is the agency responsible for advising the Government on all matters relating to multicultural and ethnic affairs in South Australia. It includes the South Australian Multicultural and Ethnic Affairs Commission (SAMEAC), which consists of up to 15 members nominated by the Minister for Multicultural Affairs.

Multicultural SA's roles and functions are to increase awareness and understanding of the ethnic diversity of the South Australian community and the implications of that diversity and to advise the Government and public authorities on, and assist them in, all matters relating to multiculturalism and ethnic affairs.

¹⁰³

<http://www.statedevelopment.sa.gov.au/upload/aard/publications/South%20Australian%20Aboriginal%20Languages%20Interpreters%20and%20Translators%20Policy%20Framework%20-%20February%202014.pdf>

¹⁰⁴ Monica Redden, 2011. *Review of Aboriginal Language Interpreter Services in South Australia*.

¹⁰⁵ <http://www.multicultural.sa.gov.au/>

SA courts: overview

Introduction

- The **Supreme Court of South Australia**¹⁰⁶ is the superior court of the State and is a court of both law and equity. It deals with the more important civil cases and the most serious criminal matters.

In its appellate jurisdiction, the Supreme Court reviews and determines errors which may have occurred in other courts of the State and interprets and expounds the law for the guidance of other courts.

The Court, constituted by a judge, conducts circuit sessions in both Mount Gambier and Port Augusta, as required.

The Court has a Chief Justice, 11 Justices and two Masters.

The Supreme Court judicial members are supported by personal assistants and associates. Clerical and administrative support in the registries is provided by Courts Administration Authority clerical officers.

- The **District Court of South Australia**¹⁰⁷ is the principal trial court in South Australia. The Court's work covers four jurisdictions: civil; criminal; administrative and disciplinary division and criminal injuries.

The Court sits in Adelaide and conducts circuits at:

- Mount Gambier (civil and criminal)
- Port Augusta (civil and criminal)
- Berri (civil)
- Port Pirie (civil)
- Whyalla (civil)
- Port Lincoln (civil)

The District Court has a Chief Judge, 20 Judges and three Masters.

- The **Magistrates Court of South Australia**¹⁰⁸ was established by the Magistrates Court Act 1991 and handles the greatest proportion of litigation in SA. All criminal matters begin in the Magistrates Court and the civil jurisdiction hears approximately 90 per cent of all disputes within the State.

The court has four jurisdictions:

- Civil (General Claims);
- Civil (Minor Claims);
- Civil (Consumer and Business);
- Criminal

The court sits in Adelaide and in various key locations around the State, with regional manager magistrates at Holden Hill, Christies Beach, Mt Gambier, Port Adelaide, Port Augusta, Elizabeth and Berri.

The Chief Magistrate and Deputy Chief Magistrate are joined by 36 other magistrates.

¹⁰⁶ <http://www.courts.sa.gov.au/OurCourts/SupremeCourt/Pages/default.aspx>

¹⁰⁷ www.courts.sa.gov.au/OurCourts/DistrictCourt/Pages/default.aspx

¹⁰⁸ <http://www.courts.sa.gov.au/OurCourts/MagistratesCourt/Pages/default.aspx>

SA courts: existing resources that support courts to deliver services to culturally diverse clients

Key Body: Courts Administration Authority¹⁰⁹

The Courts Administration Authority (CAA) is constituted by the *Courts Administration Act 1993 (SA)*.¹¹⁰ It is independent of Government and is a means for the judiciary to control the provision of the administrative facilities and services required by State courts to carry out their judicial functions. Participating courts of the Authority are the Supreme Court, District Court, Magistrates Court, Youth Court, Environment, Resources and Development Court, Coroner's Court and Industrial Relations Court.

Indigenous

Courts Administration Authority: Reconciliation Statement¹¹¹

The CAA developed the Reconciliation Statement through a Reconciliation Committee which comprised of judiciary and CAA Aboriginal and non-Aboriginal staff. The Reconciliation Statement was completed in May 2014 and includes the image of the CAA's Reconciliation Painting, created by judiciary and court staff in 2012.

At the commencement of Reconciliation Week on 27 May 2014, the CAA's Reconciliation Statement was signed at a signing ceremony hosted by Justice John Sulan. Signatories to the statement are the Chief Justice Kourakis, Chief Judge Muecke, Chief Magistrate Bolton, State Courts Administrator Julie-Anne Burgess, Elder Aunty Coral Wilson, Senior AJO Paul Tanner and Senior Aboriginal Cultural Consultant Geoff Cooper.

Aboriginal and Torres Strait Islander Workforce Plan 2011-2013

- Aboriginal employment targets have been included in the State Strategic Plan for all government departments as a key strategy to improve service provision to Aboriginal people. The CAA has consistently exceeded these targets, mainly as a result of the employment of Aboriginal Justice Officers. The CAA continuously seeks to improve the numbers of Aboriginal staff at all classification levels and in all divisions across the CAA, especially in locations where there is a significant local Aboriginal population.
- The CAA has developed an Aboriginal and Torres Strait Islander Workforce Plan to improve the recruitment, development and retention of Aboriginal and Torres Strait Islander staff within the CAA.

CAA's Aboriginal Staff Forum

Aboriginal and Torres Strait Islander people in contact with the criminal justice system may experience cultural and language barriers which can negatively impact on their experience. The CAA aims to employ more Aboriginal workers across the range of roles and functions in the CAA to enhance the interaction between Aboriginal court users and the courts, and the services provided to Aboriginal court users.

The CAA's Aboriginal workforce is approximately 2.5 per cent of the CAA workforce. Aboriginal employees are working in the CAA across a range of positions including Aboriginal Justice Officers, Sheriff Officers, Youth Justice Coordinators, Court Officers and Administrative Officers.

The CAA is also committed to supporting its staff through a range of learning and development opportunities, including participation in internal and external training courses, attendance at conferences and workshops, involvement in promotional career events and expos, and in progressing the Aboriginal and Torres Strait Islander Workforce Plan.

¹⁰⁹ <http://www.courts.sa.gov.au/Pages/default.aspx>

¹¹⁰ <http://www.legislation.sa.gov.au/LZ/C/A/COURTS%20ADMINISTRATION%20ACT%201993.aspx>

¹¹¹ <http://www.courts.sa.gov.au/OurCourts/CourtsAdministrationAuthority/Pages/Reconciliation.aspx>

Aboriginal Programs

CAA has a number of Aboriginal justice initiatives under the banner of Aboriginal Programs. These initiatives first started in 1993, with Aboriginal Cultural Awareness Training, and the appointment of three Aboriginal Justice Officers in 1998, increasing to 10 in 2010.

The first Aboriginal Sentencing Court in Australia (Nunga Court) began operation at Port Adelaide Magistrates Court in 1999, and has expanded into other locations (intra and interstate).

The Nunga Court influenced the development of Aboriginal Sentencing Conferences with the amendment in 2005, to the Criminal Law Sentencing Act 1988 providing for Aboriginal Sentencing Conferences in all jurisdictions (s.9C).

- The CAA employs 10 **Aboriginal Justice Officers (AJOs)** working across a range of locations and courts. AJOs are based at:
 - Port Adelaide;
 - Adelaide;
 - Elizabeth;
 - Youth Court;
 - Port Augusta.

As well as their base courts, AJOs service the following courts in the metropolitan, regional and remote areas:

- Metropolitan: Holden Hill, Christies Beach;
- Regional: Berri, Murray Bridge, Port Lincoln, Ceduna, Coober Pedy, Whyalla, Port Pirie, Leigh Creek, Kadina, Maitland;
- Remote: Anangu Pitjantjatjara Yankunytjatjara Lands (APY) and Yalata.

Their role includes:

- assisting with Aboriginal Sentencing Courts/Conferences;
 - providing advice to Aboriginal court users regarding procedures, fines, payment options and JP services;
 - providing advice to Judicial Officers regarding Aboriginal culture and communities;
 - recruiting, training and supporting Elders;
 - assisting with family conferences for youth in Northern area;
 - delivering community education about CAA Aboriginal Programs and employment and the role of AJOs.
- **Aboriginal Cultural Awareness Training** – a two day course mandatory for all new staff and new Magistrates also attend. The training is delivered every three months and is presented by CAA Aboriginal staff.
 - **NCJA Indigenous Justice – SA Committee** – A Judicial committee with members from the Supreme Court, District Court, Coroners Court, Federal Court and Magistrates Court, and supported by the CAA’s Manager Aboriginal Programs and the Senior Aboriginal Justice Officer. The Committee seeks to enhance the judiciary’s understanding of issues affecting Aboriginal people, through workshops, seminars, community visits and cultural awareness programs.
 - ‘The Ripple Effect’: In February 2012, the Committee held a successful launch of ‘The Ripple Effect’, the DVD of the Judicial Officers’ trip to the Anangu Pitjantjatjara Yankunytjatjara Lands (APY) Lands in 2011.¹¹² The CAA-funded DVD has been developed for training purposes and many copies have been distributed throughout the year to a wide range of Judicial Officers (including inter-state) as well as CAA staff and other interested parties.

¹¹² <http://www.youtube.com/watch?v=Ten2mRjiCFI&feature=youtu.be>

CALD/Multicultural

Community Reference Group

The Community Reference Group comprises 15 external community groups and associations which meets three times a year and reports directly to the State Courts Administration Council of the CAA. The Group enables various community representatives to be heard and to make suggestions about suitability and effectiveness of administrative decisions of the CAA on the community. Membership includes representatives from the South Australian Multicultural and Ethnic Affairs Commission (SAMEAC) and MLSSA, a group representing the interests of disabled migrants.

An example of collaboration arising from this group is presentation of information by judicial and court officers to CALD volunteers already working within CALD communities.

Courts Education Manager

The CAA has a full-time Courts Education Manager – an outreach teacher – who regularly visits and hosts workshops and tours of courts with young migrant students.

Judicial Speaker Bureau

The CAA has a Judicial Speaker Bureau through which judicial officers are booked to give talks to community groups, including CALD groups. For example, one judge attended a soccer match to address young migrant people trackside about the work of the court, in support of a Legal Services Commission outreach to migrants program. Further, representatives of the Youth Court have given talks to youth migrant leaders.

Supreme Court of South Australia

Committees / working group structures

NCJA Indigenous Justice – SA Committee – see above

Learning and development training

Aboriginal Cultural Awareness Training – see above

District Court of South Australia

Committees / working group structures

NCJA Indigenous Justice – SA Committee – see above

Relevant operational protocols

An Aboriginal Benchbook is being developed.

South Australia is presently undertaking a review of the guidelines around oaths and affirmations.

Learning and development training

Judges regularly participate in education workshops and seminars. Topics include Aboriginal cross-cultural awareness training, mental impairment and judicial ethics.

Aboriginal Cultural Awareness Training – see above

Magistrates Court of South Australia

Committees / working group structures

NCJA Indigenous Justice – SA Committee – see above

Relevant operational protocols

- The CAA operates **Aboriginal Sentencing Courts** (also known as ‘Nunga Court’, the regional Aboriginal name given to it by the local Aboriginal community) in Port Adelaide, Murray Bridge,

Mount Gambier and Port Augusta. First piloted in 1999, the Nunga Court was Australia's first Aboriginal Sentencing Court.

Aboriginal Sentencing Courts are presided over by a Magistrate, who is assisted by Aboriginal Elders and/or Respected Persons. As they are sentencing courts, they do not hear trials or contested matters. Aboriginal Sentencing Courts provide an opportunity for Aboriginal court users to have their voice heard in a culturally appropriate manner, and family members and support persons are encouraged to attend and speak directly to the court.

To attend an Aboriginal Sentencing Court, the court user must be an Aboriginal adult, who has pleaded guilty to their offences. The offences need to have occurred in the local Aboriginal court area.

AJOs provide information about the location and operation of the courts, as well as support to Aboriginal court users and their families. AJOs also provide advice to Magistrates and the court generally regarding appropriate services and programs that may assist in the court user's rehabilitation.

- **Aboriginal Sentencing Conferences** are legislated under s.9C of the Criminal Law (Sentencing) Act 1988, and are conducted in Supreme Court, District Court, and Magistrates Courts. Aboriginal Sentencing Conferences enable participants to share information in a more culturally appropriate forum, which the Judge or Magistrate can consider when sentencing. The AJOs assist with convening the conference, which are generally held in a conference room, not a courtroom. Every participant has a chance to have their say around a table. Aboriginal defendants are encouraged to explain the background to their offending. Aboriginal Elders attend and are very important participants, as they can advise the court and defendant. Conferences also give defendants an opportunity to face victims and apologise for their actions. Family members and support agencies are encouraged to attend and the defendant can speak directly to the Judicial Officer.

The Port Lincoln Aboriginal Sentencing Conference is a joint initiative between the Conferencing Unit and CAA's Aboriginal Programs. It combines aspects of the present Nunga Court model with an adult conferencing process. A sentencing conference is facilitated by an experienced Conferencing Unit coordinator and supported by an experienced Aboriginal Justice Officer. It involves the victim, the defendant, Aboriginal Elders, service providers and prosecution. The focus of the meeting is to acknowledge the harm done to the victim and the community, and to provide opportunities for the parties to contribute and attempt to develop relevant responses to the offending behaviours. The Magistrate takes the outcomes of the conference into account in determining the sentence. The program was evaluated by the South Australian Office of Crime Statistics and Research in mid-2008. It found that there was a positive response overall from all stakeholders regarding the conferencing process. Port Lincoln Aboriginal Conferencing is now an on-going sentencing option for suitable Aboriginal defendants in the Port Lincoln area.

Learning and development training

Aboriginal Cultural Awareness Training – see above

Tasmanian (TAS) Government's approach to diversity

Whole of Government Strategies

CALD/Multicultural

Tasmanian Multicultural Policy 2014¹¹³

The Tasmanian Multicultural Policy 2014 builds on the achievements of the 2001 Multicultural Policy. It is underpinned by a set of principles and contains three key strategies and an Action Plan to achieve the vision. The Policy provides a means of strengthening the potential of multiculturalism for all Tasmanians and setting the future direction for Tasmania's multicultural community.

Multicultural Language Services Guidelines for Tasmanian Government Agencies¹¹⁴

The Multicultural Language Services Guidelines for Tasmanian Government Agencies aim to enhance access to interpreters and translated information for people from culturally and linguistically diverse backgrounds to enable equitable access to the full range of services.

The Guidelines provide guidance on the following matters:

- establishing agency policies and protocols for the use of translating and interpreting services – this includes promoting the engagement of credentialed interpreter (ie NAATI Accredited or Recognised Translators and Interpreters) in circumstances where people experience difficulties communicating in English;
- facilitating staff awareness training and development;
- improving data quality;
- the provision of multilingual information; and
- agency planning and budgeting.

The Guidelines provide guidance on the general principles and approach to be undertaken by agencies in the development of their own translating and interpreting policies and procedures, as well as the provision of multilingual information services specific to their core business.

Multicultural Access Point website¹¹⁵

The Multicultural Access Point website provides an important resource for migrants in Tasmania and the service providers that support them. Information relevant to living in Tasmania as a new migrant, such as access to housing, education options, transport, social events and employment opportunities, have been collated on this one site.

Key Government Department: Department of Justice

The Department of Justice provides systems and services for the promotion and maintenance of rights and responsibilities and the resolution of disputes, for the benefit of the Tasmanian community. The Department provides administrative support for the Supreme and Magistrates Courts.

Qualifications in Cultural Competence

The Department of Justice offered a TAFE level qualification in Cultural Competence to staff through the Safe at Home program during 2013 and intends to provide ongoing Cultural Awareness Training to staff where funds allow. The Department also assisted staff to develop the necessary skills to effectively use interpreter services and is in the process of making these resources available to all staff via an online site.

¹¹³ http://www.dpac.tas.gov.au/_data/assets/pdf_file/0019/219304/Tasmanian_Multicultural_Policy_2014.pdf

¹¹⁴ http://www.dpac.tas.gov.au/_data/assets/pdf_file/0008/211112/Multicultural_Language_Services_Guidelines_for_Tasmanian_Government_Agencies.pdf

¹¹⁵ www.multiculturaltas.gov.au

TAS courts: overview

Introduction

- The **Tasmanian Supreme Court**¹¹⁶ is the highest court in the State with responsibility for both civil and criminal matters. The Supreme Court has unlimited jurisdiction in criminal and civil matters except where legislation, either Commonwealth or State, provides otherwise. The Full Court and Court of Criminal Appeal hear appeals from decisions of single Judges.

The Court is a court of review from the Magistrates Court and the majority of tribunals that exercise specialist jurisdiction. The Court has jurisdiction to review decisions and hear applications under a wide range of statutory provisions. The Supreme Court also exercises probate and admiralty jurisdictions.

The Supreme Court is provided with funding for six Judges, an Associate Judge and judicial support staff including associates, attendants and secretarial support. Funding is also provided for the provision of registry services and facilities to support the work of the Court. Supreme Court registries are located in Hobart, Launceston and Burnie.

- The **Magistrates Court**¹¹⁷ hears and determines simple offences, crimes heard summarily under State and Commonwealth legislation, breaches of duty, applications under various State and Commonwealth statutes; and exercises a wide range of appellate and review functions.

Magistrates also hear simple and indictable offences in the Youth Justice Division as well as exercising child protection and welfare responsibilities under various Acts.

Magistrates in the Civil Division hear and determine civil matters to a value of \$50,000 (or an unlimited amount with the consent of the parties) and minor civil claims to a value of \$5,000.

Magistrates also sit as Coroners to conduct inquests into sudden deaths, fires and explosions and as chairpersons of various statutory tribunals, such as the Anti-Discrimination Tribunal, the Motor Accidents Compensation Tribunal and the Mining Tribunal.

The Magistrates Court is comprised of 14 magistrates. Daily court sittings occur at Hobart, Launceston, Devonport and Burnie and circuit court sittings at Queenstown, Smithton, Currie, Whitemark, Scottsdale, St Helens and Huonville.

¹¹⁶ <http://www.supremecourt.tas.gov.au/>

¹¹⁷ <http://www.magistratescourt.tas.gov.au/>

TAS courts: existing resources that support courts to deliver services to culturally diverse clients

Supreme Court and Magistrates Court

Committees / working group structures

Cultural diversity committee

A Cultural Diversity Committee within the Tasmanian courts has been established to advance the proposals and ideas that are identified by the Judicial Council on Cultural Diversity. The agenda for that Committee will include:

- Participation in the development of a national framework for improving access to courts by Indigenous and multicultural communities;
- Implementation of national competencies for court staff in relation to cultural diversity;
- Implementation of an improved framework for interpreters and translators working in Tasmanian courts;
- Engagement with community groups, and representative organisations to address cultural barriers;
- Research and data collection with reference to the needs of Indigenous and multicultural communities.

Court Management Group

- The Tasmanian courts each have a Court Management Group whose members include the head of jurisdiction and chief executive officer, in addition to other court managers. Policies, priorities and resources are determined for each court in those internal forums. The courts also convene other forums with external stakeholders (primarily the legal profession). Cultural diversity policy for the courts relating to Indigenous and multicultural communities fall within the purview of the Court Management Groups.

Interpreting and translating policies, procedures and protocols

- Appropriately qualified and independent translators and interpreters are the resource most often requested by the Tasmanian judiciary.
- The courts enlist the assistance of appropriately qualified translators and interpreters as required.
- The courts seek to engage interpreters who are accredited by NAATI. Difficulties may arise when interpreters are required at short notice; and in obtaining accredited interpreters within a relatively small NESB community.
- The courts also use the resources of the national Telephone Interpreter Service (TIS). Court staff use the TIS to assist clients at registry counters, and also display the availability of external translator and interpreter agencies by means of TIS posters displayed in registries.

Public outreach / education activities targeting diverse communities

- The primary resources employed to educate users about the role of the court and its processes are the websites of the Supreme Court of Tasmania and the Magistrates Court of Tasmania.
- The courts also rely on other publications such as annual reports.
- They also conduct occasional tours and inductive sessions for relevant community groups as required. At present these induction sessions are not specifically directed at culturally diverse community groups, but could readily be focused for that sector if required.
- Similarly, the courts' websites are not currently configured to provide information in multiple languages, but could do so with appropriate funding.
- The Tasmanian courts have conducted community engagement with culturally diverse communities on an occasional and ad hoc basis, with organisations such as the Migrant Resource Centre Southern Tasmania Inc, and the Tasmanian Aboriginal Centre Inc.

Learning and development training

- Occasional training seminars have been conducted by the courts for both staff and judicial officers in relation to cultural diversity issues relevant to immigrant, non-English speaking background people, and Aboriginal and Torres Strait Islander peoples.
- The Tasmanian courts have also provided ad hoc training to relevant court staff concerning the engagement and management of interpreters and translators for court proceedings.
- Magistrates' conferences are held regularly and provide a forum for presentations and education about a range of topics. A judicial education committee with representation from judges and magistrates organises seminars and papers dealing with issues of shared interest. These would provide an ideal forum to deal with cultural diversity issues facing both courts.
- Because of the relatively small size of the courts, resources such as Equality before the Law Benchbooks are utilised from other jurisdictions.
- Judicial officers attend interstate conferences and seminars offered by organisations such as the Australian Institute of Judicial Administration, the National Judicial College of Australia and the Judicial Conference of Australia. These include conferences that have dealt with cultural awareness and issues such as court interpreters.
- The Tasmanian courts have established linkages with representative organisations on cultural diversity issues, such as the Migrant Resource Centre Southern Tasmania Inc, the Community, Sport and Recreation Tasmania (a division of the Department of Premier and Cabinet), and the Anti-Discrimination Commissioner's Office. The courts are able to access the services of these organisations to provide cross-cultural training for court staff, and assist the court in its general community education about the court system.

Victorian (VIC) Government's approach to diversity

Whole of Government Strategies

Charter of Human Rights and Responsibilities Act 2006¹¹⁸

The Charter of Human Rights and Responsibilities Act 2006 (the Charter) is a Victorian law that sets out the basic rights, freedoms and responsibilities of all people in Victoria. Twenty fundamental human rights are protected in the Charter. The Charter requires public authorities, such as Victorian state and local government departments and agencies, and people delivering services on behalf of government, to act consistently with the human rights in the Charter.

- **Indigenous Rights/Cultural Rights** – Section 19(2) acknowledges that Aboriginal persons possess distinct cultural rights, and affirms that they must not be denied the right to enjoy their identify and culture, including language, maintenance of kinship ties, and their spiritual, material and economic relationship with the lands and waters and other resources, with which they have a connection under traditional laws and customs.
- **Right to an Interpreter** – The Charter also provides that an accused in criminal proceedings has the right to an interpreter or communication assistance.

Indigenous

Victorian Aboriginal Affairs Framework 2013-2018¹¹⁹

The VAAF recognises and values Aboriginal culture, and identifies the accountabilities of government departments, agencies and funded service providers to enable more effective monitoring and evaluation of their performance.

The VAAF focuses effort and resources on six Strategic Action Areas (SAA) that are central to reducing Aboriginal disadvantage. Headline indicators under the SAA of 'Safe families and communities and equitable justice outcomes' include:

- Reducing the incidence of Aboriginal family violence;
- Reducing the over-representation of Aboriginal people under justice supervision;
- Reducing the proportion of Aboriginal people who return to prison within two years of release.

The 'Strong Culture, Strong Peoples, Strong Families: Victorian Indigenous Family Violence Strategy'¹²⁰ was produced under the VAAF to reduce incidences of family violence.

Victorian Government Aboriginal Inclusion Framework¹²¹

The 'Aboriginal Inclusion Framework' focuses on producing inclusive, consistent and effective service delivery to Aboriginal people through all departments and agencies provided with funds by the Victorian government. The framework informs the development by all Victorian government departments of individual Aboriginal Inclusion Action Plans.

Victorian Indigenous Family Violence Partnership Forum¹²²

The Indigenous Family Violence Partnership Forum (the Partnership Forum) was established in April 2005 to enable the Government and Aboriginal communities to address Aboriginal family violence together. The Partnership Forum is a mechanism for ongoing, high level dialogue between Government departments and Aboriginal communities about the needs of Aboriginal communities in confronting issues of family violence.

¹¹⁸

[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt8.nsf/DDE300B846EED9C7CA257616000A3571/FDAB8CC011B06E87CA257D07000520E5/\\$FILE/06-43a013.pdfbookmarked.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt8.nsf/DDE300B846EED9C7CA257616000A3571/FDAB8CC011B06E87CA257D07000520E5/$FILE/06-43a013.pdfbookmarked.pdf)

¹¹⁹ <http://www.reconciliation.org.au/raphub/wp-content/uploads/2013/03/Opportunities-Victorian-Aboriginal-Affairs-Framework-2013-181.pdf>

¹²⁰ <http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/indigenous-family-violence>

¹²¹ http://www.dpc.vic.gov.au/images/documents/Aboriginal_Affairs/Aboriginal-Inclusion-Framework-2011.pdf

¹²² <http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/indigenous-family-violence>

The Partnership Forum comprises the Chairpersons of the 11 Indigenous Family Violence Regional Action Groups, Chief Executive Officers or Chairpersons of key Aboriginal organisations and senior representatives from Government departments.

CALD/Multicultural

Victoria's Advantage: Unity Diversity Opportunity¹²³

'Victoria's Advantage – Unity, Diversity, Opportunity' contains a set of indicators used to measure the State's progress in multicultural affairs. It focuses on three major themes: Maximising the Benefits of our Diversity; Citizenship, Participation and Social Cohesion; and Responsive and Accessible Services.

This policy supports the development of Cultural Diversity Plans (CDPs). Progress under CDPs toward culturally-sensitive service delivery is reportable under the *Multicultural Victoria Act 2011*. CDPs help departments evaluate programs and services for their effectiveness in meeting the needs of CALD communities. The CDPs include requirements to train staff to improve cultural competency skills and to ensure that communications are delivered in relevant community languages when necessary.

Multicultural Communications Policy and Guidelines on Policy and Procedure on Interpreting and Translating¹²⁴

The 'Multicultural Communications Policy and Guidelines on Policy and Procedure on Interpreting and Translating' ensure that departments and agencies understand their obligations to provide information to communities in their language and to use interpreters and translators when required to deliver services.

Settlement Coordination Unit¹²⁵

The Settlement Coordination Unit (SCU) was established to facilitate a more coordinated and targeted approach to service delivery and support for newly arrived migrants, refugees and asylum seekers in Victoria. The SCU works with departments and agencies across the Victorian and Commonwealth Governments, as well as the community sector, to improve both access to, and the effectiveness of, services for recent arrivals. The Unit also supports programs and initiatives to assist recent arrivals to actively engage with the wider community.

The SCU's primary functions include:

- driving and supporting collaborative approaches within and across all levels of government, and the community sector, to plan for and respond to settlement issues for newly arrived refugees and asylum seekers in Victoria;
- acting as the primary point of engagement with the Department of Immigration and Citizenship to ensure that Victoria's interests and point of view is considered in the formulation of Commonwealth immigration and settlement policy;
- managing the delivery of capacity building settlement programs across Victoria, including the:
 - Refugee Action Program;
 - Rights and Responsibilities Seminar Program;
 - Asylum Seeker Support Program; and
 - African Leadership Program.

¹²³ <http://www.multicultural.vic.gov.au/images/stories/documents/2014/140106.00%20omac%20multicultural%20policy%20%20online.pdf>

¹²⁴ <http://www.multicultural.vic.gov.au/about-us/office-of-multicultural-affairs-and-citizenship>

¹²⁵ <http://multicultural.vic.gov.au/projects-and-initiatives/supporting-refugees/settlement-coordination-unit>

Key Government Department: Department of Justice and Regulation¹²⁶

The Department of Justice and Regulation (DOJR) is responsible for delivering services that support legal processes including legal aid, prosecution services, community mediation services, support for victims of crime and the delivery of independent, expert forensic medical services to the justice system. This objective also covers legal policy advice to Government, law reform, implementation of new or amended legislation and the provision of legal advice to the Government.

The Department includes several relevant units:

- The **Human Rights Unit** plays the leading role in the continuing implementation of the Charter of Human Rights and Responsibilities Act 2006 as directed by the Attorney-General. Its primary function is to support the Attorney-General and the DOJR by providing high quality and impartial policy advice.
- The **Koori Justice Unit**¹²⁷ sits within the DOJR's Community Operations and Strategy Branch and is responsible for coordinating the development and delivery of Victoria's Koori justice policies and programs across the Victorian Government and justice system, primarily the Victorian Aboriginal Justice Agreement. The unit promotes the partnership of the Koori community and government, by facilitating community engagement initiatives to build strong networks and enable wide participation in the delivery of Koori justice-related policies, programs and initiatives.

As part of this responsibility, the unit:

- builds capacity, in the DOJR and the Koori community, to develop and deliver effective and efficient justice services;
 - provides advice to the Justice executive, ministers and staff across the department on issues impacting on the Victorian Koori community (excluding native title);
 - advocates for continual improvement in the delivery of Koori justice initiatives;
 - maintains a robust evidence base (including statistical databases) detailing Koori contact with the criminal justice system.
- The **Diversity Issues Unit** is a central policy unit with state-wide responsibilities in providing advice on behalf of a range of diverse community groups including CALD communities. The Unit is responsible for the production of the Department's Cultural Diversity Plans.
 - The **CALD Policy Network** is chaired by the Senior Policy Officer (Multicultural), and includes staff from across the department. It meets quarterly and provides a forum in which issues can be discussed, ideas shared and experiences exchanged.
 - The **Diversity Portfolio Officer Network** is a state-wide network of departmental staff who are nominated on an honorary basis to disseminate diversity information to the department as required.

Indigenous

DOJR's Koori Inclusion Action Plan – Mingu Gadhaba: Beginning Together

The Koori Inclusion Action Plan aims to improve access, participation and effectiveness of justice programs and services to Koori people in order to deliver improved outcomes to the Victorian Koori community.

The plan aims to deliver 35 activities across the department, through four key action areas:

- systemic Koori inclusion – implementing organisational change to create a shared responsibility for Koori outcomes;
- data and service improvement – making evidence based decisions to increase the cultural responsiveness of programs and services;

¹²⁶ <http://www.justice.vic.gov.au/>

¹²⁷ <http://www.justice.vic.gov.au/utility/contact+us/koori+justice+unit.shtml>

- Koori employment and economic participation – supporting participation and employment by putting in place relevant training, policies, programs and procedures to meet the needs of Koori staff; and
- communication, engagement and partnerships – increasing Koori community knowledge of and engagement with justice services.

Aboriginal Justice Agreement¹²⁸

This partnership between the Victorian government and the Koori community was established to achieve improved justice outcomes for Koori people. Now in its third phase, each phase of the AJA builds on the one before it.

- AJA1 laid the foundation for improved Koori justice outcomes in Victoria by developing robust partnerships and infrastructure, and putting in place a range of new Koori justice initiatives.
- AJA2 focused on preventing progression of young Koori people into the system, reducing re-offending, and making the justice system more responsive and inclusive in its approach to Koori people. It focused on strengthening community justice responses to address issues locally.
- The current phase, AJA3, addresses over-representation of Koori people in the criminal justice system and spells out 82 actions to be taken between 2013 and 2018.

Successful actions under the AJA's have included:

- the creation of a Koori County Court in Melbourne;
- the creation of Koori Children's Courts in Shepparton and Swan Hill;
- the expansion of the Local Justice Worker program from nine to 13 locations, which helps Aboriginal clients deal with fines and comply with court orders;
- the launch of Koori Family Violence Protocols in Ballarat in October 2013 and in Darebin in November 2013. The protocols are supported by locally relevant cultural awareness training for members of Victoria Police, who work closely with an Aboriginal Community Liaison Officer to respond appropriately to violence within Koori families.

Regional Aboriginal Justice Advisory Committees (RAJACs)¹²⁹

Nine RAJACs throughout Victoria support the DOJR regional model of improving government service delivery and accessibility to meet the needs of Victoria's diverse and growing community.

The role and responsibilities of RAJACs include:

- advocating for and promoting improved Koori justice outcomes and initiatives to both Koori communities and government agencies;
- developing and implementing regional justice plans that address Koori over-representation;
- promoting and participating in cross agency and partnership forums, such as the Aboriginal Justice Forum, and other initiatives to address Koori disadvantage;
- monitoring and commenting on Koori contact with the justice system at a regional/state-wide level;
- aiding in the successful delivery of Koori programs under the Victorian AJA.

Local Aboriginal Justice Action Committees (LAJACs) bring together local Koori community members and justice representatives in selected locations experiencing poor justice outcomes. LAJACs develop and guide responses to local justice issues and are coordinated by a full-time LAJAC Project Officer or by the relevant RAJAC Executive Officer.

Aboriginal Justice Forum

This provides an opportunity for courts and community members to reflect on progress under the Aboriginal Justice Agreement.

¹²⁸ <http://www.justice.vic.gov.au/home/your+rights/aboriginal+justice+agreement/>

¹²⁹ <http://www.justice.vic.gov.au/home/your+rights/aboriginal+justice+agreement/regional+aboriginal+justice+advisory+committee.shtml>

Odyssey House Places

The Department of Justice and Regulation provided funding for four family places at the Odyssey House residential rehabilitation centre, specifically to divert Koori women from remand. Complementary funding was also provided for the Dame Phyllis Frost Centre to adopt cultural plans for Koori residents and engage a bail support worker and a senior Koori worker.

Local Justice Worker Expansion

The Local Justice Worker program was expanded from nine to 13 locations. The program assists Aboriginal clients to deal with fines and comply with court orders.

Koori Cultural Awareness Training

Staff are encouraged to attend the DOJR Koori Cultural Awareness training course.

CALD/Multicultural

Cultural Diversity Plan 2012-2016¹³⁰

DOJR has developed the Cultural Diversity Plan (CDP) 2012-2016 to ensure that mainstream services are accessible to individuals and communities from culturally and linguistically diverse backgrounds. The plan builds on work undertaken through two earlier plans, 2006-2008 and 2009-2012.

Language Services Policy

The revised Language Services Policy (LSP) is an accompaniment to the CDP, describing the department's policy and minimum standards when providing accredited interpreters and translated information to people from CALD backgrounds. The policy provides guidelines in the provision of interpreters and translators and should be used in conjunction with key Victorian Government policy and procedure documents, particularly Using Interpreting Services and Effective Translation Projects.

Refugee Youth Project

In 2012-13, DOJR provided funding for a project giving young refugees (mainly aged 18-24 years) the opportunity to improve their access to legal protection, learn information about rights and responsibilities, and how the justice system works. The training involved presentations from DOJR staff and site visits, including the Neighbourhood Justice Centre and Barwon Prison.

Refugee Youth Diversion Pilot Program

The Refugee Youth Diversion Pilot Program provides mainly first-time offenders from refugee backgrounds with early intervention through diversion services to avoid a criminal record by undertaking conditions that will benefit the offender, victim and community as a whole.

¹³⁰ <http://assets.justice.vic.gov.au/justice/resources/1b848ace-cb82-4b0a-b9a6-a5ba26bb7acf/cultural+diversity+plan.pdf>

VIC courts: overview

Introduction

As of 1 July 2014, all Victorian courts and tribunals are independently administered by a statutory entity called Court Services Victoria (CSV).¹³¹

The *Court Services Victoria Act 2014*¹³² established CSV to provide or arrange for the provision of the administrative facilities and services necessary for the performance of the judicial, quasi-judicial and administrative functions of the Supreme, County, Magistrates', Children's and Coroners Courts and the Victorian Civil and Administrative Tribunal (VCAT), and to enable the Judicial College of Victoria (JCV) to perform its functions. Having its own governing body, the Courts Council, means that CSV is independent of departmental or ministerial control.

The administrative arm of CSV is known as Jurisdiction Services.

A number of courts and tribunals operate in Victoria:

- Supreme Court of Victoria
- County Court of Victoria
- Magistrates' Court of Victoria
- Children's Court of Victoria
- Coroners Court of Victoria
- Victorian Civil and Administrative Tribunal (VCAT)
- Victims of Crime Assistance Tribunal (VOCAT)

Victorian courts

- The **Supreme Court**¹³³ is the highest court in Victoria. It deals with the state's most serious criminal and civil cases. The Court's Trial Division administers and hears cases. If a party has cause to appeal a decision handed down from the Trial Division they can seek to do so in the Court of Appeal.

The Supreme Court judiciary comprises the Chief Justice, the President of the Court of Appeal, judges, associate judges and judicial registrars. Judges in the Supreme Court are supported by small teams of staff who assist in the management and co-ordination of the Judge's judicial, ceremonial, court management, administrative and legal research responsibilities. This team can include a tipstaff, an associate and secretarial support.

- The **County Court**¹³⁴ is an intermediate trial court, with both civil and criminal jurisdictions. It sits above the Magistrates' Court and below the Supreme Court in the Victorian courts hierarchy.
- The **Magistrates' Court**¹³⁵ handles approximately 90 per cent of all cases that come before Victoria's courts. It sits at 52 different locations state-wide.

The Court exercises criminal, civil, family law and intervention order jurisdictions and operates a Drug Court, Koori Court, Neighbourhood Justice Centre (NJC), Family Violence Division and Sex Offence List.

Magistrates also sit in the Children's Court, the Coroner's Court and Victims of Crime Assistance Tribunal (VOCAT).

¹³¹ <https://www.courts.vic.gov.au/>

¹³² http://www.austlii.edu.au/au/legis/vic/num_act/csva20141o2014320/

¹³³ www.supremecourt.vic.gov.au

¹³⁴ www.countycourt.vic.gov.au

¹³⁵ <http://www.magistratescourt.vic.gov.au/>

VIC courts: existing resources that support courts to deliver services to culturally diverse clients

Cross-jurisdictional initiatives

The Judicial Officers' Aboriginal Cultural Awareness Committee (JOACAC)

Chaired by Justice Stephen Kaye AM, a Justice of Appeal of the Supreme Court of Victoria, the Victorian JOACAC comprises representatives of Victorian courts and VCAT, Melbourne-based federal judges, and non-judicial members with an interest in judicial education around Aboriginal cultural awareness. With the support of the Judicial College of Victoria, the JOACAC delivers a number of programs targeted at increasing judicial officers' understanding of Aboriginal culture.

Supreme Court

Policies

Workplace Diversity

The Court values and respects the diversity of its workforce and believes that all its employees should be treated fairly and with dignity and respect. Employees of the Court must show respect for each other, the judiciary, visitors and contractors by treating them fairly and objectively and ensuring freedom from discrimination, sexual harassment, racial or religious vilification, victimisation and bullying.

Court's Strategic Plan and Strategic Intent¹³⁶

This contains a range of strategies to help the Court drive continuous improvement in line with the International Framework for Court Excellence (IFCE).

The Plan's purpose is to safeguard and maintain the rule of law, and ensure:

- equal access to justice;
- fairness, impartiality and independence in decision-making;
- processes that are transparent, timely and certain;
- accountability for the Court's use of public resources; and
- the highest standards of competence and personal integrity.

International Framework for Court Excellence

The Court is committed to implementation of the IFCE as a holistic means for achieving excellence. The IFCE includes equality before the law as one of the core values that assists to guarantee due process and equal protection of the law.

Facilities

The Court provides a prayer/quiet room to accommodate the cultural needs of staff and clients.

Interpreting and translating policies, procedures and protocols

- Translation and interpretation services are available as required.
- The 'Funds in Court' website is available in multiple languages.

Learning and development training

Judges' Conferences

The Court holds a Judges' Conference each year. In 2013, the general theme of the conference was communication challenges, including cultural issues.

¹³⁶ <http://www.supremecourt.vic.gov.au/home/about+the+court/strategic+statement/#sthash.NluK2c93.dpuf>

Aboriginal Cultural Awareness

Judicial attendance at programs coordinated by the JCV and the JOACAC is consistently high.

County Court

Policies

Customer Service Charter

Advises County Court staff to assist where possible to overcome any personal barriers to a person's dealings with the Court – such as physical, hearing or visual difficulties – as well as providing access to telephone interpreters at the Registry.

Interpreting and translating policies, procedures and protocols

Translation and interpretation services are available as required.

Committees / working group structures

Koori Court Reference Group

The County Koori Court Reference Group was established in late 2006 to develop the Koori Court. Aboriginal Elders were directly involved in the Koori Court's development as members of the Reference Group.

Relevant operational protocols

County Koori Court

The County Koori Court was established as a Division of the County Court by the County Court Amendment (Koori Court) Act 2008. The County Koori Court draws on the successful implementation of the Koori Court model in both the Magistrates' Court and the Children's' Court (see below). The objective of the County Koori Court is to ensure greater participation of the Aboriginal community in the sentencing process of the County Court through the role of Aboriginal Elders or Respected Persons and others such as the Koori Court Officer.

The County Koori Court is the first sentencing court for Aboriginal offenders in a higher jurisdiction in Australia. The Court sits in the Melbourne County Court and in Gippsland (at Morwell and Bairnsdale Law Courts).

Following the pilot program, the Court was evaluated in 2011 to investigate its impact.¹³⁷ Specifically, the purpose of the evaluation was:

- to assess the implementation and intermediate outcomes of the Koori Court model in a County Court environment over a four year period; and
- to identify key success factors to assist the (then) Department of Justice in identifying transferable success factors for any future County Koori Courts.

The evaluation report strongly indicated that the County Koori Court pilot program had made significant achievements in providing 'access to fair, culturally relevant and appropriate justice'. It also evidenced a reduction in the seriousness of Koori accused's' contact with the justice system, although it was too early to definitively say whether the Court would have a long term impact on re-offending.

The successful implementation of the County Koori Court was found to be reliant on a number of factors, including meaningful participation of Elders and community in the sentencing process and linking the accused to services or activities to address causes of offending behaviour identified during the process.

The County Koori Court Practice Note guides the operation and management of matters before the Court.

¹³⁷ https://www.countycourt.vic.gov.au/files/CKC%20Evaluation%20Report_FINAL_27Sep11.pdf

Public outreach / education activities targeting diverse communities

Aboriginal Justice Forum

Judicial participation in the Aboriginal Justice Forum coordinated by the DOJR.

Open Day

Adhering to the principle of open and transparent justice, the Court invites members of the community to observe proceedings in action. It hosts visiting delegations, school groups and individual members of the public. It also holds special events including an Open Day.

Celebration of Culture

- The Court is committed to celebrating significant cultural events (e.g. NAIDOC week).
- Display of Koori flag and artwork

Resources and materials developed to assist in educating court users

Information for Practitioners

The Court has prepared a guide for practitioners appearing in the County Koori Court. Information is provided on eligibility requirements of the accused, jurisdiction of Koori Court and the court process.

Magistrates' Court

Policies

Magistrates Court Koori Action Plan

Magistrates Court Cultural Diversity Action Plan

Committees / working group structures

Koori Liaison Officer Program Advisory Group

Magistrates' Court Aboriginal Partnership Group

Koori Court Unit

- Oversees the management and administration of the Magistrates' and Children's Koori Courts, and provides general assistance to magistrates to improve awareness of Koori issues.

Relevant operational protocols

Koori Courts

The Magistrates' Koori Court was established earlier than the County Koori Court, with the latter adopting features of the Magistrates' Court model.

The need for a Magistrates' Koori Court arose due to the over-representation of Aboriginal and Torres Strait Islander people across all levels of the criminal justice system. It is a division of the Magistrates' and Children's Courts. It offers an alternative approach to sentencing by enhancing the ability of the Court to address the underlying issues that lead to a person's offending behaviour. The Koori Courts have the following criminal justice and community building aims:

- to reduce Aboriginal over-representation in the prison system;
- to reduce the failure to appear rate at court;
- to reduce the rate at which court orders are breached;
- to reduce the rate of repeat offending;
- to deter crime in the community generally;
- to increase community safety;
- to increase Aboriginal ownership of the administration of the law;
- to increase positive participation by Koori accused and community;

- to increase accountability of the Koori community for Koori accused;
- to promote and increase community awareness about community codes of conduct and/or standards of behaviour.

The sentencing options available to the Koori Court are the same as in the general jurisdiction, but the process followed is different. Koori Elders or Respected Persons, the Koori Court Officer, Koori offenders and their families can contribute during the Court hearing. This helps to reduce perceptions of cultural alienation and to ensure sentencing orders are appropriate to the cultural needs of Koori offenders, and assist them to address issues relating to their offending behaviour.

The Koori Courts are available to any Aboriginal or Torres Strait Islander whose matter fits the Koori Court criteria, and where the magistrate considers it appropriate for that matter to go before the Koori Court.

The Magistrates' Koori Court currently sits at Broadmeadows, Melbourne, Shepparton, Swan Hill and Warrnambool.

The Children's Koori Court sits at Bairnsdale, Broadmeadows, Dandenong, Hamilton, Heidelberg, Latrobe Valley, Melbourne, Mildura, Portland, Shepparton, Swan Hill and Warrnambool.

Aboriginal Hearing Days at the Court

Aboriginal Hearing Days honour the aims of the Victorian Aboriginal Justice Agreement by providing a more culturally appropriate court experience for Aboriginal people, aiming to strengthen relationships between the court and the local Koori community. The NJC first developed the Aboriginal Hearing Day model in 2008, and it has since been adopted in Heidelberg.

Regular Aboriginal Hearing Days help to make the court a culturally safe place. It helps Aboriginal people to feel less isolated at court, which is particularly important given the historical context of the interaction between Aboriginal and Torres Strait Islander people and the justice system.

Community justice approaches are inherent in the development and establishment of an Aboriginal Hearing Day. There is a strong emphasis on engagement with the Koori community and with justice and community agencies working together to problem solve and provide integrated client services to the Koori community.

Neighbourhood Justice Centre¹³⁸

The Neighbourhood Justice Centre (NJC) is Australia's first and only Community Justice Centre, based on the community justice model. It works in partnership with local organisations and community members to tackle local justice, crime and safety issues, and come up with lasting, local solutions. It also supports programs that tackle disadvantage, to provide real and practical benefit to the community.

The NJC sits as a multi-jurisdictional court: a Magistrate's Court, a Children's Court (Criminal Division), a VOCAT and a VCAT. As a result the services are broader and network of partnerships more effective than sole jurisdictions. The NJC seeks to improve community safety by focusing on offender rehabilitation, and aiming to increase stability for offenders and assist with reintegrating them into the community.

The Koori Justice Team at the NJC provide a holistic range of services that focus on supporting and empowering Aboriginal people who attend court towards positive change. Their work is informed by relationship building and extensive community engagement. They also provide therapeutic services and education to achieve positive outcomes, and prevent re-offending.

The Team acts as a bridge between the NJC and the local community, helping the NJC to be more responsive and respectful of the community's needs. Through their casework, Koori Justice Workers build trust and develop individual relationships. They can attend court to support offenders and link them with other services available at the NJC or more widely within the City of Yarra, helping them to feel safer and more confident when dealing with the justice system.

¹³⁸ <http://www.neighbourhoodjustice.vic.gov.au/home/about+us/>

The following are the key features of the Aboriginal Hearing Day at the NJC:

- All matters relating to Aboriginal offenders are scheduled and adjourned until the next monthly Aboriginal Hearing Day, and are prioritised in the court listing.
- All matters are heard by a magistrate who understands the cultural context of Aboriginal people attending court.
- The magistrate invites comments from community members during the court process.
- Koori Justice Workers remind defendants to attend court in the lead up to an Aboriginal Hearing Day.
- A pre-court meeting is held to discuss the court list, identify issues or events within the Koori community that may affect court that day (e.g. deaths in the community) and to coordinate the provision of support and treatment services.
- A Koori Justice Worker is present in court at all times to provide support.
- A post-court meeting is held between Koori Justice Workers and the magistrate to discuss the function of the day.
- The physical environment of the court is designed to be as culturally appropriate as possible, including showing culturally appropriate videos on the AV system.
- A free culturally appropriate lunch is provided for those attending court.

Koori VOCAT List

- Specialist list within the VOCAT, which manages applications made by victims of crime who comes from an Aboriginal or Torres Strait Islander background.

Interpreting and translating policies, procedures and protocols

Public outreach / education activities targeting diverse communities

Multicultural Liaison Officer

- Creation of a multicultural officer as a first point of call for CALD applicants.

Koori Liaison Officer Program

- Provide advice and access to services for Indigenous offenders and their families.

Koori Community Engagement Officer

Based in Dandenong and Geelong, the Koori Community Engagement Officer provides Koori people with advice and access to culturally appropriate and sensitive services. They liaise with members of local Koori communities to inform them of court processes while also raising regional awareness of Indigenous and cross-cultural issues.

Community and Stakeholder Meetings

Koori Court stakeholders and community meetings have been held across the state to celebrate achievements and provide an opportunity for Elders and Respected Persons to meet with key stakeholders.

These meetings ensure that key stakeholders and the Court develop a greater understanding of what services and/or programs are available to assist accused people at the Koori Court and provide the opportunity to engage new services to be a part of the Koori Court process. NAIDOC events at Koori Court locations were also organised.

Family Violence Services

The Magistrates' Court Family Violence Division (based in Ballarat and Heidelberg) aims to simplify the process of applying for an intervention order by having support services available to improve victims' safety and provide assistance in overcoming trauma caused by family violence.

The Court's Specialist Family Violence Service (based in Melbourne, Frankston and Sunshine) includes specially assigned magistrates, a dedicated Family Violence Court Registrar, trained applicant support

workers, family violence outreach workers, additional legal services from Victoria Legal Aid and Community Legal Centres, dedicated prosecutors and additional security officers.

Both services focus on recognising and responding to the needs of applicants from CALD communities, Indigenous applicants and applicants with a disability, as well as children affected by family violence.

The Koori Family Violence and Victims Support Program recommenced at the Melbourne Magistrates' Court in December 2013. The Program assists Aboriginal and Torres Strait Islander families who have a family violence related matter before the Court. Although the program is based at Melbourne, the service is offered to all courts across the state.

Information Forums/Groups

- The Court hosted an information forum for 20 participants from AMES, Australia's largest provider of humanitarian settlement, education, training and employment services for refugees and newly arrived migrants. The forum included presentations relating to Victorian courts and covered services and procedures affecting individuals in the criminal, civil and family violence jurisdictions.
- In partnership with CatholicCare, the Dandenong Magistrates' Court delivered a Justice Education Program for refugee women. Presentations were given by senior members of Victoria Police, VCAT members, magistrates, and court staff. Topics included 'introduction to the justice system' and 'the role of the police and family violence concerns'.
- Court staff participated in a round robin Street Soccer event to celebrate Cultural Diversity Week. Street Soccer promotes social inclusion for participants by providing support and promoting participation, inclusiveness, commitment and team spirit.
- An Indian Family Violence Forum was held in September 2013 involving representatives from the Court, Victoria Police, legal services, the Indian community and other relevant agencies. The Forum focused on addressing family violence issues within the Indian community. A plan was developed to ensure the provision of family violence support services, information and advice to parties, particularly where the parties reconciled.
- Regular meetings of an African Reference Group have been held with magistrates, Victoria Police, African and multicultural organisations assisting African youth in the justice system.
- Dandenong Magistrates' Court participated in an Expo coordinated by the City of Monash to engage with people from small new and emerging communities and ascertain the barriers, issues and opportunities to increasing their participation with services.

Resources and materials developed to assist in educating court users

Aboriginal Hearing Day Practice Guide

This document sets out the background and context to the development of the Aboriginal Hearing Day, as well as summarising the objectives, key principles and processes involved. It is not intended to be a 'how to' guide for establishing an Aboriginal Hearing Day. An Aboriginal Hearing Day will differ depending on the community in which it is located, although the principles and philosophy underlying the Aboriginal Hearing Day will remain consistent.

Guide to Specialist Courts and Court Support Services

The Guide to Specialist Courts and Court Support Services provides an overview of the range of support services and problems solving courts within the Magistrates' Court of Victoria.

Koori Court Guides

- Magistrates' Koori Court FAQ document
- Children's Koori Court Factsheet
- Koori Court – Defendant's Guide
- Koori Court – Legal Practitioner's Guide

Learning and development training

Magistrates' Court Professional Development Day

The Magistrates' Court arranges an annual professional development day for magistrates to focus specifically on Aboriginal cultural awareness.

Aboriginal Cultural Awareness

Magistrates' attendance at programs coordinated by the JCV and the JOACAC is consistently high.

Judicial College of Victoria

Committees / working group structures

Support to JOACAC

Since 2008, the JCV has supported the Victorian JOACAC to provide a suite of programs which raise judicial awareness of Aboriginal culture.

Resources

Publicly Available Online Resources

- Most of the JCV's publications are freely available online. They include the Victorian Criminal Charge Book, Victorian Sentencing Manual, Victorian Criminal Proceedings Manual, Uniform Evidence Manual, and Civil Procedure Bench Book.
- Chapter 8.5 of the Victorian Criminal Proceedings Manual describes the right of an accused to an interpreter, and some issues with the adequacy of interpretation.
- Chapter 5.6 of the Family Violence Bench Book describes the experience of family violence within CALD communities, including specific services, barriers and myths.
- Chapter 9.11 of the Victorian Sentencing Manual outlines the legislative provisions on hate crimes and Chapter 10.5 considers the relevance of ethnicity, culture and race to sentencing.

Judicial Officers' Information Network (JOIN)

- JOIN is the judicial intranet maintained by the JCV for the benefit of Victorian judicial officers.
- Relevant Practice Pages include those on family violence, human rights, Koori issues, mental health, and personal safety.

Learning and development training

Continuing Professional Development (CPD) Scheme

- The JCV's CPD scheme ensures judicial officers are up to date with substantive and procedural areas of the law, enhances judicial skills, and increases awareness of social and community trends. It covers five curriculum categories: 1) induction and orientation; 2) social context; 3) skills development; 4) substantive law and practice; and 5) management and leadership.
- Social context programs respond to the relationship between judicial officers and society and to changes in society, particularly cultural awareness.
- Skills development programs include those which assist judicial officers to better communicate with those appearing in court.

Framework of Judicial Abilities and Qualities

- Identifies the knowledge, skills, behaviours and attitudes that Victorian judicial officers are expected to demonstrate in performing their role.
- Provides an essential self-development aid stating standards to which judicial officers aspire.

Back to Country

- Since 2011, the JCV has organised a biannual 'Back to Country' Weekend for judicial officers with the support of JOACAC and the National Indigenous Justice Committee.

- Over the course of these weekends, participants visit sites of historical and contemporary significance to the local community, and learn the stories and history of the area. Elders, respected people and community members welcome participants onto their land, and speak to them about their connection to it.

Annual Twilight Seminars

- Since 2008, the College has delivered an annual series of twilight seminars with JOACAC addressing a wide variety of topics, broadly aimed at improving the judicial officers' Aboriginal cultural awareness.
- Three seminars are planned for 2015, on kinship; reconciliation; and the *Traditional Owner Settlement Act 2010* (Vic), with a particular focus on the Gunai Kurnai agreement.

Social Context Programs

- The College regularly includes social context programs in its annual curriculum. Past programs have included 'Horn of Africa Cultural Awareness', 'Diversity: Challenging our World View', 'Experience of Refugees', 'New and Emerging Communities and the Courtroom', and an Iftar dinner.
- In addition to programs focusing largely on social context issues, the College aims to incorporate social context learning into all programs.

Western Australian (WA) Government's approach to diversity

Whole of Government Strategies

Western Australian Language Services Policy 2014 and Guidelines¹³⁹

The Office of Multicultural Interests (OMI) has had responsibility for language services in WA. The first Western Australian Language Services Policy was endorsed in 2000 and revised in 2008.

The 2014 policy¹⁴⁰ seeks to ensure that limited competence in the English language is not a barrier to Western Australians accessing services. The policy was revised following a needs-analysis of interpreting and translating services within the Western Australian Government Sector and a formal review of the existing Policy. It incorporates findings from the 2010 Western Australian Equal Opportunity Commission report on Indigenous Interpreting Services.¹⁴¹

The policy is particularly targeted at those who may require assistance to communicate effectively, including:

- people who are Deaf or hard of hearing;
- Aboriginal people; and
- people from culturally and linguistically diverse backgrounds.

The Western Australian Language Services Policy 2014 requires State Government agencies to:

- plan for, fund and deliver language services that take into account relevant government policies, legal circumstances and the particular profile and needs of current and potential clients;
- ensure clients who are not able to communicate in spoken and/or written English are made aware of:
 - their right to communicate in their preferred language;
 - when and how to ask for an interpreter;
 - complaints processes;
- provide interpreters who are certified by the National Accreditation Authority for Translators and Interpreters (NAATI), or tertiary qualified (preferably both) to clients where required, free of charge and taking into account the particular service provided and/or the level of risk to clients' rights, health or safety;
- ensure all relevant staff are able to identify when to engage an interpreter and how to work with an interpreter;
- use multilingual communication strategies and the cultural and linguistic skills of employees where appropriate;

¹³⁹ http://www.omi.wa.gov.au/omi_language.cfm

¹⁴⁰ http://www.omi.wa.gov.au/resources/publications/Languages/Language_Services_Policy_2014.pdf

¹⁴¹ On 9 July 2010, the West Australian Equal Opportunity Commission launched the report '*Indigenous Interpreting Service: Is there a need?*' which was prepared following extensive state-wide consultation which showed language barriers often caused poor service delivery to Aboriginal people.

The report found that Aboriginal or Torres Strait Islander people who live in remote areas of WA often have difficulty understanding or being understood by service providers, especially in the areas of health and justice. The report gives statistical and anecdotal information in support of establishing Indigenous interpreting services throughout WA, as well as a proposed model for providing these services. It suggests the core language groups to be covered, a funding model and how to raise awareness among government service providers for an Indigenous interpreting service.

According to research documented in the report, service providers often believe there is no need to engage an Indigenous interpreter if Aboriginal clients are able to speak basic English. These attitudes had sometimes blocked agencies from delivering the services they aimed to provide Aboriginal people.

The Report also highlighted the cultural implications in communicating with Aboriginal people that service providers may not be aware of, which is why trained Indigenous interpreters are a vital key to successful service delivery to Indigenous communities.

http://www.eoc.wa.gov.au/Libraries/Publications/REP-2010-Indigenous_Interpreting_is_there_a_need_2010.sflb.ashx

- incorporate provision for meeting language services needs in contractual arrangements with service providers.

The policy is supplemented by comprehensive guidelines that include information about:

- linguistic diversity in Western Australia;
- how to assess the need for an interpreter;
- how to use an interpreter – face-to-face and by telephone;
- quality control and quality assurance in interpreting and translating;
- rights and responsibilities of all parties involved in the interpreting process;
- NAATI certification levels and tertiary qualifications in interpreting and translating;
- planning and contracting for translations;
- ethics;
- complaints processes.

A WA Interpreter Card is provided by OMI to individuals who find it hard to communicate in English, to let government agencies know they need an interpreter and in which language.

Guide to cultural and linguistic data collection for the public sector¹⁴²

The purpose of this guide is to assist State Government agencies to collect data relating to the cultural, linguistic and religious diversity of their clients. It provides suggestions and strategies for the collection of this data, including the use of standard variables. The aim of the guide is to improve the quality and quantity of information collected, achieve consistency in data collection and enable meaningful comparisons to be made.

Diverse WA training package¹⁴³

The course is available for staff of Western Australian public sector and local government agencies and not-for-profit organisations that have signed a user agreement with the OMI.

Key Government Department: WA Department of the Attorney General¹⁴⁴

The Department supports the community, Western Australian Government, judiciary and Parliament through the provision of access to high quality justice and legal services, information and products.

Strategic Framework for 2012-2015 and Strategic Plan 2013-2016¹⁴⁵

The framework articulates the Department's aim to be recognised and valued as a leader in developing and delivering justice services. There are three key result areas in the 2013-2016 Plan:

- Service delivery – improving the quality of services and the ability of clients and the community to access them;
- Strategic policy development and advice – providing strategic policy analysis and advice to Government on key reforms in the justice system;
- Investing in people – developing and sustaining organisational capacity by recognising and developing the skills and expertise of our people.

Cross-border Justice Scheme¹⁴⁶

Operational since November 2009 and underpinned by consistent legislation in South Australia, Northern Territory, and Western Australia, the main aim of the Cross Border Justice Scheme is to minimise the effects of state/territory borders on law enforcement and justice services in the cross-border region of central Australia. The legislation enables the exercise of relevant powers by police and other office holders and

¹⁴² http://www.omi.wa.gov.au/resources/publications/info_sheets/data_collection_guide.pdf

¹⁴³ <http://www.diversewa.omi.wa.gov.au/>

¹⁴⁴ <http://www.dotag.wa.gov.au/>

¹⁴⁵ http://www.department.dotag.wa.gov.au/files/DotAG_Strategic_Framework.pdf

¹⁴⁶ http://www.department.dotag.wa.gov.au/C/cross_border_justice_scheme.aspx?uid=2035-3272-1430-1188

allows court decisions and proceedings to apply in the cross-jurisdictional region, where offences occur and individuals reside in the region.

The Cross-border Justice Scheme was developed in response to a call from the women and children of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Lands for help to reduce the prevalence of abuse in their communities.

In an Australian first, there are effectively no legal state boundaries in this region for offenders to cross to escape justice. Police, magistrates, fines enforcement agencies, community corrections officers and prisons of one jurisdiction are now able to deal with offences that may have occurred in another of the participating jurisdictions.

Magistrates of a participating jurisdiction are appointed as a magistrate of each of the other participating jurisdictions under that other jurisdiction's *Magistrates Act*. Courts follow the laws of the jurisdiction where the offence took place and apply the rules of evidence from that place.

The Cross-border Justice Scheme provides a safer environment for women and children in the Cross-border Justice region and gives communities the confidence to report crimes knowing that the justice system can now follow offenders across the border.

Reconciliation Action Plan (RAP) 2012-2015¹⁴⁷

The Department of the Attorney General's RAP outlines how it will improve services for Aboriginal people. The Department recognises that building strong, respectful partnerships with Aboriginal people and communities is fundamental to achieving its goals for reconciliation, and its goals for the delivery of appropriate services.

The RAP recognises the rights of Western Australian Aboriginal people that relate to areas such as identity, culture, religion and language, cultural and intellectual property, land, custom, traditional and freedom from discrimination. Implementation of the RAP is monitored by the Department's Corporate Executive Committee.

Language Services Policy¹⁴⁸

The Department of the Attorney General is committed to ensuring the provision of responsive, professional and appropriate responses to meet language and communication needs of clients who are unable to adequately communicate in English or who are hearing impaired.

In accordance with the WA Government's Language Services Policy, the policy is to be applied by all employees of the Department and sets out the Government's principles and minimum standards for the provision of interpreting and translating services in the delivery of services and programs.

Aboriginal Justice Program

A priority of the Department is a reduction in the over representation of Aboriginal people in the justice system. The Aboriginal Justice Program has three major focus areas which are major contributors to Aboriginal offending and victimisation:

- The need to improve the number of Aboriginal people holding drivers licences;
- The adverse effects of the fines enforcement process on Aboriginal people particularly in regional areas; and
- The provision of victim support services for Indigenous people in remote areas.

A highly-focused series of programs address specific targets including:

- the loss of motor vehicle licences;
- a compounding of fine and infringement defaults;

¹⁴⁷ http://www.department.dotag.wa.gov.au/files/reconciliation_action_plan.pdf

¹⁴⁸ http://www.department.dotag.wa.gov.au/files/Language_Services_Policy.pdf

- domestic violence.

AJP activities have recently been focussed in three high-priority local government areas, Derby-West Kimberley, Halls Creek and Laverton/Leonora. These remote locations have comparatively large Aboriginal populations and high levels of drivers' licence suspensions and unpaid fines.

Open Days

A key strategy to lower the rate of suspensions and unpaid fines is an initiative known as Open Days. The Open Days bring government and nongovernment agencies face-to-face with local Aboriginal people in an accessible central location to run a "one-stop-shop". Having multiple agencies available at the same place at the same time is a joined-up, partnership delivery approach that is both efficient and cost effective. It enables Government to deliver services to some of the most remote, and in some cases, disadvantaged, people in Western Australia.

Agency representatives work with Aboriginal people to resolve matters such as identity documents, theory and practical driving tests, reissuing of licences, arrangements to pay fines, exploring employment opportunities and assisting with access to other community support services.

Aboriginal Mediation Service (AMS)¹⁴⁹

The Policy and Aboriginal Services Directorate is responsible for administering the Aboriginal Mediation Service (AMS). The AMS aims to reduce the incidence of Aboriginal people's involvement with the criminal justice system by providing an effective and culturally appropriate form of dispute resolution. This includes addressing complex and sometimes chronic inter and intra-family feuding affecting Aboriginal people.

The AMS provides culturally appropriate conflict and dispute resolution services to Aboriginal and Torres Strait Islander people in a range of areas, including disputes involving families, neighbours and multi-party community issues, as well as burial and coronial matters.

The AMS also provides community education workshops and information sessions to assist clients and referrers to more effectively deal with conflict in their communities using a culturally appropriate form of dispute resolution.

Aboriginal Court Liaison Officers

Aboriginal Court Liaison Officers (ALOs) are located in eight courts around the State. The role of ALO is to:

- increase Aboriginal people's understanding of the need to comply with orders and bail conditions;
- increase the number of Aboriginal people accessing services at the Court; and
- strengthen partnerships between Courts and other relevant agencies.

In the long term:

- develop procedures and processes which take account of cultural issues, when appropriate;
- increase Judicial Officers' and court staffs' understanding of Aboriginal cultural and social issues;
- increase Aboriginal people's confidence about accessing court services;
- increase Aboriginal people's understanding of court processes and procedures; and
- increase the use by Aboriginal people of civil justice remedies.

Aboriginal Visitors Scheme¹⁵⁰

The Aboriginal Visitors Scheme provides support and counselling for Aboriginal detainees and prisoners in prisons, juvenile detention centres and police lock-ups throughout Western Australia. Visitors are Aboriginal people committed to assisting and supporting detainees and prisoners in their local areas. They are employed on a casual, rostered basis but are available at all times to help those in custody.

The aim of the scheme is to ensure:

¹⁴⁹ http://www.department.dotag.wa.gov.au/files/AMS_AMS.pdf

¹⁵⁰ <https://www.correctiveservices.wa.gov.au/rehabilitation-services/aboriginal-visitors-scheme.aspx>

- means are provided for reducing the likelihood of deaths and/or self-harm;
- conditions of those in custody improve through consultation, advice and information to decision-makers;
- Aboriginal community groups are properly informed on conditions of custody.

WA courts: overview

Introduction

Courts in Western Australia are administered by the Department of the Attorney General through the Court and Tribunal Services division.¹⁵¹ In addition to operating court locations state-wide, it is responsible for managing tribunals and boards, the Sheriff's Office, the Fines Enforcement Registry and justices of the peace. Court Services also provides the Victim Support and Child Witness Service.

Courts operate at more than 123 locations in the State and include:

- Supreme Court
- District Court
- Magistrates Court
- Family Court

In addition, Western Australia has the:

- State Administrative Tribunal
- Western Australian Industrial Relations Commission

Court and Tribunal Services aims to provide a court system that is responsive to community needs for access to justice.

- The **Supreme Court**¹⁵² is the State's highest court, with responsibility for both criminal and civil matters. It is also the main appeal court of the state. The Supreme Court is divided into two divisions:
 - The General Division hears serious criminal charges, including breaches of Commonwealth drug enforcement laws, appeals about the decisions of magistrates – sitting in criminal matters in the Magistrates Court – and civil cases involving complex issues or a significant amount. The division also deals with probate, admiralty, disputed elections and applications under the Corporations Act 2001.
 - The Court of Appeal hears appeals from single judge decisions of the Supreme Court, lower courts and various tribunals.

The Supreme Court is composed of the Chief Justice of Western Australia, 19 Judges, one Master, the Principal Registrar and eight Registrars. The Master, who deals only with civil matters, is also a judicial officer.

- The **District Court**¹⁵³ hears commercial and debt recovery matters involving claims up to \$750,000, claims for damages for personal injuries, claims for damages for injury sustained in motor vehicle accidents and serious criminal offences excluding those with a maximum term of life imprisonment.

There are 24 judges of the court who are based in Perth. The Judges delegate some of their responsibilities to five registrars appointed under the provisions of the District Court of Western Australia Act 1969.

The Court conducts travel on circuit to regional areas on a regular basis, including criminal circuits to the regional locations of Albany, Broome, Bunbury, Busselton, Carnarvon, Derby, Esperance, Geraldton, Kalgoorlie, Karratha, Kununurra and South Hedland.

- The **Magistrates Court of Western Australia**¹⁵⁴ has multiple registries located around the State, in both metropolitan and regional areas, to deal with:
 - Criminal – offence-based matters; and

¹⁵¹ <http://www.courts.dotag.wa.gov.au/?uid=7940-4574-4082-8426>

¹⁵² www.supremecourt.wa.gov.au

¹⁵³ <http://www.districtcourt.wa.gov.au/>

¹⁵⁴ <http://www.magistratescourt.wa.gov.au/>

- Civil – claims for debt or damages and non-offence based matters (eg extraordinary drivers licence applications, dividing fences and restraining orders).
- The **Family Court of Western Australia**¹⁵⁵ (FCWA) was established in 1976 as a state court exercising both state and federal jurisdiction. The Court comprises judges and registrars. It deals with disputes arising out of the breakdown of marriages and de facto relationships.

The WA Department of the Attorney General provides administrative and logistical support for the Court, but the Court is principally funded by the Federal Government, with important support from the State Government to assist in dealing with the de facto financial jurisdiction.

¹⁵⁵ <http://www.familycourt.wa.gov.au/>

WA courts: existing resources that support courts to deliver services to culturally diverse clients

Supreme Court of WA

Committees / working group structures

Committee on Indigenous Justice Issues in Western Australia

Convened by the Chief Justice of Western Australia

Relevant operational protocols

Aboriginal Benchbook for Western Australian Courts¹⁵⁶

The Aboriginal Benchbook for Western Australian Courts contains information for the judiciary to alert them to cross-cultural issues which may arise in the conduct of court proceedings involving Aboriginal people. The Benchbook is also a useful resource for any person involved in such proceedings.

The Benchbook was written by Ms Stephanie Fryer-Smith and published by the Australasian Institute for Judicial Administration. Chapters include:

- Aspects of Traditional Aboriginal Australia
- Aspects of Contemporary Aboriginal Australia
- Aboriginal People in Western Australia
- Language and Communication
- Pre-Trial Matters
- Criminal Proceedings
- Sentencing

Equality Before the Law Bench book WA¹⁵⁷

This Bench Book is intended to provide WA judicial officers with an understanding of the range of values, cultures, lifestyles and life experiences of people from different backgrounds, together with an understanding of the potential difficulties, barriers or inequities people from different backgrounds may face in relation to court proceedings. It offers practical examples of how to take appropriate account of these differences in court and tribunal proceedings.

The Bench Book was produced at the request of Chief Justice Wayne Martin and with the assistance of the Department of the Attorney General.

Under the guidance of a Steering Committee the Bench Book was drawn from the New South Wales Judicial Commission's *Equality before the Law Bench Book*, local legislation and statistics, and the submissions and contributions of a wide range of community-based non-government organisations, individuals and government agencies.

Interpreting and translating policies, procedures and protocols

Interpreters and Language Services Guide¹⁵⁸

The Consolidated Practice Guide of the Supreme Court contains Practice Direction 9.13, which sets out the Court's approach to the use of interpreters as well as other issues relating to barriers to effective communication. It provides guidance to counsel appearing in hearings in which an interpreter is interpreting for a party or witness. The Practice Direction also includes a Protocol for the Use of Interpreters. The Protocol provides guidance to interpreters undertaking assignments for Supreme Court hearings.

¹⁵⁶ <http://ajja.org.au/Aboriginal%20Benchbook%202nd%20Ed/Chapter%201.pdf>

¹⁵⁷ www.supremecourt.wa.gov.au/O/other_publications.aspx?uid=7313-1532-3097-3568

¹⁵⁸ <http://www.supremecourt.wa.gov.au/files/SCPracticeDirections.pdf>

District Court of WA

Committees / working group structures

Committee on Indigenous Justice Issues in Western Australia

Judicial Membership.

Relevant operational protocols

Aboriginal Benchbook for Western Australian Courts – see above

Equality Before the Law Bench book WA – see above

Interpreting and translating policies, procedures and protocols

Circular to Practitioners GEN 2011/2 – Language Service Guidelines¹⁵⁹

This document sets out the District Court's approach to the use of interpreters in criminal and civil proceedings as well as other issues relating to barriers to effective communication. The document has regard to the *Western Australian Language Services Policy 2008* and the *Department of the Attorney-General Language Services Policy*.

Interpreters

The Court has made a commitment to continue to pursue funding to fit out a courtroom in the District Court Building with conferencing style equipment to enable the interpretation of proceedings to more than one accused in matters where a number of the accused speak the same language.

Magistrates Court of WA

Policies

Aboriginal Community Court¹⁶⁰

The Kalgoorlie-Boulder Community Court, established in 2006, is part of the Magistrates Court of Western Australia. It is designed to be more culturally inclusive and relevant for Aboriginal people than traditional courts. It is set up in a less formal structure than other courts, with the magistrate sitting at a special table with the other participants, including the offender and their family.

The magistrate is assisted by Aboriginal elders and other respected people. They are court members and provide information and advice on social and cultural issues. Participants use plain language rather than the technical legal terms usually used in courts.

The Aboriginal Community Court retains all the sentencing options as the conventional Magistrates Court. This includes the power to send offenders to prison. However, a major goal of the court is to make sentencing orders that are appropriate to the background and situation of the offender. This will not make the sentence 'easier', but will provide an opportunity for offenders to complete an order. Victims continue to have a voice in the sentencing process.

The magistrate has the ultimate decision regarding the sentence handed down. However, the Aboriginal members of the Court will provide information to help them make an informed decision. Aboriginal members will also speak directly with the offender to make them take notice of what effect their behaviour has had and encourage them to make change.

All offences that can be heard in a conventional magistrates court can be heard in the Community Court, with the exception of some family violence and sexual offences. Aboriginal defendants must have pled guilty to an offence and have shown an intention to take responsibility for their actions.

¹⁵⁹ http://www.districtcourt.wa.gov.au/_files/Circular%20to%20Practitioners%20GEN%202011-2%20Interpreters.pdf

¹⁶⁰ http://www.courts.dotag.wa.gov.au/A/aboriginal_community_court.aspx?uid=4279-5018-6799-1500

An independent evaluation of the Kalgoorlie Aboriginal Community Court in 2009¹⁶¹ found that anecdotally the Community Court is well regarded but indicated recidivism rates for offenders appearing in the Community Court were greater than those appearing in mainstream courts. The report identified 18 key areas for improvement.

Family Violence Courts

The network of six metropolitan family violence courts provides culturally specific interventions for Aboriginal offenders and families affected by family violence.

Geraldton also has a family violence court, Barndimalgu, which provides culturally specific interventions for Aboriginal offenders and families affected by family violence. These courts offer offenders options to participate in a behaviour-change program before sentencing in an attempt to break the cycle of family violence.

Relevant operational protocols

Aboriginal Benchbook for Western Australian Courts – see above

Equality Before the Law Bench book WA – see above

Interpreters

Telephone interpreters are booked as required by court staff either by request of the client or support person or by observation and assessment by the court officer. In regional areas, bookings are made via the Kimberley Interpreter Service. Interpreters are also provided from Sign Language Communications WA.

Public outreach / education activities targeting diverse communities

Aboriginal Liaison Program

Kalgoorlie Court

As part of the design phase of the new Kalgoorlie Court, a Community Reference Group was established in 2007. This group represented the diversity of the Goldfields-Esperance region and assisted in ensuring the design of the courthouse reflected local cultures. There is an emphasis on the indoor-outdoor connection captured visually and physically with the tilt-up glass doors which border the entire length of the public gallery. The incorporation of landscaped outdoor waiting areas provided space for interactions and alternative paths of access for the variety of court clients. Aboriginal art and an ochre interior colour scheme reflects the surrounding landscape.

Family Court of WA

Policies

Court Funded Interpreter Services Policy¹⁶²

In line with Federal and State government policy, the Family Court provides court-funded interpreter services for people with limited English fluency or a hearing impairment who need to use the services of the court or have business before the court.

The interpreter services are available for the following purposes:

- to interpret proceedings in court;
- during a conciliation or pre-hearing conference;
- during a court counselling conference;
- during mediation at the court (if available);
- during information sessions conducted by the court;

¹⁶¹ http://www.courts.dotag.wa.gov.au/files/Kalgoorlie_Sentencing_Court_Report.pdf

¹⁶² www.familycourt.wa.gov.au/files/Interpreter_Policy.doc

- when obtaining information (either by telephone or in person) from court staff relating to the practice or procedures, function or operation of the court.

The Court will meet the cost of interpreter services for persons having a need to use the services of the Court or having business before the Court, on a demand basis. In this regard, subject to any direction by the Judicial Officer, the Court will pay the costs of interpreter services for person with limited English fluency or hearing impairment.

Committees / working group structures

Indigenous Committee

Includes representation from the Aboriginal Legal Service.

FCWA Reference Group

Includes representation from Aboriginal Legal Service.

Learning and development training

Staff attendance at Family Pathways Network Conference:

- Presentation by Anubha Adhikari, Samira Husic, Association for Services to Torture and Trauma Survivors – ASeTTS: *Outside the Box, encouraging secure attachment with refugee clients*
- Presentation by Tom Powell, 'Red Dust Healing: Acknowledging the Past, Changing the Future'

Appendix A – International initiatives

This section provides a brief overview of selected international developments as they relate to the judiciary and cultural diversity.

International Association for Courts Administration

The International Association For Court Administration (IACA)¹⁶³ was created in 2004, envisioned as a global association of professionals collectively engaged in promoting the effective administration of justice. IACA programs and services include international and regional conferences which attract professionals from throughout the world, publication each year of two issues of the International Journal on Court Administration, maintenance of technical resource/research data base, and newsletter, some of which are available only to current members. They provide an opportunity for court and justice system professionals to network, build relationships, engage in professional development activities, and otherwise contribute to fostering court excellence, access to justice, and optimal public service.

Specific Initiatives

Translation Tools

- A series of website links intended as tools to aid in the translation of the Association’s website materials and in communication with Association members.

Conference 2014

- Themes addressed at the 2014 Conference included courts working with multicultural communities.

Judicial College (England And Wales)

The Judicial College (formerly the Judicial Studies Board)¹⁶⁴ is an independent judicial body and part of the Judicial Office for England and Wales. It draws its funds, staff and much of its corporate support directly from the Ministry of Justice. The Lord Chief Justice and Senior President of Tribunals are responsible for the provision and sponsorship of judicial training, within resources provided by the Lord Chancellor.

Specific Initiatives

Equal Treatment Bench Book¹⁶⁵

- The Judicial College’s Equal Treatment Bench Book was revised and updated in 2011 and offers a guide for judges, magistrates and all other judicial office holders in the UK. It contains general principles and messages including that fair treatment is a fundamental principle embedded in the judicial oath, and is therefore a vital judicial responsibility. The Bench Book acknowledges that treating people fairly requires awareness and understanding of their different circumstances, so that there can be effective communication and so that steps can be taken, where appropriate, to redress any inequality arising from difference or disadvantage. It also makes some suggestions as to steps that judges may wish to take, in different situations, to ensure that there is fairness for all those involved in the justice process.
- The Equal Treatment Bench Book includes a range of chapters including Ethnicity and Religion and sets out a range of useful information about different religious beliefs, including information on what types of oaths or affirmations might be appropriate for different religious groups, while recognising that there is a diversity of opinion within religious groups. It also sets out useful advice to judges and court officials as to dealing with oaths in a manner that treats all religions equally and with appropriate respect.

¹⁶³ <http://www.iaca.ws/>

¹⁶⁴ <https://www.judiciary.gov.uk/about-the-judiciary/training-support/judicial-college/>

¹⁶⁵ <https://www.judiciary.gov.uk/publications/equal-treatment-bench-book/>

Advisory Panel of Judicial Diversity – Judicial Diversity Taskforce – Judicial Diversity Forum

- An independent Advisory Panel on Judicial Diversity was established in April 2009 following concerns expressed across Parliament and among senior members of the judiciary that, despite initiatives over many years, significant progress on judicial diversity had been slower than expected.
- The Panel convened 11 times and met, corresponded with and received evidence from over 180 contributors. It published its report in February 2010, making 53 recommendations, which its members believed would help to make sustained progress to a more diverse judiciary at every level and in all courts in England and Wales.
- The Panel's vision was that by 2020 there should be a much more diverse judiciary at all levels which:
 - is as talented, respected and independent as it was in 2010;
 - recognises the concept of a judicial career;
 - seeks and finds talent in more unusual places;
 - gives opportunities to a wider range of individuals; and
 - is more flexible in its working practices.
- A Judicial Diversity Taskforce – comprising the Ministry of Justice, senior members of the judiciary, the Judicial Appointments Commission, the Bar Council, the Law Society and the Chartered Institute of Legal Executives – was established in 2010 to oversee implementation of the 53 recommendations in the Report of the Advisory Panel on Judicial Diversity.
- The Taskforce produced its Final Annual Report (2014)¹⁶⁶ in June 2015, noting that as there were many similarities between the work of the Taskforce and that of the ongoing Judicial Diversity Forum (the Forum), as well as similar aims and many of the same membership, it had been decided to combine the work of these two groups to coordinate existing activity, identify new opportunities for action and enable greater efficiency.
- The Forum will produce an Action Plan that incorporates the outstanding recommendations from the 2010 Advisory Panel report, the Barriers to Application research action plan and the 'Forum's Forward Look'.

Judicial diversity statement – 2013

- Signed by the Lord Chief Justice and the Senior President of Tribunals, the Judicial Diversity Statement¹⁶⁷ highlights the benefits of a more diverse judiciary in England and Wales. The Statement commissions a judicial diversity strategy, which will be developed by the Judicial Diversity Committee of the Judges' Council chaired by the Lord Chief Justice, with a threefold purpose:
 - aimed at serving office-holders, supporting those who wish to progress to the more senior levels of the judiciary; at the legal profession, encouraging suitable applicants from all backgrounds to consider applying for judicial office; and at law students and others who may be considering a career in legal practice and have the potential to become the judges of the future;
 - remind all judicial officeholders of their responsibilities for promoting diversity, both within their courts and tribunals, and as part of their outreach to the wider community;
 - support the work of informing the general public about the role of a judicial office-holder and the justice system so as to improve their understanding of and confidence in the rule of law.
- The Diversity Committee, supported by staff in the Judicial Office, will report annually to the Judges' Council and to the Judicial Executive Board, the Senior President of Tribunals and the Tribunals Judicial Executive Board. Reports will include an overview of the costs of diversity initiatives.

¹⁶⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/438207/judicial-diversity-taskforce-annual-report-2014.pdf

¹⁶⁷ <https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/diversity/message-from-lcj-judicial-diversity/>

Muslim Arbitration Tribunal (United Kingdom)

- The Muslim Arbitration Tribunals (MAT)¹⁶⁸ were created in 2007 provide a viable alternative for the Muslim community seeking to resolve disputes in accordance with Islamic Sacred Law and at the same time avoid expensive and slow litigation in the courts. The tribunals operate under the Arbitration Act 1996. They can deal with matters that are related to civil and personal Muslim law (such as forced marriages, domestic violence, family dispute cases, commercial and debt disputes, inheritance disputes, and mosque disputes); however it is ultra vires for the MAT to deal with matters regarding divorce proceedings (non-religious), custody of children and anything regarding criminal law – which must be referred to the appropriate courts or bodies.

Matters before the tribunal are decided by an adjudication panel which consists of a Islamic scholar and a lawyer who must be UK qualified with three years of experience. There is an intensive recruiting process to ensure that the appropriate individuals are selected for these important roles.

National Center for State Courts (United States)

- The National Center for State Courts (NCSC)¹⁶⁹ is an independent, nonprofit court improvement organization founded at the urging of former Supreme Court Chief Justice Warren E. Burger, who envisioned NCSC as a clearinghouse for research information and comparative data to support improvement in judicial administration in state courts.

Over twenty years ago, the Institute for Court Management merged with NCSC, adding an educational curriculum especially designed for court managers. In the early 1990s, an international division was formed to offer a similar array of research, consulting, education, and information services to strengthen the rules of law in countries around the world.

All of NCSC's services — research, information services, education, consulting — are focused on helping courts plan, make decisions, and implement improvements that save time and money, while ensuring judicial administration that supports fair and impartial decision-making.

Specific Initiatives

Center on Court Access to Justice for All

- The Center on Court Access to Justice for All (Access Center)¹⁷⁰ is an initiative of the NCSC. It helps judges and courts advance access to justice, especially for poor and low-income individuals. It works closely with the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA) and other national court organizations to implement access-to-justice solutions.
- As of 2013, Access to Justice Commissions have been created in 27 states and the District of Columbia. A central element of the Center for Court Access to Justice for All is to support new and existing state Access to Justice Commissions, which bring together the courts, the bar, civil legal aid providers, and other stakeholders in a coordinated effort to identify and remove barriers to civil justice for low-income and disadvantaged people. Some commissions include representatives of stakeholders outside the legal community/government, such as business, church, labor, economic development, social services, health care, and so forth. As of 2013, Access to Justice Commissions have been created in 27 states and the District of Columbia.

National Consortium on Racial and Ethnic Fairness in the Courts

- The NCSC acts as a secretariat for the National Consortium on Racial and Ethnic Fairness in the Courts (formerly called the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts).¹⁷¹

¹⁶⁸ <http://www.matribunal.com/index.php>

¹⁶⁹ www.ncsc.org

¹⁷⁰ www.ncsc.org/atj

¹⁷¹ <http://www.national-consortium.org>

- The role of the National Consortium is to assist in the implementation of programs and recommendations and to serve as a central forum for the exchange of information relative to identifying and eliminating racial and ethnic bias in the courts.
- The Consortium is committed to encouraging the highest courts of each state to create commissions to examine the treatment accorded minorities in their courts; sharing the collective knowledge of task forces and commissions with courts, law enforcement, and the community; and providing technical assistance and expertise to commissions, task forces, and other interested organizations and individuals on the subject of racial and ethnic fairness.
- The NCSC acts as a clearinghouse and repository for task force and commission reports on racial and ethnic fairness in the courts.

Resource Guides on Gender and Racial Fairness

- The NCSC's website contains resource guides on Gender and Racial Fairness, including Racial Bias and Diversity in the Courts.¹⁷²

Reports

- *A National Call to Action Access to Justice for Limited English Proficient Litigants (LEP): Creating Solutions to Language Barriers in State Courts*¹⁷³ – This publication represents the culmination of a multi-year NCSC project aimed at addressing Limited English Proficient challenges in the courts. The Call to Action is intended to be used by jurisdictions to improve their LEP services. The publication includes a series of Action Steps that states can use as a guide to implement or improve their language access programs.
- *Guide to Translation of Legal Materials* (April 2011)¹⁷⁴ – compiled and edited by the Consortium for Language Access in the Courts' Professional Issues Committee, this guide was intended to compile lessons learned by program managers over the years and serve as a guide to help other program managers move forward with translation projects within their own court system.

National Center for Access to Justice (United States)

The National Center for Access to Justice (NCAJ)¹⁷⁵ is the academically affiliated national organization exclusively dedicated to policy reform that helps people obtain justice in the courts. The Center partners with the bar, judiciary, law schools, the legal services community, and other stakeholders and utilizes tools including litigation, books and reports, public education and public advocacy, conferences, and legislative drafting.

The Justice Index¹⁷⁶

- The NCAJ has guided the development of the Justice Index as an unprecedented collaboration among multiple pro bono supporters. It is a new online tool providing a visual and data-based picture of the quality of access to justice in state justice systems.

The Justice Index uses cutting edge interactive map technology to show geographical distribution of best practices for access to justice. It is fundamentally a roadmap for reform that all stakeholders — including courts, access to justice commissions, bar associations, legislatures, executive branch officials, legal services programs — can rely on to increase access to justice in the states.

The Justice Index examines the presence, or absence, in state justice systems of best practices for:

- providing attorneys for people in poverty;
- providing interpreting and translation for people with limited English proficiency;

¹⁷² <http://www.ncsc.org/Topics/Access-and-Fairness/Gender-and-Racial-Fairness/Resource-Guide.aspx>

¹⁷³ <http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Call-to-Action.ashx>

¹⁷⁴ <http://ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/232>

¹⁷⁵ <http://ncforaj.org>

¹⁷⁶ www.justiceindex.org

- providing support for people with disabilities; and
- providing support for people proceeding without lawyers.

Key relevant findings include:

- 45 per cent of state judiciary web sites do not provide information in any language other than English.
- 25 per cent of the states don't yet assure quality by using language interpreters that are 'certified'.

State Justice Institute (United States)¹⁷⁷

- The State Justice Institute (SJI) was established by Federal law in 1984 to award grants to improve the quality of justice in State courts, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common issues faced by all courts.

SJI is a non-profit corporation governed by an 11-member Board of Directors appointed by the President and confirmed by the Senate. By law, the President must appoint six State court judges, one State court administrator, and four members of the public (no more than two of whom may be of the same political party). SJI also has professional staff who oversee operations, to include grant management and other government relations.

SJI has the authority to assist all State courts – criminal, civil, juvenile, family, and appellate – and the mandate to share the success of one State's innovations with every State court system as well as the Federal courts.

Specific Initiatives

Language Access and the State Courts

- During the 10 December 2012 meeting, the Board approved a \$500,000 Strategic Initiatives Grant (SIG) to the National Center for State Courts (NCSC) to address limited English proficiency (LEP) issues. The NCSC's Language Access Services Section is well positioned to provide direct technical assistance to state courts on this critical issue.
- As part of these efforts, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) created the Language Access Advisory Committee (LAAC) to increase the visibility of this work, and provide a better means of addressing policy issues impacting each state. LAAC is composed of COSCA members, with several state level language access coordinators as technical advisors. LAAC provides direction to the work of the NCSC Language Access Services Section that will coordinate all LEP work and policy.
- For this SJI-funded project, the NCSC will:
 - assist states through CCJ, COSCA, and the LAAC in developing consistent national standards for increased ability to share resources, including the ability to share interpreters, tests, and training opportunities;
 - assist in the creation of regional and/or national databases of interpreter resources, and increase capacity through remote interpreting;
 - conduct state and local court needs assessments, including leveraging technology to improve business processes and performance measurement;
 - assist state and local courts with developing LEP plans, including assistance in determining when interpreter resources are required, and the necessary resources, as a part of case management;
 - develop model training for judges and court staff on cultural and interpreter use issues;
 - develop instructions and bench cards for judges to explain to courtroom participants how interpreters are best used in the courtroom;

¹⁷⁷ <http://www.sji.gov/>

- disseminate information about the effective ways to respond to, and manage, the many facets of LEP individuals and their impact on the state courts;
- evaluate gaps with meeting DOJ guidelines, and establish a plan of action to address those gaps; and,
- similar to what courts have done with Americans with Disabilities (ADA) issues and security threats, establish a clearinghouse to collect data on LEP complaints in order to assist courts in addressing these issues.

Immigration Issues and the State Courts

- The SIG program provides SJI the flexibility to address national court issues as they occur, and develop solutions to those problems. SJI uses its expertise and the expertise and knowledge of its grantees to address key issues facing courts across the United States. Recent immigration growth is having an impact on state and local courts, including courts along the Southwest Border and other areas of the United States with large immigrant populations. These jurisdictions are dealing with issues such as how to provide culturally appropriate services; increases in gang-crime cases involving immigrants; and the impact of federal and state immigration policies on court operations.
- SJI began using the SIG program in FY 2008 to address immigration issues in the state courts at a national impact level. As part of this effort, SJI began a dialogue with the state courts to determine how immigration issues are impacting them. Two overarching themes came out of this dialogue:
 1. State court capacity to provide effective service is challenged by the magnitude and intensity of current and anticipated immigration (equal access to justice); and
 2. The intersection of federal immigration law and practice, and state law, can result in unintended consequences for litigants and state court systems (equal justice for all).

National Association of Judiciary Interpreters and Translators (United States)¹⁷⁸

- The National Association of Judiciary Interpreters and Translators' mission is to promote quality services in the field of legal interpreting and translating. Its members play a critical role in ensuring due process, equal protection and equal access for non-English or limited English proficient (LEP) individuals who interact with the judicial system.

As of 2011, membership in the National Association of Judiciary Interpreters and Translators totalled over 1200 professionals, and included practicing spoken language judiciary interpreters and translators, as well as those who interpret or translate in other settings, judges, Ph.D. linguists, educators, researchers, students, administrators, and managers of non-profit community language bureaus and for-profit language agencies. NAJIT boasts a growing number of interpreters who work between English and American Sign Language (ASL).

Assorted Resources (United States)

Language Access Planning and Technical Assistance Tool for Courts (February 2014)¹⁷⁹ – This language access planning and technical assistance tool for courts was created by the Federal Coordination and Compliance Section of the US Department of Justice Civil Rights Division to assist courts and court systems as they develop comprehensive language access programs.

Nebraska Judicial Branch Language Access Plan (January 2014)¹⁸⁰ – This Language Access Plan was created by the Administrative Office of the Courts & Probation of the Nebraska Supreme Court, in order to facilitate the goal of providing uniform language access to Nebraska State Courts and Probation Services regardless of the language spoken by the court user.

¹⁷⁸ <http://www.najit.org/>

¹⁷⁹ http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf

¹⁸⁰ <http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/reports/courts/language-access-plan.pdf>

Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts (March 2012)¹⁸¹ – This document sets forth the plan for the appointment, utilisation and payment of language access services provided and arranged for by the Colorado state courts, and by governing access to court proceedings and court operations by persons with limited English proficiency.

Recommendations for the Provision of Court Interpreting Services in Florida’s Trial Courts (November 2010)¹⁸² – This report, produced by the Supreme Court of Florida Commission on Trial Court Performance & Accountability, provides proposed general recommendations, standards of operation and best practices for court interpreting services.

Interpreters in the Judicial System: A Handbook for Ohio Judges (2008)¹⁸³ – This handbook, produced by Bruno G. Romero, The Supreme Court of Ohio, is designed to help judicial officials understand the role of judiciary interpreters, assess their qualifications and select and work with them.

Serving Limited English Proficient (LEP) Battered Women (Brenda Uekert, Tracy Peters, Wanda Romberger, Margaret Abraham, and Susan Keilitz) (June 2006)¹⁸⁴ – This study explored the capacity of Limited English Proficient (LEP) petitioners to receive orders of protection. The primary language resource that should be provided by the courts is interpretation, preferably carried out by certified interpreters.

*Reducing Language Barriers to Combating Domestic Violence: The Requirements of Title IV*¹⁸⁵ – This document, produced by the Battered Women’s Justice Project, provides support and planning for supporting victims of domestic violence with limited English proficiency by determining the program’s obligation to provide LEP services, implementing a language-assistance plan, and identifying the types of language-assistance services available. It also explains the specific requirements for state agencies, including law enforcement, prosecutors, courts, corrections, and shelter programs.

¹⁸¹ http://www.justice.gov/crt/about/cor/agreements/Colorado_Language_Access_Plan_031512_FINAL508.pdf

¹⁸² http://www.familylawfla.org/committees/adhoc/dueprocess/pdf/letter12-14-10with_cover.pdf

¹⁸³ http://www.sconet.state.oh.us/publications/interpreter_services/ISHandbook.pdf

¹⁸⁴ <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/26>

¹⁸⁵ http://www.bwjp.org/files/bwjp/articles/Reducing_Language_Barriers_to_Combating_Domestic_Violence.pdf