

# Note 7:

## Aboriginal and Torres Strait Islander Peoples

Aboriginal and Torres Strait Islander people are at high risk of experiencing sustained trauma (including the psychological and spiritual damage caused by personal violence). Aboriginal and Torres Strait Islander communities are regularly reported as experiencing a disproportionately high volume of violent crime.

The National Aboriginal and Torres Strait Islander Social Survey (NATSISS), a six-yearly multidimensional social survey most recently conducted in 2014-15, shows that more than one in five (22%) Aboriginal and Torres Strait Islander people aged 15 years and over had experienced physical or threatened physical violence in the previous 12 months.

This had not changed significantly since 2008 (23%). The proportion was similar according to both sex and remoteness (22% in non-remote areas compared with 23% in remote areas).

Aboriginal and Torres Strait Islander women are particularly overrepresented as victims of crime. There is widespread research demonstrating that Aboriginal and Torres Strait Islander women experience greater levels of violent crime than non-Indigenous women. They are more likely to be the victim of homicide, sexual assault, violent crime, domestic violence and to suffer grievous bodily harm in an assault.

It is important to note that the disproportionate violence experienced by Aboriginal and Torres Strait Islander people is experienced in 'the context of colonisation, discrimination and subsequent markers of disadvantage such as low income, unemployment, lack of access to traditional lands and substance use'.<sup>6</sup>

The experience of Aboriginal and Torres Strait Islander victims of crime within the criminal justice system has the potential to reinforce the context of discrimination and disadvantage, and to compound the negative health effects of the experience of violent crime.

There are some steps available to judicial officers which can demonstrate respect for Aboriginal and Torres Strait Islander people and cultural protocols to minimise the significant potential for re-traumatisation.

### Collective terms for Aboriginal people

Aboriginal people from different parts of Australia sometimes refer to themselves in collective terms, like some Aboriginal Victorians who refer to themselves as Koori. This is a personal choice. Aboriginal people often say which term they prefer, or judicial officers can ask directly or through court staff and counsel how they would like to be referred to.

Not all Aboriginal people who attend court are Aboriginal Victorian or Koori. While Victorian courts include 'Koori Courts' and are supported by Court Services Victoria's 'Koori Programs and Initiatives Unit', these services are designed for all Aboriginal and Torres Strait Islander people.

Judicial officers and court staff should be aware that some court users from other parts of Australia may not recognise that the Koori services are available to them and may need to be encouraged to access support.

### Some of the collective terms used by Aboriginal people from different parts of Australia are:

- **Koori:** Victoria/Southern New South Wales, particularly along the Murray River border;
- **Murri:** Queensland/North West New South Wales;
- **Nunga:** South Australia (pronounced with a soft 'g');
- **Noongar:** South West Western Australia, south of Geraldton;
- **Yamatji:** Western Australia, between Geraldton and Port Hedland;
- **Wongi:** Western Australia;
- **Yolgnu:** Arnhem Land, Northern Territory ('pronounced with a silent 'g');
- **Ananagu:** Central Northern Territory;
- **Palawa:** Tasmania.

It is also common for members of Aboriginal and Torres Strait Islander communities to identify by reference to their clan or tribe. For example, a Koori woman from East Gippsland may identify herself as a Gunai Woman.

<sup>6</sup> [Aboriginal and Torres Strait Islander Health Performance Framework 2017 Report](#) (2.10 Community Safety). For more information, see the [Aboriginal and Torres Strait Islander Healing Project Report 2013](#).

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### Key points to consider

**Seeking advice on cultural protocols:** Seek advice from the Koori Court Officer, Koori Family Violence Officer or the Koori Programs and Initiatives Unit about cultural protocols and language use. Communities have different cultural protocols including gender-specific protocols. The Koori Programs and Initiatives Unit can be contacted via [kpi@courts.vic.gov.au](mailto:kpi@courts.vic.gov.au).

**Referring to victims who have passed:** Some Aboriginal and Torres Strait Islander peoples have cultural protocols around the naming of people who have passed away, and often avoid naming or using the image and voice of a person for a certain period after they have passed.

For example, the person's name may be modified or they may be referred to using a circumlocution (eg. 'the old man who painted').

- **Consider using language such as 'has passed' or 'passed away',** rather than 'has died' or 'is deceased', as Aboriginal and Torres Strait Islander peoples who have passed away are believed to live in spirit.

**Use of images and voices:** Parties may need to present images and voices of Aboriginal and/or Torres Strait Islander victims who have passed away.

Sensitivity to cultural protocols can be shown by providing forewarning that such images and voices will be visible or audible in court, explaining why this is necessary for the hearing, and providing an opportunity to temporarily leave the courtroom.

**Understanding kinship:** Kinship in Aboriginal and Torres Strait Islander communities has implications for the definition and naming of family members and the nature of familial obligations. Terms like 'sister', 'brother', 'mother', 'father', 'aunty', 'uncle' and 'cousin' can refer to extended family and community members who are not blood relatives, as well as immediate family members.

**Being aware of barriers to communication:** Prior negative experiences with authorities as well as language barriers may adversely impact communication.

**Familiarity with language practices of Aboriginal people:** Aboriginal people from south-eastern Australia have specific ways of communicating through grammar, language, sounds, tones, timing, politeness, humour, visual communication and body language. See [Koorified](#) for information about communication, wellbeing and a list of common words and phrases.

**Use of silence:** Some Aboriginal and Torres Strait Islander peoples use silence to demonstrate respect, contemplation, disagreement, reflection or to wait for support from community members.

**Avoid interruptions:** In Aboriginal and Torres Strait Islander cultures it is considered impolite to interrupt when another person is speaking, particularly when that person is an Elder or respected person.

**Use of swearing:** Swearing may be a common and accepted aspect of conversation in some cultures and communities.

**Consider English proficiency:** A victim may have limited English proficiency because they come from a community where English is not their first language. Consider adjusting the pace, clarity, ordering and vocabulary in speech. Consider whether to sensitively ask if a victim requires assistance with reading and writing, avoid speaking loudly or patronisingly, and use an interpreter if necessary (see [Guidance Note 6: Culturally and Linguistically Diverse Backgrounds](#)).

### Family Violence in Aboriginal and Torres Strait Islander Communities

Some courts have services for victims with diverse needs, such as Umalek Balit ('Give strength' in Woiwurrung) a service providing support, information and referrals to Aboriginal and Torres Strait Islander families attending Melbourne Magistrates' Court for family violence intervention orders, family violence related criminal matters and Victims of Crime Assistance Tribunal matters.

**For more information, see:**

- [Indigenous Peoples](#) – Family Violence Bench Book
- [Aboriginal and Torres Strait Islander People and Interpreters](#) – National Domestic and Family Violence Bench Book