**Aboriginal Studies Stage 6: HSC Course**

**Social Justice and Human Rights Issues**

**Part I • Topic 5 – Criminal Justice**

<table>
<thead>
<tr>
<th>Community/ies to be studied</th>
<th>Focus area</th>
<th>Unit duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wiradjuri – Central West New South Wales</td>
<td>Criminal Justice</td>
<td>7 weeks</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Unit outline</th>
<th>Skill focus</th>
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</thead>
</table>
| The focus of this Part is the examination of the social justice and human rights issues from a global perspective, including a comparative investigation of two topics. This will be studied through a Comparative Case Study on:  
  • the local Aboriginal community/ies (must be the same community/ies for all Parts) AND  
  • a national Indigenous Australian community (may be different communities for each topic) AND  
  • an international Indigenous community (may be different communities for each topic). |  
  • Locating information  
  • Analysing and making inferences from statistics  
  • Synthesising information from a range of sources |

The key concepts students learn are **that**:  
- the experiences of colonisation still impact on indigenous people around the world  
- governments and Indigenous people have developed initiatives to improve access to social justice and human rights  
- regaining land and cultural expression are essential are central to the redressing this  

The learning matters **because**:  
- an understanding of the ongoing impact of colonisation, racism and discrimination is fundamental to understanding contemporary Indigenous social, political, economic and legal status  
- it is critical to acknowledge and understand the role of Indigenous peoples in improving contemporary cultural, political, social and economic life in their own communities

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### Place in scope and sequence/Building the field

This unit draws on knowledge developed in the Preliminary course, focusing on the colonisation of Wiradjuri people in central NSW and the erosion of customary law. Students will extend from this, and through a study of the Indigenous peoples in Australia and overseas, to develop a deep knowledge and understanding of contemporary social justice and human rights issues common to Indigenous communities around the world.

The unit will compare criminal justice issues within Indigenous communities.

<table>
<thead>
<tr>
<th>Target outcomes</th>
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</thead>
<tbody>
<tr>
<td>H1.1 explains different viewpoints of invasion and colonisation and evaluates the impact of these viewpoints on Aboriginal peoples</td>
</tr>
<tr>
<td>H1.2 analyses and discusses the social justice and human rights issues that are contemporary consequences of the colonisation of Aboriginal and other Indigenous peoples</td>
</tr>
<tr>
<td>H1.3 assesses the representation of Aboriginal peoples and cultures for bias and stereotyping</td>
</tr>
<tr>
<td>H2.1 analyses the importance of land as an aspect of contemporary issues impacting on Aboriginal peoples</td>
</tr>
<tr>
<td>H2.3 discusses and analyses consequences of colonisation on contemporary Aboriginal cultural, political, social and economic life</td>
</tr>
<tr>
<td>H3.1 assesses the effectiveness of government policies, legislation and judicial processes in addressing racism and discrimination</td>
</tr>
<tr>
<td>H3.2 evaluates the impact of key government policies, legislation and judicial processes on the socioeconomic status of Aboriginal peoples and communities</td>
</tr>
<tr>
<td>H3.3 compares and evaluates current initiatives that reassert the social, economic and political independence of Aboriginal and/or Indigenous peoples</td>
</tr>
<tr>
<td>H4.1 investigates, analyses and synthesises information from Aboriginal and other perspectives</td>
</tr>
<tr>
<td>H4.2 undertakes community consultation and fieldwork</td>
</tr>
<tr>
<td>H4.3 communicates information effectively from Aboriginal perspectives, using a variety of media</td>
</tr>
<tr>
<td>H4.5 compares and evaluates the histories and cultures of Indigenous Australian peoples with international Indigenous peoples.</td>
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</tbody>
</table>

### Websites


### Books/Articles/Video/DVD


*These materials may contain opinions that are not shared by the Board of Studies NSW.*
### Content from Criminal Justice

<table>
<thead>
<tr>
<th>Students learn about (LA)</th>
<th>Students learn to (LT)</th>
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</thead>
<tbody>
<tr>
<td>• ways in which Aboriginal people maintain law and order</td>
<td>• identify pre-contact Aboriginal systems and draw conclusions on the impact of colonisation on Aboriginal political and legal systems</td>
</tr>
<tr>
<td>• the impact of colonisation and subsequent events on Aboriginal legal systems</td>
<td>• use basic statistics such as tables, graphs and charts to assist in the analysis of social indicators in relation to the criminal justice system</td>
</tr>
<tr>
<td>• the criminal justice system, focusing on the power relations between Aboriginal people, police and the judicial system</td>
<td>• make deductions and draw conclusions using social indicators to analyse current Aboriginal and Indigenous socioeconomic status in relation to the criminal justice system</td>
</tr>
<tr>
<td>• statistics about Aboriginal people in, and affected by, the criminal justice system, particularly arrest, incarceration and sentencing rates</td>
<td>• synthesise information to evaluate the connection between land, culture and legal status</td>
</tr>
<tr>
<td>• mainstream programs and strategies to address Aboriginal criminal justice issues, including culturally appropriate programs and strategies</td>
<td>• compare Aboriginal and other Indigenous peoples’ responses and initiatives to improve the current socioeconomic status in terms of involvement in the criminal justice system</td>
</tr>
<tr>
<td>• the role of lifestyle factors in Aboriginal peoples’ involvement in the criminal justice system</td>
<td>• construct hypotheses about the future of Aboriginal peoples’ involvement in the criminal justice system and assess the implications in relation to social justice and human rights issues</td>
</tr>
<tr>
<td>• the importance of regaining land, and cultural maintenance, in addressing the impact of the criminal justice system on Aboriginal peoples</td>
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</tr>
<tr>
<td>• social and political changes necessary to address the over-representation of Aboriginal peoples in the criminal justice system</td>
<td></td>
</tr>
<tr>
<td>• social and political changes within law enforcement and judicial agencies to improve attitudes toward Aboriginal peoples</td>
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<tr>
<td>• similarities and differences in criminal justice issues for Aboriginal and other Indigenous peoples</td>
<td></td>
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</tbody>
</table>

### Content from Research and Inquiry Methods

- **H4.1** investigates, analyses and synthesises information from Aboriginal and other perspectives
- **H4.3** communicates information effectively from Aboriginal perspectives, using a variety of media
- **H4.5** compares and evaluates the histories and cultures of Indigenous Australian peoples with international Indigenous peoples.

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Aboriginal Studies HSC Course: Social Justice and Human Rights Issues
Part I • Topic 5 – Criminal Justice

The learning experiences of this unit have been organised using the syllabus ‘Students learn about’ content statements. Each of these is indicated in bold print at the top of each new set of learning experiences.

Each learning experience builds upon the previous learning experiences so that the student develops increasing knowledge and understanding of the unit as they proceed.

On completion, students will have developed the depth and breadth of knowledge and understanding to independently examine the social and justice issues relating to the Wiradjuri people AND compare and contrast this with other Indigenous communities.

The ‘Evidence of Learning’ activities build a body of knowledge and understanding and skill students in the ‘Students learn to’ areas of the syllabus. In most cases, the focus of the ‘Evidence of Learning’ activities is thus twofold:
• to enable students to show what they know and understand
• to provide opportunities to apply this to a range of problem and issues activities regarding the social and justice experiences of Indigenous peoples.

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## Learning experiences – Criminal Justice

### Ways in which Aboriginal people maintain law and order

- Revision exercises relating to the traditional practices of customary law and social organisations of the Wiradjuri people and how these were affected by colonisation.

Students identify traditional practices of customary law by completing the activities from **WORKSHEET 1**.

Students discuss the strengths of customary law as an approach to our legal and judicial systems, especially as opposed to the current practice of mandatory sentencing.

### Focus

- this section revises pre-contact Wiradjuri customary law/legal systems
- importance of elders who affected a very disciplined and regulated system of social behaviour based upon local customs
- laws linked to the Dreaming and the land, but were accommodating of changes in circumstance and environment
- laws were strictly enforced according to the decisions of the elders and often with the participation of the whole community.

### The impact of colonisation and subsequent events on Aboriginal legal systems

Group brainstorm findings and notes/posters resulting from the completion of **WORKSHEETS 2 AND 3**.

Students make a list of the 5 major objections the Wiradjuri would have found with this new system of law. They must explain their choices.

Students draw conclusions based on the impact of colonisation on Aboriginal political and legal systems by completing group activities from **WORKSHEETS 2 AND 3**.

Students use the information from **WORKSHEETS 1–4** to draw up posters titled **THE IMPACT OF COLONISATION AND SUBSEQUENT EVENTS ON ABORIGINAL LEGAL SYSTEMS**.

### Focus

- Students revisit and build on prior knowledge and understanding of the impact of European colonisation of the Wiradjuri
- ‘*Contact with Europeans had an overwhelming impact on the Wiradjuri and their systems of social control* [legal system] *which was founded upon local, customary law.*’ Investigate this statement by considering the following:
  - The primary role of the elders was replaced by an alien, hierarchical and ‘absent’ system which showed no appreciation of the spiritual and cultural beliefs of the Wiradjuri.
  - The importance of community and the environment was replaced with an arbitrary, individual-based rule of law.
  - No regard was paid to the notion of secret and spiritual laws.
<table>
<thead>
<tr>
<th>Learning experiences – Criminal Justice</th>
<th>Evidence of learning</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Law enforcement was seen to be barbaric and inappropriate (eg imprisonment/corporal punishment).</td>
<td></td>
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<tr>
<td>- Laws and legal system alienated the Wiradjuri people.</td>
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<tr>
<td>- At times the law was applied indiscriminately rather than focusing on the perpetrator/s.</td>
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<tr>
<td>- This new legal system was totally imposed upon the Wiradjuri with no consultation to allow their involvement/decision-making.</td>
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### The criminal justice system, focusing on the power relations between Aboriginal people, police and the judicial system

**Students complete WORKSHEET 4 – power relations between aboriginal people and police, prisons and courts**

Teacher reviews the power relationships between Aboriginal people and the criminal justice system (police, prisons and courts) resulting from experiences during colonisation by reading and making summary. Students make notes from WORKSHEET 4.

Teacher introduces community survey program to students. Prepares for survey with parents and community.

- Students develop a survey to gauge attitudes of local Aboriginal people about their interactions with police and the criminal justice system. Students confirm protocols of using their survey in the community.
- Use answers to the interview questions (if students cannot interview people, they may use the answers and notes they have made in this unit to ‘make up’ suitable responses) to show how Aboriginal people are disadvantaged by the existing criminal justice system.
- Students complete data analysis of their survey/interview results.
- Students then work in small groups to review each other’s data. Students then develop a report on current community attitudes towards the criminal justice system.
- If and where available, arrange class interviews with guest speakers and/or contact with local agencies such as police, Aboriginal Legal Aid, local courts etc.
- Class develops a range of questions regarding Aboriginal people involved with the criminal justice system:
  - What are the statistics relating to the criminal justice system and Aboriginal people?
  - What comparisons can be made with the wider non-Aboriginal communities?
  - What training/awareness would assist with working with Aboriginal people?
  - What special protocols are in place to ensure that appropriate strategies etc are used when dealing with Aboriginal people?
  - What changes are needed to reduce the over-representation of Aboriginal people?

Students develop and implement a survey using appropriate protocols.

Students develop an understanding of the nature of relations between the local Aboriginal community and police.

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Learning experiences – Criminal Justice

- What reasons can be put forward for Aboriginal people being over-policed and discriminated against by the criminal justice system?
- How has the past history impacted on the high levels of engagement between Aboriginal people and the criminal justice system?

Major activity
Class forum to discuss the following question:
What changes need to be made to the current criminal justice system to accommodate, rather than entrap, Aboriginal people and ensure more harmonious community relationships?

Teacher discusses the significance of the following:
- High levels of contact with the criminal justice system.
- Statistics reveal that in NSW Aboriginal people are over-represented in the dealings with all three levels of the system (police, courts and prisons), shown by the number of arrests, sentencing and incarceration.
- The police, as first point of contact with Aboriginal people in the criminal justice system, have been accused of lacking cultural awareness, over-policing Aboriginal people and being racist or discriminatory.
- Courts have been accused of being too slow to accommodate the cultural and social differences belonging to Aboriginal people. Trials with ‘circle sentencing’, the use of customary law principles etc, could be better and more frequently employed.
- Alternatives to prison sentences (cautions, AVOs, community service orders etc) and bail provisions are less likely to be provided for Aboriginal people who come into contact with the court system.
- Aboriginal people are significantly over-represented in prisons. Their penalties are heavier and relate more to street crimes and blue collar crimes (assault etc).
- High levels of Aboriginal youth in juvenile detention. Some commentators claim that this has become a ‘rite of passage’ for Aboriginal youth.

Statistics about Aboriginal people and the criminal justice system, particularly arrest, incarceration and sentencing rates

Students use WORKSHEET 5 – ABORIGINAL PEOPLE AND THE CRIMINAL JUSTICE SYSTEM ‘FACT FILE’ to develop a PowerPoint profile of Aboriginal people’s representation in the criminal justice system.
- Students present statistical information in at least three different ways (numbers, percentages, tables, graphs etc.) and explain what the statistics demonstrate.

Evidence of learning
- Students identify key issues impacting on Aboriginal community interactions with the criminal justice system at all levels.
- Students hypothesise ways of improving relations between Aboriginal communities and the criminal justice system.
- Students accurately interpret and present a range of data on criminal justice issues.
### Learning experiences – Criminal Justice

**Focus**
- Have students work with the internet and **WORKSHEET 5** to investigate the level of over-representation of Aboriginal people within the criminal justice system, particularly in the areas of:
  - policing (arrests – 11% of all court appearances)
  - sentencing (19% of all imprisonments)
  - incarceration (10 times more likely than non-Aboriginal population to be in jail)
  - female and juvenile detentions are significantly higher than non-Aboriginal: 30% and 42% of total levels respectively.
- Explain to students the meaning of ‘over-representation’, the need for consistency and accuracy when using statistics (like-sample groups, reputable sources, the need for contemporary and specific data etc) and the different ways statistical information can be presented: numbers, percentages, tables, graphs etc.

**Major activity**
Students develop a PowerPoint presentation to profile national criminal justice data. Their profile should clearly demonstrate the disproportionate involvement of Aboriginal people, if possible the Wiradjuri people, in the criminal justice system using statistics, as well as information to explain the reasons for and the nature of this over-representation.

**Mainstream programs and strategies to address Aboriginal criminal justice issues, including culturally appropriate programs and strategies**
- Note-making to compile an annotated list of programs to address Aboriginal justice issues. Highlight those which are culturally appropriate. See **WORKSHEET 6**.
- In your annotations explain how and why these specific, culturally appropriate programs and initiatives are more useful than generic strategies to reduce involvement in the criminal justice system.
- Students identify which programs operate in the local area. Invite an officer from the Local Area Command and other justice agencies to speak to the class about the effectiveness of the programs operating in Cowra. Students also need to identify Aboriginal involvement in each of the programs.
- Explain how significant it is for Aboriginal people to be involved in the design and delivery of these programs.

**Evidence of learning**
- Students demonstrate an understanding of the incidence of Aboriginal peoples interaction with the criminal justice system.

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**Learning experiences – Criminal Justice**

**Focus**

Government bodies and the Wiradjuri Aboriginal community have worked cooperatively to develop and implement a number of programs specific to the needs and nature of the Wiradjuri people. They are most often culturally appropriate and some account for the special nature of the Cowra Community. See [WORKSHEET 6](#). These may include:

- The Aboriginal Justice Advisory Council which advises government on Aboriginal matters.
- Aboriginal Police Liaison Officers who are a genuine link between Aboriginal communities and police.
- The Aboriginal Justice Plan to address Aboriginal criminal justice in a holistic manner.
- ‘Circle sentencing’ and ‘Conferencing’ strategies which use aspects of customary law for sentencing Aboriginal people involved in the criminal justice system.
- Cowra PCYC programs to assist Aboriginal youth not to become involved with the criminal justice system.
- Cowra Aboriginal Community Consultative Committee which is an inter-Agency network that offers an element of self-determination and communication for the Cowra Wiradjuri.
- The Jean Draper Shield which is a police–Aboriginal community sports challenge to improve relations between police and Wiradjuri.

Other sources of information can include:

- communication with local and national policing and legal personnel
- local court officials
- Aboriginal Legal Aid
- local police
- Aboriginal Liaison Officers
- Institute of Criminology
- Cowra Police, Cowra Court House, Cowra Aboriginal Land Council (Gumbuya Offices), Orange Area Police Command.

**The role of lifestyle factors in Aboriginal peoples’ involvement in the criminal justice system**

Participation in groups to discuss the issue raised in the last paragraph of [WORKSHEET 4](#), that addressing issues behind Indigenous offending (alcohol abuse, poor school performance and unemployment) is more likely to reduce the high level of over-representation than policies designed to apprehend and imprison Aboriginal offenders. Students will need to look at information about the socioeconomic status of Aboriginal people ([WORKSHEET 7](#)) to complete this task effectively.

<table>
<thead>
<tr>
<th>Evidence of learning</th>
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</thead>
<tbody>
<tr>
<td>Students make judgements about the effectiveness of programs designed to lift the levels of local community involvement in their implementation.</td>
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</tbody>
</table>

| Students identify the wide range of lifestyle factors that impact on Aboriginal community interactions with the criminal justice system. |

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### Learning experiences – Criminal Justice

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Students must review and describe current socioeconomic indicators for Aboriginal people (WORKSHEET 7) to illustrate the scope and degree of disadvantage faced by people such as the Wiradjuri.</td>
</tr>
<tr>
<td>Using this, they are to present oral or written arguments to link lifestyle factors with the most likely future of Aboriginal peoples’ involvement in the criminal justice system.</td>
</tr>
<tr>
<td>Assess the implications in relation to social justice and human rights issues.</td>
</tr>
</tbody>
</table>

### Focus

- Aboriginal people are significantly disadvantaged in all the leading socioeconomic indicators: education, employment income, housing and health.
- They are a minority group in Australian society.
- Theirs is a history of discrimination, persecution and racism.
- While the revitalisation of cultural heritage and the strengthening of the land rights movement have in many ways strengthened their position, these lifestyle factors contribute heavily to their involvement in the criminal justice system as they seem entrenched in a cycle of disadvantage. Each area of disadvantage contributes to and exacerbates the other.
- How significant are lifestyle factors to the involvement of Aboriginal people in the criminal justice system?
- Positive policy initiatives that demonstrate effective outcomes for Aboriginal people.

### The importance of regaining land, and cultural maintenance, in addressing the impact of the criminal justice system on Aboriginal peoples

Regaining land and maintaining culture are very important in addressing the impact of the criminal justice system on Aboriginal peoples because they regain a sense of community ownership and identity and a link with their common past. Land ownership also provides economic benefits for the Cowra Wiradjuri.

Using WORKSHEET 6, students complete the following tasks:

- Ask students to make a list of programs and initiatives that use culturally appropriate strategies, or employ Aboriginal people who can share their cultural ways and understanding to reduce involvement with the criminal justice system. This includes, for example:
  - the nature of circle sentencing
  - conferencing

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### Learning experiences – Criminal Justice

- the role of the elders
- programs involving traditional cultural practices.

- Invite a speaker from the Cowra Aboriginal Land Council to attend the class and discuss the role that return of land might have in improving Aboriginal over-representation in the criminal justice system. Review how land rights and native title developments, especially with the Cowra Aboriginal Land Council, have empowered Aboriginal organisations to develop programs and initiatives which improve their relationship with the criminal justice system. For example, the following organisations are built on Aboriginal land owned by the Cowra Aboriginal Land Council:
  - Cowra Aboriginal Land Council offices (Gumbuya)
  - Yallbilinga, the Cowra Aboriginal pre-school as an Aboriginal education facility
  - the Community Development and Employment Program (CDEP) building to provide work and skills development for Aboriginal people
  - Weigelli Drug and Alcohol Centre to support those Aboriginal people who have drug and alcohol problems
  - Erambie market gardens (which provides employment for Wiradjuri people)
  - the property of Yarrawa which is used for cultural reaffirmation for Wiradjuri people
  - the sacred rock art site at Bigga which strengthens cultural reaffirmation for Wiradjuri people
  - Yarmaldine Crescent housing area which provides effective housing for Wiradjuri people
  - the Erambie mission site itself, which is the political and cultural homeland for the Wiradjuri people.

Without this land as a basis for these initiatives, the Cowra Aboriginal Land Council’s efforts to reduce Aboriginal disadvantage in education, housing, health and employment would not have been possible. The initiatives are central to reducing the involvement of Cowra Wiradjuri in the criminal justice system.

### Assessment for learning task

The World Conference of Indigenous Peoples has stressed the importance of regaining land and cultural maintenance to achieving identity, sovereignty and equality for Indigenous peoples. They are central to having social justice and basic human rights for all people.

Students should consult the UN Declaration of Human Rights document and write a 500-word brief to explain how and why regaining land and cultural maintenance are necessary for social justice, specifically in terms of criminal justice issues.

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**Learning experiences – Criminal Justice**

**Social and political changes necessary to address the over-representation of Aboriginal peoples in the criminal justice system**

This question has been touched upon earlier, particularly in the sections relating to:
- power relations within the criminal justice system
- mainstream programs and strategies to address Aboriginal criminal justice issues
- the importance of regaining land, and cultural expression.

Ask students to revisit these three areas, select and synthesise relevant information to develop an understanding to the question:

*What social and political changes are necessary to address the over-representation of Aboriginal peoples in the criminal justice system?*

This will include:
- reviewing the various programs, initiatives, strategies and recommendations that have been seen during this unit and compiling a list of the social and political changes necessary to address the over-representation of Aboriginal people in the criminal justice system
- realising that many of these changes have already been adopted and form the basis of current actions/programs.
- emphasising the need for effective land rights legislation and the revival of cultural expression.
- examining current social indicators of Aboriginal peoples and those programs which address disadvantage, often through increasing self-determination within Aboriginal communities.

**Assessment for Learning Task**

Ask students to use the information gathered in this section to present a three-minute talk on the social and political changes necessary to address the over-representation of Aboriginal peoples in the criminal justice system. Invite panel members from previous activity ([WORKSHEET 6](#)) to be part of the audience for the presentations, and to participate in post-presentation discussion.

**Social and political changes within law enforcement and judicial agencies to improve attitudes toward Aboriginal peoples’ law reform initiatives**

From a class discussion, students write a set of 10 recommendations to the NSW Government outlining the social and political changes which are needed within law enforcement and judicial agencies to improve attitudes towards Aboriginal peoples’ law reform initiatives. They will need to use the following:

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### Learning experiences – Criminal Justice

- what they have studied within this unit
- recommendations from the Royal Commission into Aboriginal Deaths in Custody
- the video *Who Killed Malcolm Smith?* to recognize and suggest the various issues involved in the death of Malcolm Smith. This video depicts the life of Malcolm Smith, an Aboriginal man who was part of the ‘Stolen Generation’ and spent almost all of his life in government institutions, especially jail. The treatment Malcolm was subjected to (the attitudes of police and correctional agencies and the *modus operandi* of the court system) demonstrates the inappropriateness of the Australian criminal justice system when dealing with Aboriginal people. It is a very sad and dramatic portrayal of what is wrong, and what changes need to be made to our criminal justice system.

**NOTE:** Students need to be debriefed about this due to the nature of the content.

### Focus

Class reviews the various programs, initiatives, strategies and recommendations they have seen throughout this unit to compile a list of the social and political changes within law enforcement and judicial agencies (such as with policing, courts and prisons) necessary to improve attitudes toward Aboriginal peoples law reform initiatives. This would primarily involve:

- increasing cultural awareness within law enforcement agencies and personnel (e.g., ACLOs, employing more Aboriginal police, increasing cultural awareness activities for police, etc)
- empowering and engaging Aboriginal people by developing self-determination within Aboriginal communities (e.g., empowering agencies such as the Cowra Aboriginal Land Council, the AJAC etc to become more involved)
- reflecting culturally appropriate aspects of customary law practices within the criminal justice system (e.g., extending the Circle Sentencing and Community conferencing programs etc)
- overcoming racism and discrimination within the criminal justice system.

### Similarities and differences in criminal justice issues for Aboriginal and other Indigenous peoples

Compare Wiradjuri and other Indigenous peoples’ representation in the criminal justice system, and the responses and initiatives to redress this situation. Students will need to follow the same structure of study as with this unit and complete the following scaffold – see WORKSHEET 7.

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### Evaluation of unit

<table>
<thead>
<tr>
<th>Teacher evaluation</th>
<th>Comments/Variations</th>
</tr>
</thead>
<tbody>
<tr>
<td>How did the unit ‘rate’ in these areas?</td>
<td></td>
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<tr>
<td>Time allocated for topic</td>
<td></td>
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<tr>
<td>Student understanding of content</td>
<td></td>
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<tr>
<td>Opportunities for student reflection on learning</td>
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<tr>
<td>Suitability of resources</td>
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<tr>
<td>Variety of teaching strategies</td>
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<tr>
<td>Integration of Quality Teaching strategies</td>
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<tr>
<td>Integration of ICTs</td>
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</table>

Date commenced:  
Date completed:  

Teacher’s signature  
Head Teacher’s signature
Aboriginal Studies HSC Course: Social Justice and Human Rights Issues
Part I • Topic 5 – Criminal Justice

Assessment notification and information sheet
(to be handed in with task for marking)

Name: ________________________________ Class: _____________

HSC Aboriginal Studies
Topic: Social Justice and Human Rights Issues
Area: Criminal Justice
Task type: Extended response comparative exposition
Weighting: 
Due date: 

Outcomes
A student:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>H2.3</td>
<td>discusses and analyses consequences of colonisation on contemporary Aboriginal cultural, political and social and economic life.</td>
</tr>
<tr>
<td>H3.1</td>
<td>assesses the effectiveness of government policies, legislation and judicial processes in addressing racism and discrimination</td>
</tr>
<tr>
<td>H3.2</td>
<td>evaluates the impact of key government policies, legislation and judicial processes on the socioeconomic status of Aboriginal peoples and communities</td>
</tr>
<tr>
<td>H4.1</td>
<td>investigates, analyses and synthesises information from Aboriginal and other perspectives</td>
</tr>
</tbody>
</table>

Task context
This task is to be completed towards the end of this unit after all three communities have been studied.

The task
Outline the key criminal justice issues currently impacting on the local, national and international Indigenous communities you have studied. Describe a range of initiatives implemented to deal with these issues (400 words). Assess the effectiveness of these programs in addressing these issues within these communities (600 words).

Task requirements
Your case study should do the following:
(a) Identify the three communities and the key criminal justice issues they face (200 words).
(b) Describe a range of initiatives that have been developed to address the criminal justice issues identified in the communities (200 words).
(c) Evaluate and compare two initiatives, each from a different community you have studied, that have been successful in addressing criminal justice issues (600 words).
(d) Incorporate information from primary and secondary sources that you have used in your research. These sources will be included in a reference list.

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Criteria for assessment

Students will be assessed on their ability to:
- research and organise relevant information from a variety of sources including the use of information technology
- present information clearly from Aboriginal and other perspectives
- analyse the success of initiatives in addressing criminal justice issues in the Indigenous communities.

Sample marking schedule/feedback sheet

<table>
<thead>
<tr>
<th>Task component</th>
<th>%</th>
<th>Teacher’s comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concise and accurate outline of the key criminal justice issues in three Indigenous communities</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Description of key aspects of initiatives that have been developed in the communities to deal with criminal justice issues</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Evaluation and comparison of two initiatives, each from a different community, that have been successful in dealing with criminal justice issues</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>Correctly presented reference list of primary and secondary sources used in this case study</td>
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<td></td>
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<tr>
<td>Overall comment and final grade or mark</td>
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</tbody>
</table>
Worksheet 1 – Pre-contact Wiradjuri legal and social organisation practices

Pre-contact society and customary law

• At the time of European arrival there were around 500 different Aboriginal communities, each with their own language, customs and laws.
• They were the guardians of the lands.
• Aboriginal customary laws and customs were based on traditions such as kinship ties and rituals.
• These laws were formed by ancestors, spirits, and Aboriginal beliefs, and were passed down the generations by word-of-mouth instead of written down.
• There were many variations to the law, customised to each area of the land.
• Within traditional Aboriginal law were ‘sacred’ and ‘secular’ and ‘secret’ laws:
  – Sacred laws were entrusted to the elders, teaching Aboriginal customs, acceptable behaviour, and appropriate use of the land.
  – Secular laws focused on the responsibilities of individuals
  – ‘Secret’ laws: For example, women knew laws that were unknown to men, and vice versa.
• Some special rules for organising society existed:
  – Children were taught how to be proper children until they were old enough to be told their adult customs.
  – Traditional marriages had certain rules. Girls were married when they reached puberty, and were married to much older men, who could marry (and have numerous wives) upon reaching a certain age.
• Each clan was tight-knit and respected their ancestry and customs.
• Punishments varied depending on the severity of the crime committed. Relatives or ceremonial leaders enforced these punishments, which included:
  – revenge
  – social ridicule (shaming)
  – ostracism (being left out)
  – insulting
  – spearing (aimed at the leg, but sometimes resulted in death)
  – death by sorcery.
• Disputes were usually settled by:
  – conciliation or mediation
  – consensus
  – arguments
  – inquests or rituals to solve the dilemma.
Worksheet 1 (cont)

- The Law/Lore and the Dreaming controlled every tribal member’s life:
  – what and how much could be eaten
  – to whom they could talk and with whom they could make eye contact
  – whom they could marry
  – how they were educated
  – when hunters made a kill, the meat segments were allocated to the various families according to the lore of distribution.

Activities

1. List and explain the three kinds of customary law.
2. Write a paragraph about ONE special law.
3. Outline traditional punishments and how disputes were settled.
4. Copy down and explain in your own words the section: ‘Aboriginal customary laws and customs were based on traditions … customised to each area of the land’.
5. Given the importance of custom and tradition in pre-contact Aboriginal laws, explain the significance of the tribal elders and kinship ties in their laws.
Introduction to the invasion period

From 1817 the Wiradjuri people came under the complete authority of Colonial, State and eventually Federal governments. Their traditional lifestyle was taken from them through the process of dispossession, so that they lost the right to traditional forms of social and political organisation:

- traditional laws were replaced with British laws
- Aboriginal people were removed from their homelands and lost all rights to their lands
- Aboriginal nations and clans were torn apart by violence, disease, relocation and separation (eg the ‘Stolen Generations’)
- Christianity replaced the traditional ideas of the ‘Dreaming’
- traditional language, ceremonies and culture were outlawed and lost
- European ideas of policing, law and government replaced the authority of the Elders.

As a result, traditional social and political organisation was almost destroyed. Aboriginal people came under the authority of white institutions and administrators, such as:

- protectors
- police
- politicians.

This was known as Paternalism.

Aboriginal society was broken up and many relationships became dysfunctional. Much of this was due to:

- **People’s removal from their land.** Over two centuries, the continent was progressively stolen from Aboriginal people. Even after Australia was declared independent in 1901, Aboriginal people continued to be marginalised and were debarred from becoming citizens by the 1902 Australian Constitution. Citizenship was not granted to them until a national referendum in 1967 reversed this policy.

- **Legacy of racism.** Racist attitudes evolved through different phases. In some places and on some occasions, settlers behaved in a quite civilised way. In others, they practised outright genocide. In between, there was a range of assimilationist and patronising policies. Many of these helped to deepen the plight of Aboriginal people and culture.

- **Separation and removal of children.** As recently as the 1950s, up to one-tenth of all Aboriginal babies were removed from their natural parents and taken into foster care by white families in the belief this was to everyone’s benefit. This tore apart family and social connections that had previously kept Aboriginal society and social organisations together.

They had to deal with the loss of their language, culture and identity.
Worksheet 2 (cont)

Activities

1. Under the heading ‘How invasion affected traditional laws and organisation’, write down in six ‘dot points’ the ways Aboriginal communities lost their traditional laws and organisation.

2. Draw cartoon figures to represent each of the three white authority figures – the 3 P’s:
   • Protector
   • Police
   • Politician.

3. Complete the cloze activity (see page 21).

4. Read the timeline (see page 22) on ‘Erambie Mission’ and complete these questions:
   a. When and where was Erambie Mission established?
   b. What powers did the Aborigines Protection Board have over the Wiradjuri people?
   c. How and why did life change on Erambie in 1924?
   d. Explain why Erambie became seen as a ‘problem mission’.
   e. Describe relations between the Wiradjuri on Erambie and the townsfolk of Cowra.
   f. From this experience, outline the relationship that would develop between the Erambie Aboriginal people and the police/judicial system, as well as the non-Aboriginal community as a whole.
Worksheet 2 (cont)

Cloze activity

1788–1970: Reasons for the breakdown of Aboriginal societies

Read the following passage and insert the following 15 words into their correct places:

<table>
<thead>
<tr>
<th>alien</th>
<th>autonomy</th>
<th>foster</th>
</tr>
</thead>
<tbody>
<tr>
<td>removal</td>
<td>tenth</td>
<td>citizenship</td>
</tr>
<tr>
<td>private</td>
<td>stolen</td>
<td>patronising</td>
</tr>
<tr>
<td>genocide</td>
<td>self-determination</td>
<td>identity</td>
</tr>
<tr>
<td>Aborigines</td>
<td>civilised</td>
<td>two</td>
</tr>
</tbody>
</table>

- **People’s removal from their land:** Over ….. centuries, the continent was progressively ….. from Aboriginal people. Settlers moved in and appropriated the overwhelming majority of Australia – either for ….. use or in the name of the British Crown. Even after Australia was declared independent in 1901, …. continued to be marginal to the new nation and were debarred from becoming citizens by the 1902 Australian Constitution. …. was granted to Aborigines only following a national referendum in 1967.

- **Legacy of racism:** Racist attitudes evolved through different phases. In some places and on some occasions, settlers behaved in a quite …. way. In others, they practiced outright …. . In between was a range of assimilationist and …. policies. Many of these helped deepen the plight of Aboriginal people and culture.

- **Separation and the removal of children:** As recently as the 1950’s, as many as …. tenth of Aboriginal babies were removed from their natural parents and taken into …. care by white families, in the belief this was to everyone’s benefit. This tore apart family and social connections, which had previously kept Aboriginal society and social organisations together.

- Changes imposed upon Aboriginal and Torres Strait Islander peoples broke down Aboriginal social and political organisation. Aboriginal communities and individuals had lost their sense of …. and …. . They were now almost completely dependent on white society in Australia. Some of these changes included:

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Worksheet 2 (cont)

- ..... from homes, areas and families
- being thrust into a society that was totally ....
- being asked to accept rules and laws different from their own
- coping with the loss of their language, culture and ......, including their own Aboriginal names while having to take white names.

Erambie Timeline


<table>
<thead>
<tr>
<th>Date</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>1817</td>
<td>Surveyor Evans reaches the Lachlan. Invasion follows.</td>
</tr>
<tr>
<td>1891</td>
<td>Aborigines declare an area 2 km from the town of Cowra, on the stretch of high ground overlooking the Lachlan River, an Aboriginal reserve. This was perhaps a traditional camping ground.</td>
</tr>
<tr>
<td>1900</td>
<td>Erambie was one of scores of Aboriginal reserves in Wiradjuri country. Only two had managers – Warangesda (Darlington Pt) and Brungle (Gundagai/Tumut). These were known as stations and had to deal with the bureaucracy and regulations of government managers. Life on Erambie though was free of this and offered a degree of security, where people could live with their relatives, unmolested by police and local councils. Erambie and other reserves attracted more and more people.</td>
</tr>
<tr>
<td>1909</td>
<td>Aboriginal Protection Act gave officials the legal right to expel Aborigines from the reserves and send children to institutions.</td>
</tr>
<tr>
<td>1920</td>
<td>The population of Erambie was around 150.</td>
</tr>
<tr>
<td>1923</td>
<td>Warangesda station was closed down. Some people came to Erambie. For some whites in Cowra, this was the ‘last straw’.</td>
</tr>
<tr>
<td>1924</td>
<td>Due to complaints from the white residents of Cowra for the necessity to supervise the Aboriginal people, a regular station was established and a manager-teacher was appointed on Erambie. Several families left. The powers of the manager were rigorous and all-embracing: expulsion or withholding rations, visitor permission passes, prohibited alcohol, gambling, indecent language, failure to follow a lawful instruction. Almost an infinite number of regulations. Women were subject to weekly house inspections, children were removed (‘stolen’) and people were expelled.</td>
</tr>
</tbody>
</table>
**Worksheet 2 (cont)**

1929 Onset of the Great Depression made it politically impossible to continue driving Aboriginal people from reserves and stations. They were ineligible for the dole and unemployed.

1930s Population steadily increased to around 300. It was now too large to be destroyed. This was strengthened by the Second World War where the nearby POW camp and industrial area expanded opportunities for work.

1940s Began to be seen by the Board as ‘the problem station’, which was a result of a large and diverse population, many independently-minded people who had been expelled from other stations.

Residents started to publicly ask why Aborigines living on specially designated reserves should have to pay rent.

Opposition to managerial rule became more apparent.

For the first time in almost a century they began to say that they were not only as good as whites, but that they were owed something special in recognition of the title to the country.

1953 A Progress Association was set up in the 1950s.

Erambie’s survival rested on its size and the love of its people who refused to move into town. Added to this, there was a refusal by town whites to allow more than only a few Aboriginal people to move into town.

1965 The manager was withdrawn.

1969 The Aboriginal Welfare Board ended.

1970s Only Erambie, Condobolin, Brungle and the Three Ways reserves at Griffith survived in Wiradjuri country. Erambie was the strongest in size and spirit.
Worksheet 3 – European laws that replaced Aboriginal customary law

The following are examples of changes made by the Europeans as they imposed a new and alien concept of law upon the Wiradjuri:

(a) Secret instructions to Lieutenant Cook, 30 July 1768
As early as the arrival of James Cook, Aboriginal people came under the authority of European laws. Cook was instructed to take possession of the Australian continent in the ‘Name of the King of Great Britain’. These instructions assumed that the laws of the Europeans could be made compatible with a respect for the native populations on the Australian mainland.

(b) Aborigines Protection Act 1869 (Vic)
This made Victoria the first colony to regulate the lives of Aboriginal people. Similar Acts were introduced in other states, including NSW. This Act gave powers to the Board for the Protection of Aborigines to control Aboriginal people’s lives, including:
- residence (where people could live)
- employment (where they could work and what kinds of jobs they could do)
- marriage (whom they could marry)
- social life (whom they could associate with) and other aspects of daily life.

In 1886, through the Aborigines Protection Act (often called the ‘Half-caste Act’, Victoria began a policy of removing Aboriginal people of mixed descent from the Aboriginal stations or reserves to merge into white society. The Board refused assistance to those it expelled from the reserves. This inhumane policy of excluding communities and family members caused distress and protest. This effective separation of communities and family members caused distress and protest. This inhumane policy of excluding so-called ‘half-castes’ assumed that numbers of Aboriginal people on the reserves would decline, so that reserves could be reduced and eventually closed down and the land allocated to other Australians.

(c) Aborigines Protection and Restriction of the Sale of Opium Act 1897 (Qld)
This controlled the fates of Aboriginal peoples throughout much of the 20th century. This Act established reserves to which ‘Aboriginal Protectors’ were appointed. These were:
- civil servants,
- police, and
- missionaries
who had the power under the Act to forcibly relocate Aboriginal people to and from the reserves.

Aboriginal people were restricted to these reserves, supposedly to protect them from the ravages of European immorality and disease.

In effect, these reserves operated to separate Aboriginal people who were designated:
- unproductive,
- ill, and
- ‘problematic’

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Worksheet 3 (cont)

from those working efficiently in European industries – pastoral, agricultural, marine and domestic. As time passed, they were to become labour reservoirs from which Aboriginal contract workers could be drafted to white rural and urban employers.

Furthermore, the law was used to control Aboriginal people at the workplace and to remove their basic human rights, reducing them to the position of State wards. It was intended to limit the reproduction of part-Aboriginal offspring – the so-called ‘half-caste menace’ – seen at the time as a threat to an ideal ‘White Australia’.

(d) Aborigines Act 1910 (Vic)
This Act ensured that the differentiation (division) of Aboriginal people of partial European parentage was abandoned (ie half-bloods, quarter-bloods etc).

(e) Aboriginals Ordinance No. 9 of 1918 (Commonwealth)
This was the first Commonwealth law for governing Indigenous people and its long-lasting effects make it a founding document for the Northern Territory. In South Australia this Act established an Aboriginals Department under a Chief Protector. The Protector had the following rights:
• supervised reserves could be created and power given to send and keep Aboriginal people there
• only Aboriginal and authorised persons could enter reserves
• urban Aboriginal dwellers were also kept under tight rein
• marriage between an Aboriginal and a non-Aboriginal was subject to ministerial control
• the Chief Protector administered Aboriginal estates and property.

Together, these Acts oppressed and restricted the freedom of Aboriginal people.

Study guide and activities

In groups, discuss how these new laws, rules and regulations compared with those of existing customary law in Wiradjuri pre-contact society. Prepare a list of oral responses to explain how they compared in the following areas:

a. policing of the laws
b. the appropriateness of the ‘authority figures’
c. the role of the elders
d. punishments
e. rights and responsibilities
f. customary law vs the rule of law
g. collective responsibility.

Outline the major problems you can see arising from the imposition of these new legal arrangements. Use this as preparation for designing group posters class forum: The impact of colonisation and subsequent events on Aboriginal legal systems.
Worksheet 4 – Power relations between Aboriginal people and police, prisons and the courts

The following information is a summary of a document tabled in the NSW Parliament. It can be viewed in full at www.parliament.nsw.gov.au. Visit this site and use it together with the summary below to complete notes about the following subjects.

Aboriginal people and the criminal justice system:
Give general statistics from paragraph one to show the level of over-representation of Aboriginal people in the criminal justice system.

The Police (make ‘dot point’ notes under the following headings):
• the need to improve relations with police as the first point of contact
• lessons from the Thomas Hickey case
• the role and importance of ACLOs
• the Aboriginal Employment Strategy to improve the current situation
• the Crime Prevention Division – Education and Employment to improve the current situation.

The Courts:
• how the court system works ‘for’ Aboriginal people
• general statistics of over-representation
• the Fernando Principles to improve the current situation
• Circle Sentencing as a culturally appropriate initiative to improve the current situation.

The Prisons:
• how the prison system works ‘for’ Aboriginal people
• general statistics of over-representation
• Indigenous women in custody
• Juvenile Justice
• Deaths in Custody.

Reasons for over-representation:
• violent crimes attract prison sentences
• prior criminal convictions.
Policing

The police are the first point of contact with the criminal justice system. Indigenous people are most likely to be arrested between the ages of 18 and 24, with alcohol consumption playing a significant role in the overall arrest rate. (Thomas Hickey 15/02/04)

The historical relationship between the police and the Indigenous community has largely been negative.

Mainstream strategies to improve relations with the police

- Aboriginal Community Liaison Officers have been gradually introduced since 1986 to establish a positive partnership and rapport between the Indigenous community and the police by mediating disputes, assisting relatives visiting prisoners and helping each other to understand different perspectives.
- The Aboriginal Employment Strategy 2003–05 seeks to recruit more Indigenous persons into the NSW Police Service, to increase awareness of Indigenous issues amongst members of the NSW Police.
- The Crime Prevention Division supports and often funds Aboriginal community patrols which manage bus services to provide transport for those in need and intervene in situations that might attract the police, thereby reducing contact of Indigenous Australians and the criminal justice system.
- Particular strategies to address social and economic factors (eg schooling and employment).

The Courts’ findings

- Problems with alcohol abuse and violence go hand-in-hand within Aboriginal communities and require more subtle remedies than imprisonment.
- Poor self-image, absence of education and work opportunity and other demoralising factors have placed heavy stresses on Indigenous peoples, reinforcing their need for alcohol and compounding its effects on them.
- Courts must, when sentencing persons of Aboriginal descent, avoid any hint of racism, paternalism or collective guilt.
- Full weight must be given to the competing public interests of rehabilitating the offender along with avoiding recidivism on his or her part.
- Leniency may be exercised when sentencing an Indigenous offender for reasons of social and economic disadvantage, not due his or her Aboriginality.

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Worksheet 4 (cont)

Circle Sentencing
A pilot scheme commenced in Nowra 2002, Circle Sentencing is an holistic strategy to address the behaviour and punishment of offenders and to consider the needs of victims, families and communities.

The objectives are to:
• include members of the Aboriginal communities in the sentencing process
• increase the confidence of Aboriginal communities in the sentencing process
• provide more appropriate sentencing options for Aboriginal offenders
• provide effective support to victims of offences by Aboriginal offenders
• reduce recidivism in Aboriginal communities
• alleviate, in full, the over-representation of Indigenous persons in the criminal justice system.

The police, offender, victim, a magistrate, support persons and local elders discuss the offence and its impact before working out an appropriate sentence. It is designed to partly merge the Indigenous and general justice systems.

The scheme is notable for its success, as only one of the 25 offenders who participated in the scheme in Nowra has re-offended. It has reduced the barriers, provided better support for victim and offender and thus promoted healing and reconciliation; empowered Indigenous persons and heightened their confidence in the criminal justice system; enabled sentencing options to be more relevant and meaningful and assisted in breaking the cycle of recidivism.

Success is thought to be due to the involvement of the community, its use of colloquial language, the participation of the victim and the collaborative approach towards sentencing. Involvement of the Aboriginal elders is a great strength because they provide valuable advice, possess cultural knowledge, and give a sense of legitimacy and authority to the outcome.

The program was extended to Dubbo in 2003.

Imprisonment
The Residential Mother’s and Children’s Program has allowed children up to school age to live with their mothers in prison and for others younger than 12 to spend weekends and school holidays with their mothers.

In response to the Aboriginal Justice Advisory Council report of 2002, Speak Out, Speak Strong, the NSW Government announced:
• an alternative facility with culturally appropriate services for Indigenous persons
• new correctional centres
• appointment of elders to correctional centres
• increasing the number of Indigenous staff employed at correctional centres
• establishing a taskforce on sexual assault in Indigenous communities
• expanding circle sentencing and community justice groups.

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Worksheet 4 (cont)

Juvenile justice

Imprisonment for juvenile offenders has been seen as new rite of passage. The Attorney General’s Department provides grants to Aboriginal Youth Projects that ‘re-engage young people with learning or promote awareness of safe and lawful driving practices’ to reduce involvement in the criminal justice system.

Reasons for over-representation of Aboriginal people in the criminal justice system

The background of social and economic disadvantage.
‘To understand the experiences of the whole Aboriginal community through their 200 years of contact with non-Aboriginal society.’

Also, of the 339 recommendations made to the Royal Commission into Aboriginal Deaths in Custody, 299 applied to NSW and only half have been implemented. The recommendations of concern were policing, public drunkenness, bail, juvenile justice and the involvement of Indigenous persons in the development of policies and programs.

In 2002 the NSW Minister of Corrective Services outlined some strategies to reduce deaths in custody including:
• the development of a suicide and self-harm prevention program
• introduction of risk intervention teams at correctional centres
• review of segregation procedures
• holding prisoners as closely as possible to their families
• requiring Court Escort Security staff to complete a three-day Safe Custody Course.

Strategies

• The Aboriginal Justice Advisory Council was established as a partnership to advise the NSW Government; to commission research; evaluate performance; develop partnerships; and to prevent and reduce the contact of Aboriginal people with the criminal justice system.
• Creating Community Justice Groups which are concerned with community-based ways to solve crime and offending problems within Aboriginal communities.
• In 2002–2003 the Aboriginal Specialist Program (ASP) established 15 Indigenous positions in local courts in regions of significant Indigenous population.

The NSW Bureau of Crime Statistics and Research concluded that:
‘Focusing on the factors that lie behind Indigenous offending, such as alcohol abuse, poor school performance and unemployment, is likely to do more to reduce crime in Indigenous communities than policies designed to apprehend and imprison an even higher proportion of Indigenous offenders.’
Worksheet 5 – Aboriginal people and the criminal justice system ‘fact file’.

General
Indigenous people make up:
• 2% of NSW population
• 11% of court appearances
• 10% of convictions
• 19% of imprisonments
• 17% imprisonments for more than 6 months.

Policing/arrest
• 29% in NSW were charged with a criminal offence between 1997 and 2001 (four times the rate of non-Indigenous).
• 40% of males and 14% of females within the 20–24 year age group were charged with a criminal offence in 2001.
• Only 17% of males and 27% of females had not attended court on a prior occasion in the last five years.

Imprisonment
• Indigenous adults in Australia were imprisoned at 16 times the rate of non-Indigenous in 2002–03.
• In 1991 in NSW they were 7.7 times more likely to be imprisoned than the general population. In 1998 it was 9.8 times.
• Between 1997 and 2001, 7% of Indigenous people in NSW received a custodial sentence, 10 times more than non-Indigenous.

Female imprisonment
• Indigenous women are the fastest growing prisoner population in Australia.
• In 2000, 30% of female prisoners were Indigenous.
• In June 2003 they were imprisoned at more than 19 times the rate of non-Indigenous women.
• 86% of imprisoned Indigenous women have children.
• 22% had been wards of the State, 70% had been a victim of child abuse.
• 68% were on drugs at the time of the offence.
• 98% had a prior conviction.
• 70% were not granted bail.
• Since 1997 Indigenous youth have constituted 42% of all juveniles in detention.
Worksheet 6 – Mainstream programs to address criminal justice issues with Aboriginal people

The Aboriginal Justice Advisory Council (AJAC)
This group provides advice to the NSW Government on law and justice issues affecting Aboriginal people. It is structured into a central council and six regional councils based on the original six ATSIC regions of NSW. It has a chairperson appointed by the government, a representative from each of the regional councils and an Executive Officer who is located with the NSW Attorney General’s Department. It is funded by the NSW Attorney General’s Department, Department of Corrective Services, Department of Juvenile Justice and the NSW Police Service.

Its role is to identify issues, provide advice, develop proposals for change and monitor programs in relation to the criminal justice system’s impact on Aboriginal people. Its advice is aimed at developing and implementing fair and equitable law and justice services to Aboriginal people, including advice on:
• implementing the criminal justice recommendations of the Royal Commission into Aboriginal Deaths in Custody
• developing programs which increase the employment of Aboriginal people at all levels in criminal justice agencies
• improving relationships between Aboriginal and non-Aboriginal people
• developing and co-coordinating efforts by governments and local communities to reduce the number of Aboriginal people in contact with the criminal justice system.

The Council prepares research reports and proposals for change to policies, programs and practices within the criminal justice system.

It negotiates, monitors and evaluates programs to reduce the offence rate of Aboriginal people, as well as arrest and imprisonment rates. It also monitors and assists in developing local initiatives, including those aimed at preventing crime and encouraging Aboriginal self-management.

Regional councils work locally on criminal justice issues affecting Aboriginal people and promote cooperation between law and justice agencies and local Aboriginal communities. A priority of regional councils is to help resolve local criminal justice issues at the local level. As a part of this process they provide operational support and coordination to grassroots Aboriginal community justice initiatives aimed at reducing contact between Aboriginal people and the criminal justice system. Their feedback to AJAC allows the voice of the community across NSW to be heard.

NSW Police Liaison Officers working in Aboriginal communities
One area of concern for many Aboriginal communities is policing. Many areas with high Aboriginal populations have a greater-than-average number of police and many Aboriginal communities complain that they are often over-policed.

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Worksheet 6 (cont)

They also complain about the way that policing is done in their communities, that police
don’t always respond to calls by Aboriginal people and that they are often treated in a
discriminatory way by police (also see notes from Cowra Aboriginal Community
Consultative Committee).

Certainly Aboriginal people are arrested much more often that any other section of the
community for minor public order offences. In some New South Wales local government
areas Aboriginal people are proceeded against between 50 and 80 times more often for street
crimes.

Also more than a quarter of those charges are accompanied by other charges like resisting
arrest or assaulting police – charges which cannot occur unless there are police present. This
can often increase tension between police and Aboriginal communities and fuel Aboriginal
feelings that they are discriminated against by police.

Aboriginal Community Liaison Officers (ACLO) try and bridge the gap between Aboriginal
communities and police. The New South Wales Police Service has developed an Aboriginal
Policy Statement and Strategic Plan to attempt to improve relationships with Aboriginal
communities. The plan is currently being evaluated.

The ACLO’s role is to assist police resolve issues affecting Aboriginal people, to improve
Aboriginal/police relations by improving the channels of communication. ACLOs were first
employed in Bourke in the far west of NSW in 1986. There are currently 49 ACLOs
throughout the State’s 23 rural, outback and city police patrols to maintain friendly relations
and foster understanding between police and Aboriginal communities.

ACLO’s responsibilities include:
• establishing effective communication between police and Aboriginal communities
• mediating disputes between police and Aboriginal communities
• establishing and maintaining a close rapport with the elders of Aboriginal communities
• providing assistance on visiting procedures to relatives of Aboriginal prisoners
• ensuring the aims and procedures of the NSW Police Service are understood by Aboriginal
  communities
• attending interviews which involve Aboriginal juveniles.

ACLOs help Aboriginal communities reduce crime, particularly crime committed by
juveniles, and help reduce tension between police and Aboriginal people.

Aboriginal Justice Plan
The Aboriginal Justice Plan was set up in 1997 to address specific justice issues and the
underlying causes of Aboriginal involvement in the criminal justice system. It acknowledges
that Aboriginal communities are in the best position to:
• identify their problems and issues and to develop and provide their own solutions

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32
Worksheet 6 (cont)

- see that justice issues will be addressed in an holistic manner, specifically addressing the causes
- commit agencies to work cooperatively with Aboriginal communities to address the concerns.

The third and final stage of the Plan will be the development of specific strategies to address the issues identified and to establish structures to allow local community-based planning and initiatives and interagency cooperation and coordination.

The National Summit agreed the plans would include:
- underlying social, economic and cultural issues
- justice issues
- customary law
- law reform
- funding levels.

Circle Sentencing trial
This involves taking the sentencing court to the community setting where community members and the magistrate sit in a circle to discuss the offence and the offender. It will:
- talk about the background and effects of the offence and develop a sentence that’s the most appropriate for that offender
- involve victims of the offence as well as offenders’ families and other respected community members
- last for two years and be located in Nowra and if successful may be expanded to other places.

To operate, the offender must apply to the court and demonstrate that they have the support of the local Aboriginal community.

The trial will complement other diversionary schemes and provide a further sentencing format for NSW magistrates. It will allow a greater Aboriginal involvement in the criminal justice process, particularly at the community level, and aim to increase Aboriginal satisfaction with the operations of the criminal justice system. This will:
- empower Aboriginal communities in the sentencing process and increase their confidence in it
- reduce barriers between them and the courts
- provide more appropriate sentencing options for Aboriginal offenders
- provide offenders and victims with greater support and reduce offending in Aboriginal communities.

The circle sentencing trial is still in operation in Nowra and has been extended to include a court in Dubbo.

*These materials may contain opinions that are not shared by the Board of Studies NSW.*
Worksheet 6 (cont)

While it does not operate in Cowra, court conferencing is an option available to Wiradjuri people in the town. This involves discussing issues to be heard by the court before it reaches that stage so that a more appropriate and amenable outcome to both parties can be reached.

Bail research
The Aboriginal Justice Advisory Committee (AJAC) is concerned about the number of Aboriginal people in custody or remand, particularly young people. Juvenile justice figures in August 2001 indicated that 35% of all Aboriginal juveniles in custody are on remand.

The RCADIC also examined Aboriginal access to bail in its entirety and made a number of recommendations to monitor and evaluate the system; however, few have been implemented in NSW.

The AJAC is concerned about anecdotal evidence that unreasonable bail conditions have been placed on Aboriginal defendants. It will examine bail in its entirety, its impact on Aboriginal people and its operation, and will explore any alternatives to improve access for bail for Aboriginal people.

Speak Out, Speak Strong – Aboriginal Women in Prison research project
• Examines the needs of Aboriginal women in custody or transition back into the community.
• Identifies any possible service delivery/policy or legislative problems with respect to Aboriginal women in custody.
• Examines issues surrounding sentencing of Aboriginal women in custody.
• Examines employment and education issues relevant to Aboriginal women in prison.
• Highlights options relevant to policy and program development and legislative reform for all Aboriginal women.

The project will take an holistic approach to surveying Aboriginal women, including:
• identity
• health
• housing
• criminal history
• sentencing matters
• legal issues
• employment and training
• parenting
• stolen generation issues
• abuse issues.
Worksheet 6 (cont)

Police custody identification questions
The following questions are put to all people in police custody:
• Are you of Aboriginal origin?
• Are you of Torres Strait Islander origin?

The aim of these questions is supposed to:
• allow improvements in police/Aboriginal relationships to be assessed
• provide valuable information about Aboriginal people in the criminal justice system
• enable Aboriginal people to access the most appropriate services, including Aboriginal Legal Aid
• provide data to enable:
  – policies to be developed and monitored
  – funds to be allocated more appropriately
  – services to be customised to address areas of most need
  – people to work together to achieve the best possible outcomes for everyone
  – show that identification based on looks alone is not reliable.

The privacy of this information is explained to those answering the questions.

The Black Creek Aboriginal Multipurpose Centre, ‘Mayaroo’
This Centre offers hostel-style accommodation for people visiting Cessnock Corrective Centre. Services include transport, reasonable tariffs, no age restrictions, meals and a full-time worker to help clientele.

Similar facilities are being reviewed for other jails, including Bathurst Jail which is closest to Cowra.

The NSW Aboriginal Prisoners and Family Support Services
These work alongside the Aboriginal Legal Service, with a 24-hour call service to assist those people who have an Aboriginal person in custody.

A service for dispute settlement
Dispute settlement through mediation is offered to Aboriginal people. This is free and conducted by trained mediation personnel.
Cowra criminal justice initiatives

Cowra Police are in the Canobolas Local Area Command, which includes the towns and cities of Cowra, Orange, Manildra, Canowindra and Woodstock.

The Cowra Aboriginal Community Consultative Committee

This Committee meets monthly at the Police and Citizens Youth Centre, a culturally friendly environment, as many Aboriginal people play basketball at the PCYC, and at the Community Development and Employment Program office adjacent to the Erambie Mission site.

The role and function of the Committee is to:

- consult on community and policing issues and support local Aboriginal programs
- seek involvement from Aboriginal community members and relevant agencies such as schools, PCYC, community health, CDEP etc.
- report and discuss police-related issues on Erambie to the local police and request follow-up
- oversee health issues of Aboriginal/Erambie residents
- [control] truancy and schooling issues of Aboriginal students.

Officer Janine Robinson outlined a current program with Cowra High School to deal with non-attenders and young people who have gone through the court. The program will contain alcohol and drug information and lifestyle counselling. The school is working to improve attendance and family/social problems.

Council had problems with identifying Aboriginal community elders. The community representatives said that any Aboriginal community member over the age of 21 who is willing to stand up and speak on behalf of the community could be seen as an elder.

Letter of support from the Crime Prevention Committee to the Cowra Development Employment Program for funding night patrols. To do this, the meeting believed they needed greater inter-agency support and for the local council to form a Law and Order Committee.

The Cowra Aboriginal Land Council

The Cowra Aboriginal Land Council is a private corporation representing the Cowra Aboriginal community. It assists in reducing Aboriginal involvement in the criminal justice system by:

- organising the annual golf and cricket/softball sports days between local police and local Aboriginal teams to improve police-community relations
- making available literature to inform Aboriginal people of criminal justice system issues, eg pamphlets concerning police questions to people in custody to improve Aboriginal identification
- making available information about NSW Aboriginal Prisoners and Family Support Services.
Cowra PCYC operates ‘Youth In Sport’ programs with Aboriginal youth who are at risk of being involved with the criminal justice system.

The ‘Breakaway’ Program is an inter-agency program representing TAFE, Cowra High School, PCYC and ‘RE-Connect’ to assist Aboriginal youth who are at risk of dropping out of school and becoming involved in the criminal justice system.

Weigelli Drug and Alcohol Centre in Cowra assists with those Aboriginal people in the district who have drug and alcohol problems. These people are at risk of becoming involved with the criminal justice system.

Cowra Development Employment Program
This Aboriginal organisation operates to provide work and training for Aboriginal people. It pays workers the same rate as the dole and contracts its services to the community. The major contracts for this and past years are:

- to grow vegetables on Aboriginal lands adjacent to the Lachlan River below Erambie
- to maintain lawns and gardens
- with the Aboriginal Home Help Organisation with whom they do the bulk of their business mowing lawns and maintaining gardens.

It has a significant and positive effect on local Aboriginal people’s involvement with the criminal justice system. Evidence of this is when, during a three-month lapse over the Christmas period of 1999 when the program wasn’t operating, the Aboriginal crime rate increased dramatically, only to drop when the program recommenced. The local police inspector has acknowledged this and is very supportive of the CDEP’s work.

The manager has found companies such as McDonalds, Bi-Lo and other retailers in Cowra to be most helpful by offering work and training opportunities. Aboriginal people are generally very reluctant to accept, and reasons for this include:

- lack of training, experience and confidence within their community
- a cycle of unemployment within their community, which young people in particular fall into. The experience of the family and peers is one of unemployment and relying on welfare payment, and it is very difficult to break this cycle
- the abuse of alcohol and drugs which are a huge disincentive to work and employment
- preferring to train and work for low wages for the CDEP (which helps them avoid the welfare system) rather than accept new employment initiatives with real potential because it’s less effort.

‘Night patrol’ bus
The Cowra Aboriginal community has made submissions to the Attorney General’s Department for a ‘night patrol’ bus. This has been endorsed by the local police inspector.
Worksheet 6 (cont)

- Some local police and CDEP workers have volunteered their own time to assist with its operation.
- The ‘night patrol’ will pick up Aboriginal people from local hotels and return them to Erambie on Thursday to Saturday nights to keep them off the streets and out of trouble with the police, a major source of problems with the criminal justice system.
- The bus would also be used to take Aboriginal people, especially children on the mission, for weekend fishing trips away to Wyangla Dam, for example, to improve their lifestyle outlook.
- The program recognises that lifestyle behaviour on the mission at weekends can involve drunkenness, violence and drug use. This has a dangerous effect on the youth of the mission and perpetuates the cycle of unemployment, poor health, poor engagement with schooling and criminal behaviour.

Cowra Court and Aboriginal people in the criminal justice system

The Cowra local court has been offered an Aboriginal Client Service Officer to assist the court with Aboriginal people and the processes of the court.

All people who are brought before the court are processed for official statistics and records. This includes their name, offence, penalty, court history and their Aboriginal and TSI status. Those Aboriginal people who wish to identify as Aboriginal are recorded and recognised as such.

Cowra Court referral contact points include:
- Tenancy Advice Line
- Aboriginal Legal Service
- Health Centre
- Neighbourhood Centre
- Cowra Family Support
- Health Centre.

Mainstream and local juvenile criminal justice programs and initiatives


Initiatives and strategies to address juvenile crime include:
- Diversionary practices such as conferencing. This involves meeting regularly with clients to monitor and assist with reintegration into the community. It involves offenders, families, victims, support people and police to come up with outcome plans that young people must complete within six months.
- Conferencing services offered in all areas of NSW.
- 112 Juvenile Justice Officers in NSW (1999–2000), 25 of whom were Aboriginal.
- Diverting young offenders from the more formal justice system processes together with police warnings and cautions, good behaviour bonds, probation or community service orders.
- Nine juvenile correction centres in NSW for those sentenced to custody.

These materials may contain opinions that are not shared by the Board of Studies NSW.
Worksheet 6 (cont)

In July 1999–June 2000, 25% of all children diverted to a youth justice conference were Indigenous compared to 17% who were dealt with through the court.

The Orana Juvenile Justice Centre at Dubbo

The Orana Juvenile Justice Centre at Dubbo opened in October 1999 to allow accommodation for young people from western NSW, including Cowra, to be closer to their families and communities. It provides:

- job skills and living skills training, recreation and counselling for young people in custody
- access to TAFE, HSC, Duke of Edinburgh Award Scheme courses
- health assessments, immunisations and detox services, with each centre having a registered nurse on duty at all times
- constant support for clients and families/friends at the centre, through the Legal Service
- one full-time Aboriginal chaplain, who makes regular visits to the centres to provide religious and spiritual support.

Plans for 2001 included the development of an Aboriginal Employment and Development Strategy.

In addition to regular maintenance work at local council sites and public areas, clients at Orana assisted in the clean-up of the Mallee Recreation Area near Wilcannia, the operation of the football knockout in Dubbo and the Far West Ward area Health Project.
Worksheet 7 – Statistics and information

Source A: ABS Australian Social Trends Report 2000

Population
• Aboriginal people represented 2% of the total Australian population.
• Two-thirds of the Indigenous population (68%) were aged under 30 years of age. Very few (3%) were aged 65 and over, compared with 44% and 13% respectively in the general population.

Education
• In 1996, among children aged 16 years only 57% of Indigenous children were students, compared to 84% of all 16-year-olds in the total population.
• The 1996 Census showed that a much lower proportion of the Indigenous population held post-secondary qualifications (11%) than the total population (30%).
• Only 9% of Indigenous people aged 15 years and over had obtained a vocational qualification (basic or skilled), or undergraduate or associate diploma, compared with 20% of the total population aged 15 years and over.

Employment
• The unemployment rate at the time of the 1996 Census was higher for Indigenous people aged between 15 and 64 years (23%) than for all people in that age group (9%).
• Compared to all employees, Aboriginal and Torres Strait Islander employees were more likely to be employed in lower income occupations that may also be perceived as having a lower social status.

Income
• In 1996, the median income received by employed Aboriginal and Torres Strait Islanders was substantially less than that received by employed non-Indigenous people ($365 and $493 per week, respectively).
• Consistent with this, and greater levels of dependency on income support, Indigenous households had a lower median weekly income than all households ($540 and $632 respectively).

Living arrangements
Indigenous households:
• contained an average of 3.7 persons, compared to 2.7 persons in all households
• income per capita was substantially lower for Indigenous households ($158 per week) than for the total population ($310 per week).
• were more likely to be one-parent families (30%), than all families (14%)
• were more likely to live in households with other families

These materials may contain opinions that are not shared by the Board of Studies NSW.
Worksheet 7 (cont)

- were less likely to be lone-person households, which indicates a greater extended family network exists
- home ownership is less with 64% of Indigenous households paying rent compared to 27% of all households.

Crime
- People who are socially disadvantaged are at increased risk of becoming involved with the legal system, either as perpetrators or as victims of crime.
- At 30 June 1998, Aboriginal or Torres Strait Islander prisoners represented 19% of the total prisoner population. This was nine times as high as the proportion of Indigenous people in the general population (2%).
- Aboriginal and Torres Strait Islander prisoners tend to have been imprisoned at a younger age than the total prisoner population. The median age of Indigenous prisoners was 27 years, compared with 30 years for all prisoners.
- Indigenous prisoners were more likely to have been imprisoned for assault (24%) than all prisoners (12%), and less likely to have been imprisoned for drug related offences (1%) than all prisoners (9%).
- Violence is often ignored as a risk factor for poor health, but personal safety is an essential element of wellbeing. Indigenous people are more likely than other Australians to be victims of violence.
- According to the 1994 National Aboriginal and Torres Strait Islander Survey, of those Indigenous people aged 13 years or more who said they had been attacked or verbally threatened in the year prior to the interview, some 44% indicated they had been attacked or threatened on three or more occasions.

Health
- The health disadvantage of Indigenous people begins early in life and continues throughout their life cycle.
- In 1994–1996, the babies of Indigenous mothers were about twice as likely to be of low birth weight than those of non-Indigenous mothers (12% of Indigenous babies compared to 6% of non-Indigenous babies had a birth weight of under 2500 grams).
- They were also more than twice as likely to be stillborn or die within the first 28 days of birth than babies of non-Indigenous.
- In the period 1991–1996, life expectancy at birth for non-Indigenous males was 75 years, and for females 81 years; for the Indigenous population, it was 57 years and 62 years for males and females respectively.