



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

***Submission to the Senate Legal and
Constitutional Affairs References Committee
Inquiry***



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OVERVIEW

NATSILS represents and is the national voice of community-controlled Aboriginal and Torres Strait Islander Legal Services (ATSILS). We advocate at the national level for the rights of Aboriginal and Torres Strait Islander peoples within the justice system and work to ensure that our peoples have equitable access to justice. NATSILS submission is endorsed by its members which include:

- Aboriginal Legal Service (NSW/ACT) Limited (ALS NSW/ACT)
- Aboriginal and Torres Strait Islander Legal Service Queensland (ATSILS QLD)
- Aboriginal Legal Rights Movement South Australia (ALRM SA)
- Aboriginal Legal Service Western Australia (ALSWA)
- North Australian Aboriginal Justice Agency (NAAJA)
- Tasmanian Aboriginal Legal Service (TALS)
- Victorian Aboriginal Legal Service (VALS)

NATSILS thanks the Senate Legal and Constitutional Affairs References Committee (the Committee) for the opportunity to make a submission on this important issue. If it would assist, NATSILS representatives would be pleased to appear before the Committee to speak further on this submission.

NATSILS strongly supports the recommendations made by our members in separate submissions provided to the Committee. This submission is supplementary to those submissions and should be read in conjunction with those submissions.



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National Aboriginal and
Torres Strait Islander Legal Services

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TABLE OF RECOMMENDATIONS

- 1 Provide needs-based and sustained funding increases for ATSILS to deliver culturally safe, holistic legal services and wraparound supports for Aboriginal and Torres Strait Islander children and young people, and to partner with governments to transform youth justice in line with the Closing the Gap priority reforms and to meet Socio-Economic Target 11.
- 2 Establish a new independent statutory body or expand the functions of an existing independent, statutory entity with dedicated resources to monitor and report directly to Parliament on the youth justice system, focusing on the treatment and outcomes of Aboriginal and Torres Strait Islander children.
- 3 Reform Bail and Remand Frameworks by reversing regressive changes and adopting evidence-based, youth-centred approaches that prioritise rehabilitation over detention.
- 4 End harmful practices in youth detention by implementing enforceable national minimum standards and supporting trauma-informed, culturally safe, community-based alternatives to detention, with a focus on early intervention and diversion strategies, and justice reinvestment approaches that are self-determined and address the root causes of youth offending. Minimum standards must be developed in partnership with Aboriginal and Torres Strait Islander people.
- 5 The Commonwealth ensure compliance with international human rights standards and obligations including by immediately raising the minimum age of criminal responsibility and eliminate detention of children. The Commonwealth should work with states and territories.
- 6 Implement Indigenous Data Sovereignty in youth justice by ensuring the Australian Government works in partnership with ACCOs, specifically ATSILS to lead national efforts in the collection, coordination, reporting and interpretation of youth justice data, consistent with Priority Reform 4 of Closing the Gap.
- 7 Embed national anti-racism strategies across youth justice systems that includes agency self-assessment tools and independent accountability mechanisms to eliminate systemic racism and promote equality for Aboriginal and Torres Strait Islander children, in line with Priority Reform 3 of Closing the Gap.



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A National Crisis - Australia's Failing Youth Justice System

The systemic failures of Australia's youth justice systems are not new and are well known to Governments. The thousands of pages and hundreds of recommendations in the over 21 key inquiries and reviews conducted into this issue since 2016 alone ¹ makes this clear. In 2020, all Governments became signatories to the *National Agreement on Closing the Gap* (National Agreement) and made the commitment to reduce the overrepresentation of Aboriginal and Torres Strait Islander young people in the criminal justice system².

Yet Australia's youth justice policies continue to worsen with tougher policing, draconian bail laws and inhumane incarceration practices - such as reversing decisions to prevent the use of spit hoods on children³ - being announced by Governments in the last 6 months alone.

Australia's youth justice system continues to be plagued by political maneuvering and opportunism while children continue to suffer. But no one group bears the brunt of these inhumane, racist and punitive systems more than Aboriginal and Torres Strait Islander children.

On an average night in the June quarter 2023,

- **3 in 5 (63%) of young people in detention were Aboriginal and Torres Strait Islander young people**, a rate that has been increasing since 2020,
- Aboriginal and Torres Strait Islander young people aged 10–17 **were 29 times as likely as non-Indigenous young people aged 10–17 to be in detention**
- **81% of First Nations young people in detention were unsentenced**; 72% of non-Indigenous young people in detention were unsentenced⁴.

Our children are among the most overpoliced and overincarcerated in the world.

Wide-reaching reform is required, working closely with the Aboriginal Community Controlled Sector to redesign these systems to achieve better outcomes for our people.

NATSILS notes that 'youth justice' should not be taken to be synonymous with 'youth incarceration'. Youth incarceration can be (and often is for Aboriginal and Torres Strait Islander young people) a result of contact with the youth justice system.

¹ https://www.aic.gov.au/sites/default/files/2020-09/ti605_youth_justice_in_australia.pdf, pages 3 and 4.

² <https://www.closingthegap.gov.au/national-agreement/targets>

³ <https://www.abc.net.au/news/2024-02-03/nt-clp-opposition-supports-spit-hoods-in-youth-detention-centres/103413412>

⁴ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/contents/first-nations-young-people>



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National Aboriginal and
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Recommendations

1

Provide needs-based and sustained funding increases for ATSILS to deliver culturally safe, holistic legal services and wraparound supports for Aboriginal and Torres Strait Islander children and young people, and to partner with governments to transform youth justice in line with the Closing the Gap priority reforms and to meet Socio-Economic Target 11.

Enacting self-determination is critical to designing and implementing effective child justice policies that achieve better outcomes for Aboriginal and Torres Strait Islander children. The *Safe and Supported, National Framework for Protecting Australia's Children 2021-2031 (Safe and Supported)* commits to progressive systems transformation that has Aboriginal and Torres Strait Islander self-determination at its centre and defines self-determination as:

a collective right of Aboriginal and Torres Strait Islander peoples to determine and control their own destiny. It is a right of Aboriginal and Torres Strait Islander peoples to exercise autonomy in their own affairs and to maintain and strengthen distinct political, legal, economic, social and cultural institutions.⁵

In July 2020, the Australian Government, all state and territory governments, and the Coalition of Peaks signed the *National Agreement on Closing the Gap* (National Agreement). Clause 44 of the National Agreement recognises that 'Aboriginal and Torres Strait Islander community control is an act of self-determination'. As Aboriginal Community Controlled Organisations (ACCOs), ATSILS are well placed to know what our children and young people need. ATSILS provide culturally safe legal services across Australia and wraparound supports to our children. A popular misconception is the ATSILS just deliver legal services. ATSILS have expertise in delivering evidence based wraparound supports to our people encountering the criminal justice system.

Further, funding of ACCOs such as ATSILS to provide representation for Aboriginal and Torres Strait Islander children is an unmet recommendation of both the Royal Commission into Aboriginal deaths in Custody and the 1997 Bringing them Home Report:

- **Royal Commission into Aboriginal Deaths in Custody - Recommendation 234:** That Aboriginal Legal Services throughout Australia be funded to such extent as will enable an adequate level of legal representation and advice to Aboriginal juveniles.
- **Bringing them Home Report - Recommendation 50:** in every case involving an Aboriginal child, the Court ensure that the child is separately represented by a representative of the child's choosing or, where the child is incapable of choosing a

⁵ Department of Social Services 2021, 'Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031 (the National Framework)'. Retrieved from: https://www.dss.gov.au/sites/default/files/documents/12_2021/dess5016-national-framework-protecting-childrenaccessible.pdf, pg. 51.



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

representative, by the appropriate accredited Aboriginal legal organisation. (see also recommendation 53, which incorporates the requirement within the recommended national standards for youth justice.)⁶

CASE STUDY: VALS Balit Ngulu Program

A VALS lawyer once heard a 16-year-old in Victoria's youth detention system say, "I'm a lost cause, aren't I?". At the time VALS was having to refer out Aboriginal children and young people involved in child protection and youth justice systems because of conflicts of interest. Due to this, Aboriginal young people were receiving inconsistent legal representation, and as a result were disproportionately getting lost in the system with little positive outcomes. In response, in 2017 VALS launched a separate legal service called Balit Ngulu, which means "strong voice" in Wurundjeri, to provide legal assistance exclusively to young people. Balit Ngulu now provides holistic, integrated and culturally appropriate services to 100 Aboriginal young people to address issues such as recidivism, cultural needs, connection to family, educational and employment needs.

Advocacy provided by Balit Ngulu has made the difference between having children placed in out-of-home care or within their kinship networks. Moreover, it provides services in leadership, so that young Victorian Aboriginal people can be assured that they are not a lost cause, and they can have a strong voice in their own affairs.

To address the escalating over-representation of Aboriginal and Torres Strait Islander children in youth justice systems, NATSILS **recommends** that immediate needs-based, sustainable funding increases for ATSILS must be prioritised within the future National Access to Justice Partnership (NJAP) agreement. Without urgent and significant investment, ATSILS will be unable to meet the rising demand for legal assistance in light of the worsening youth justice policies across all states and territories, putting more children at risk of incarceration and long-term disadvantage.

Further, as ACCOs with expertise in the criminal justice system, ATSILS should be central partners in the creation, implementation, and monitoring of youth justice policies, including national standards, to ensure alignment with Socio-Economic Target 11 of Closing the Gap, which aims to reduce the overrepresentation of Aboriginal and Torres Strait Islander youth in detention. This partnership will require adequate funding to support ATSILS in their crucial role of ensuring compliance with these standards and advocating for the rights and wellbeing of Aboriginal and Torres Strait Islander children.

CASE STUDY: ALSWA's Youth Engagement Program

Young Aboriginal people receive various supports as part of ALSWA's Youth Engagement Program ('YEP'), which is a holistic, culturally-secure and trauma-informed support program for Aboriginal young people involved in the justice system. It is located at four sites across Western Australia (Perth, Broome/Derby, Kununurra and Halls Creek). YEP Metro and YEP West Kimberley are funded by the Western Australian

⁶ 1997 Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, <https://humanrights.gov.au/our-work/projects/bringing-them-home-appendix-9-recommendations>



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

Department of Justice and YEP East Kimberley and YEP Halls Creek are funded by the National Indigenous Australian Agency. The overwhelming majority of YEP diversion officers are Aboriginal people. These cases demonstrate some of the impediments young people face in meeting their court obligations due to factors which are often beyond their control and highlights the extent and various types of assistance young people require in order to overcome these. Included among these examples are cases which indicate that young people with complex needs often require more complex support, and the importance of service providers having the capacity to work collaboratively in order to achieve this. These cases highlight the extent of the resources young people require to meet their court obligations and reduce their likelihood of further contact with the youth justice system in the future:

1. In early 2021, a 17-year-old Aboriginal boy from a very remote area was referred to YEP by his ALSWA lawyer. YEP provided ongoing mentoring and assistance in relation to the boy's application for a driver's licence and necessary identification documents. YEP referred the boy to a training course and helped him complete a resume. Significantly, YEP provided ongoing reminders to the boy for each court date and provided transport to and from court on at least four occasions. The boy complied with bail and his charges were dismissed at trial.
2. In late 2023, an 11-year-old Aboriginal boy from a very remote area was referred to YEP by his ALSWA lawyer after he was charged with aggravated robbery (his first charge). The boy consented to being on the program the following month. The boy's court matter was resolved in early 2024 by way of the charge being discontinued by the prosecution. YEP assisted the boy and his auntie to complete a school enrolment form and attend an interview at the school. YEP purchased the boy a pair of school shoes and various stationary items.

Further examples of success from ALSWA's YEP program are provided to the Committee in ALSWA's submission to this Inquiry.

2

Establish a new independent statutory body or expand the functions of an existing independent, statutory entity with dedicated resources to monitor and report directly to Parliament on the youth justice system, focusing on the treatment and outcomes of Aboriginal and Torres Strait Islander children

Governments continue to ignore key inquiries and reviews which have found the most egregious and serious breaches of international human rights abuses continuing to occur in Australia's youth justice systems. As a snapshot, a couple of significant reviews at the national level which have been largely ignored include:

- In **1991**, the Royal Commission into Aboriginal Deaths in Custody made 339 recommendations, many of which relate to the child justice system, most of which have still not been implemented. Recommendation 239, for example, calls for legislation and police standing orders to be amended to ensure police officers do not exercise their powers of arrest in relation to Aboriginal children beyond a minimal requirement.



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

- In **1997**, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander children from their families made 54 recommendations, including National Standards Legislation for Juvenile Justice, this has still not been implemented.
- In **2011**, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs tabled the '*Doing Time – Time for Doing: Indigenous youth in the criminal justice system*' report. Government is yet to implement the 40 recommendations of the report.
- in **2016** the Royal Commission into the Protection and Detention of Children in the Northern Territory was established. It made more than 200 recommendations in its 2017 report, most of which are yet to be formally implemented.
- In **2018**, the Australian Law Reform Commission '*Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*' includes 32 recommendations designed to reduce the disproportionate rate of incarceration of Aboriginal and Torres Strait Islander peoples and improve community safety. Governments are yet to implement these recommendations.
- In **2019**, UN OHCHR's Committee on the Rights of the Child highlighted significant concerns with Australia's implementation of the UNCRC, particularly in the administration of child justice and related domains. Governments are yet to formally implement or respond to its recommendations.
- In **2024**, the Children's Commissioner handed down the '*Help way earlier! How Australia can transform child justice to improve safety and wellbeing*' report which includes 24 recommendations to specifically improve the youth justice systems. Government has not announced any plans to formally respond to or implement those recommendations.

Criminal justice outcomes continue to worsen for our people and Governments continue to ignore reports and inquiries, treating youth justice as a political point scoring football – while lives hang in the balance.

NATSILS **recommends** the establishment of a well-resourced, statutorily independent mechanism which monitors and reports directly to Parliament on Governments' youth justice system, with a particular focus on Aboriginal and Torres Strait Islander children. Such a mechanism should:

- be statutorily independent of Government, and report directly to Parliament (similar to an eSafety Commissioner),
- have strong 'teeth' - legislated functions and powers capable of holding government to account on their obligations, commitments and promises,
- be resourced adequately to perform its duties.



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

This recommendation is not new. It has been echoed by several inquiries both at national and state levels, including by the Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia.⁷

Implementation of this recommendation may involve, for example, expanding the functions and resources of an existing independent entity, such as the Aboriginal and Torres Strait Islander Social Justice Commissioner to incorporate these functions.

NATSILS supports the recommendations of the August 2024 'Help Way Earlier' report and recommends that Governments coordinate a formal response to this report and implement all 24 recommendations. NATSILS also strongly supports calls including from ATSILS QLD, to establish a Royal Commission on Youth Justice.

3

Reform Bail and Remand Frameworks by reversing regressive changes and adopting evidence-based, youth-centred approaches that prioritise rehabilitation over detention.

NATSILS **recommends** that Governments take urgent steps to reform bail and remand frameworks to ensure they are evidence-based and address the holistic needs of young people. This includes developing bail frameworks that prioritise community-based alternatives to detention, support for underlying factors such as housing, mental health, and family instability, and ensure that detention is truly a last resort. These reforms should promote culturally safe, trauma-informed interventions that are proven to reduce reoffending and provide pathways to positive futures for young people. Governments must collaborate with Aboriginal and Torres Strait Islander communities and ATSILS to design these reforms, ensuring that they are aligned with Closing the Gap targets and the broader aim of reducing youth incarceration. These will need to be place based and ensure self-determination.

Government should publicly release the Bail and Remand paper developed by the Justice Policy Partnership.

CASE STUDY: ALS NSW/ACT Bail Advocacy Program in Mount Druitt – Successful outcomes for young people

In 2023, the ALS received funding for the Bail Project in Mount Druitt, New South Wales. The ALS used that funding to improve outcomes for young Aboriginal people. As part of the bail pilot, specialist ALS children's court lawyers are provided with access to the details of charging of children and opportunity to conference young people in police custody at an early stage, to ensure that issues with police bail can be sorted quickly and charges can be resolved where possible.

Tyeisha was arrested by Mt Druitt police for a charge of shoplifting. The offence involved filling a trolley at Woolworths with items and attempting to leave without paying. Tyeisha was stopped just outside the store by loss prevention officer. She was arrested and taken back to Mt Druitt police station. Her mother attended as a support person. Her mother asked police to impose a bail condition requiring Tyeisha to spend each night at

⁷ Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia (Report, February 2024) recommendation 8.



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

her accommodation outside of Sydney, even though Tyeisha hadn't been living with her mother consistently due to complex family issues.

Tyeisha's police bail and court papers were sent to the ALS as part of the Bail Pilot. The ALS lawyer reviewed the papers and called Tyeisha via the numbers provided by police. The ALS lawyer read the allegations to Tyeisha. She instructed the lawyer to plead guilty. When asked about the bail conditions, Tyeisha said she wasn't staying with her mother, that her mother was possibly losing her accommodation in a few weeks. Tyeisha said she couldn't always stay with her. In order to avoid Tyeisha breaching her police bail when she cannot stay with her mother, the lawyer suggested they bring the matter forward to finalise the bail.

The matter was brought forward, and Tyeisha attended court. Her guilty plea was entered, and the matter was finalised with a short bond. While at court, Tyeisha met an Aboriginal caseworker from the Western Sydney CLC who purchased her some groceries, a phone (she had been using a friend's) and referred her on to a culturally appropriate antenatal worker. The increased funding for the bail pilot meant Tyeisha avoided being at risk for breaching her bail prior to her first court appearance. Bringing the matter to the ALS's attention early also meant Tyeisha could access support services without delay.

4

End harmful practices in youth detention by implementing enforceable national minimum standards and supporting trauma-informed, culturally safe, community-based alternatives to detention, with a focus on early intervention and diversion strategies, and justice reinvestment approaches that are self-determined and addresses the root causes of youth offending. Minimum standards must be developed in partnership with Aboriginal and Torres Strait Islander people.

NATSILS **recommends** that the Commonwealth should take on a leadership role by developing in partnership with Aboriginal and Torres Strait Islander people nationally aligned minimum standards for implementation by the Commonwealth, all states and territories that:

- are consistent with our international best practice, not current domestic practices,
- ensure detention is only used as a last resort,
- prioritise diversionary programs, restorative justice, and community-based alternatives.

Minimum standards should not address just conditions in detention, but:

- recommend raising the age of criminal responsibility to 14 (without exception) and age of detention to 16,
- ensure children have equal access to education, diversion and early intervention pathways,
- ban harmful solitary confinement and isolation practices, routine strip-searching, spit hoods and,
- ensure access to culturally safe and prompt healthcare in prison (including MBS and PBS access).



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

NATSILS reiterates that the Bringing Them Home Report recommended national minimum standards (recommendation 53) and supports of the development of minimum standards however, holds concerns that any mechanism must adequately reconcile:

- the efficacy of a national mechanism considering all states and territories currently have enforceable minimum standards in their state/territory legislative frameworks that they do not comply with;
- the political will at the state and federal level to agree to and enact minimum standards consistent with our international obligations (noting the issues with the national SCAG RTA process); and
- while section 109 of the Constitution provides the necessary authority for the Commonwealth to mandate minimum standards, the issue remains of the practical enforcement of the minimum standards and holding governments accountable.

It is also **recommended** that investment in community-based alternatives, such as diversionary programs and throughcare support, must be expanded and led and designed by Aboriginal and Torres Strait Islander communities. Detention centre staff should receive ongoing training in trauma-informed, culturally safe approaches. Early intervention programs addressing the root causes of offending, such as poverty and family instability, are also crucial. Support for Aboriginal and Torres Strait Islander children after their release from detention is also critical to reducing recidivism. A national strategic reform agenda should be enacted to ensure children have access to ongoing culturally safe, trauma-informed support services, education, and employment opportunities, though with recognition that place based Aboriginal designed and led approaches work best.

The Committee, through this inquiry should further investigate the issue of 'care criminalisation' and the over-representation of Aboriginal and Torres Strait Islander children in Out of Home Care (OOHC) as a pipeline to the criminal justice system. An example of such criminalisation are policies of child protection departments to report incidents of property damage and minor assaults by their residents to police, rather than managing and addressing the behaviour of residents through ordinary parenting practices. NATSILS considers that addressing the overrepresentation of Aboriginal and Torres Strait Islander children in OOHC will address the overrepresentation of Aboriginal and Torres Strait Islander children in our prisons.

5

The Commonwealth ensure compliance with international human rights standards and obligations including by immediately raising the minimum age of criminal responsibility and eliminate detention of children. The Commonwealth should work with states and territories.

Aboriginal and Torres Strait Islander children's rights include those owed to all children as well as their unique rights as Indigenous Peoples. These rights are drawn from international human rights frameworks, including the *United Nations Convention on the Rights of the Child* (UNCRC) and the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).



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National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

The Australian Government describes its commitment to human rights as follows:¹⁵

Australia's commitment to human rights is enduring: Australians helped draft the Universal Declaration of Human Rights and have been a leading proponent of its consistent and comprehensive implementation.

Despite the Australian Government's publicly stated commitments to upholding and reinforcing human rights on the world stage, NATSILS continues to hold serious concerns that Australia is not compliant domestically with several international obligations in relation to young people exposed to the criminal justice system. A strong, legislated human rights framework will enable the Commonwealth to drive leadership and practical change across child justice systems. This should include:

- Legislating a Commonwealth Human Rights Act
- Raise the age of criminal responsibility without exception in the Commonwealth criminal jurisdiction. The Commonwealth should work with states and territories to raise the minimum age of criminal responsibility to 14 years without exception across all jurisdictions.
- A nationally consistent framework to implement the Optional Protocol to the Convention Against Torture (OPCAT)

6

Implement Indigenous Data Sovereignty in youth justice by ensuring the Australian Government works in partnership with ACCOs, specifically ATSIILS to lead national efforts in the collection, coordination, reporting and interpretation of youth justice data, consistent with Priority Reform 4 of Closing the Gap

Improved data collection is crucial to understanding and addressing the over-incarceration of Aboriginal and Torres Strait Islander children. Currently, no national entity oversees the collection, coordination, and quality of data in Australia's youth justice system. In line with Priority Reform 4 of the National Agreement on Closing the Gap, which emphasises Aboriginal and Torres Strait Islander-led data governance, NATSILS recommends that the Australian Government take a leadership role in establishing a nationally consistent data collection mechanism. This could be facilitated through the Australian Institute of Criminology (AIC) or a similar body, ensuring that the mechanism is developed in genuine partnership with Aboriginal and Torres Strait Islander organisations. Governance must embed Indigenous Data Sovereignty principles to ensure that Aboriginal and Torres Strait Islander people have control over the data, its collection, and its use, in a way that reflects their rights and interests.

CASE STUDY: Building governance and Indigenous Data Sovereignty on criminal justice data

The NSW Bureau of Crime Statistics and Research (BOCSAR) and the ALS (NSW/ACT) have been working with Aboriginal consultancy Kowa Collaboration to establish Aboriginal and Torres Strait Islander data governance and leadership to guide the ethical administration of Aboriginal and Torres Strait Islander justice data in NSW.



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National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

This project is informed by Priority 4 of the National Agreement, whereby Aboriginal and Torres Strait Islander people have access to, and capability to use, locally relevant data.

Following a series of collaborative and exploratory workshops on Indigenous Data Sovereignty (IDS) and IDS frameworks, a protocol for the governance of justice data is being developed through a community-organising process under which “The Governance” group has been established. The Governance group, comprising Aboriginal and Torres Strait Islander leadership, will now meet regularly to guide BOCSAR in its use of Aboriginal and Torres Strait Islander adult and youth justice data.

7

Embed national anti-racism strategies across youth justice systems that includes agency self-assessment tools and independent accountability mechanisms to eliminate systemic racism and promote equality for Aboriginal and Torres Strait Islander children, in line with Priority Reform 3 of Closing the Gap.

To make the transformative change required to meet commitments under the Priority Reforms of the National Agreement – particularly Priority Reform 3 on Transforming Governments - ATSILS need to be resourced to drive efforts across justice systems so that those systems:

- work for, and not against, Aboriginal and Torres Strait Islander people, by eliminating racism;
- embed self-determination across the justice systems as an essential pillar of reform;
- embed practices to ensure policies and programs are culturally safe and designed in partnership with communities; and
- embed and ensure all justice agencies engage with families and individuals in a strengths-based way.

Accountability against these transformative commitments is weak, which impacts on the wellbeing of our communities and jeopardises progress on the socio-economic targets. Our communities want ATSILSs to act on the systemic issues, laws, policies and practices that contribute to their over-representation in the justice systems and that continue to hold disadvantage in place. Under current NLAP funding arrangements and funding quantum, this kind of work is not possible.

To make transformative changes that will increase accountability and eliminate racism, ATSILSs need to be resourced to address entrenched systemic racism within justice systems, in line with Priority Reform 3. This includes establishing services and programs that will address police misconduct, mistreatment in custody, strengthen support for families in coronial matters – as well as increase our capacity to explore systemic litigation.

This recommendation is supported by the JPP Strategic Framework’s Priority Initiative 2.2 “Establishing Accountability” under which jurisdictions agree, amongst other things,



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

- to establish mechanisms for ACCOs to provide feedback on government organisations to have complaints independently investigated and addressed in a culturally safe way;
- to adopt approaches to ensure ACCOs and communities are engaged in the assessment, development and review of policies;
- to monitor the implementation of key reviews and inquiries, including RCIADIC; and
- to monitor existing mechanisms for investigating deaths in custody and complaints about police.

This JPP Priority also involves developing recommendations for, and monitoring progress to deliver priority policy reforms in key areas required to achieve Closing the Gap justice targets, including prevention and early intervention, justice reinvestment, alternative and therapeutic responses, sentencing regimes, bail frameworks, conditions in detention, including increasing access to universal healthcare in prison, raising the minimum age of criminal responsibility and key recommendations of RCIADIC.