



Victorian Aboriginal Legal Service Submission to the
Mental Health and Suicide Prevention Agreement
Review

July 2025



CONTENTS

CONTENTS.....	2
EXECUTIVE SUMMARY.....	3
SUMMARY OF RECOMMENDATIONS	4
DETAILED SUBMISSIONS.....	11
INTRODUCTION.....	11
PART ONE: The Agreement fails to strengthen Aboriginal social and emotional wellbeing and improve mental health and suicide prevention outcomes for Aboriginal people	11
1.1 Aboriginal social and emotional wellbeing is not centred in the Agreement.....	12
1.2 The Agreement lacks Aboriginal specific actionable and measurable targets.....	12
PART TWO: Systemic failures under the Agreement are the joint responsibility of the Commonwealth and Victorian Governments.....	14
2.1 Invest in self-determined, targeted and ACCHO-led solutions	14
2.2 Increase access to culturally safe services and attract and sustain an Aboriginal workforce	16
2.3 Enshrine the principle of Indigenous Data Sovereignty in health data collection	17
PART THREE: The Victorian legal system and mental health legislative frameworks are harming Aboriginal social and emotional wellbeing.....	19
3.1 Overhaul compulsory assessment and treatment	19
3.2 Eliminate restrictive practices and prohibit solitary confinement	21
3.4 Stop criminalising mental health and support social and emotional wellbeing of Aboriginal people in the criminal legal system	24
BACKGROUND TO THE VICTORIAN ABORIGINAL LEGAL SERVICE	27



EXECUTIVE SUMMARY

VALS expresses our deepest and most sincere condolences to families and Communities who are dealing with the terrible grief of losing loved ones. Each and every life lost to suicide has a devastating impact on families and Communities.

Aboriginal people in Victoria experience mental distress and pass by suicide at a rate three times higher than non-Indigenous people.¹ This often happens under the direct care of the state in mental health settings², custodial settings³ and in out of home care.⁴ Governments continue to fail to address the ongoing legacy of colonisation, with systemic racism in health systems, colonial legal systems and carceral settings driving the continued loss of loved ones due to suicide.

Experiences from VALS' Civil and Human Rights Practice highlight particular concerns relating to suicide prevention and responses for our children and young people in out-of-home-care (OOHC), particularly in residential care. In addition, we have significant concerns about suicide prevention and responses for Aboriginal people in contact with the criminal legal and youth justice systems, particularly people in custody or who have recently left custody.

Upon analysis of the National Agreement on Mental Health and Suicide Prevention (*the Agreement*), we have found that the mental health and suicide prevention programs and services delivered under the Agreement fail to improve wellbeing outcomes for Aboriginal people. The objectives and reforms under the Agreement fail to meet the needs of Aboriginal people. Additionally, the Agreement fails to strengthen effective mental health and suicide prevention service delivery for Aboriginal people, nor does it address the importance of embedding self-determination in the development and service delivery of services for Aboriginal people.

Reform to the Agreement is urgently needed and this is a responsibility for both the Commonwealth and Victorian Governments as parties to the Agreement.

This submission examines the failures of the Agreement itself to incorporate the concept of Aboriginal social and emotional wellbeing and any Aboriginal wellbeing specific or targeted actions. It examines the failures which are the joint responsibilities of the parties to the Agreement – including the failure to sustainably invest in culturally safe and self-determined health care led by Aboriginal Community Controlled Health Organisations (ACCHOs) – and identifies the reforms necessary in Victoria to strengthen Aboriginal social and emotional wellbeing and prevent suicide.


Governments must urgently prioritise suicide prevention and responses for Aboriginal young people in OOHC and in contact with the criminal legal and youth justice systems. Aboriginal-led initiatives that support connection to culture, Country, community and kinship as a protective factor are

¹ Coroners Court of Victoria, [*Suicides of Aboriginal and Torres Strait Islander people in Victoria, 2020-2024*](#) (Report) (5 March 2025).

² Yoorrook Justice Commission, [*Yoorrook for Transformation: Third Interim Report*](#), volume 4, pp 131-132 (June 2025)

³ See, for example: VALS, [*Journey to Justice for Marley Wright begins today*](#) (8 October 2024).

⁴ Coroners Court of Victoria, [*Coroner calls for increased cultural connection for First Nations children in out-of-home care*](#) (Media Release) (19 June 2024).



paramount if we are to urgently prevent the future loss of lives. This requires investment in, and funding for, our health and social services to ensure prevention and support are provided in a culturally informed and safe way.

VALS acknowledges the work and expertise of the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) as the peak representative for the health and wellbeing of Aboriginal and Torres Strait Islander people in Victoria. We endorse all matters and recommendations raised in VACCHO's submission to this inquiry. We are proud to work alongside VACCHO in our advocacy in this space.

SUMMARY OF RECOMMENDATIONS

Recommendation 1. A new Agreement must include a separate schedule to strengthen Aboriginal social and emotional wellbeing with clear, actionable and measurable goals. The schedule must be genuinely co-designed with Aboriginal people, incorporate the holistic model of Aboriginal social and emotional wellbeing and align with existing Aboriginal strategies and frameworks, including the National Agreement on Closing the Gap, the National Aboriginal and Torres Strait Islander Suicide Prevention Strategy, and Balit Murrup.

Recommendation 2. The bilateral schedule between Victoria and the Commonwealth must include specific and actionable policy and law reform that is aligned with VALS recommendations in this submission, the Balit Durn Durn solutions and all recommendations of the Yoorrook Justice Commission.

Invest in self-determined, targeted and Aboriginal Community Controlled Health Organisation-led solutions


Recommendation 3. A new Agreement and/or its schedules should commit the Commonwealth and Victorian Governments to support and invest in the Victorian Aboriginal Community Controlled Health Organisation (**VACCHO**) and Aboriginal Community Controlled Health Organisations (**ACCHOs**) to provide Aboriginal social and emotional wellbeing services and self-determined solutions across Victoria. This includes full implementation of the five solutions in the Balit Durn Durn report.

Increase access to culturally safe services and attract and sustain an Aboriginal workforce

Recommendation 4. Improve the cultural competency of mental health and wellbeing service providers by:

- Addressing the stigma associated with the Aboriginal Social and Emotional Wellbeing Model within the mainstream health system;⁵
- Adequately funding and supporting Aboriginal mental health workers at all mental health treating hospitals;

⁵ Victorian Aboriginal Community Controlled Health Organisation, 'Health and Healthcare, Housing and Homelessness, Education' Submission, Recommendation 3.

- 
- Employing Aboriginal people in senior management roles;
 - Ensuring that Aboriginal mental health workers and Aboriginal senior management are involved in reviewing all policies, with a view to improving their cultural appropriateness;
 - Ensuring that Aboriginal people with lived experience of the mental health system provide remunerated advice on the cultural competency of providers; and
 - Requiring all mental health staff to complete mandatory and regular refresher training in cultural awareness, anti-racism and unconscious bias.

Recommendation 5. Adequately fund and support Mental Health Aboriginal Liaison Officers at all treating hospitals and requiring all mental health staff to complete mandatory cultural awareness training.

Recommendation 6. Commit significant and sustained investment in the Aboriginal and Torres Strait Islander mental health workforce within the correctional health sector, in order to recruit, train, accredit and build the capacity of more qualified Aboriginal and Torres Strait Islander psychologists, psychiatrists, counsellors, social workers and other mental health workers.

Recommendation 7. Employ more Aboriginal Health Workers and Aboriginal Wellbeing Officers at all levels of the justice health system to work with Aboriginal people at all stages of their engagement with the criminal legal system.

Enshrine the principle of Indigenous Data Sovereignty in health data collection

Recommendation 8. Any decisions made regarding policies and legislation governing the collection, use and sharing of Indigenous data obtained by mental health and wellbeing services should be premised upon the recognition of, and respect for, the principle of Indigenous Data Sovereignty.

Recommendation 9. Frameworks concerning the sharing of information collected by mental health and wellbeing services must be:

- Based upon person-centred, culturally-appropriate and trauma-informed approaches, as well as best practices;
- Premised upon the provision of appropriate mental health and wellbeing services to consumers in an expedient manner; and
- Wholly premised upon the interests of, and benefit to, the consumers of such services.

Recommendation 10. In accordance with Indigenous Data Sovereignty, sharing of information collected by mental health and wellbeing services with a broad range of social services should be prohibited unless consent is first obtained from an Aboriginal consumer of such services.

Recommendation 11. Government should engage in consultation with Aboriginal community-controlled organisations and Aboriginal community-controlled health organisations to determine who will be permitted to provide consent in the event an Aboriginal consumer lacks sufficient capacity to consent to share information collected by mental health and wellbeing services, in a manner consistent with Indigenous Data Sovereignty.



Overhaul compulsory assessment and treatment

Recommendation 12. The definition of ‘last resort’ with regard to compulsory treatment should be further refined and include safeguards to prevent unnecessary use of such an approach to treatment of mental illness.

Recommendation 13. In any instances where an Aboriginal person may be subject to compulsory treatment, such treatment should be culturally-safe and only be undertaken following consultations with:

- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) in instances involving adults; and
- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) and Victorian Aboriginal Child Care Agency (VACCA) in instances involving children and young people.

Recommendation 14. The Government should make progress towards significantly reducing the use of compulsory assessment and treatment by:

- Working with relevant stakeholders – including Aboriginal people with lived and living experience of compulsory treatment – to develop a strategy to reduce compulsory mental health treatment; and
- Investing adequate resources to implement the strategy, including by addressing social determinants of poor mental health, and building a mental health system that is rights based, accessible, culturally safe and where supported decision-making is used when consumers do not have capacity to make their own decisions.

Recommendation 15. The compulsory assessment and treatment criteria should be overhauled to:


- Create a presumption of voluntary treatment, with compulsory treatment only permitted in exceptional circumstances to prevent serious and imminent harm;⁶
- Create a presumption of decision-making capacity and codify a strict test to rebut this presumption based on the capacity principles set out in *PBU & NJE v Mental Health Tribunal*;⁷
- Require that supported decision-making and adherence with consumer will and preferences – including that other treatment and support options to prevent serious and imminent harm have been considered, trialled and excluded – must be demonstrated, before compulsory treatment can be ordered;⁸ and
- Require that compulsory treatment be ordered in the narrowest and least restrictive way possible.⁹

⁶ VLA, *Submission to Independent Review*, Recommendation 10; VALS, [Submission to Independent Compulsory Treatment Review](#), Recommendation 8.

⁷ Ibid.

⁸ VLA, *Submission to Independent Review* (2023), Recommendation 8; VALS, [Submission to Independent Compulsory Treatment Review](#), (2023) Recommendation 5(a).

⁹ VLA, *Submission to Independent Review* (2023), Recommendation 10; VALS, [Submission to Independent Compulsory Treatment Review](#) (2023) Recommendation 8.



Recommendation 16. Compulsory assessment and treatment criteria should require decision-makers to consider Aboriginal cultural rights and strengths-based approaches to Aboriginality, including connection to culture, Country, Community and kin as protective factors for mental health and social and emotional wellbeing.

Recommendation 17. Improve cultural competency at the Mental Health Tribunal (MHT) by:

- Creating a Koori Engagement Team;
- Establishing a Koori List;
- Creating more identified positions for Aboriginal Community Panel Members; and
- Ensuring that hearings for Aboriginal people include an Aboriginal Community Panel Member.

Recommendation 18. Increase funding to VALS' Mental Health Legal Service so that all Aboriginal people appearing before the MHT are able to access legal representation from VALS if they choose.

Eliminate restrictive practices and prohibit solitary confinement


Recommendation 19. The *Mental Health and Wellbeing Act (MHWB Act)* should be amended to provide a robust regulatory framework for reducing and eliminating seclusion and restraint. The framework should be modelled off the *Gender Equality Act 2020* and include impact assessments, indicators, Action Plans, transparent and regular reporting and other monitoring and compliance mechanisms.

Recommendation 20. Persons authorised to use bodily restraints during a mental health crisis response (including police and PSOs) must be subject to the same obligations and legal requirements as mental health and wellbeing service providers, namely:

- Obligation to reduce and eliminate restrictive interventions;
- Obligation to comply with the Balancing of Harm Principle;
- Requirement to record which other options were tried or considered and why these were found to be unsuitable.;
- Requirement for police to report regularly on the use of bodily restraints whilst exercising powers under the *MHWB Act*; and
- Requirement to immediately end the use of the bodily restraint if it is no longer necessary.

Recommendation 21. The definition of 'last resort' as the basis for the use of restrictive practices should be further refined and include safeguards to prevent unnecessary use of such practices against individuals with mental illness.

Recommendation 22. The restrictive practices regulated by the *MHWB Act* should include seclusion, chemical restraint, mechanical restraint, physical restraint, environmental restraint, psycho-social restraint and consequence driven practices in a manner consistent with the National Framework for Reducing the Use of Restrictive Practices in the Disability Service Sector.



Recommendation 23. In instances where an Aboriginal person may be subject to restrictive practices, such practices should be age- and culturally-appropriate, and only be undertaken following consultations with:

- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) in instances involving adults; and
- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) and Victorian Aboriginal Child Care Agency (VACCA) in instances involving children and young people.

Recommendation 24. The *MHWB Act* should be amended to explicitly prohibit solitary confinement (the isolation of someone for 22 hours or more each day, without meaningful human contact) and prolonged solitary confinement (solitary confinement in excess of 15 days) in mental health services.

Establish the Victorian National Preventive Mechanism

Recommendation 25. The Victorian Government should engage in transparent, inclusive and robust consultations, as NPMs are designated/established and operationalised, with Aboriginal and/or Torres Strait Islander communities and organisations, such as VALS, to ensure that NPM operations, policies, frameworks and governance are culturally appropriate and safe for Aboriginal people.

Recommendation 26. People with lived experience of detention (or experts by experience), including Aboriginal people, should be involved in the design and operation of the NPMs.

Recommendation 27. The Victorian NPM must have jurisdiction over all places where people are or may be deprived of their liberty, regardless of the length of time of detention. This includes all places where persons are or may be detained pursuant to a compulsory assessment or treatment order, as well as any place where they are or may be detained pursuant to powers under the *MHWB Act* to respond to a mental health crisis. The NPM's mandate should include forensic mental health hospitals, closed forensic disability facilities or units, correctional facilities, youth detention facilities, police custody, court custody, and residential secure facilities for children.

Stop criminalising mental health and support social and emotional wellbeing of Aboriginal people in the criminal legal system

Recommendation 28. Commit to implement the Victorian Ombudsman's recommendation for the expansion of current therapeutic court-based interventions, together with parallel investments in associated support services.

Recommendation 29. Prioritise the planning, development and delivery of a culturally appropriate model for a multijurisdictional therapeutic and specialised healing court for Aboriginal accused with multiple and complex needs, as identified in Burra Lotjpa Dunguludja.

Recommendation 30. Introduce a specialised Koori Unit within Mental Health Advice and Response Service (MHARS).

Recommendation 31. Repeal punitive bail reforms and implement Poccum's Law in full so that bail hearings are fair and remand is only used as a last resort.



Recommendation 32. Increase funding to the Court Integrated Support Program (CISP) so that it is accessible in all locations across Victoria, including by ensuring that there are adequate Koori CISP workers to support Aboriginal people on bail across Victoria.

Recommendation 33. Prioritise resources for the development of a culturally safe residential bail program by ACCOs.

Recommendation 34. Develop training and guidelines to assist bail decision makers, including bail justices, to better understand the needs of people with mental health conditions.

Recommendation 35. Amend the *MHWB Act* to provide a robust legal framework for health-led responses to mental health crises, including by:

- Replacing the *Health Led Response Principle* with robust statutory obligations on both Victoria Police and health professionals, that can be adequately enforced;
- Removing all PSO powers to respond to mental health crises; and
- Significantly investing in health-led responses and divesting from Victoria Police.

Recommendation 36. Victoria Police members involved in responding to mental health crises must complete mandatory, regular and specialised training in trauma-informed responses and mental health crisis responses.

Recommendation 37. Improve access to multi-disciplinary and culturally safe crisis response teams including Aboriginal health workers/clinicians and culturally aware Police with better integrated health diversion processes as front-line response.

Recommendation 38. Ensure that the Koori Children's Court is accessible in additional locations across Victoria to ensure that Aboriginal children across Victoria have access to a legal process that is culturally safe and supports social and emotional wellbeing.

Recommendation 39. Increase the capacity of forensic mental health services for young people in the youth justice system.

Recommendation 40. Increase funding to ACCOs to provide culturally effective support to Koori young people on community-based orders, including through funding to VALS to re-establish a legal service for Aboriginal young people across Victoria.

Recommendation 41. Increase funding to ACCOs to provide culturally safe and trauma-informed support services to Aboriginal families at risk of or engaged in the child protection system.

Recommendation 42. Provide long term and secure funding for ACCOs to develop a tailored, flexible plan specific to the needs of each Aboriginal child in out-of-home-care. This includes individual mental health plans to be embedded in case planning for children and young people with mental health concerns, that incorporate cultural support and trauma informed care.

Recommendation 43. Expand the Koori Family Hearing Day (Family Division of the Children's Court) and the Indigenous List (Federal Circuit and Family Court of Australia) to other locations across



Victoria, to ensure that Aboriginal families, particularly those in rural and regional areas have access to a culturally safe court process.



DETAILED SUBMISSIONS

INTRODUCTION

Despite the Agreement and numerous other strategies, policies and frameworks under which governments commit to improving outcomes for Aboriginal people, violent and racist systems continue to impact Aboriginal social and emotional wellbeing.

The recent report released by the Yirramboi Murrup Unit at the Coroners Court of Victoria on Suicides of Aboriginal and Torres Strait Islander people in Victoria found that, in the period between 2020-2024, Aboriginal people died by suicide at a rate nearly three times higher than non-Indigenous people.¹⁰ It also reveals a devastating upward trend, with 27 Aboriginal and Torres Strait Islander people passing by suicide in 2024 in Victoria – an alarming increase of 42 per cent from 2022.

The Productivity Commission's Review of the Agreement must consider what has failed and what continues to fail for Aboriginal people. Beyond the scope of this review, addressing health injustice for Aboriginal people requires full implementation of the recommendations of the Yoorrook Justice Commission in Victoria, and the progression of Voice, Treaty and Truth reforms nationwide.

PART ONE: The Agreement fails to strengthen Aboriginal social and emotional wellbeing and improve mental health and suicide prevention outcomes for Aboriginal people

Parties to the Agreement committed to working to improve the mental health of all Australians, and to ensure the sustainability and enhance the services of the Australian mental health and suicide prevention system. Despite this commitment, Aboriginal people experience profound health injustice and inequality, and continue to be failed by the health system.¹¹ As documented by the Yoorrook Justice Commission and known by First Peoples:

“Colonisation and colonial systems have inflicted systemic harms on First Peoples’ health and wellbeing. These harms have compounded, resulting in the now well-described ‘gap’ in health and wellbeing outcomes between First Peoples and non-First Peoples.”¹²

The data shows that Aboriginal people’s mental health outcomes are worsening.


Under the National Agreement on Closing the Gap, the Productivity Commission’s Annual Data Compilation Report 2024 found that the target for a significant and sustained reduction in suicide of Aboriginal people towards zero is not on track to be met¹³; and Closing the Gap data shows more

¹⁰ Coroners Court of Victoria, [Suicides of Aboriginal and Torres Strait Islander people in Victoria, 2020-2024](#) (Report) (5 March 2025).

¹¹ Yoorrook Justice Commission, [Yoorrook for Transformation: Third Interim Report](#), volume 4 (June 2025).

¹² Ibid, page 23.

¹³ Productivity Commission, [Closing the Gap: Annual Data Compilation Report](#) (July 2024).



Aboriginal people report experiencing racial prejudice, barriers to accessing health services, and experiencing psychological distress.¹⁴

The Victorian Government Aboriginal Affairs Report 2024 found that measures under Goal 14 (“Aboriginal Victorians enjoy social and emotional wellbeing”) of the Victorian Aboriginal Affairs Framework have worsened, with the proportion of Aboriginal people reporting ‘high or very high’ levels of psychosocial distress, the rate of self-harm related emergency department presentations, and the number of Aboriginal Victorians receiving clinical mental health services increasing.¹⁵

1.1 Aboriginal social and emotional wellbeing is not centred in the Agreement

The Agreement does not incorporate the Aboriginal social and emotional wellbeing model, so it is not capable of responding to Aboriginal mental health and suicide prevention needs. It’s critical that a new Agreement and its schedules adopt this model, with ACCHOs leading service delivery. A narrow focus on mental health fails to take into account the impact of trauma on an individual’s wellbeing, their social co-dependency and interaction with social, political, historical and cultural determinants of health.

Aboriginal approaches to mental health are grounded on the holistic model of Aboriginal social and emotional wellbeing, which incorporates strengths-based approaches, cultural safety, holistic care which addresses both psychosocial supports and the influences of social determinants of health, and the inclusion and empowerment of Aboriginal knowledges and communities.¹⁶

Aboriginal social and emotional wellbeing is holistic and refers to being resilient, being and feeling culturally safe and connected, having and realising aspirations, and being satisfied with life.¹⁷ Social and emotional wellbeing for Aboriginal people and communities is interlinked with connection to culture, community, country and kin. To be strong in culture and community is a key social and emotional wellbeing – this is why self-determined and ACCHO led programs and services are so important and successful.

ACCHOs are experts in Aboriginal social and emotional wellbeing and the provision of culturally safe and trauma-informed healthcare services, and are best placed to deliver social and emotional wellbeing services to Communities. We acknowledge the advocacy, leadership and services of the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) and ACCHOs across Victoria. We endorse VACCHO’s vision of a health and wellbeing system that includes ACCOs as a thriving and integral part of that system.


1.2 The Agreement lacks Aboriginal specific actionable and measurable targets

¹⁴ Productivity Commission, “[Closing the Gap Information Repository: Socio-economic outcome area 14](https://www.pc.gov.au/closing-the-gap-data/dashboard/se/outcome-area14/psychological-distress)” <https://www.pc.gov.au/closing-the-gap-data/dashboard/se/outcome-area14/psychological-distress>

¹⁵ Department of Premier and Cabinet, [Victorian Government Aboriginal Affairs Report 2024, Goal 14](#) (June 2025)

¹⁶ P. Dudgeon, E. Carlin, K. Derry, J. Alexi, M. Mitchell, R. Putu Agung-Igusti, “Evaluating a social and emotional wellbeing model of service piloted in Aboriginal Community Controlled Health Services in Western Australia: an Aboriginal Participatory Action Research approach,” *BMJ Open*, (2023) 13(10); Balit Murrup: Aboriginal social and emotional wellbeing framework 2017-2027.

¹⁷ Balit Murrup: Aboriginal social and emotional wellbeing framework 2017- 2027, 50.



The Bilateral Schedule to the Agreement for Victoria sets out funding commitments and initiatives, with section 18c committing parties to “ensure the particular needs of vulnerable population groups, including...Aboriginal and Torres Strait Islander people...are addressed and services delivered in a culturally appropriate manner”. Despite this, not a single commitment in the Bilateral Schedule nor the Agreement contains any Aboriginal-specific actionable and measurable targets, deliverables or outcomes.

VALS supports the recommendation of the Productivity Commission’s interim report to include a new and separate schedule aimed specifically at strengthening Aboriginal and Torres Strait Islander wellbeing in the next Agreement.

A separate schedule must consider the unique factors affecting Aboriginal social and emotional wellbeing and the holistic concept of Aboriginal social and emotional wellbeing. It should also be in line with other Aboriginal specific strategies and agreements such as:


- National Agreement on Closing the Gap;
- National Aboriginal and Torres Strait Islander Suicide Prevention Strategy;
- Balit Murrup: Aboriginal social emotional wellbeing framework 2017-2027;
- Dhelk Dja: Safe Our Way – Strong Culture, Strong Peoples, Strong Families;
- Korin Korin Balit-Djak: Aboriginal health, wellbeing and safety strategic plan 2017-2027;
- Wungurilwil Gapgaduiri Aboriginal Children and Families Agreement;
- Burra Lotjpa Dunguludja; and
- Victorian Aboriginal Affairs Framework.

This must be genuinely co-designed with Aboriginal people, incorporating best practice per the Lowitja Institute’s report, *Co-design Versus Faux-design of Aboriginal and Torres Strait Islander Health Policy: A Critical Review*.¹⁸ This report found that the current system of Australian policymaking produces ineffective, unsustainable and unacceptable policy; entrenching poor health and wellbeing outcomes for Aboriginal and Torres Strait Islander peoples. Too often policy is described by government as co-designed, yet the design process was merely tick box, consultative, imbalanced and not endorsed by Aboriginal people. The Lowitja report sets out best-practice co-design of health policy to ensure Aboriginal people lead decision-making.

RECOMMENDATIONS

Recommendation 1. A new Agreement must include a separate schedule to strengthen Aboriginal social and emotional wellbeing with clear, actionable and measurable goals. The schedule must be genuinely co-designed with Aboriginal people, incorporate the holistic model of Aboriginal social and emotional wellbeing and align with existing Aboriginal strategies and frameworks, including the National Agreement on Closing the Gap, the National Aboriginal and Torres Strait Islander Suicide Prevention Strategy, and Balit Murrup.

¹⁸ Lowitja Institute, *Co-design Versus Faux-design of Aboriginal and Torres Strait Islander Health Policy: A Critical Review*, June 2025



Recommendation 2. The bilateral schedule between Victoria and the Commonwealth must include specific and actionable policy and law reform that is aligned with VALS recommendations in this submission, the Balit Durn Durn solutions and all recommendations of the Yoorrook Justice Commission.

PART TWO: Systemic failures under the Agreement are the joint responsibility of the Commonwealth and Victorian Governments

2.1 Invest in self-determined, targeted and ACCHO-led solutions

Inclusion of an Aboriginal-specific schedule and actions must be accompanied by adequate and sustainable funding. We know that mental health and suicide prevention services delivered by ACCHOs are a critical part of the solution to achieving strong Aboriginal social and emotional wellbeing.


VALS supports the five Aboriginal-led actionable solutions to “dramatically transform the Victorian mental health system to better meet the needs of Aboriginal communities” in VACCHO’s Balit Durn Durn report to the Royal Commission into Victoria’s Mental Health System. These recommendations are to:

1. Establish five on-country healing centres (or camps) to support resilience, healing, and trauma recovery through fostering connection to Country, kinship, and culture;
2. Ensure long-term, sustainable, and flexible investment in Aboriginal social and emotional wellbeing to create generational change;
3. Invest in recurrent funding arrangements into multidisciplinary social and emotional wellbeing teams in ACCOs to secure long-term statewide coverage;
4. Critically invest in Aboriginal-led solutions to prevent suicide and self-harm; and
5. Appropriately invest in Aboriginal leadership and culturally safe service delivery across mainstream primary, secondary and tertiary health services.

The current Bilateral Agreement with Victoria commits both the Commonwealth and Victorian governments to making financial contributions, and reiterates the shared commitment for all Australian governments to contribute to the National Agreement on Closing the Gap.

A new Agreement and its schedules must specifically require governments to adequately invest in and support Aboriginal led solutions to prevent and respond to suicide and self-harm. As ACCHOs lead the delivery of health services, additional funding for social and wellbeing teams in VALS and other ACCOs will support clients to access referrals and integrated pathways between mental health system and related areas, including justice education, drug and alcohol programs, and family violence – reflecting the holistic and interdependent nature of Aboriginal social and emotional wellbeing.

RECOMMENDATIONS



Recommendation 3. A new Agreement and/or its schedules should commit the Commonwealth and Victorian Governments to support and invest in the Victorian Aboriginal Community Controlled Health Organisation (**VACCHO**) and Aboriginal Community Controlled Health Organisations (**ACCHOs**) to provide Aboriginal social and emotional wellbeing services and self-determined solutions across Victoria. This includes full implementation of the five solutions in the Balit Durn Durn report.

Good Practice Model: Post-custodial support


VALS continues to have concerns about the lack of support for Aboriginal people exiting custody, particularly in relation to lack of stable housing and supports. Some existing supports/programs for Aboriginal people leaving custody include:

- The Baggarrook Women's Transitional Housing program: Baggarrook combines transitional housing and holistic support for six Aboriginal women to support their transition back to the community post-release from prison. Housing is provided by Aboriginal Housing Victoria (AHV) with holistic support being provided by VALS and allied organisations, as well as DHHS and Corrections Victoria. The program is funded by Corrections Victoria. The program has successfully assisted over seven women to transition back into community following release from prison.
- VACCA's Through-care project for Aboriginal children and young people: the project was initially implemented as a pilot for Aboriginal young people aged 10-17 years who had been detained for more than a week, and focuses on cultural strengthening and cultural mentoring. The program is no longer a pilot as VACCA has received three years of additional funding.

Good Practice Model: NAAJA Throughcare Services

The North Australian Aboriginal Justice Agency's (NAAJA) Throughcare service begins working with people in prison and youth detention six months prior to their release, with the aim of supporting people's transition back into the community. The support is provided in recognition of the various issues that might present challenges to a successful transition, including homelessness or marginal accommodation; lack of income, disengagement from Centrelink, or unstable income; literacy and numeracy issues, and/or English as second, third or fourth language; problematic family relationships, involvement with welfare agencies, history of family violence; cultural/payback issues; lack of community supports; substance misuse issues; and health, including mental health issues, and/or physical disabilities. Support can come in the form of ongoing rehabilitation, accommodation, employment, education and training, health, life and problem solving skills, and reconnection to family and community.¹⁹

¹⁹ NAAJA, [Adult Throughcare](#) (Website).



In its 2018-2019 Annual Report, NAAJA reported that, “since commencing in February 2010, case management support has been provided to 1102 clients. Only 143 of which (approximately 13.3%) have been returned to prison for re-offending or a conditional breach while participating in the Program. This figure continues to compare favourably with the NT recidivism rate of 60%, notwithstanding the measures are not directly comparable.”²⁰

2.2 Increase access to culturally safe services and attract and sustain an Aboriginal workforce

The Review examines the extent to which the Agreement enables the preparedness and effectiveness of the mental health and suicide prevention services to respond to current and emerging priorities. The Agreement has unequivocally failed to enable an effective service delivery response to the disproportionate rates of suicide of Aboriginal people in Victoria, which must be considered a critical priority.


Mainstream mental health and suicide prevention services are failing Aboriginal people. Mainstream services are culturally unsafe, which poses a further risk to health and wellbeing for Aboriginal people. The Victorian Government Aboriginal Affairs Report found that in 2023, 34.5 per cent of Aboriginal people reported that they experienced racism in a healthcare setting in the past 12 months. This is more than double the proportion for non-Aboriginal people responding to the survey. The Yoorrook Justice Commission has also documented systemic racism in the health system and lack of culturally safe services.²¹ The Royal Commission into Victoria’s Mental Health System heard extensive evidence regarding the lack of culturally safe mental health services in Victoria and the importance of incorporating a model of care based on Aboriginal social and emotional wellbeing.

We know that ACCHOs and ACCOs are best placed to provide services for Aboriginal people. However, mainstream care is still accessed by Aboriginal people. The institutional racism that exists in mainstream health services is harmful and must be eradicated. Aboriginal people have a right to choose where they access care, be it through mainstream or ACCHO delivered services. A new Agreement must increase the cultural safety of mainstream services to ensure that Aboriginal people accessing care through those mainstream services are receiving the same quality and culturally safe care they would through an ACCHO delivered service. Improving the cultural competency and safety of mainstream services should not limit the funding allocated to ACCHOs. ACCHOs must be adequately funded to service all people who wish to access their service.

A new Agreement must also contain actions to support a sustainable Aboriginal workforce. This includes ensuring the cultural safety of workplaces for Aboriginal staff. While the current bilateral schedule states that “Victoria and the Commonwealth both commit to ... Increase representation of Aboriginal and Torres Strait Islander peoples in the mental health workforce and upskill the mental

²⁰ NAAJA, [Annual Report: 2018-2019](#) (Report).

²¹ Yoorrook Justice Commission, [Yoorrook for Transformation: Third Interim Report](#), volume 4 (June 2025).



health workforce in culturally appropriate care", there is nothing actionable or measurable to achieve this goal.

Actions in a new Agreement should align with the national Aboriginal and Torres Strait Islander Health Workforce Strategic Framework and Implementation Plan, the Victorian Aboriginal workforce strategy 2021-2026, and VACCHO's Victorian Aboriginal Health and Wellbeing Workforce Strategy.

Noting the particular vulnerabilities of people engaged with the criminal legal system and those who are incarcerated, the Agreement must also extend to the mental health workforce in the criminal legal system and corrections system.

RECOMMENDATIONS

Recommendation 4. Improve the cultural competency of mental health and wellbeing service providers by:

- Addressing the stigma associated with the Aboriginal Social and Emotional Wellbeing Model within the mainstream health system;²²
- Adequately funding and supporting Aboriginal mental health workers at all mental health treating hospitals;
- Employing Aboriginal people in senior management roles;
- Ensuring that Aboriginal mental health workers and Aboriginal senior management are involved in reviewing all policies, with a view to improving their cultural appropriateness;
- Ensuring that Aboriginal people with lived experience of the mental health system provide remunerated advice on the cultural competency of providers; and
- Requiring all staff complete mandatory and regular training in cultural awareness, anti-racism and unconscious bias.


Recommendation 5. Adequately fund and support Mental Health Aboriginal Liaison Officers at all treating hospitals, and requiring all staff to complete mandatory cultural awareness training.

Recommendation 6. Commit significant and sustained investment in the Aboriginal and Torres Strait Islander mental health workforce within the correctional health sector, in order to recruit, train, accredit and build the capacity of more qualified Aboriginal and Torres Strait Islander psychologists, psychiatrists, counsellors, social workers and other mental health workers.

Recommendation 7. Employ more Aboriginal Health Workers and Aboriginal Wellbeing Officers at all levels of the justice health system to work with Aboriginal people at all stages of their engagement with the criminal legal system.

2.3 Enshrine the principle of Indigenous Data Sovereignty in health data collection

²² Victorian Aboriginal Community Controlled Health Organisation, 'Health and Healthcare, Housing and Homelessness, Education' Submission, Recommendation 3.



Indigenous Data Sovereignty (IDS) and Indigenous Data Governance (IDG) are fundamental to self-determination and must be enshrined in the new Agreement and any related health policy or reform.

The government continues to control access to data, and in turn controls the narrative about Aboriginal people's involvement across all sectors including health, education, housing, child protection and the criminal legal system. Government control of the narrative enables selective publication – for example, we know that the rate of Aboriginal women in prison in Victoria on remand often exceeds 50 per cent, and has exceeded 70 per cent.²³ This data is damning and should be in the public domain; yet it is not reported publicly by the government. Further, data has historically been weaponised and presented in a manner that is either objectively racist or detrimental. For example, selective publication of data in way that supports and enables systemic racism to continue.

This lack of transparency enables government to avoid public scrutiny and accountability for the impacts of its policymaking. If ACCOs and ACCHOs are to provide adequate services, access sufficient resources, advocate for change and hold the government accountable, Aboriginal people and communities must be able to:

- Exercise control over the manner in which data concerning Aboriginal individuals and communities is gathered, managed, interpreted, utilised and published; and
- Access and collect data obtained about Aboriginal individuals and communities.

Parties to the National Agreement on Closing the Gap committed to transforming government data practices and improving IDS. Despite this, little progress has been made since the National Agreement was re-signed in 2020. The National Closing the Gap Implementation Plan 2025 commits the Commonwealth Government to implement its newly launched Framework for the Governance of Indigenous Data and support the establishment of a Data Policy Partnership. A new Agreement must align with this work.


RECOMMENDATIONS

Recommendation 8. Any decisions made regarding policies and legislation governing the collection, use and sharing of Indigenous data obtained by mental health and wellbeing services should be premised upon the recognition of, and respect for, the principle of Indigenous Data Sovereignty.

Recommendation 9. Frameworks concerning the sharing of information collected by mental health and wellbeing services must be:

- Based upon person-centred, culturally-appropriate and trauma-informed approaches, as well as best practices;
- Premised upon the provision of appropriate mental health and wellbeing services to consumers in an expedient manner; and
- Wholly premised upon the interests of, and benefit to, the consumers of such services.

²³ VALS, [Nuther-mooyoop to the Yoorrook Justice Commission: Criminal Legal System](#), (November 2022)



Recommendation 10. In accordance with Indigenous Data Sovereignty, sharing of information collected by mental health and wellbeing services with a broad range of social services should be prohibited unless consent is first obtained from an Aboriginal consumer of such services.

Recommendation 11. Government should engage in consultation with Aboriginal community-controlled organisations and Aboriginal community-controlled health organisations to determine who will be permitted to provide consent in the event an Aboriginal consumer lacks sufficient capacity to consent to share information collected by mental health and wellbeing services, in a manner consistent with Indigenous Data Sovereignty.

PART THREE: The Victorian legal system and mental health legislative frameworks are harming Aboriginal social and emotional wellbeing

Under the Agreement, states are responsible for developing and implementing legislative, regulatory and policy framework for mental health and suicide prevention service delivery within their jurisdiction.

Although the Review is focusing on the effectiveness of the Agreement itself, the below recommendations are actions Victoria must take if government truly wants to address mental health and suicide prevention. They must be included in any new bilateral schedule with Victoria.

Our recommendations are based on our practice experience providing legal services to Aboriginal people who are subject to compulsory mental health treatment, as well as our coronial work representing the families of loved ones who have passed away from suicide or whilst experiencing mental health issues that went untreated or poorly treated. Without these specific reform actions, we won't see meaningful difference in suicides and wellbeing.

3.1 Overhaul compulsory assessment and treatment

VALS reiterates our key concerns raised in [our submission](#) to the Independent Review of Victoria's Compulsory Treatment Criteria and Decision-making Laws:

- Reduce compulsory mental health assessment and treatment. Compulsory mental health assessment and treatment undermines human rights, is discriminatory and disempowering, and often leads to trauma which can undermine mental health. For Aboriginal people, compulsory treatment also compounds historical and intergenerational trauma;
- Require decision makers to consider Aboriginality as part of compulsory assessment and treatment criteria; and
- Improve cultural competency at the Mental Health Tribunal (MHT). The MHT is not a culturally safe process for Aboriginal people. This is in part because of the historical and contemporary role that courts and tribunals have played, and continue to play in dispossessing, disempowering, and destroying Aboriginal Communities. It is also because of the inherent power imbalances, systemic racism, and limitations in the legislation, process, composition and approach of the tribunal.



RECOMMENDATIONS

Recommendation 12. The definition of ‘last resort’ with regard to compulsory treatment should be further refined and include safeguards to prevent unnecessary use of such an approach to treatment of mental illness.

Recommendation 13. In any instances where an Aboriginal person may be subject to compulsory treatment, such treatment should be culturally safe and only be undertaken following consultations with:

- Victorian Aboriginal Community Controlled Health Organisations in instances involving adults; and
- Victorian Aboriginal Community-Controlled Health Organisation (VACCHO) and Victorian Aboriginal Child Care Agency (VACCA) in instances involving children and young people.

Recommendation 14. The Government should make progress towards significantly reducing the use of compulsory assessment and treatment by:

- Working with relevant stakeholders – including Aboriginal people with lived and living experience of compulsory treatment – to develop a strategy to reduce compulsory mental health treatment; and
- Investing adequate resources to implement the strategy, including by addressing social determinants of poor mental health, and building a mental health system that is rights based, accessible, culturally safe and where supported decision-making is used when consumers do not have capacity to make their own decisions.

Recommendation 15. The compulsory assessment and treatment criteria should be overhauled to:


- Create a presumption of voluntary treatment, with compulsory treatment only permitted in exceptional circumstances to prevent serious and imminent harm;²⁴
- Create a presumption of decision-making capacity and codify a strict test to rebut this presumption based on the capacity principles set out in *PBU & NJE v Mental Health Tribunal*;²⁵
- Require that supported decision-making and adherence with consumer will and preferences – including that other treatment and support options to prevent serious and imminent harm have been considered, trialled and excluded – must be demonstrated, before compulsory treatment can be ordered;²⁶ and
- Require that compulsory treatment be ordered in the narrowest and least restrictive way possible.²⁷

²⁴ VLA, *Submission to Independent Review*, Recommendation 10; VALS, [Submission to Independent Compulsory Treatment Review](#), Recommendation 8.

²⁵ Ibid.

²⁶ VLA, *Submission to Independent Review* (2023), Recommendation 8; VALS, [Submission to Independent Compulsory Treatment Review](#), (2023) Recommendation 5(a).

²⁷ VLA, *Submission to Independent Review* (2023), Recommendation 10; VALS, [Submission to Independent Compulsory Treatment Review](#) (2023) Recommendation 8.



Recommendation 16. Compulsory assessment and treatment criteria should require decision-makers to consider Aboriginal cultural rights and strengths-based approaches to Aboriginality, including connection to culture, Country, Community and kin as protective factors for mental health and social and emotional wellbeing.

Recommendation 17. Improve cultural competency at the Mental Health Tribunal by:


- Creating a Koori Engagement Team;
- Establishing a Koori List;
- Creating more identified positions for Aboriginal Community Panel Members; **and**
- Ensuring that hearings for Aboriginal people include an Aboriginal Community Panel Member.

Recommendation 18. Increase funding to VALS' Mental Health Legal Service so that all Aboriginal people appearing before the MHT are able to access legal representation from VALS if they choose.

3.2 Eliminate restrictive practices and prohibit solitary confinement

VALS strongly opposes the use of restrictive practices in mental health settings, including seclusion chemical, mechanical and physical restraints. These practices infringe human rights and are inherently harmful and traumatic. We support Recommendation 54(1) of the Royal Commission in Victoria's Mental Health System, to reduce the use of seclusion and restraint in mental health and wellbeing service delivery, and to eliminate these practices by 2031. Although there is limited publicly available data on the use of restrictive practices in mental health settings, research by VMIAC indicates that Aboriginal people are being secluded and restrained at higher rates compared to other people. While Aboriginal people make up 3.5 per cent of all inpatients, they account for 5.3 per cent of all people subjected to seclusion practices.

VALS is currently acting for the family of Marley Wright-Martin, who was a Gunnai, Gunditjmarra, Djab Wurrung, Yuin, Monero, Tharawal, and Wadawurrung man who should be alive today. On 4 September 2024, aged just 27 years old, Marley passed away in custody at Port Phillip Prison in Victoria. Marley was a beloved brother to six siblings, a son to his mother Aunty Carol Wright, and a father. He was affectionate, funny and very close to his family, who were devastated by his sudden death. Marley had a strong connection to his Aboriginal culture. He was a fearless and energetic person, who loved to be outdoors spending time with his family, brothaboys and son. Marley's mental health was vulnerable – he had history of poor mental health, suicide attempts, psychosis and delusions. Despite this, the prison put him in isolation – a recognised form of torture, inhumane and degrading treatment – where he died in custody, isolated from health support, family, culture and country. A coronial inquest will examine the circumstances of his apparent suicide in isolation and the availability of mental healthcare in Victorian prisons. At the moment, ACCHOs are not able to provide their social and emotional wellbeing services in Port Phillip Prison and most other prisons in Victoria.



Our Nuther-mooyoop on healthcare to the Yoorrook Justice Commission provides further details on restrictive practices reforms to date and the critical need to ensure oversight and accountability.²⁸

RECOMMENDATIONS

Recommendation 19. The *Mental Health and Wellbeing Act 2022* (Vic) should be amended to provide a robust regulatory framework for reducing and eliminating seclusion and restraint. The framework should be modelled off the *Gender Equality Act 2020* and include impact assessments, indicators, Action Plans, transparent and regular reporting and other monitoring and compliance mechanisms.

Recommendation 20. Persons authorised to use bodily restraints during a mental health crisis response (including police and PSOs) must be subject to the same obligations and legal requirements as mental health and wellbeing service providers, namely:

- Obligation to reduce and eliminate restrictive interventions;
- Obligation to comply with the Balancing of Harm Principle;
- Requirement to record which other options were tried or considered and why these were found to be unsuitable;
- Requirement for police to report regularly on the use of bodily restraints whilst exercising powers under the *MHWA Act*; and
- Requirement to immediately end the use of the bodily restraint if it is no longer necessary.


Recommendation 21. The definition of ‘last resort’ as the basis for the use of restrictive practices should be further refined and include safeguards to prevent unnecessary use of such practices against individuals with mental illness.

Recommendation 22. The restrictive practices regulated by the *Mental Health and Wellbeing Act (MHWA Act)* should include seclusion, chemical restraint, mechanical restraint, physical restraint, environmental restraint, psycho-social restraint and consequence driven practices in a manner consistent with the National Framework for Reducing the Use of Restrictive Practices in the Disability Service Sector.

Recommendation 23. In instances where an Aboriginal person may be subject to restrictive practices, such practices should be age- and culturally-appropriate, and only be undertaken following consultations with:

- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) in instances involving adults; and

²⁸ VALS, [Nuther-mooyoop to the Yoorrook Justice Commission: Health, Social and Emotional Wellbeing \(SEWB\) and the Healthcare System](#), (February 2024)

- 
- Victorian Aboriginal Community Controlled Health Organisation (VACCHO) and Victorian Aboriginal Child Care Agency (VACCA) in instances involving children and young people.

Recommendation 24. The *MHWB Act* should be amended to explicitly prohibit solitary confinement (the isolation of someone for 22 hours or more each day, without meaningful human contact) and prolonged solitary confinement (solitary confinement in excess of 15 days) in mental health services.

3.3 Establish the Victorian National Preventive Mechanism

Lack of robust accountability and oversight is a key feature of the health system. In our practice, we continue to see how the lack of accountability is leading to the loss of life and a failure to achieve significant progress in Aboriginal health outcomes.²⁹

Australia is a party to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and was required to have established its National Preventive Mechanism (NPM) by January 2023. Australia has missed this deadline, with no NPMs established in Victoria, Queensland or New South Wales.

The Victorian Government must establish the NPM as a critical priority. Mental healthcare in prisons has been repeatedly identified as a systemic failure in coronial inquests and in the Victorian Corrections Cultural Review. Independent oversight of prisons is lifesaving and essential to ensuring systemic issues are addressed.


The NPM should appreciate the legacy and ongoing impacts of colonisation; that Aboriginal perspectives of what constitutes torture, or cruel, inhuman or degrading treatment or punishment, may diverge from that of non-Aboriginal people; and that the long-term impact of torture and ill-treatment can be shaped by the survivors' culture and the historic-political context of the ill-treatment (including the history of colonisation). It should also take into account systemic racism in its work.

RECOMMENDATIONS

Recommendation 25. The Victorian Government should engage in transparent, inclusive and robust consultations, as NPMs are designated/established and operationalised, with Aboriginal and/or Torres Strait Islander communities and organisations, such as VALS, to ensure that NPM operations, policies, frameworks and governance are culturally appropriate and safe for Aboriginal people.

Recommendation 26. People with lived experience of detention (or experts by experience), including Aboriginal people, should be involved in the design and operation of the NPMs.

²⁹ VALS, [Nuther-mooyoop to the Yoorrook Justice Commission: Health, Social and Emotional Wellbeing \(SEWB\) and the Healthcare System](#), (February 2024)



Recommendation 27. The Victorian NPM must have jurisdiction over all places where people are or may be deprived of their liberty, regardless of the length of time of detention. This includes all places where persons are or may be detained pursuant to a compulsory assessment or treatment order, as well as any place where they are or may be detained pursuant to powers under the MHWB Act to respond to a mental health crisis. The NPM’s mandate should include forensic mental health hospitals, closed forensic disability facilities or units, correctional facilities, youth detention facilities, police custody, court custody, and residential secure facilities for children.

3.4 Stop criminalising mental health and support social and emotional wellbeing of Aboriginal people in the criminal legal system


Commitments under the Agreement will fail if they are not supported by reform of the legal systems in Victoria. Bolstering the ACCHO workforce to be strong and sustainable, and investing in holistic social and emotional wellbeing services, will not alone strengthen Aboriginal social and emotional wellbeing. Colonial violence and systemic racism will continue to contribute to health injustice if the Victorian Government does not reform legislative frameworks that impact Aboriginal people experiencing mental ill health.

Emergency responses to mental health crises must be led by health professionals. Police and Protective Service Officer (PSOs) should not be frontline responders to mental health crises. They do not have the skills, expertise or experience to provide trauma-informed and culturally safe responses to mental health crises, and their presence and involvement leads to increased criminalisation of mental illness. A recent example of a police man inciting an Aboriginal child to end their own lives while in their custody is a clear example of police officer’s incapacity to assist people experiencing mental health struggles.³⁰

Mental health crises and psychological distress are health issues that require a health response. Under the Mental Health Act 2014 (Vic), Victoria Police played a pivotal role in responding to emergency responses to mental health crises. The Royal Commission heard extensive evidence about the growing role of police in responding to mental health crises since 2014, and the humiliating, traumatic and harmful experiences of people apprehended and searched by police. Given historical and contemporary violence perpetrated by police against Aboriginal communities, Aboriginal people often have a well-founded distrust in police, which can lead to further escalation if police are present and involved in responding to mental health crises.

The Coroner’s Court of Victoria Report into Aboriginal Suicide analysed contextual data available for suicides between 2020-2023. Of the 95 passings during this time period, most (75.8 per cent) had been diagnosed as experiencing mental ill health. Half had identified legal issues as a contextual stressor before their passing. 78.9 per cent had had some contact with Victoria Police before passing, 58.9 per cent had contact with the courts system, and 34.7 per cent had contact with the corrections system. Custodial staff are frequently found in coronial inquests as having ignored pleas for help and health

³⁰ Dechlan Brennan, [ACT Police under fire after officer’s suicide taunt to Aboriginal youth](#), National Indigenous Times (12 May 2025).



response,³¹ and putting people experience suicidal ideation in solitary confinement – a form of torture rather than help.³²

This highlights the importance of embedding appropriate support and engagement opportunities for Aboriginal people within the legal and corrections systems.

RECOMMENDATIONS

Recommendation 28. Commit to implement the Victorian Ombudsman’s recommendation for the expansion of current therapeutic court-based interventions, together with parallel investments in associated support services.

Recommendation 29. Prioritise the planning, development and delivery of a culturally appropriate model for a multijurisdictional therapeutic and specialised healing court for Aboriginal accused with multiple and complex needs, as identified in Burra Lotjpa Dunguludja.

Recommendation 30. Introduce a specialised Koori Unit within Mental Health Advice and Response Service (MHARS).

Recommendation 31. Repeal punitive bail reforms and implement Poccum’s Law in full so that bail hearings are fair and remand is only used as a last resort.

Recommendation 32. Increase funding to the Court Integrated Support Program (CISP) so that it is accessible in all locations across Victoria, including by ensuring that there are adequate Koori CISP workers to support Aboriginal people on bail across Victoria.

Recommendation 33. Prioritise resources for the development of a culturally safe residential bail program by ACCOs.


Recommendation 34. Develop training and guidelines to assist bail decision makers, including bail justices, to better understand the needs of people with mental health conditions and consider therapeutic bail conditions.

Recommendation 35. Amend the *MHWB Act* to provide a robust legal framework for health-led responses to mental health crises, including by:

- Replacing the *Health Led Response Principle* with robust statutory obligations on both Victoria Police and health professionals, that can be adequately enforced;
- Removing all PSO powers to respond to mental health crises; and
- Significantly investing in health-led responses and divesting from Victoria Police.

³¹ See: Coroners Court of Victoria, Finding into Death with Inquest: Inquest into the Passing of Veronica Nelson, and VACCHO, [Coronial inquest: Joshua Kerr was another preventable Aboriginal death in custody](#) (Media Release) (3 July 2024).

³² See: Melissa Brown, [Family seeks answers after death in custody of Aboriginal man Marley Wright-Martin](#), ABC News (8 October 2024), and VALS, [Journey to Justice for Marley Wright begins today](#) (8 October 2024).



Recommendation 36. Victoria Police members involved in responding to mental health crises must complete mandatory, regular and specialised training in trauma-informed responses and mental health crisis responses.

Recommendation 37. Improve access to multi-disciplinary and culturally safe crisis response teams including Aboriginal health workers/clinicians and culturally aware Police with better integrated health diversion processes as front-line response.

Recommendation 39. Ensure that the Koori Children's Court is accessible in additional locations across Victoria to ensure that Aboriginal children across Victoria have access to a legal process that is culturally safe and supports social and emotional wellbeing.

Recommendation 40. Increase the capacity of forensic mental health services for young people in the youth justice system.

Recommendation 41. Increase funding to ACCOs to provide culturally effective support to Koori young people on community-based orders, including through funding to VALS to re-establish a legal service for Aboriginal young people across Victoria.

Recommendation 42. Increase funding to ACCOs to provide culturally safe and trauma-informed support services to Aboriginal families at risk of or engaged in the child protection system.

Recommendation 43. Provide long term and secure funding for ACCOs to develop a tailored, flexible plan specific to the needs of each Aboriginal child in out-of-home care. This includes individual mental health plans to be embedded in case planning for children and young people with mental health concerns, that incorporate cultural support and trauma informed care.

Recommendation 44. Expand the Koori Family Hearing Day (Family Division of the Children's Court) and the Indigenous List (Federal Circuit and Family Court of Australia) to other locations across Victoria, to ensure that Aboriginal families, particularly those in rural and regional areas have access to a culturally safe court process.



BACKGROUND TO THE VICTORIAN ABORIGINAL LEGAL SERVICE

The Victorian Aboriginal Legal Service (**VALS**) is an Aboriginal Community Controlled Organisation (**ACCO**) with 50 years of experience providing culturally safe legal and community justice services to our people across Victoria.

Legal Services

Our legal practice serves Aboriginal people of all ages and genders. Our 24-hour criminal law service is backed up by the strong community-based role of our Client Service Officers (**CSOs**). CSOs help our clients navigate the legal system and connect them with the support services they need.

Our **Aboriginal Families Practice** provides Statewide legal information, advice, litigation representation and lawyer assisted dispute resolution in the areas of family law, child protection, and family violence. We provide child and family focused assistance, supporting people through the trauma of legal proceedings or State intervention in a culturally safe and respectful way.

Balit Ngulu is our dedicated legal practice for Aboriginal children and young people. Balit Ngulu provide legal advice and representation for client in criminal proceedings and related intervention order matters. Balit Ngulu is designed to be trauma informed and provide holistic wraparound culturally safe support for our youngest clients.


The **Civil & Human Rights Practice** at VALS fights to provide access to justice for our clients in civil justice issues tied to human rights. This includes consumer issues, infringements, tenancy issues, coronial matters, discrimination issues, working with children checks, employment matters and mental health tribunal matters.

Our **Criminal Law Practice** provides legal assistance and representation for Aboriginal people involved in court proceedings charged with a criminal offence. This includes bail applications, Jury trials, Koori Court, contested hearings and representation in both mainstream and therapeutic courts. We aim to provide a culturally safe service and to understand the underlying reasons that have led to the offending behaviour and ensure this informs the best outcome for our clients.

Our **Wirraway Police and Prison Accountability Practice** provides legal advice and conducts case work and civil litigation for Aboriginal people who have experienced policing and prison harms. This includes negotiation and complaints, court proceedings against the State for negligence, excessive use of force and unlawful detention, and coronial inquests arising from deaths in custody and police contact deaths.

Community Justice Programs

Our Community Justice Programs (**CJP**) team is staffed by Aboriginal and Torres Strait Islander people who provide culturally safe services to our clients and community.



This includes the Custody Notification System, Community Legal Education, Victoria Police Electronic Referral System (**V-PeR**), Regional Client Service Officers and the Baggarrook Women’s Transitional Housing program.

Policy, Research and Advocacy

VALS informs and drives system change initiatives to improve justice outcomes for Aboriginal people in Victoria. VALS works closely with fellow members of the Aboriginal Justice Caucus and ACCOs in Victoria, as well as other key stakeholders within the justice and human rights sectors.

Acknowledgement

VALS pays our deepest respect to traditional owners across Victoria, in particular, to all Elders past, present and emerging. We also acknowledge all Aboriginal and Torres Strait Islander people in Victoria and pay respect to the knowledge, cultures and continued history of all Aboriginal and Torres Strait Islander Nations.

We pay our respects to all Aboriginal and Torres Strait Islander Elders who have maintained the struggle to achieve justice.

Across Australia, we live on unceded land. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

Contributors

Thanks to the following staff members who collaborated to prepare this submission:

- Stella Trounce, Senior Policy Officer
- Camille Bentley-McGoldrick, Senior Policy Officer
- Amala Ramarathinam, Policy Team Leader and Lawyer
- Morgan O’Sullivan, Community Engagement Team Leader and Policy Advisor

Note on Language

Throughout this document, we use the word ‘Aboriginal’ to refer to Aboriginal and/or Torres Strait Islander people, communities and organisations. VALS acknowledges that there are many Aboriginal people in Victoria who have Torres Strait Islander heritage, and many Torres Strait Islander people who now call Victoria home.