



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 223. Protocols between police and Aboriginal organisations

That Police Services, Aboriginal Legal Services and relevant Aboriginal organisations at a local level should consider agreeing upon a protocol setting out the procedures and rules which should govern areas of interaction between police and Aboriginal people. Protocols, among other matters, should address questions of:

- a) Notification of the Aboriginal Legal Service when Aboriginal people are arrested or detained;
- b) The circumstances in which Aboriginal people are taken into protective custody by virtue of intoxication;
- c) Concerns of the local community about local policing and other matters; and
- d) Processes which might be adopted to enable discrete Aboriginal communities to participate in decisions as to the placement and conduct of police officers on their communities.<sup>1</sup>

<b>Background<sup>2</sup></b>	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) noted that written protocols had been established in the Northern Territory between Aboriginal Legal Services and police. In a related example, a protocol document had been signed between the local Aboriginal Medical Service, the hospital and the police. These examples were considered worthy of replication, and application in a range of contexts relevant to the deaths examined by the commission.
<b>Intent</b>	Consider agreeing local protocols between police and Aboriginal organisations outlining rules and procedures to govern interactions between police and Aboriginal people.
<b>Responsibility</b>	The Commonwealth and all state and territory governments.
<b>Key contacts</b>	Victoria Police; Victorian Aboriginal Legal Service (VALS).
<b>Key action taken</b>	
<b>2005 Review<sup>3</sup></b>	Victoria Police assessed Recommendation 223 as <b>partially implemented</b> overall with parts (a), (b), and (c) <b>fully implemented</b> , but part (d) <b>not implemented</b> .  Victoria Police advised that their Aboriginal Affairs Unit and the VALS had a good relationship with open communication and a partnership approach to dealing with issues such as delays in notification. Victoria Police hoped to have a clear, evidence-based report on why these delays occurred after collating members' reasons. There were no formal protocols between VALS and police except what was contained in the Victoria Police Manual.

<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 4, 111 ('RCIADIC').

<sup>2</sup> Ibid vol 4, 109-111.

<sup>3</sup> Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 6, 390 ('2005 Review').

## 223. Protocols between police and Aboriginal organisations

	<p>Victoria Police had an existing protocol with Corrections Victoria that it planned to adopt with necessary alterations for use with VALS and/or the Aboriginal Community Justice Panel (ACJP).</p> <p>There were existing pathways to resolve local issues and complaints via the Victoria Police and Victorian Ombudsman complaint processes but ideally matters could be resolved locally to the satisfaction of all when facilitated by the Polica Aboriginal Liaison Officer (PALO) or ACJP. Police felt that part (d) of Recommendation 223 was not a workable model, but there was some scope for community input in the selection of PALOs within the limits of available staffing as the positions were intended to be a Sergeant or above. Smaller stations had a limited pool of candidates. The employment of Aboriginal Community Liaison Officers (ACLOs) was designed to incorporate local Aboriginal community input, including having a community member involved in the selection process for ACLO positions.</p>
<p><b>2018 Review<sup>4</sup></b></p>	<p>Deloitte assessed Recommendation 223 as <b>partially implemented</b> in Victoria, noting that protocols and forums had been established to address parts (a), (b), and (c), particularly through collaboration between VALS and Victoria Police, and consultation with Aboriginal Community Justice Panels and Police Community Consultative Committees. Notifications to appropriate Aboriginal legal and community support services were required when an Aboriginal person was taken into custody.</p> <p>Part (d) of the recommendation had not been implemented although there was potential for community input to be considered for some liaison officer roles.</p>
<p><b>Since then</b></p>	<p><b>Victoria Police<sup>5</sup></b></p> <p>In 2023, Victoria Police assessed Recommendation 223 as <b>mostly implemented</b> and responded to each of its parts:</p> <p><u>Part (a)</u></p> <p>The Victoria Police Manual Policy Rules (VPMP) Persons in police care or custody mandate that the Victorian Aboriginal Legal Service (VALS) be notified of an Aboriginal or Torres Strait Islander person taken into custody within 60 minutes or as soon as practicable. Legislation to make this requirement mandatory commenced on 1 October 2019.</p> <p><u>Part (b)</u></p> <p>Victoria Police no longer have powers to take Aboriginal people into protective custody by virtue of intoxication. This became effective in November 2023 as part of the decriminalisation of public drunkenness.</p> <p><u>Parts (c) and (d)</u></p> <p>Victoria Police listed a range of initiatives to assist Aboriginal community members to address their concerns about local policing and other matters including:</p>

<sup>4</sup> Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 446-447 ('2018 Review').

<sup>5</sup> David Jones and Tyler McRae, 'Victoria Police Review of Recommendations from the Royal Commission into Aboriginal Deaths in Custody' (Response to AJC Request, Tranche Two).

## 223. Protocols between police and Aboriginal organisations

- Aboriginal Community Liaison Officers (ACLOs) strengthen relationships and facilitate communication between Victoria Police and Aboriginal people across the State.
- Police Aboriginal Liaison Officers (PALOs) have extensive knowledge and expertise in community networking, community development and liaison, which is the basis for their work with police and communities. The PALO program underwent a review with consultation and endorsement of the Aboriginal Justice Caucus. Regional Aboriginal Justice Advisory Committees (RAJACs) endorsed the onboarding process for PALOs. There is a mechanism for RAJACs to consider police members who wish to become PALOs.
- The Victoria Police Aboriginal Portfolio Reference Group (APRG) acts as the overarching governance structure for embedding self-determination and overseeing the development and implementation of policies and programs designed to meet Victoria Police' commitments to reduce over-representation of Aboriginal people in the justice system. The APRG is co- chaired by Assistant Commissioner Russell Barrett and Chris Harrison, Aboriginal Community Justice Panel Executive and Co-chair of the Aboriginal Justice Caucus (AJC).
- Police and Aboriginal Community Protocols Against Family Violence (PACPAFV) aim to build positive relationships between Aboriginal communities and Victoria Police, strengthen police responses to incidents of family violence in Aboriginal communities, and reduce the number of family violence incidents, and rates of repeated incidents of family violence. The Protocols are also intended to support a holistic and improved response to all parties including Affected Family Members (AFMs), children, and respondents. Locally developed protocols guide police, at the time of a family violence incident, to identify whether the AFMs or respondents identify as Aboriginal and, if so, to offer them the choice of referral to Aboriginal or non-Aboriginal support services according to their preferences.
- Aboriginal Justice Forums (AJFs) bring together representatives of the Aboriginal community and government to oversee the development, implementation and direction of the Victorian Aboriginal Justice Agreement.
- Ongoing work with the Victoria Police Discipline Transformation Project to enhance the Victoria Police complaints form, process and responses.

### **Amendments to Victoria Police Manual<sup>6</sup>**

In 2024, Victoria Police sought feedback from the AJC on draft custody-related policies and a practice guide. In 2025, Victoria Police provided a response to the AJC's feedback.

#### Relevant policy:

The VPM Management of People in Police Care or Custody includes a section on notifying VALS of an Aboriginal person taken into custody. This must occur within 60 minutes of the person entering custody. This ensures that Aboriginal people are offered culturally safe assistance in accordance with s 19(2) of the *Charter of Human Rights and Responsibilities Act*. Victoria Police

<sup>6</sup> Victoria Police, 'Victoria Police Response to AJC Feedback regarding draft Victoria Police custody-related policies and practice guide' (AJC Meeting Paper Pack).

## 223. Protocols between police and Aboriginal organisations

officers are to inform the person in police custody of the VALS notification as soon as practicable.

### AJC Feedback:

The AJC advocated for these changes:

- Part A: The explanation for VALS notification was limited to ‘*offered culturally safe assistance.*’ The clause from the new Practice Guide should be ‘uplifted’ and included here:  
*VALS strives to ensure that Aboriginal people enjoy their rights, are aware of their responsibilities under the law and have access to appropriate advice, assistance and representation.*
- Part B: Remove the term ‘practicable’ and phrases like it that leave action-taking and/or timing to the discretion of individual officers.

### Victoria Police Response:

- Part A: This was partially incorporated. The Practice Guide: Aboriginal and Torres Strait Islander People in Police Care or Custody incorporated the broader description of VALS’ purpose.
- Part B: The term ‘practicable’ was removed from the notification period to VALS.

## Evidence of impact

### Authorising documents

#### **Victorian Police Manual Policy Rules – Persons in police care or custody<sup>7</sup>**

The Victorian Police Manual Policy Rules mandate that members who take a person into custody must:

- Ask the person whether they identify as Aboriginal and/or Torres Strait Islander as soon as practicable and prior to any questioning under s 464A (2) and s 464AAB of the *Crimes Act 1958* (Vic).
- Notify VALS within 60 minutes, or as soon as practicable, of any Aboriginal person taken into custody (s.464FA) in accordance with Victoria Police Manual Guidelines Attendance and Custody Module.

### Outputs

#### **Victoria Police**

- Legislative changes to mandate notifications to the Victorian Aboriginal Legal Service.
- Aboriginal Community Liaison Officers (ACLOs) are employed across the state to facilitate communication between Aboriginal communities and police.
- Review of the Police Aboriginal Liaison Officer (PALO) program, with onboarding processes endorsed by Regional Aboriginal Justice Advisory Committees (RAJACs).
- Implementation of Police and Aboriginal Community Protocols Against Family Violence (PACPAFV) to guide culturally appropriate police responses to family violence incidents.
- Victoria Police Manual (custody-related policies and practice guide) amended in 2025 in response to feedback from the Aboriginal Justice Caucus.

<sup>7</sup> Victoria Police, *Victoria Police Manual - Policy Rules - Persons in Police Care or Custody* (Internal Policy, rev ed, January 2024, ('VPMP - Persons in Police Care or Custody')).

## 223. Protocols between police and Aboriginal organisations

<p><b>Outcomes</b></p>	<p><b>Parts (a) and (b)</b></p> <p>Some protocols have been impacted by legislative changes:</p> <ul style="list-style-type: none"> <li>• Since 1 October 2019, legislation has required police to notify the Victorian Aboriginal Legal Service within 60 minutes when an Aboriginal person is taken into custody.</li> <li>• In November 2023, following the decriminalisation of public drunkenness, Victoria Police no longer have the power to take Aboriginal people into protective custody for intoxication.</li> </ul> <p><b>Part (c), Police and Aboriginal Community Protocols Against Family Violence<sup>8</sup></b></p> <p>Police worked with Aboriginal organisations and communities to establish Police Aboriginal Community Protocols Against Family Violence (PACPAFV) in ten locations: Dandenong, Mildura, Geelong, Warrnambool, Echuca, Swan Hill, Horsham, Latrobe, Bairnsdale and Shepparton. Additional sites were being established and expected to launch in 2023-24 in Moonee Valley, Darebin, St Kilda, Hastings, Ballarat, Lilydale and Wodonga.</p> <p>Common challenges across the sites were community engagement and attracting Aboriginal people into designated roles within the program including Aboriginal liaison officers.</p> <p>In response to the Yoorrook Justice Commission, the Chief Commissioner of Police committed to taking action by 2025 to:</p> <p style="padding-left: 40px;"><i>Coordinate, support and review the statewide implementation of local Police and Aboriginal Community Protocols Against Family Violence with the Aboriginal community.<sup>9</sup></i></p> <p><b>Parts (d)</b></p> <p>There are few opportunities for Aboriginal communities to participate in decisions as to the placement and conduct of police officers on their communities, however Regional Aboriginal Justice Advisory Committees now have a role in the appointment of Police Aboriginal Liaison Officers in their areas.</p>
<p><b>Community views</b></p>	<p><b>Victorian Aboriginal Legal Service<sup>10</sup></b></p> <p><i>Between 1st July 2021 to 30th June 2022, the Notification Team processed over 11,800 individual notifications from police stations regarding Aboriginal people in custody. On average each notification generates a minimum of five additional calls ensuring the clients wellbeing is being monitored, liaising with police, providing legal advice, notifying family or friends, and locating other appropriate supports services.</i></p> <p><b>Yan Yan, Police and Aboriginal Community Protocols Against Family Violence<sup>11</sup></b></p>

<sup>8</sup> Victoria Police, 'Aboriginal Justice Forum 59'.

<sup>9</sup> Shane Patton, Victoria Police, *Chief Commissioner's Statement of Commitment* (Statement, 11 March 2024) ('Chief Commissioner's Statement of Commitment').

<sup>10</sup> Victorian Aboriginal Legal Service, 'Custody Notification Officers', *Victorian Aboriginal Legal Service* (Web page) <<https://www.vals.org.au/custody-notification-officers/>> ('Custody Notification Officers').

<sup>11</sup> Barwon South West Dhelk Dja Action Group and Victoria Police, *Yan Yan Police and Aboriginal Community Protocols Against Family Violence 2022* (Police Aboriginal Community Protocols Against Family Violence, 2022) 2022, ('Yan Yan Police and Aboriginal Community Protocols Against Family Violence 2022').

## 223. Protocols between police and Aboriginal organisations

*Yan Yan is an agreement between Aboriginal communities in the Barwon region and Victoria Police. The intention of Yan Yan is to improve police responses when responding to reports of family violence in Aboriginal communities. It recognises the urgent need to reduce the disproportionate impact of family violence on Aboriginal people, particularly women and children. And ensure there is a strengths-based, gender and trauma informed approach for people who experience and use violence. Yan Yan aims to improve cultural safety for Aboriginal people who come into contact with police at one of the most vulnerable times in their life.*

### Related recommendations

**ALRC  
Pathways to  
Justice<sup>12</sup>**

#### **Recommendation 14-3**

Commonwealth, state and territory governments should introduce a statutory requirement for police to contact an Aboriginal legal service, or equivalent service, as soon as possible after an Aboriginal person is detained in custody for any reason—including for protective reasons. A maximum period within which the notification must occur should be prescribed.

**2005 Review<sup>13</sup>**

#### **Recommendation 61**

That Victoria Police:

- a) in partnership with the Victorian Aboriginal Legal Service, report on progress of an evidence-based report on the reasons for the delay in notification to Victorian Aboriginal Legal Service when an Aboriginal person is taken into custody,
- b) develop locally based protocols on a regional basis, in partnership with the Aboriginal community and the Victorian Aboriginal Legal Service, through Local Priority Policing, with these protocols to be facilitated by the Aboriginal Justice Forum and the Regional Aboriginal Justice Advisory Committee network,
- c) report on the status of the plan to develop a ‘Ready Reckoner’ to assist police members in understanding their required commitments to Aboriginal people arrested or in custody,
- d) provide a report to the Aboriginal Justice Forum on (a)-(c), and
- e) That the Victorian Government continue to implement and monitor Recommendation 223 and Recommendation 224 through any monitoring process established from this Review.

### **Assessment summary<sup>14</sup>**

The intent of Recommendation 223 was to consider agreeing local protocols between police and Aboriginal organisations outlining rules and procedures to govern interactions between police and Aboriginal people.

<sup>12</sup> Australian Law Reform Commission, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017) ('Pathways to Justice').

<sup>13</sup> 2005 Review.

<sup>14</sup> Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 30 July 2024) ('Working Group Meeting (30 July 2024)'); Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person 28 August 2024) ('Working Group Meeting (28 August 2024)').

## 223. Protocols between police and Aboriginal organisations

Victoria Police are legally required to notify the Victorian Aboriginal Legal Service (VALS) within 60 minutes of an Aboriginal person being taken into custody. While notifications to VALS are legislated, there are still no agreed written protocols to manage issues such as IT failures, escalation of complaints, or unresponsive stations.

Police no longer have powers to take people into protective custody for intoxication following the decriminalisation of public drunkenness. Part (b) of the recommendation is now largely irrelevant due to these legislative changes. However, gaps remain where written protocols could support consistent hospital discharge procedures or continuity of care with alcohol and/or other drug (AOD) withdrawal.

*There must be written protocols for when someone goes to the hospital, including police communication with Aboriginal Community Justice Panels and VALS, and for support from ambulance or AOD services. Right now, unless we ask, there's no formalised process, and that needs to be addressed.* (Chris Harrison, Co-chairperson, AJC and Statewide Chairperson, Aboriginal Community Justice Panels)

With Aboriginal communities across the state, Victoria Police have continued to operate and expand Police and Aboriginal Community Protocols Against Family Violence (PACPAFV), but there are gaps in relation to the misidentification of Aboriginal women as perpetrators:

*There need to be protocols to ensure that when police attend family violence incidents involving Aboriginal women, there is oversight to prevent them from being misidentified as the perpetrator. Misidentification has lifelong impacts, affecting child protection and other parts of the system, and it's very difficult to rectify once it occurs. Even if police can correct it within their system, the other systems are affected, sometimes all the way through to the courts. Police protocols need to address this.<sup>15</sup>* (Samantha Smith, Djirra)

Concerns were also raised about the Orange Door system where mandatory child information collection may deter Aboriginal people from using services, and the lack of clear protocols connecting police, child protection, and family violence responses.

Victoria Police have maintained Aboriginal Community Liaison Officers (ACLOs) roles and reviewed the Police Aboriginal Liaison Officer (PALO) program with input from Regional Aboriginal Justice Advisory Committees (RAJACs). However, we are concerned that there are no clear, consistent protocols for handling complaints about police employees who are not sworn officers, particularly in cases involving liaison officers and custody officers, which leads to inconsistent responses.

*With complaints against people working in the police, like an Aboriginal Community Liaison Officer for instance, who is not a police officer, they don't come under the same grievance procedures as police officers. It ends up being a long, drawn-out process. It doesn't make sense that, even though they are employed by the police, they aren't held to the same rules and regulations.* (Marion Hansen, Co-chairperson, AJC and Chairperson, Southern Metropolitan RAJAC)

Overall, while progress has been made, further work is needed to ensure protocols are clear, resourced, and consistently implemented. Strengthening these processes is essential to support accountability, community safety, and Aboriginal self-determination.

---

<sup>15</sup> Meeting with Aboriginal Justice Caucus (Project Team, 30th of July 2024) ('30th of July 2024').

## Assessment of Recommendation 223

**Is the intent of the recommendation accurately described?**

Yes  No

**Does the action taken align with the intent of the recommendation?**

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

**1.5**

(Score out of 3)

**Is there evidence of the desired impact or outcome/s?**

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

**1.5**

(Score out of 3)

**How relevant is the recommendation in the current context?**

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

**2**

(Score out of 3)

**Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?**

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

**3**

(Score out of 3)

### Potential actions for further work

#### Establish additional police protocols

Establish additional protocols in relation to VALS and ACJP notifications; misidentification of Aboriginal women; and placement and conduct of police employees including Aboriginal Community Liaison Officers.

### High priority for further work

#### Relevance and potential impact

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)			
	Moderate (3-4)			<b>Rec 223</b>
	Low (0-2)			

## Bibliography

- Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person 28 August 2024)
- Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 30 July 2024)
- Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005)
- Australian Law Reform Commission, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017)
- Barwon South West Dhek Dja Action Group and Victoria Police, *Yan Yan Police and Aboriginal Community Protocols Against Family Violence 2022* (Police Aboriginal Community Protocols Against Family Violence, 2022)2022
- Meeting with Caucus, Aboriginal Justice (Project Team, 30th of July 2024)
- Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018)
- Jones, David and Tyler McRae, Victoria Police 'Victoria Police Review of Recommendations from the Royal Commission into Aboriginal Deaths in Custody' (Response to AJC Request Tranche Two, 2023)
- Patton, Shane, Victoria Police, *Chief Commissioner's Statement of Commitment* (Statement, 11 March 2024)
- Police, Victoria, Aboriginal Justice Caucus (Vic) 'Aboriginal Justice Forum 59 ' (July 2021)
- Royal Commission into Aboriginal Deaths in Custody* (Final Report, 1991)
- Victoria Police, 'Victoria Police Response to AJC Feedback regarding draft Victoria Police custody-related policies and practice guide' (AJC Meeting Paper Pack, 16 July 2025)
- Victoria Police, *Victoria Police Manual - Policy Rules - Persons in Police Care or Custody* (Internal Policy)rev ed, January 2024
- Victorian Aboriginal Legal Service, 'Custody Notification Officers', *Victorian Aboriginal Legal Service* (Web page) <<https://www.vals.org.au/custody-notification-officers/>>