



Royal Commission into Aboriginal Deaths in Custody Recommendation

224. Mandatory notification of Aboriginal Legal Services

That pending the negotiation of protocols referred to in Recommendation 223, in jurisdictions where legislation, standing orders or instructions do not already so provide, appropriate steps be taken to make it mandatory for Aboriginal Legal Services to be notified upon the arrest or detention of any Aboriginal person other than such arrests or detentions for which it is agreed between the Aboriginal Legal Services and the Police Services that notification is not required.¹

Background²	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) found that giving Aboriginal people early access to culturally appropriate legal advice and support, through access to trained representatives, could help calm distress, reduce the risk of self-harm, and prevent individuals from agreeing to police requests that could negatively affect later court proceedings.
Intent	Mandate that police notify Aboriginal legal services immediately upon detaining or arresting any Aboriginal person.
Responsibility	All state and territory governments.
Key contacts	Victoria Police; Victorian Aboriginal Legal Service (VALS).
Key action taken	
2005 Review³	<p>Victoria Police assessed Recommendation 224 as being partially implemented.</p> <p>Victoria Police</p> <p>Victoria Police advised that standing orders and instructions existed that required them to notify VALS when an Aboriginal person was taken into custody. With the development of the Criminal Justice Enhancement Program (CJEP), the Aboriginality 'box' became a mandatory field so that when completed simultaneous emails were sent to VALS and the Statistical Records Branch, Victoria Police.</p> <p>The CJEP custody model was implemented state-wide. Data capture and reporting processes were refined to provide accurate information on notification delays. Explanations were sought from members for delays. The CJEP system was used across the state by all police members. Plans were being developed to produce a simple, eye-catching 'Ready Reckoner' to assist members to understand their obligations to Aboriginal people in custody.</p>

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

² Ibid vol 4, 109-111.

³ 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').

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2018 Review⁴

Deloitte concluded that Recommendation 224 was **fully implemented** in Victoria as Victoria Police were required to notify VALS and Aboriginal Community Justice Panels when an Aboriginal person was brought into custody.

Since then

In 2020 the Commonwealth Government provided \$2.1 million over three years to VALS to establish a formal, dedicated custody notification service (CNS) in Victoria, in line with legislation passed in Victoria in 2019.

Victoria Police⁵

In 2023, Victoria Police assessed Recommendation 224 as **fully implemented** as procedures in Victoria require police officers to contact VALS within 60 minutes, or as soon as practicable, of an Aboriginal person being taken into custody for any reason. Legislation to make this requirement mandatory commenced on 1 October 2019. Notifications are made through an automated process which occurs once a person is entered into the police attendance module when brought into a police station. The introduction of hand-held Iris devices for frontline officers in 2019-20 has allowed police officers to provide VALS notifications in the field, in environments such as hospitals or other settings.

Amendments to Victoria Police Manual⁶

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 this feedback.

Relevant policy:

The Victoria Police Manual (VPM) Management of People in Police Care or Custody includes a section on notifying VALS. Depending on where the person is taken into police custody, the notification may be made via one of the following methods:

- If a person can be taken to a police facility and put on the Attendance Module within 60 minutes of being taken into custody, this will trigger an automatic VALS notification.
- If a person is not or cannot be conveyed to a police facility and put on the Attendance Module within 60 minutes of being taken into custody, e.g. the person is taken to hospital for treatment directly after arrest, members can notify VALS via their IRIS device.
- If the above methods are unavailable, an officer can notify VALS by telephone, via Police Communications or by submitting a VALS Notification – In Field Custody (VP Form 1505).

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:

⁴ 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) 449 ('2018 Review').

⁵ 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).

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

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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

Crimes Act 1958 (Vic)⁷

If an Aboriginal person is taken into custody, the investigating official must notify the Victorian Aboriginal Legal Service (VALS) within one hour, or as soon as practicable if immediate notification isn't possible. The official must consider any statement made by the person regarding their Aboriginal identity and may form an opinion on this basis. Additionally, the official is required to ask the person whether they identify as Aboriginal. Once VALS has been notified, the official must inform the person of this notification as soon as practicable.

Victorian Police Manual Policy Rules – Persons in police care or custody⁸

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), *Crimes Act* (s. 464AAB)
- Notify VALS within 60 minutes, or as soon as practicable, of any Aboriginal person taken into custody (s.464FA) in accordance with the VPMG Attendance and Custody Module.

Outputs

Victoria Police

- VALS notifications are automated via the Attendance Module when a person is entered into custody at a police facility.
- Frontline officers can notify VALS in the field using handheld IRIS devices, including in settings such as hospitals.
- Alternative notification methods are available, including telephone, Police Communications, or the VALS Notification – In Field Custody form (VP Form 1505).
- Victoria Police Manual (custody-related policies and practice guide) amended in 2025 in response to feedback from the Aboriginal Justice Caucus.

⁷ *Crimes Act 1958 (Vic) s 464FA ('Crimes Act')*.

⁸ 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')).

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<p>Outcomes</p>	<p>Changes to the <i>Crimes Act 1958</i> (Vic) in 2019 made it mandatory for police to notify VALS within an hour (or as soon as possible) when an Aboriginal person is taken into custody.</p> <p>Custody Notification Service⁹</p> <p>Between 1 July 2021 and 30 June 2022, the Custody Notification Service at VALS handled over 11,800 police notifications about Aboriginal people in custody, generating more than 69,000 follow-up calls to support client wellbeing, provide legal advice, and coordinate with families and services.</p> <p>A 2020 review by National Aboriginal and Torres Strait Islander Legal Services found that while compliance with notification requirements is generally effective, it remains inconsistent, with delays and failures to notify limiting overall effectiveness.¹⁰</p> <p>Coronial Findings¹¹</p> <p>In the Inquest into the Passing of Veronica Nelson, the coroner found that Veronica Nelson was not given a meaningful opportunity to engage with VALS regarding her welfare and legal issues. The coroner found it was unlikely that Ms Nelson had her right to speak with someone from VALS properly explained to her in terms she understood or was given adequate time to decide about speaking with VALS.</p> <p>Further, the power imbalance between police and a detainee (especially an Aboriginal woman) requires that police are supportive and encouraging of people exercising their rights to speak with VALS. The coroner recommended amendment to the VPM to ensure a person under arrest has a meaningful opportunity to make an informed decision about communicating with someone from VALS.</p>
<p>Community views</p>	<p>Victorian Aboriginal Legal Service¹²</p> <p><i>In 2018 the Australian Law Reform Commission joined VALS in advocating to legislate the requirement for police to notify the relevant Aboriginal legal service when an Aboriginal and Torres Strait Islander person is taken into custody. VALS was successful in this advocacy in October 2019.</i></p> <p><i>When an Aboriginal and/or Torres Strait Islander person is in Victoria Police custody the Custody Notification System (CNS) sends an alert to VALS, and we respond in the interests of the person.</i></p> <p><i>This service operates 24 hours a day, seven days a week. Currently, our Custody Notification Officers (CNOs) have working relationships with 333 police stations across the state.</i></p>

⁹ Victorian Aboriginal Legal Service, 'Custody Notification Officers', *Victorian Aboriginal Legal Service* (Web page) <<https://www.vals.org.au/custody-notification-officers/>> ('Custody Notification Officers').

¹⁰ ATSILS Custody Notification Service (2020) 13. <https://www.natsils.org.au/wp-content/uploads/2020/12/CNS-Table-for-website-policy-and-advocacyab37-1.pdf>

¹¹ Coroner Simon McGregor, *Inquest into the Passing of Veronica Nelson* (Findings COR 2020 0021, 30 January 2023) ('Inquest into the Passing of Veronica Nelson').

¹² Victorian Aboriginal Legal Service, 'Custody Notification Service', *Victorian Aboriginal Legal Service* (Web page, December 2025) <<https://www.vals.org.au/community-justice-programs/custody-notification-officers/>> ('Custody Notification Service').

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Related recommendations

Inquest into the Passing of Veronica Nelson¹³

Recommendation 5

Legislative amendment to section 464FA of the *Crimes Act 1958* to require an investigating official to inform an Aboriginal and/or Torres Strait Islander person in custody not only that VALS has been notified that the person is in custody but also that:

5.1. the purpose of the notification is for VALS to perform a welfare and wellbeing assessment on the person including:

5.1.1. identification of any medical, physical and mental health concerns, disability or impairment (including due to substance use); and

5.1.2. communication of any identified risks to the person's safety while in custody to Police so that appropriate management and care is provided.

5.2. the person may communicate with a VALS Client Notification Officer (CNO);

5.3. with the person's consent, CNOs may advise their family members, partner or other people of their wellbeing and whereabouts; and

5.4. with the person's consent, CNOs will contact a VALS on-call solicitor to provide pre-interview legal advice.

Recommendation 7

That the Chief Commissioner of Victoria Police amend any Victoria Police Manual (VPM) policies and guidelines to:

7.1. ensure an Aboriginal or Torres Strait Islander person under arrest has a meaningful opportunity to make an informed decision about whether to accept an offer to communicate with a VALS CNO, including providing the person with information about the purpose of that contact and what assistance the CNO may be able to provide;

7.2. ensure an Aboriginal or Torres Strait Islander person under caution has a meaningful opportunity to both:

7.2.1. consider whether to exercise their rights to communicate with a friend or relative and a legal practitioner; and

7.2.2. to exercise those rights.

Pathways to Justice¹⁴

Recommendation 14-3

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

¹³ *Inquest into the Passing of Veronica Nelson*.

¹⁴ 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').

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2005 Review¹⁵

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 summary¹⁶

Recommendation 224 intended to ensure police must immediately notify Aboriginal legal services whenever an Aboriginal person is detained or arrested. In Victoria, this has been implemented through a legal requirement to notify the Victorian Aboriginal Legal Service (VALS) within 60 minutes, supported by its 24-hour Custody Notification Service (CNS), which provides welfare checks and legal advice. However, there is limited data on how consistently police meet their obligations to identify Aboriginality and make timely notifications.

Findings from the Inquest into the Passing of Veronica Nelson highlighted serious gaps, including that Ms Nelson was not given a meaningful opportunity to engage with VALS or fully understand her rights. The coroner emphasised the need for police to actively support detainees, particularly Aboriginal women, to exercise these rights, recommending updates to police procedures to ensure informed decision-making.

While policy improvements have been made, including updates to the Victoria Police Manual and consultation with the Aboriginal Justice Caucus, significant challenges remain. Demand on the Custody Notification Service continues to grow, placing pressure on resources, with concerns that funding has not kept pace.

In areas where the team is handling a high number of calls and a growing number of Aboriginal people are being incarcerated, it's not just about the volume of people coming through, it's about the growing pressure on the CNS team. You'd expect funding to have increased to match this demand, but it hasn't. So, where's the funding to cover the increase in those areas? The recommendation is still relevant. We need to ensure the service receives the support and funding it actually needs. (Chris Harrison, Co-chairperson, AJC and Chairperson, Aboriginal Community Justice Panels)

Overall, while Recommendation 224 has been implemented in legislation, ongoing investment is needed to sustain the CNS, strengthen compliance, improve safety in custody, reduce incarceration, and support Aboriginal self-determination.

¹⁵ 2005 Review.

¹⁶ Meeting with Aboriginal Justice Caucus (Vic) (Project Team, In Person, 21 August 2024) ('AJC Meeting (21 August 2024)'); Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 30 July 2024) ('Working Group Meeting (30 July 2024)').

Assessment of Recommendation 224

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

3

(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

3

(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

3

(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

2

(Score out of 3)

Potential actions for further work

Appropriately fund the Custody Notification Service

Ongoing funding that increases over time as notifications increase.

(Action is the responsibility of the Commonwealth/Victorian Government not Victoria Police)

Moderate 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)			Rec 224
	Moderate (3-4)			
	Low (0-2)			

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