



Royal Commission into Aboriginal Deaths in Custody Recommendation

330. National Standards Body to engage Aboriginal organisations

That the National Standards Body establish and maintain direct consultation with relevant Aboriginal organisations including Aboriginal Legal and Health Services.¹

Background²	<p>The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) noted an absence of express consideration given to the needs of Aboriginal and Torres Strait Islander people in the Australian Guidelines. This was attributed to the absence of consultation with any Aboriginal or Torres Strait Islander organisations in the drafting or adoption of the Guidelines.</p> <p><i>The absence of any express consideration of the particular needs of Aboriginal people in the Australian Guidelines is perhaps explained by the absence of any expressed reference to consultation with any Aboriginal organization in the drafting or adoption of the Guidelines.³</i></p>
Intent	That the National Standards Body maintain engagement with Aboriginal organisations.
Responsibility	All state and territory governments.
Key contacts	Corrections and Justice Services, Department of Justice and Community Safety, Victorian Aboriginal Legal Service, Victorian Aboriginal Community Controlled Health Organisation.
Key action taken	
2005 Review⁴	Recommendation 330 was assessed as not relevant to Victoria according to the 1996-97 Implementation Report, as responsibility for action rested with the National Standards Body.
2018 Review⁵	<p>Deloitte concluded that all state and territory governments had fully implemented Recommendation 330 through their contributions to the Corrective Services Administrators Council Indigenous Working Group.</p> <p>In 1992, the Corrective Services Ministers decided that the Ministerial Council could not effectively maintain direct consultation with Aboriginal and Torres Strait Islander organisations because it met only once a year. Responsibility for consultation was therefore transferred to state and territory governments. Since then, all states and territories have reported that implementing Recommendation 330 is not their responsibility.</p>

¹ Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 5, 22 ('RCIADIC').

² Ibid vol 5, 10-28 [36.2].

³ Ibid vol 5, 21 [36.2.33].

⁴ 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 1, 530, 558, 642 ('2005 Review').

⁵ 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) 683 ('2018 Review').

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The Corrective Services Ministerial Council and Corrective Services Administrators Council created the Indigenous Working Group to help address the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system. All states and territories participated in the group, which developed an Indigenous Strategic Framework in 2016 that recommended stronger partnerships with Aboriginal and Torres Strait Islander organisations, including health services. The group consulted both collectively and within individual jurisdictions and regularly reported its progress to corrective services administrators and ministers.

Since then **Indigenous Strategic Framework⁶**
 The Indigenous Strategic Framework provides guidance for managing Aboriginal and Torres Strait Islander people in custody and under corrections supervision in Australia and New Zealand. While it identifies ‘Building Partnerships’ as a key principle, its focus is limited to partnerships that support reintegration. This indicates a lack of emphasis on engaging Aboriginal organisations and developing partnerships across other areas covered by the National Standard Guidelines.

Evidence of impact

Authorising documents **Indigenous Strategic Framework**
 The Indigenous Strategic Framework guides the management of Aboriginal and Torres Strait Islander people in prison and under corrections supervision across Australia and New Zealand. It is intended to be used in conjunction with the Guiding Principles for Corrections in Australia.⁷
 This Framework includes ‘Building Partnerships’ as a key principle suggesting that correctional authorities build meaningful partnerships of mutual benefit with Aboriginal organisations, Elders and respected persons and the broader Aboriginal community to ‘successfully reintegrate prisoners and offenders back into society’ with wrap around supports.⁸
 Recommendations/Considerations:

- rehabilitation should be Department lead and community supported; reintegration must be community lead and Department supported
- work with community to build capacity and capability to work alongside Indigenous prisoners and offenders to ensure successful outcomes
- build partnerships with employers to promote job opportunities and develop job readiness skills
- build awareness and understanding in the broader community to support partnerships that promote prisoner and offender reintegration

Commented [MS1]: Not sure if some of these refs (and following) are needed?

⁶ Corrective Services Administrators Council Indigenous Issues Working Group, *Indigenous Strategic Framework* (Policy Framework, April 2015) 1, 10 (‘Indigenous Strategic Framework’).

⁷ Ibid 1.

⁸ Ibid 10.

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	<ul style="list-style-type: none"> • have a place-based approach to community partnerships • monitor and evaluate partnerships for successful outcomes.⁹
Outputs	None identified.
Outcomes	<p>National Standards Body</p> <p>The Deloitte Review noted that it was resolved at the 1992 annual meeting of the Corrective Services Ministers that it was not practicable for the Ministerial Council, which met only once each year, to maintain engagement with Aboriginal and Torres Strait Islander organisations.</p> <p><i>As such, it was agreed that this responsibility would be devolved to the States and Territories. Since then, all States and Territories have noted in their implementation reports that Recommendation 330 is not their responsibility.</i>¹⁰</p> <p>Victoria</p> <p>The Minister holding the Corrections portfolio has been a signatory to the Victorian Aboriginal Justice Agreement (AJA) since its inception in 2000. Signatories are required to abide by the principles outlined in the AJA which have evolved over time from partnering with Aboriginal organisations and community representatives to working collaboratively with Aboriginal groups and in more recent iterations prioritising Aboriginal self-determination.</p> <p>Fundamental to the AJA is the need for government and justice agencies to engage and work with the Aboriginal community, through the Aboriginal Justice Caucus (AJC). Unfortunately, engagement does not always occur in line with the partnership principles outlined in the Agreement, particularly the principle to prioritise self-determination.</p> <p>This principle was recognised repeatedly during Yoorrook hearings by Ministers and departmental executives, particularly those who are signatories to the AJA, yet there were several examples of failures to put this principle into practice outlined in the AJC Report to the 65th Aboriginal Justice Forum.¹¹</p> <p><i>Meaningful and effective reforms must be guided by the expertise of the AJC and supported by the Regional Aboriginal Justice Advisory Committees (RAJACs) and the many leaders, Elders and members of Aboriginal communities across Victoria. This approach recognises that Aboriginal experiences and voices must be at the centre of decision-making to deliver better policies and programs that reflect community needs and aspirations. This is critical to moving beyond partnership and towards true self-determination.</i>¹²</p> <p>The AJC were concerned that engagement seems to be an afterthought for several business units. To have the greatest impact in improving justice outcomes for Aboriginal people and communities, AJC requires early and active engagement across the sector.</p>

⁹ Ibid.

¹⁰ 2018 Review, 683.

¹¹ Aboriginal Justice Caucus, *Aboriginal Justice Caucus Report to Aboriginal Justice Forum 65* (Agenda Paper, July 2023) 5 ('AJC Report to AJF 65').

¹² Minister for Corrections, Enver Erdogan MP, Yoorrook Witness Statement, *ibid.*

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Engaging Aboriginal public servants, individual Aboriginal organisations, or specific community members is not equal to capturing the view of the Aboriginal community. It is therefore not self-determination. The AJC provides the conduit between government and the Aboriginal community, in ensuring that community perspectives inform policy. When they are not prioritising the views of Caucus, the government is excluding the Aboriginal community from the decision-making process.¹³

Community views

Aboriginal Justice Caucus, AJC Report to Aboriginal Justice Forum 65¹⁴

AJC express disappointment that an updated Corrections 'Commissioner's Requirement – Aboriginal and Torres Strait Islander Prisoners', did not come through Caucus for consultative engagement. We acknowledge that the Commissioner's Requirements are internal Corrections documents. However, when they concern Aboriginal people, AJC believe that community input is necessary.

Related recommendations

None identified.

Assessment summary¹⁵

The intent of Recommendation 330 was to ensure that the National Standards Body engage in an ongoing way with relevant Aboriginal organisations. In 1992 Corrective Services ministers agreed that this responsibility would be devolved to states and territories. Since then, all states and territories noted in their implementation reports that Recommendation 330 was not their responsibility.

While the National Standards Body has not directly engaged with Aboriginal organisations, its Victorian member, the Minister holding the Corrections portfolio, has been a signatory of the Victorian Aboriginal Justice Agreement (AJA) since its inception in 2000. Signatories are required to abide by the principles outlined in the AJA which have evolved over time from partnering with Aboriginal organisations and community representatives to working collaboratively with Aboriginal groups and in more recent iterations prioritising Aboriginal self-determination.

There is regular engagement with Corrections and Justice Services and Aboriginal community representatives through the Aboriginal Justice Forum, Aboriginal Justice Caucus and meetings of the Rehabilitation and Reintegration Collaborative Working Group. However, to date, ministerial engagement with Aboriginal organisations in Victoria through the AJA has not covered the National Standard Guidelines or Victorian Correctional Standards and Guidelines for prisons.

Some aspects of this recommendation are no longer relevant, in that the National Standards Body have devolved responsibility to the states and territories on this matter, and national standards may be less relevant than standards at a state level. However, ensuring Aboriginal input into the design of standards, whether at national or state level, is still desirable and could improve outcomes.

¹³ Ibid 6.

¹⁴ Ibid 5.

¹⁵ Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 31 October 2023) ('Working Group Meeting (31 October 2023)'); Meeting with Aboriginal Justice Caucus (Project Team, In Person, 13 December 2023) ('Aboriginal Justice Caucus Meeting (13 December 2023)').

Assessment of Recommendation 330

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

2

(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

1.5

(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

No actions identified.

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)			
	Moderate (3-4)		Rec 330	
	Low (0-2)			

Bibliography

Meeting with Aboriginal Justice Caucus (Project Team, In Person, 13 December 2023)

Aboriginal Justice Caucus, *Aboriginal Justice Caucus Report to Aboriginal Justice Forum 65* (Agenda Paper, July 2023)

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