



SUBMISSION TO THE
COMMISSION FOR CHILDREN
AND YOUNG PEOPLE'S OUR
YOUTH, OUR WAY INQUIRY
OCTOBER 2019



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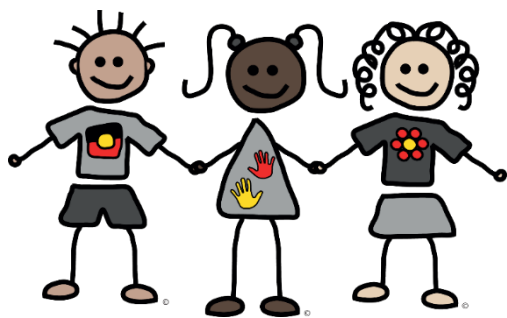
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Acknowledgement of Country

The Victorian Aboriginal Children and Young People's Alliance (The Alliance) wishes to acknowledge the Traditional Owners of Australia, and pay respects to Elders, past, present and emerging.

The Alliance wishes to acknowledge that Aboriginal people in Australia are the oldest continuing culture in the world and for more than 60,000 years they have flourished in strong families and communities. At the core of Aboriginal cultures is holistic understanding and way of life that saw Aboriginal people live in harmony with each other and the land. This wisdom has been passed down from ancestors and through their continued, enduring resilience. It is our hope that Aboriginal knowledge systems and ways of being continue to be recovered, reaffirmed, and celebrated in the wider Australian society.

The Alliance also wishes to acknowledge and pay tribute to the tireless work of Aboriginal Elders, leaders and community who continue to advocate for self-determination and justice for Aboriginal people.

They have carried hope and advocated for change, against adversity and systemic racism, to bring us to where we are now. In particular we wish to acknowledge the

Commissioners of the Royal Commission into *Aboriginal Deaths in Custody* and *The Bringing Them Home Report* Commissioners and co-commissioners.

It is on their shoulders that the Alliance Members and Aboriginal communities continues to improve outcomes for Aboriginal children and young people.

Lastly, the Alliance wants to acknowledge the Victorian government and the Koori caucus of the Aboriginal Justice Forum their continued commitment to Aboriginal self-determination. The Aboriginal Justice Agreement is the longest standing agreement in the state and has enjoyed bipartisan support to address the overrepresentation and improve outcomes for Aboriginal people in justice over the past 19 years.

The acknowledgement that self-determination is not only an inalienable right for Indigenous communities, but delivers the best outcomes for Aboriginal people, is now entrenched in the Victorian government commitments and the Alliance looks forward to continue this work and the ongoing journey to self-determination.

About Us

The Victorian Aboriginal Children and Young People's Alliance (the Alliance) is an alliance of 14 Aboriginal Community Controlled Organisations (ACCOs) registered to deliver child and family services through the Human Services Standards under the Child, Youth and Families Act (2005).

The 14 ACCOs are:

- Ballarat & District Aboriginal Co-operative
- Bendigo & District Aboriginal Co-operative
- Dandenong & District Aboriginal Co-operative
- Gippsland & East Gippsland Aboriginal Co-operative
- Goolum Goolum Aboriginal Co-operative
- Gunditjmara Aboriginal Co-operative Ltd
- Mallee District Aboriginal Services
- Mungabareena Aboriginal Corporation
- Murray Valley Aboriginal Co-operative
- Njernda Aboriginal Corporation
- Ramahyuck District Aboriginal Corporation
- Rumbalara Aboriginal Co-operative Ltd
- Wathaurong Aboriginal Co-operative
- Winda-Mara Aboriginal Co-operative

In 2014, we formed the Victorian Aboriginal Children and Young People's Alliance, with the belief that together we are stronger and with one unified voice we can positively influence the future for Aboriginal children and young people living in Victoria.

Together with the Victorian Aboriginal Child Care Agency (VACCA), we will be responsible for overseeing the social and emotional wellbeing of Aboriginal children and young people in Out of Home Care (OOHC) through their care and case management. By 2021, all Aboriginal

children and young people will be in the care of ACCOs.

The Alliance has a crucial role in driving change to achieve better outcomes for Aboriginal children and young people.

Our Vision

Aboriginal children and young people have every opportunity to thrive and be raised safely in Aboriginal families

Executive Summary

The Alliance welcomes the opportunity to make a submission to the Commission for Children and Young People's *Our Youth, Our Way Inquiry* and thanks the Commission for its work and efforts to find solutions to the critical overrepresentation of Aboriginal children and young people in the criminal justice system.

Despite repeated close the gap targets for reducing Aboriginal youth incarceration, no government-led intervention has been successful in curbing the rates. There have been several promising initiatives and programs, including Koori Courts, night patrols, and community diversions, with one notable characteristic: they are Aboriginal-lead initiatives driven by Community.

As it becomes more and more evident of the failure of the youth justice system for Aboriginal children and young people, we carry a spirit of optimism and conviction that we can drive the change needed on the ground to improve the lives of Aboriginal youth and reduce their overrepresentation within youth justice.

Building on the long-held vision from Aboriginal Community for self-determination - we believe we have the relationships and expertise to lead self-determination in youth justice through the care and case management of Aboriginal children and young people who come in contact, or are at risk of coming in contact, with youth justice and ultimately transform outcomes for Aboriginal children and young people.

We are well aware of the gravity of the task ahead, our 14 members are involved in the transition of Aboriginal children in out-of-home care to ACCOs with some authorised

or pre-authorised to take on the legal guardianship of Aboriginal children and young people under Section 18 of the *Child, Youth and Families Act* (2005).

The Alliance, as signatories to Wungurwilwil Gapgapduir – the first tripartite agreement between government, the community service sector and ACCOs, have been engaged in the task of not only transferring Aboriginal children to ACCOs but transforming the services Aboriginal children receive to see that our knowledge and ways of being and relating are embedded in their care.

It is with great conviction that we submit to the Commission for Children and Young People's *Our Youth, Our Way* inquiry with a unanimous view that our Communities can start preparing to assume greater responsibilities in youth justice.

Based on our experience with Aboriginal Children in Aboriginal Care (Section 18) and the greater responsibility for delivering child and family services, we are calling for legislative change to **transfer** and **transform** the care children and young people receive. We are calling for self-determination that recognises Aboriginal rights, and provides adequate resources to meet our responsibilities to reduce the over-representation and stop the trajectory of children and young people entering the justice system.

Recommendations

1. **That the Victorian Government recognise the Aboriginal Communities right to self-determination and commit to giving Aboriginal organisations greater responsibilities for Aboriginal children and young people in youth justice through:**

- The introduction of legislative to see the transfer of the care and case management of Aboriginal children and young people within juvenile justice to ACCOs (akin to Section 18 of the *Child, Youth and Families Act*)
- Embedding self-determination in the new Youth Justice Act and the Victorian Charter of Human Rights.

2. **The new Koori Youth Justice Strategy:**

- include an Aboriginal definition of social and emotional wellbeing and devise strategies to address the social, cultural, political and historic determinants of crime
- Reframe Koori youth justice as a welfare issue
- Include an Aboriginal specific justice reinvestment program.
- Have dedicated (longer term) funding with a high priority placed on early intervention and prevention.

3. **To improve social determinants of crime, Justice Reinvestment Programs should be:**

- Allocated to Aboriginal communities at proportional rates (at a minimum) or indexed according to justice targets.
- Fully transparent and accountable regarding rates and distribution to an Aboriginal leadership forum

4. **That an Aboriginal agency be funded to:**

- Scope the existing youth programs, youth justice and community justice programs at ACCOs to capture models of success and identify gaps in service delivery
- Convene an annual forum to share success stories alongside a Communities of Practice for justice workers.

5. **That the Victorian government:**

- Invest in youth programs aimed at early intervention and prevention through a dedicated funded strategy.
- Mandate notifications to ACCOs when an Aboriginal youth receives a caution to maximise engagement and early prevention (similar to child protection notifications).

6. **The department consult with Goolum Goolum Aboriginal Co-operative (GGAC) to fully cost the running of the intensive case management program including considerations of cultural and rural loading, and commit to funding the program for a minimum of five years.**

7. **It is also recommended that a full evaluation and modelling of the program, with emphasis placed on building capacity of GGAC workers for monitoring and evaluation, be completed to use Goolum Goolum's intensive management model to extend these services across ACCOs, should they wish to offer similar services.**

8. **To support self-determination the Victorian government introduces a whole of government reform to the funding of Aboriginal organisations. This needs to be:**

- Long-term (A minimum of 5 years)
- Flexible, block funding
- Single funding agreements
- Include a 25% monitoring and evaluation loading to program funding to build evidence base.

Priority Area 1: Transfer the care and case management of Aboriginal children and young people

There has been a long and sustained push for self-determination in the justice space dating back to 1991 across national and state inquiries and from the Victorian Aboriginal Community.

National Inquiries

The foundation for self-determination in justice was well established in the *Royal Commission into Aboriginal Deaths in Custody (RCADIC)* in 1991. The report recognised the strongest contributing factor behind the over-representation of Aboriginal people incarcerated was the “disadvantaged and unequal position in which Aboriginal people find themselves in the society-socially, economically and culturally ¹.”

The report concluded that the elimination of such disadvantage is “an empowerment of Aboriginal people; that control of their lives, of their communities must be returned to Aboriginal hands².”

Subsequently the report recommended;

62. That governments and Aboriginal organisations recognise that the problems affecting Aboriginal juveniles are so widespread and have such potentially disastrous repercussions for the future that there is an urgent need for governments and Aboriginal organisations to negotiate together to devise strategies designed to reduce the rate at which Aboriginal juveniles

are involved in the welfare and criminal justice systems and, in particular, to reduce the rate at which Aboriginal juveniles are separated from their families and communities, whether by being declared to be in need of care, detained, imprisoned or otherwise. (2:252)

188. That governments negotiate with appropriate Aboriginal organisations and communities to determine guidelines as to the procedures and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or program which will particularly affect Aboriginal people. (4:7)

In 1997 the *Bringing Them Home Report* ³ argued that the institutionalisation of Aboriginal children and young people through child welfare and youth justice is a form of contemporary forced removal. Arguing that self-determination in both child welfare and youth justice is the only remedy to ensuring Aboriginal children remain connected to culture, community and Country, the report showcases examples of self-determination internationally.

The report recommends:

Recommendation 43c: That the national framework legislation authorise negotiations with Indigenous communities that so desire on any or all of the following matters,

- 1. the transfer of legal jurisdiction in relation to children's welfare, care and protection, adoption and/or juvenile justice to an Indigenous*

- community, region or representative organisation,*
2. *the transfer of police, judicial and/or departmental functions to an Indigenous community, region or representative organisation,*
 3. *the relationship between the community, region or representative organisation and the police, court system and/or administration of the State or Territory on matters relating to children, young people and families including, where desired by the Indigenous community, region or representative organisation, policy and program development and the sharing of jurisdiction, and/or*
 4. *the funding and other resourcing of programs and strategies developed or agreed to by the community, region or representative organisation in relation to children, young people and families.*

Self-determination in Victoria

The Alliance wishes to commend the Victorian government in the advancement of Aboriginal self-determination and recognition that self-determination is a prerequisite in closing the gap for all health and wellbeing outcomes. This recognition is supported by irrefutable evidence that Aboriginal self-determination delivers the best outcomes for Aboriginal people ⁴.

Victorian Aboriginal Justice Agreement

In 2000 the Victorian government in partnership with Aboriginal Community established the Victorian Aboriginal Justice Agreement with a commitment to seeing all recommendations from the Royal Commission into Aboriginal Deaths implemented.

To date there have been four iterations of the Aboriginal Justice Agreement, which have gone from strength to strength, most notably establishing Koori Justice workers across Victoria and Koori Courts which have been replicated nationally and internationally.

The fourth Aboriginal Justice Agreement, *Burra Lotjpa Dunguludja* explicitly articulates a long-term vision for self-determination, and self-management in justice:

“Embedding self-determination in the core business of justice agencies requires change in order to transfer power, decision-making and resources to the Aboriginal community. Taking first steps toward transitioning to greater Aboriginal authority is a crucial aim of this Agreement.” ⁵

Victorian Aboriginal Affairs Framework (2018-2023)

An overarching framework for how government should work with Aboriginal communities, people and organisations which, “*sets out the whole of government self-determination enablers and principles, and commits government to significant structural and systemic transformation.*” ⁶

According to Victorian Premier Daniel Andrews, the VAAF is a “*new way of doing*

business. A new approach to Aboriginal affairs, with the voices of Aboriginal people at its heart. Because, a decade on from the Closing the Gap agreement, there is no more evident truth: we only achieve better outcomes for Aboriginal people when that all-important work is led by Aboriginal people.”⁷

As outlined in the VAAF the Victorian government has committed to four self-determination enablers:

- Prioritise culture
- Address trauma and support healing
- Address racism and promote cultural safety
- Transfer power and resources to communities

Despite a "whole of government commitment" in several iterations of the VAAF (formerly VIAF), individual governmental departments have consistently failed to adhere to the framework's guiding principles.

Self- determination in Child Welfare

One of the major milestones for Aboriginal self-determination was in 2005, when the Victorian government passed Section 18 of the *Children, Youth and Families Act*, legislating that ACCOs could see legal guardianship of Aboriginal children and young people in OOHC. The move recognised that Aboriginal communities were best placed to make decisions for and look after Aboriginal children and that ACCOs could provide many protective factors to achieve the best life outcomes for at risk Aboriginal children, young people, families and carers.

In 2018 *Wungurilwil Gapgapduir* (meaning strong families in Latji Latji) formalised this commitment, and became the first tripartite agreement of its kind in Australia to “transfer and transform” the care of Aboriginal children

and young people from government and mainstream CSOs to ACCOs.

The path to true self-determination has been established in *Wungurilwil Gapgapduir*, evident in the agreement's following statements:

- “Aboriginal self-determination requires government and mainstream organisations to relinquish power, control and resources to Aboriginal organisations.”⁸
- The agreement also commits to addressing “the current and historical funding inequities and barriers so Aboriginal organisations are fully resourced to deliver a continuum of services.”⁹
- “Aboriginal communities have choice, control, authority and responsibility for determining the priorities and delivering services for Aboriginal communities. Culture, self-determination and self-management sit at the heart of all policies, practices and decisions.”¹⁰
- “The continuous expansion of Aboriginal organisations, functions requires increased capacity, infrastructure, funding, capability and self-management to ensure that services are equipped to meet the needs of all Victorian Aboriginal children, young people and families.”¹¹

Recommendation:

That the Victorian Government recognise the Aboriginal Communities' right to self-determination and commit to giving Aboriginal organisations greater responsibilities for Aboriginal children and young people in youth justice through:

- Legislative change to see the transfer of the care and case management of Aboriginal children and young people within juvenile justice to ACCOs (akin to Section 18 of the Child, Youth and Families Act)
- Embedding self-determination in the new Youth Justice Act and Victorian Charter of Human Rights

Priority Area Two: Transform the care of Aboriginal children and young people

***“Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.”-
Uluru Statement from the Heart 2017***

The overrepresentation of Aboriginal children and young people in youth justice in Victoria tells a story of a system that is manifestly failing the country's First Nation children. In Victoria Aboriginal children and young people are 13 times more likely to be imprisoned than their non-Aboriginal peers and they represent 17 percent of the youth justice population despite being 1.6 percent of the Victorian population¹².

Our children carry hope for a better and brighter future, yet they are falling through the gaps in the care and supports they need.

The children and young people who encounter the youth justice system are often children who have experienced family violence, neglect or abuse, often they have been removed from their families, separated from their community and experienced multiple placements¹³.

These children most likely come from socio-economically disadvantaged households and

have loved ones who experience intergenerational trauma. They are more likely to have mental illness, intellectual disability or struggle with drug or alcohol misuse¹⁴.

Often they have left school, either by choice or by expulsion, have little employment prospects with some experiencing, or at risk of experiencing, homelessness¹⁵.

They are often disconnected from family, Community and culture and the wider society tells them they are no good and when discretion could be used by police, often is not.

These children are the most vulnerable population in the state, but when they break the law and face the court system they are not treated with compassion or understanding, they are not given the supports they need, instead they are locked up and left to languish in the state's youth justice system.

They have become a part of the youth justice system and will often graduate to the criminal justice system - how can this be justice? For too long Aboriginal children and young people have been locked up due to a punitive, individualistic and pathologising worldview that fails to see their vulnerability, their hardship and their resilience. Instead they are seen as criminals and sentenced to a life of prolonged disadvantage.

The deficit model needs to be turned on its head – instead of asking what is wrong with our youth, we need to look at how the system, and our society, has failed them.

The Victorian Aboriginal Children and Young People's Alliance is calling for a system overhaul- one that places social justice at its

center¹⁶, and sees youth justice as a welfare issue. We need a system that wraps around these vulnerable children and young people and gives them the supports they need and often have never had.

Aboriginal Definition of Social and Emotional Wellbeing

It is the Alliance's view that the overrepresentation of Aboriginal children and young people in the criminal justice system should be understood through the lens of Aboriginal social and emotional wellbeing.

The model, developed by Gee, Dudgeon, Schultz, Hart and Kelly (2013) views an individual's wellbeing and behavior as responsive to internal and external factors.

The social and emotional wellbeing model recognises seven domains to social and emotional wellbeing (the inner circle) which include:

- connection to body
- connection to mind and emotions
- connection to family and kinship
- connection to community
- connection to culture
- connection country
- connection to spirituality and ancestors

The outer circle includes outside factors that can influence an individual's life outcomes:

- Social determinants
- Political determinants
- Cultural determinants
- Historical determinants



The strong correlation between the social determinants of crime (poverty, disadvantage, lack of housing, lack of educational attainment/employment) and the overrepresentation of Aboriginal people incarcerated have been well documented in numerous inquiries on Aboriginal incarceration and social determinants of crime¹⁷.

In 2015, the Victorian Ombudsman's report found that half of the people locked up in Victoria's prisons come from just 6 per cent of postcodes¹⁸.

The complex drivers behind crime need to be addressed on multiple layers including improving the social, political, historic and cultural determinants of health and wellbeing.

We are of the view that a strong and comprehensive justice reinvestment program¹⁹, which reallocates money spent on incarceration and invests in community, can help rebuild our communities and assist in addressing the social determinants of crime.

Such reinvestment strategies should be driven towards Aboriginal communities through ACCOs. This investment should be

set at a proportional rate at a minimum and further examination should go into indexing it against justice targets.

Recommendations:

The new Koori Youth Justice Strategy:

- include an Aboriginal definition of social and emotional wellbeing and devise strategies to address the social, cultural, political and historic determinants of crime
- Reframe Koori youth justice as a welfare issue
- Include the development of a comprehensive Aboriginal justice reinvestment program.

To improve social determinants of crime Justice Reinvestment Programs should be:

- Allocated to Aboriginal communities at proportional rates (at a minimum) or indexed according to justice targets.
- Fully transparent around rates and distribution to an Aboriginal leadership forum.

Strengths based approach- Connecting to culture and rebuilding social capital

We believe the key to addressing the overrepresentation of Aboriginal children and young people incarcerated is a holistic and multi-layered approach that addresses the social and emotional wellbeing of Aboriginal children, young people and families and helps rebuild strong and safe communities. For more than 50 years our Members have been providing holistic wrap-around services to improve health, wellbeing and community aspirations. Our service are deeply informed by an Aboriginal understanding of health and have demonstrated success in building

social capital and community connection in the most disadvantaged communities.

Our service delivery is holistic and aims to wrap-around vulnerable community members. Over the years we have extended our service delivery beyond primary health to respond to community needs and aspirations and have subsequently received DHHS registration to deliver child and family services and take on the case management of Aboriginal children in out-of-home care across the state.

Already more than 80 percent of our Members run justice programs across the state including 19 youth programs targeting at risk youth which range from:

- Youth group
- Youth Engagement
- Youth Mental Health
- Youth Health and Wellbeing
- Boys on the Bounce
- Youth Justice
- Youth Justice Approach
- Koori Youth on the Move
- About Tomorrow
- Youth Support Services
- Koori Night Patrol
- Koori Kids Program
- Healing Centre (residential)
- Homework program
- Youth Mentoring Program
- Afterschool Program
- Early School Leavers
- Deadly Connections
- Navigator

Our Members also run targeted youth justice programs including intensive case management, Aboriginal community justice panels, and residential community diversions, amongst many others.

Through a comprehensive and statewide transfer of the care and case management of Aboriginal children and young people to ACCOs, the Alliance is hoping to design, develop and deliver a suite of programs aimed at prevention, early intervention, diversion and post-release for vulnerable Aboriginal youth.

With up to 60 percent of Aboriginal youth currently in contact with the criminal justice system also having contact with child protection these clients are already known to us and we have established relationships within children, youth and their families/carers.

We are confident that the holistic care we provide to vulnerable youth and their families can also be extended to Aboriginal youth who are in, or at risk of, coming in contact with the criminal justice system.

The transition of the care and case management of Aboriginal children and young people will:

- See a continuity of care for dual clients of child protection and youth justice and ongoing relationship with ACCO.
- Ensure that Aboriginal children and young people in youth justice remain connected to culture, community and Country.
- Provide early intervention to Aboriginal children, young people and their families. The current system fails to recognise that often troubled or criminal behaviour in young people is a symptom of family distress/homelessness/addiction.
- Provide holistic social and emotional wellbeing support and physical health checks through wrap-around services at ACCOs.

- Offer better diversion and rehabilitation to Aboriginal children and young people through increased engagement and provision of culturally safe services.
- Provide better outcomes to Aboriginal children and young people.
- Continue the advancement of self-determination for Aboriginal communities.

Recommendations:

That an ACCO be funded to:

- Scope the existing youth programs, youth justice and community justice programs at ACCOs to capture models of success.
- Convene an annual forum to share success stories alongside a Communities of Practice.

That the Victorian government:

9. Invest in youth programs aimed at early intervention and prevention through a dedicated funded strategy/agreement.
10. Include a 25% monitoring and evaluation loading to program funding to build evidence base.
11. Mandate notifications to ACCOs when a youth receives a caution to maximise engagement and early prevention (similar to child protection notifications).

“Young people, once in contact with the police, are referred often to non-Aboriginal organisations. VALS is notified, but we need broader-ranging referrals to ACCOs... to see if they can follow up with that young person.” Participants from a joint workshop on Furthering self-determination in the Youth Justice System 21 May 201

Intensive Case Management Models

In 2018, in response to a rise in youth offending and the gap of holistic supports for contributing factors to offending such as homelessness, Alcohol and other drugs and poverty, Goolum Goolum Aboriginal Co-Operative (GGAC) established an intensive case management program.

The program targeted youth between the ages of 14-20 at risk of chronic offending and/or incarceration. These youth presented with a multiple high risk factors including:

- Homelessness
- Drug and alcohol abuse or addiction
- Victim of family violence and/or sexual violence
- Child protection involvement from a young age
- Traumatic childhoods
- Intellectual disabilities
- Mental health concerns or diagnosis
- Inability to navigate services
- Minimal life skills
- No pro social relationships

During the period of the program participants work with the case manager to address their risks, needs and responsivity factors that are contributing to their reoffending or risk of offending. An intensive case plan is developed which is goal-orientated and addresses the causative issues that are leading to the young person being involved in the justice system or placing themselves at risk. The young person is involved in all decisions and supported to achieve these goals.

Over the course of 12 months, GGAC worked with 36 local Aboriginal youth which

consisted of three levels of engagement- youth engagement, program participation and intensive case management.

Prior to the introduction of the intensive case management program 16 youth had 36 statutory orders. By the end of the program this had dropped to 2 youth on 2 orders.

The introduction of the program saw the number of Koori youth caseloads in Wimmera drop from 50 percent to 12.5 percent.

Recidivism rates drastically lowered, completion of orders increased and there was a significant increase in attendance at detox facilities and alternative education programs.

Recommendations:

- The Victorian government consult with GGAC to fully cost the running of the intensive case management program including considerations of cultural and rural loading, and commit to funding the program for a minimum of five years.
- It is also recommended that a full evaluation and modelling of the program, with emphasis placed on building capacity of GGAC workers for monitoring and evaluation, be completed to use Goolum Goolum's intensive case management model to extend these services across Victorian ACCOs, should they wish to offer similar services.

Priority Area Three: Advance Self- determination

Transfer of Power, Control and Resources to ACCOS

Dating back to the first articulation of self-determination in justice in Australia's first and only Aboriginal-specific Royal Commission, it has been recognised that there are necessary foundations to establish Aboriginal self-determination.

Aptly named the "path to self-determination" the *Royal Commission Into Aboriginal Deaths in Custody* recommended:

- Single funding agreements
- Long term funding
- Block funding

as necessary enablers to Aboriginal Communities realising self-determination:

190. That the Commonwealth Government, in conjunction with the State and Territory Governments, develop proposals for implementing a system of block grant funding of Aboriginal communities and organisations and also implement a system whereby Aboriginal communities and organisations are provided with a minimum level of funding on a triennial basis. (4:4.21)

191. That the Commonwealth Government, in conjunction with the State and Territory Governments, develop means by which all sources of funds provided for or identified as being available to Aboriginal communities or organisations wherever possible be allocated through a single source with one set of audit and financial requirements but with the maximum devolution of power to the communities and organisations to determine

the priorities for the allocation of such funds. (4:21)

193. That the Commonwealth Government, in negotiation with appropriate Aboriginal organisations, devise a procedure which will enable Aboriginal communities and organisations to properly account to government for funding but which will be least onerous and as convenient and simple as possible for the Aboriginal organisations and communities to operate. The Commission further recommends that State and Territory Governments adopt the same procedure, once agreed, and with as few modifications as may be essential for implementation, in programs funded by those governments.

Subsequent Commissions, Inquiries and calls from Community have repeated these reforms to the funding of ACCOs over the past 28 years with little resulting, or inconsistent action.

Beyond the commitments and best intentions of the Victorian government, there are still fundamental flaws in the provision of long-term and equitable funding needed to secure the sustainability of ACCOs to provide services in line with the growing demand.

Addressing the alarming overrepresentation of Aboriginal children and young people in OOHc and youth justice requires an urgent review and reconfiguration of funding arrangements so that funding is not allocated per population but rather in-line with Community need and achieving outcomes as opposed to outputs.

At this stage, funding agreements are short term, and the Alliance calls for all funding agreements to be a minimum of five years so that ACCOs can plan for the necessary

growth and to provide holistic care and support to children and families.

Beyond the increase and transfer of resources, ACCOs also need flexible funding agreements to transform the provision of care to one that is informed by Aboriginal knowledge and accommodates for the provision of holistic supports to prevent, intervene and heal the complex needs of at risk Aboriginal communities. There is no-one size fits all approach, and true self-determination will allow for Aboriginal communities to decide what supports are needed within the community.

Recommendations:

To support self-determination the Victorian government introduces a whole of government reform to the funding of Aboriginal organisations in line with the holistic suite of services ACCOs provide. This needs to be:

- Long-term (A minimum of 5 years)
- Flexible, block funding
- Single funding agreements

Embed Aboriginal Self-Determination in legislation

The Alliance, as co-signatories of Wungurilwil Gapgapduir also endorses the vision and definition of self-determination:

“Aboriginal self-determination requires government and mainstream organisations to relinquish power, control and resources to Aboriginal organisations.”²⁰

Recognising path to self-determination is ongoing and imperfect, the Alliance has experienced several roadblocks on the path to self-determination for the transfer and

transformation of Aboriginal children in OOHHC that undermine Wungurilwil Gapgapduir’s commitments to self-determination which include:

Recommendations from the Royal Commission Into Family Violence ²¹ including the mandatory working with children checks for all people that reside in a household contradicting Always Was, Always Will Be Koori Children²² recommendation:

7.1 “DHHS to review carer eligibility and assessment criteria to ensure potential Aboriginal carers are not precluded on the basis of racial bias or past criminal offences that do not impact on their ability to provide safe and appropriate care to a child”.

A lack of a spent convictions scheme in Victoria impacting on family members’ ability to be becoming kinship carers despite their criminal record being 20 years old for an irrelevant crime.

The one sizes fits all legislation and policy reforms can have detrimental impacts on Aboriginal children, young people, families and community, particularly if their impact on Aboriginal community is not considered. Legislation and Policy reform must be informed by Aboriginal community.

What more, the examples above demonstrate how new reforms can undermine self-determination on the ground. In both cases, these policies severely restrict the potential for Aboriginal people to become kinship carers- despite these applicants being known to the community as stand-up community members.

It is from a policy and practice perspective that we ask that Aboriginal self-determination be embedded in legislation to help safeguard

against the introduction of new reforms and legislation that undermine Aboriginal communities right to self-determination. -

Recommendation:

Embed Aboriginal self-determination in legislation including:

- the Victorian Charter of Human Rights
- Child Youth & Families Act & the new Youth Justice Act

“All too often Aboriginal voices are tacked on at the end of the processes of development of policy and legislation... Aboriginal development in these processes need to happen early, it must be genuine, as well as central to the processes of development.... Aboriginal culture effects/impact statements must be part of the legislative process. Again, more needs to be done than just a tick and flick process on a form.”-

**Participants from a joint workshop on
Furthering self-determination in the Youth
Justice System 21 May 2019**

“There is benefit in embedding principles of self-determination and reducing over-representation deeply across government, including within policy and legislative-making processes.”

**- Participants from a joint workshop on
Furthering self-determination in the Youth
Justice System 21 May 2019**

Conclusion: Trust as the foundation to self-determination

It is our belief that underlying the principle of self-determination is trust. For decades Aboriginal organisations have developed and delivered innovative solutions for their communities; evident in the development of night patrols, Koori Courts and Aboriginal Family Led Decision Making that have significantly reformed outcomes for our children, families and community. Such innovation has been recognised by mainstream services and replicated for the wider Australian society.

Yet, Aboriginal organisations in large part have had to develop and fund such initiatives themselves through using their own funding or relying on volunteer workers.

This was evident in the case study given above where Goolum Goolum “had to beg” for funds to run its intensive case management program which had transformative outcomes for youth in the Wimmera area.

The Victorian Department of Justice (DoJ) funded a one-off grant of \$50,000, with the organisation shouldering the remaining costs.

The tedious process of seeking relatively small amounts of funding for transformative programs kills innovation and relies on either small organisations to foot the bill, or these ideas not coming to life.

Trust is central to the advancement of self-determination, and the Alliance calls on government to recognise our expertise and

experience²³ in delivering better outcomes for our community.

The transfer of Aboriginal children and young people in youth justice and a commitment to Aboriginal self-determination will help formalise a relationship of trust and accountability to achieve better outcomes for Aboriginal children and young people.

“As evidence from the intensive management program shows GGAC has achieved significant positive outcomes for high risk Indigenous youth. GGAC is committed to providing this intensive support for local young people, as it has been identified by community engagement, to be imperative in providing the adequate supports needed to achieve non-offending behaviours within our community. However, this has come with significant strain to existing GGAC personnel, funding, services and resources.”

- Anthony Craig GGAC CEO.

Endnotes

¹ Commonwealth, *Royal Commission Into Aboriginal Deaths in Custody*, 1991, vol 1 (1.7.1)

² Ibid, vol 1 (1.7.6)

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