



Select Committee on the high level
of First Nations people in custody
NSW Parliament
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Dear Committee

Thank you for the opportunity to give evidence at the 8 December 2020 hearing.
Following is the Aboriginal Affairs NSW response to the items taken on notice.

Question	AANSW Response
<p>The CHAIR: Given the nature of those targets, they are of necessity medium- to long-term in terms of improving the situation in which people find themselves. They simply cannot be accelerated to a great degree. Would that be something that you agree with, or do you think that there is some way in which we could accelerate some of those?</p>	<p>The NSW Government and NSW Coalition of Aboriginal Peak Organisations, working with other key stakeholders, will jointly determine the approach to achieving Closing the Gap targets and priority reforms in NSW, including prioritisation and sequencing of actions. A Jurisdictional Implementation Plan which will guide the implementation of the National Agreement in NSW is currently being developed.</p> <p>Although socioeconomic targets are long-term, the priority reforms may offer more opportunities to accelerate change. In particular, Priority Reform Three (Transforming Government Organisations) calls on governments to tackle institutional racism, increase cultural safety and accountability, and improve engagement with Aboriginal and Torres Strait Islander people. For example, institutional change across the criminal justice system has the potential to accelerate reductions in Aboriginal incarceration rates.</p> <p>For the Committee's information the justice outcomes and targets under Closing the Gap are:</p> <ul style="list-style-type: none"> • Outcome 10 Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system Target 10: By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent. • Outcome 11 Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system Target 11: By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent.
<p>Mr DAVID SHOEBRIDGE: The \$7.4 million will not even touch the sides.</p>	<p>The National Agreement on Closing the Gap included a commitment to build the capability of Aboriginal community-controlled sectors of health, disability, early childhood and housing. Governments agreed to establish a joint pooled fund to deliver on this commitment.</p>

	<p>All jurisdictions have contributed to the joint fund. The Commonwealth Government has contributed \$46.5 million; and state and territory governments' contributions were based on share of population. The NSW contribution was \$7.4 million over four years.</p> <p>Each jurisdiction will administer their contribution to the joint pooled fund in accordance with guidelines set by the Joint Council.</p>
<p>Mr DAVID SHOEBRIDGE: The Department of Communities and Justice [DCJ] says that achieving better outcomes for Aboriginal people, family and communities is its number one corporate objective. Were you aware that that was their number one corporate objective?</p>	<p>AANSW is aware that achieving better outcomes for Aboriginal people, family and communities is a key objective of the Department of Communities and Justice and continues to work with the Department on these issues including through the development of the Closing the Gap jurisdictional plan.</p>
<p>Mr DAVID SHOEBRIDGE: They say that they have an Aboriginal Reference Group in place and it has been since 1985. Are you part of that?</p>	<p>The Department of Communities and Justice Aboriginal Reference Group is an advisory group of internal Aboriginal employees and as such Aboriginal Affairs NSW is not a member.</p>
<p>Mr DAVID SHOEBRIDGE: They say that they have created an Aboriginal and Torres Strait Islander Cultural Capability Framework, which they are seeking to implement. Were you consulted on that and are you part of that?</p>	<p>Aboriginal Affairs NSW were engaged with on the Department of Family and Communities (now DCJ) Cultural Capability Framework when it was developed in 2018.</p>
<p>The Hon. PENNY SHARPE: I will just add to that. If you are taking that on notice, could you explain to us those frameworks? At the beginning you outline that each of the departments has a memorandum that they work on with you through the OCHRE process to address the key priorities. Can you let us know whether the things that Mr Shoebridge has been talking about are part of that agreement, or whether they sit outside of that agreement?</p>	<p>While there are not individual <i>OCHRE</i> memorandums of understanding between AANSW and other agencies the Premier's Memorandum M2015-01 Local Decision Making (https://arp.nsw.gov.au/m2015-01-local-decision-making) sets out the roles and responsibilities of NSW Government agencies in supporting Local Decision Making (LDM) including the establishment of formal and binding agreements, known as Accords and that agencies to adhere to the principles of LDM and ensure staff are educated to respond to the needs of Aboriginal communities in a culturally sensitive and appropriate manner.</p> <p>LDM aims to reduce duplication, increase the impact of government service delivery and investment and increase the capabilities of Aboriginal Regional Alliances participating in LDM (Alliances) and government to work together to improve outcomes.</p> <p>Seven accords have been negotiated between the NSW Government and the Alliances. This includes the accord with NCARA, the NSW Coalition of Aboriginal Regional Alliances (the alliance chairpersons or delegates), agreeing to work in partnership to address the following priority focus areas that have state-wide implication:</p>

	<ul style="list-style-type: none"> • Decreasing the number of Aboriginal youth entering the juvenile justice system, including incarceration rates and recidivism; and • Improving early childhood outcomes for Aboriginal children under 5. <p>The Department of Communities and Justice (DCJ) works with Alliances to support the development and implementation of accords which relate to the role of DCJ. Since the NCARA Accord was signed the total number of Aboriginal young people in juvenile detention has fallen from 105 in September 2019 to 78 in September 2020, a decrease of 25.7%. The over-representation of Aboriginal young people in juvenile detention has also decreased substantially from 44.7% of the total population in September 2019 to 41.1% of the total population in September 2020. (Source BOCSAR, December 2020). DCJ will continue to work with NCARA to support the LDM process and work in partnership with Alliances to help improve and better plan service delivery for their communities.</p> <p>The Aboriginal Outcomes Strategy and Cultural Capability Framework developed by the former Department of Family and Community Services are internal documents that set out the Department’s approach for delivering quality outcomes for Aboriginal people, improving cultural capability and improving the experience of Aboriginal clients. These documents are closely aligned with the Closing the Gap National Agreement.</p> <p>The Aboriginal Outcomes Strategy and Cultural Capability Framework fall within the responsibility of the Department of Communities and Justice and it is appropriate that further information be sought by that Department directly.</p>
<p>Mr DAVID SHOEBRIDGE: But if you have got Close the Gap sitting in your inbox and then you have got—a huge amount of that work must be implemented through DCJ and they have got an entirely separate Aboriginal engagement framework that you are not a part of. How is Close the Gap ever going to work?</p>	<p>Aboriginal Affairs NSW were engaged with on the development of the Department of Communities and Justice Cultural Capability Framework.</p> <p>There is strong alignment between <i>OCHRE</i> and the reform priorities identified under the National Agreement on Closing the Gap. <i>OCHRE</i> provides the principles for working in partnership with Aboriginal people and communities to support the four priority reform areas included in the National Agreement: Shared decision making; building the Aboriginal community-controlled sector; transforming government; and data sharing.</p> <p>There is also strong alignment between Closing the Gap and key Department of Communities and Justice strategies including the Cultural Capability Framework.</p> <p>In response to how Closing the Gap will work, it involves:</p> <ul style="list-style-type: none"> • Listening to the voices of Aboriginal people and communities and working in partnership with Aboriginal people on solutions in recognition that this is vital to making change. The Agreement itself was developed in genuine partnership with Aboriginal

	<p>people through the Coalition of Peak Aboriginal Organisations (CAPO).</p> <ul style="list-style-type: none"> • A holistic approach to support systemic changes needed to reduce the rates of incarceration of Aboriginal people. • A new national policy partnership on justice focussing on adult and youth incarceration to support meeting the justice targets in the Agreement. • The NSW Government working in partnership with the NSW Coalition of Aboriginal Peak Organisations and other Aboriginal representative bodies and organisations to develop a strong jurisdictional plan. <p>More specifically to support implementation of Closing the Gap, governance mechanisms have been established to enable partnership and collaboration between the NSW Government, CAPO and other stakeholders.</p> <p>Responsibility for Closing the Gap implementation sits across all Clusters. To support this Aboriginal Affairs has stood up a Closing the Gap Directorate to coordinate arrangements for the participation of all Clusters.</p>
<p>Mr DAVID SHOEBRIDGE: ...there is this Aboriginal engagement process framework, which has now been adopted by DCJ. I am not sure which one it is; it may be the Aboriginal and Torres Strait Islander Cultural Capability Framework. I cannot recall the exact terminology now, but there is a framework or a program that has been adopted by DCJ across the whole of that organisation for Aboriginal empowerment and Aboriginal engagement. They said that that has not been designated under the Ombudsman Act and therefore they do not have oversight and they cannot assist in the implementation and following of that. Were you aware of that?</p>	<p>As noted above a possible role for the Deputy Ombudsman (Aboriginal Programs) in the oversight and implementation of Department of Community and Justice Strategies including the Reducing Aboriginal Overrepresentation in the Criminal Justice System 2018-2020 strategy and the Cultural Capability Framework would be a matter for the NSW Ombudsman, the Department of Communities and Justice and relevant Ministers to determine.</p>
<p>Mr DAVID SHOEBRIDGE: I might see if, on notice, we can give you an extract of the Ombudsman's evidence about this, to get Aboriginal Affairs' perspective on whether or not the relevant declaration under the Ombudsman Act would be worthwhile.</p>	<p>Expanding the remit of the Deputy Ombudsman (Aboriginal Programs) to include justice issues would be a matter for the NSW Ombudsman, the Department of Communities and Justice and relevant ministers to determine.</p>

The Hon. TREVOR KHAN: But where you are talking about programs that encourage greater compliance with ADVOs, what is the nature of those programs and how widespread are they?

The Hon. TREVOR KHAN: And whether there are any other programs that address the issue of domestic violence. I am thinking in the context of intensive correction orders and community correction orders. What is actually available that magistrates can direct people to do that may be an alternative to full-time imprisonment?

Issues related to apprehended domestic violence orders are the responsibility of the Department of Communities and Justice and this question will be addressed in their responses to questions on notice.

Yours sincerely

Lil Gordon
Head of Aboriginal Affairs