

**NATSILS POLICY STATEMENT ON COVID-19**  
**8 April 2020**

We, the National Aboriginal and Torres Strait Islander Legal Services (**NATSILS**) and our Aboriginal and Torres Strait Islander Legal Services (**ATSILS**) members believe in compassion and justice always, especially now.

**We are all, without exception, affected by COVID-19. However, there will be people who suffer more than others, particularly our Aboriginal and Torres Strait Islander communities.**

The ongoing impacts of colonisation, land dispossession and family separation mean that our people are already experiencing the worst impacts of inequitable health.

The Commonwealth's Chief Medical Officer and Australian Government has identified Aboriginal and Torres Strait Islander people as more vulnerable to contracting COVID-19<sup>1</sup> and to suffer more severe illness and deaths because of it.<sup>2</sup>

**We call on Governments to do everything in their power to prevent Aboriginal and Torres Strait Islander deaths in custody due to COVID-19.**

COVID-19 will impact our people hardest, particularly our imprisoned children and adults around the country because many of them are already chronically ill, are living with disability or they are parents with children who depend on them.<sup>3</sup>

**The decisions that we all make now will determine whether our communities fall apart or come together. Decarceration, including the immediate release of imprisoned people, is necessary to stop the spread of COVID-19 and ensure there are sufficient hospital beds for those who need it.**

To care for everyone we must all ensure that our communities are connected and strong. All governments must focus on protecting our people who are most at risk and doing it the hardest. Our people make up about 28% of the imprisoned adult population even though we constitute around 2% of the national population.<sup>4</sup> This disproportion is higher for our women and children.

Every single person has a role to play in flattening out the curve. The ATSILS and NATSILS call on our governments and agencies to do the following things immediately:

**We must have independent oversight of government:**

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<sup>1</sup> The Chief Medical Officer of the Commonwealth of Australia, *Letter to doctors from the Chief Medical Officer about the response to COVID-19*, 09 March 2020.

<sup>2</sup> Australian Government Department of Health, *Management Plan for Aboriginal and Torres Strait Islander Populations*, 30 March 2020.

<sup>3</sup> Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2018*.

<sup>4</sup> Australian Bureau of Statistics, *4517.0 - Prisoners in Australia, 2018*.

1. Governments and parliaments must immediately establish or task independent oversight mechanisms with appropriate powers to monitor and assess governments' COVID-19 responses, for example Parliamentary Committees or representative task forces, with Aboriginal and Torres Strait Islander representation.

**We ask for communication over criminalisation:**

2. We ask that governments do not criminalise behaviour relating to COVID-19; strong public communications and a public health response will be more effective in flattening the curve than heavy-handed fines and imprisonment.

**We demand a strong safety net:**

3. Our governments must ensure that our communities have easy access to income support, appropriate healthcare, affordable basics like medications and food as well as accessible and safe social and public housing now and into the future.

**We must focus on release and prioritise treatment of people at risk:**

4. We call for the immediate release of Aboriginal and Torres Strait Islander adults and young people who are:
  - a. most at risk, with pre-existing health issues, including elderly people, people with chronic health conditions, disability and mental health conditions;
  - b. on remand, including by fast-tracking bail applications;
  - c. imprisoned for a term of six months or less;
  - d. eligible for early release for those who have six months or less left to serve, with expedited parole processes.
5. We ask for immediate and appropriate medical treatment, including testing and hospitalisation, for all imprisoned Aboriginal and/or Torres Strait Islander people who develop COVID-19 symptoms. Their families and the ATSILS' Custody Notification Services must also be immediately notified.

**We must release children and young people:**

6. All children and young people on remand must be allowed to return home to their country and communities, after a period of isolation if necessary. Restrictive measures such as lockdowns and restraints can have life-long impacts for young people.

**Police services must play their part:**

7. Police services around the country must allow all of our people access to Custody Notification Services, without exception or delay.
8. During this crisis, police services around the country must:
  - a. focus on giving our people warnings and cautions for low level offences and to rely on all diversionary options available to them;
  - b. have a moratorium on executing warrants for arrest for low level offences for a six month period;

- c. prioritise proceedings by way of summons and to list matters as late in the year as possible.
9. Police must not over-police Aboriginal and Torres Strait Islander communities, particularly remote communities, for fines and offences relating to COVID-19. We ask that police work with local communities to develop alternatives that ensure everyone's safety.

**Departments of Corrections must play their part:**

10. The COVID-19 pandemic must not be used as a justification for undermining the fundamental safeguards incorporated in the *United Nations Standard Minimum Rules for the Treatment of Prisoners* or the *Convention for the Prevention against Torture, Cruel, Inhuman and Degrading Treatment*.
11. As per the advice from the World Health Organisation, all Departments of Corrections must make decisions regarding lock-down and isolation procedures according to medical necessity and as a result of clinical decisions and subject to all state, Commonwealth, and international laws.<sup>5</sup> Any person who is subjected to isolation for public health reasons must be told why and be given the choice to notify someone immediately. Authorities must not unlawfully subject imprisoned people to solitary confinement.
12. We ask that all imprisoned people are given increased emotional, psychological and mental health support and are given timely, transparent, informative, proactive, and meaningful information about how to stay safe and healthy during imprisonment. During this uncertain time, connection to family and loved ones is critical. We call on all Departments of Corrections to allow our people to connect with their loved ones via audio or video link for free, without delay.
13. We expect all imprisoned people to be able to access legal assistance services, like their ATSILS, including via audio or video link whenever they need it, at the earliest available opportunity.
14. We expect all corrections systems to be prepared and well-resourced to look after their staff in prisons so that they do not transmit the virus to our people. We call on all states and territories to immediately make available to us their internal plans to protect our imprisoned people from infection by external parties.
15. We call on all places of detention to provide everyone with items, like soap, hand sanitisers, and other equipment to prevent infection.
16. Even during a COVID-19 outbreak, independent inspection bodies and organisations that monitor the treatment of imprisoned people should have access to all places of detention, including anyone who may be in isolation to ensure that imprisoned people's human rights are being upheld.

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<sup>5</sup> World Health Organisation, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention, Interim Guidance*, 15 March 2020.

**We need the help of courts:**

17. We ask the courts to play their part in keeping our people safe. We ask them to rely on the non-custodial sentencing options available to them wherever possible and to adjourn all matters where our people are on bail without them being exposed to further risks to their health and safety by having to answer their bail in person by attending court houses.
18. As things are happening fast, we ask the courts to inform us of any changes to practice or procedure as soon as possible and that these changes are communicated in Aboriginal and/or Torres Strait Islander languages where applicable.
19. We ask courts to be particularly vigilant to a rise in family violence during this crisis and ask them to be flexible in making sure courts can deal with these matters quickly, easily and fairly.

**We ask for ATSILS to be supported:**

20. We ask for Governments to resource and support Aboriginal and Torres Strait Islander Legal Services to respond to the COVID-19 pandemic, including to meet the increased legal needs of our people during and after the pandemic.

**If this crisis has shown us anything, it's that the systems put in place to govern our lives can be quickly changed for our collective good.**

We ask our governments, the police, Departments of Corrections and the courts to play their part in keeping our people safe and to stop the virus ravaging our communities.

**We must focus on building a more resilient society based on caring for people and the planet. The virus has revealed chronic problems in our social safety net and our economy.**

Our people will be hit hardest because our health, legal assistance services and income support services are under strain at the best of times. Successive governments have made long-term cuts to our social security over many years.

If we make ourselves more resilient by looking after our people and our planet now then we will be able to better cope with any global challenges in future.

**NATSILS  
8 April 2020**