



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

MEDIA RELEASE

AIC confirms punitive bail laws driving First Nations over-imprisonment

5th February 2026

A new study from the Australian Institute of Criminology (AIC) confirms what Aboriginal and Torres Strait Islander Legal Services have been warning for years: a dangerous push towards punitive bail laws from state and territory governments has hit First Nations people the hardest.

Nerita Waight, Acting Chair of the National Aboriginal and Torres Strait Islander Legal Services (NATSILS), said governments keep reaching for tougher bail laws despite the fact it leads to mass pre-trial incarceration and makes communities *less* safe.

“Punitive bail laws and policing practices are increasingly dangerous, and they are pushing more Aboriginal and Torres Strait Islander people into prison on remand,” Ms Waight said.

The AIC study shows that between 2019 and 2025 there were 36 amendments to bail legislation across Australia, making it much harder for people to access bail and remain in the community connected with social supports. Many people were found to have been refused bail for charges which would not lead to a term of imprisonment.

Ms Waight said the national picture is being made worse by governments ignoring sensible reform options.

“Bail is not meant to be used for punishment. Most people on remand have not been found guilty of any crime, yet they can spend months, sometimes years, in prison waiting for their matters to be finalised,” Ms Waight said.

“In New South Wales, double the proportion of Aboriginal and Torres Strait Islander adult defendants are refused bail compared with non-Indigenous defendants. Indigenous people are refused bail at higher rates across almost all offence types. This is not an accident. It is the predictable outcome of laws designed to refuse bail more often and impose tougher conditions.

“For Aboriginal and Torres Strait Islander young people, remand has become the norm. More than two-thirds of First Nations children in youth detention are unsentenced.

“Last year, the Standing Council of Attorneys-General chose to ignore practical recommendations for reform, including sensible legislative changes, properly funding Aboriginal and Torres Strait Islander Legal Services and community-controlled organisations to deliver bail support services, and investing in alternative responder models.

“We know bail support services work. They help people meet bail conditions, stay connected to family and community, and ensure they attend court. They reduce remand, reduce harm, and make communities safer.”

Ms Waight said rising remand numbers also have an impact on the courts, creating unnecessary delays due to an increase in bail applications. This has meant people are held on remand for longer periods without access to the same therapeutic and rehabilitative supports available to people who have been sentenced.

“When remand numbers rise, court backlogs grow. People can be held in custody for long periods waiting for their day in court. The human cost of that delay is enormous.

“Prisons are deeply harmful and unsafe places for our people. Last year, Australia recorded the highest number of Aboriginal and Torres Strait Islander deaths in custody in at least four decades. Governments should not be expanding a pipeline into remand while claiming it is about community safety.”

NATSILS is calling on governments to:

- halt further punitive bail changes and reverse recent measures that drive bail refusal and unworkable conditions
- properly fund Aboriginal and Torres Strait Islander Legal Services and community-controlled organisations to deliver bail support services at scale
- invest in alternative responder models and community-led solutions that reduce unnecessary contact with police and courts.

Media contact: 0408 584 439