

MEDIA RELEASE



NEW SOUTH WALES
BAR ASSOCIATION

TIME NOW TO ACT ON STATE CRISIS IN NSW: DECADES OF REPORTS ON THE OVER- REPRESENTATION OF FIRST NATIONS PEOPLES IN CUSTODY MUST NOT BE IGNORED

15 April 2021

The New South Wales Bar Association has welcomed today's report by the [NSW Select Committee on the high level of First Nations people in custody and oversight and review of deaths in custody](#) but warned the time to talk is over, urging the Government to act now to address systemic injustice for First Nations peoples.

New South Wales Bar Association President, Michael McHugh SC, described the report today as an "important piece of work that stands on the shoulders on 30 years' worth of like inquiries".

"It beggars belief that on the 30th anniversary of the Report of the Royal Commission into Aboriginal Deaths in Custody, recommendations from that landmark report are still to be implemented. This cannot be acceptable and should not be tolerated," Mr McHugh SC said.

"The over-representation of First Nations peoples in NSW is nothing short of a state crisis.

"Despite a number of reports and inquiries over some decades, First Nations people remain significantly and unacceptably over-represented in NSW prisons and the criminal justice system. While First Nations people represent 3% of the population in NSW, they represent 40% of adults refused bail in NSW and 25% of the prison population.

"There is now widespread consensus on tangible steps to address this, however action on critical measures is yet to follow.

"Today's report is yet another report recommending the resourcing and implementation of the Walama Court, raising the minimum age of criminal responsibility, implementing outstanding recommendations of the Royal Commission into Aboriginal Deaths in Custody and changes to bail laws, to name but a few. These recommendations are welcome but certainly not new. They are necessary steps in any attempt to meet Closing the Gap targets.

"Commissions and inquiries like this have consistently identified common recommendations – now is the time to implement these. Changes to the bail laws, the funding and establishment of the Walama Court and reform of summary offences are all positive steps that are easily implemented and warrant action as a matter of urgency in order to address the alarming over-representation rate," Mr McHugh SC said.

"Lifting the age of criminal responsibility would also have a critical impact for First Nations children. Despite lowered numbers of young people in custody, First Nations young people are still thirteen times more likely to be in custody than non-First Nations young people in this State."

The New South Wales Bar Association's oral and written submissions to the inquiry are [available here](#). Many of the recommendations made by the Association have been endorsed by the NSW Select Committee.

In oral testimony to the Select Committee, the Chair of the Association's First Nations Committee and member of its Joint Working Party on the Over-representation of First Nations People in Custody in NSW, Tony McAvoy SC, highlighted an observation made by (now) Justice Peter Callaghan during the Royal Commission into the protection and detention of children in the Northern Territory that "there seems to have developed a culture of reporting in lieu of doing". Mr McAvoy SC stated that "I raise that now to encourage this Committee, this Parliament, to be focused on the act of doing".

Mr McHugh SC said “The Association stands ready, willing and able to work with First Nations communities, the NSW Government, Parliament and stakeholders in the now necessary act of doing – the implementation of these important recommendations”.

Media contact: Elizabeth Pearson, 0425 268 123 / epearson@nswbar.asn.au