



**Submission to the Independent Review of the National Legal Assistance Partnership 2020-2025
("The NLAP Review")**

Tasmanian Aboriginal Legal Service ("TALS")

2 November 2023

Recommendations

The Agreement

1. Any future agreement should be a tri-partite agreement between TALS, the State Government and the Commonwealth Government.
2. Any agreement must have mechanisms to ensure there are opportunities within the term of the Agreement to review the quantum of funding, to ensure there is capacity to meet emerging, unmet, and policy-driven legal need and demand.
3. Details of any future agreement must be provided to the service provider as soon in 2024 as possible to ensure continuity in service delivery and retention of staff.

Closing the Gap

4. TALS be resourced to co-design and lead partnerships to progress the aims of Closing the Gap in consultation with communities, to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice and child safety systems.

Funding sources

5. Baseline services should be incorporated into one funding agreement, and not multiple short term and ad hoc funding streams, to reduce unnecessary compliance, reporting and acquittal burden on TALS.

Data

6. Data and reporting requirements should be limited to what is necessary, to avoid burdensome work being done for little to no meaningful purpose.
7. NLAP data should not be used for the purpose of the NLAP Review as it does not accurately reflect the volume or complexity work that TALS and other ATSILS undertake.

Funding levels

8. There be an additional emergency payment in 2024 to offset the external increase in operating costs for TALS to ensure that we can retain staff and continue service delivery in its current form.

There must be a substantial increase to TALS baseline funding from 2025, to:

9. Attract, recruit and retain Aboriginal and non-Aboriginal skilled lawyers and non-legal staff to provide culturally considered services, in the highly competitive, rural and remote human resource market in Tasmania.
10. Ensure we can substantially increase resources for Aboriginal people in Tasmanian to support criminal matters as the Aboriginal adult prison population in Tasmania continues to be overrepresented.

11. Ensure we are resourced to meet the overwhelming demand in family and child safety matters with Aboriginal children and youth overrepresented in out-of-home care and youth detention.
12. Meet the significant unmet civil needs and increase capacity in this under-resourced practice area.
13. Enable TALS to sustainably strengthen our community engagement team to support clients with non-legal supports including referrals, cultural support and assistance navigating the criminal justice, youth detention and child safety systems.
14. Support diversion programs and intervention programs in the Courts, detention and prison environments to assist both the State and Commonwealth Governments in meeting Closing the Gap targets.
15. Enable TALS to actively contribute to policy and reform in the adult and youth justice and child safety systems in Tasmania, and communicate this in order to more effectively work with Aboriginal people and Government.
16. Ensure the rural and remote challenges for TALS are adequately supported to ensure clients are able to access services across the state and in the most rural and remote areas of Tasmania including the Northwest and islands off Tasmania.
17. Provide a funded statewide Bail Support Program to provide diversion from custody, and support Aboriginal and Torres Strait Islander people while on bail.
18. Provide a funded 24/7, Custody Notification Service (“CNS”)¹ where Aboriginal people have access to timely legal advice, and there are regular and ongoing welfare checks.

¹ Any reference to the CNS refers to TALS out of hours service. We refer to it as a CNS, although it is not funded as one.

Overview of TALS

The Aboriginal Corporation of Tasmania Legal Service (trading as Tasmanian Aboriginal Legal Service (TALS)) is an Aboriginal and Torres Strait Islander legal service, which commenced on 1 July 2020 at the same time as the current 5 year NLAP Agreement.

We are an Aboriginal Community Controlled Organisation incorporated under the Office of the Registrar of Aboriginal Corporations (ICN 9283).

Before this, the Tasmanian Aboriginal Community Legal Service (TACLS) operated in Tasmania between 2015 and 2020 as an operational division of the Victorian Aboriginal Legal Service (VALS), with the Tasmanian Regional Aboriginal Communities Alliance (TRACA) providing an advisory committee to the Tasmanian service.

From July 2020, the service for Tasmania was returned to Tasmanian Aboriginal community control, with the transition of the TACLS services, staff and other resources to the new TALS Corporation which was set up by TRACA.

Prior to 2015, there was a legal service operated by the Tasmanian Aboriginal Centre for its members.

TALS specialises in the provision of legal information, advice and representation in the areas of criminal, civil and family/child safety law. We also operate a Family Violence Prevention Legal Service (called SiS), which supports victims/survivors of family violence and sexual assault.

We provide culturally safe, trauma-informed and holistic services that are open to all Aboriginal and Torres Strait Islander people in Tasmania.² TALS is committed to inclusivity.

Our Approach

TALS Board Chair, John Clark describes TALS as *“a new way of doing business when it comes to Aboriginal affairs in Tasmania.”*

This relates to who we service and how we service people across Tasmania.

TALS is an inclusive service for all Aboriginal people in Tasmania.³ We do not work as a traditional legal service where appointments are always held in offices and our lawyers are in suits. Our model is for community, with Aboriginal people in Tasmania at the centre of the way we do business.

² In this submission, any reference to Aboriginal people is understood to also encompass Torres Strait Islander people.

³ TALS applies the Commonwealth definition of Aboriginality. Our trained Aboriginal Liaison Officers across the State assess eligibility for our service based on information provided to them. They will assist the client in accessing information if that additional assistance is required. We do assist some clients who are not able to provide documentation for reasons outside their control (for example they are a member of the Stolen Generation or may have urgently fled family violence as some examples).

Our model is one where our team work closely with community to support clients with both their legal and non-legal needs. We have spaces that are comfortable and welcoming. We have a number of local and identified team members who work in a variety of roles, this is important to the way we do business.

TALS strives to employ staff who are community minded, with strong social justice values. Our team have a strong desire to make a difference in people's lives. Our support does not begin and end at Court. We often support clients from before they even enter the Police station or the child safety system, right through until after their Court matter, including support in the prison and on release.

Whilst our staff and lawyers are highly skilled and trained, they also aim to be approachable and culturally sensitive, and to communicate and listen in a variety of different ways to ensure the best experience for a client who may be experiencing difficult and challenging circumstances.

We provide a supportive team environment and focus on attracting the right staff and retaining them. It is important that community members know who they are dealing with, and that our staff understand our clients, family, and individual dynamics in Tasmania to reduce trauma. We want to avoid a "revolving door" of new lawyers dealing with the same families and clients.

As described below, our lawyers in Tasmania are required to act as both Solicitor and Barrister. We assist from start to finish including in pre-interview advice, bail applications, pleas, mentions, interim and final hearings, preliminary proceedings, trials and appeals. Our family lawyers appear on interim and final hearings as counsel.

TALS understand that the most vulnerable people needing access to legal assistance are often also those who face the most difficulties asking for help, and we work hard to ensure everyone can access our services within and outside of traditional legal settings, and outside of usual business hours with our 24/7 out of hours service.

We are committed to advocating for justice, equality and human rights, and regularly contribute to policy and law reform on a range of matters affecting Aboriginal people in Tasmania.⁴

TALS currently employs 41 staff, in four offices in Hobart, Launceston and Burnie.

Governance

TALS is governed by a board of directors who provide their services on a voluntary basis.

The board consists of 5 persons who must be Aboriginal and represent the community across Tasmania (and nominated in accordance with the Rule book). Our board also consists of 2 persons who are independent, specialist members.

⁴ Refer to TALS Website for Advocacy and Law Reform Activities (www.tals.net.au/advocacy/law-reform).

Our board of directors are therefore both representative of the Aboriginal community across Tasmania, and skilled in the areas of need and most relevant to the services. The TALS Board meet monthly.

ATSILS and the Tasmanian Context

TALS is firmly of the opinion that the role, purpose, expectations, and funding of ATSILS must be considered *sui generis*, not by extension from other legal aid or community legal services.

Funding of ATSILS must start by assessing what is needed. It should not be an assessment of what is currently available or how it should be shared. Tests of ‘means, merit and matter’ for ATSILS are unacceptable.

It should not be the case that an Aboriginal person is unrepresented in matters before a Court or Tribunal. *Dietrich’s Case* established a principle that a person charged with a serious criminal offence must have legal representation in order to have a fair trial and equality of treatment before the law.⁵

For Aboriginal people, that principle must be expanded – overwhelmingly, Aboriginal people require timely, culturally appropriate and quality legal representation in any situation relating to their legal rights. The Closing the Gap reports illustrate why this is essential.

Under the current NLAP, TALS is inadequately funded to meet the basic legal service needs of our communities.

Tasmania is well behind other states when it comes to Aboriginal specific programs and diversion options. This is relevant to both children and adults. This includes no bail support programs, prison programs, rehabilitative programs, youth diversion programs, family violence programs (other than current TALS pilots) that are specifically designed by and for Aboriginal people and communities in Tasmania. TALS provides the only bail support program and prison program for Aboriginal people in the State, with the bail support program being a small pilot in one court (which commences in October 2023).

There are also no cultural programs or support at the Ashley Youth Detention Centre and no identified positions. There is currently one staff member in the Tasmanian Prison system who identifies within this setting as Aboriginal, that staff member is a TALS staff member. There are no youth diversion programs for Aboriginal people, no adult diversion programs for Aboriginal people. There are no Aboriginal people on the Tasmanian Parole Board, the Sentencing Advisory Council or identified positions within Corrective Services. Tasmania Police do not have identified Aboriginal staff who can assist.

⁵ *Dietrich v The Queen* (1992) 177 CLR 292

Whilst we understand some members of Tasmania Police may be Aboriginal, there is not a model where Aboriginal staff are elevated to positions to assist Aboriginal people involved with Police. Whilst Tasmania Police has been open to dialogue around best practices, there is still a long way to go in terms of implementing any framework where there is greater representation of Aboriginal people within Tasmania Police.

We regularly hear that there are limited programs available in the Tasmanian Prison Service for our clients to undertake whilst in custody. There are also regular lockdowns in both the Tasmanian Prison Service and Ashley Youth Detention Centre which impact the physical and mental health of those in custody or detention.

With limited cultural support right across the systems in which we work, this places additional burden and responsibility on TALS staff and services to be able to fill the gaps. Community engagement staff are so important to assist clients with non-legal supports including cultural support during extremely stressful periods in people's lives.

Funding

TALS is predominantly funded under the NLAP, which supports the employment of limited staff (Aboriginal Liaison Officers, lawyers, administrative & management staff), and most of our operational expenses.

TALS is required to distribute funds where the highest demand for services is present and as such must prioritise criminal matters. The result sees civil, family, child safety and other areas within TALS' remit being underfunded.

Where TALS has been able to establish additional supports and new services, this is overwhelmingly through temporary and insecure funding. Detailed submissions are developed that accurately detail the basic cost of a new service or program, and government agencies then provide a fraction of the funding required, for a limited time and with an expectation that a complete service will be delivered or a token pilot program established.

Currently, "NLAP baseline" represents 81.3% of total funding. Grants for supporting coronial inquiries and complex/expensive cases is also included in this funding pool, as is funding to support work for the Justice Policy Partnership and Working with Vulnerable Women.

The balance of funding (18.7%) is received for dedicated programs and services, including:

- National Indigenous Australians Agency (NIAA) – for our Family Violence Prevention Legal Service (SiS)
- Tasmanian State Government – Community Legal Education, Bail Support Program, Civil Lawyer, Aboriginal Wellbeing Officers in the Tasmanian Prison Service, and funding for a Community Youth Hub. This equates to 5% of funding for TALS.

We note that TALS does not currently receive dedicated funding to support the Custody Notification Service (“CNS”). Costs associated with the CNS have to be funded from NLAP baseline.

TALS must constantly seek funding opportunities to prop-up baseline funding to meet the demands for our service.

Ideally all our current funding streams including from NIAA would be administered through the one agreement to provide certainty and to reduce unnecessary compliance, reporting and acquittal burden on our service.

Recommendation

Baseline services should be incorporated into one funding agreement and not multiple (short term and ad hoc funding streams) to reduce unnecessary compliance, reporting and acquittal burden on TALS.

Closing The Gap

In Tasmania, key Closing the Gap outcomes worsened in 2021-2022. This included the number of adults held in prison and the number of children in out of home care. The data that the Tasmanian Government is collecting in respect of the targets is not satisfactory and, in some instances, non-existent.

There are unique values and attributes of an ATSILS that goes well beyond the provision of legal advice only. It is TALS’ position that any funding agreement must be reviewed against and realigned with the National Agreement on Closing the Gap. ATSILS are best placed to assist Government in reaching relevant targets, with appropriate funding.

All Government and Government-funded services should be accountable for Closing the Gap. ATSILS must have sufficient funding and be the preferred provider to deliver support, programs and services aimed at addressing justice and supporting child safety targets.

Tasmania is significantly behind its mainland counterparts when it comes to support for Aboriginal people in courts, detention, and prisons. There are little to no available justice related programs to support Aboriginal people. The gap will continue to worsen if there are no alternatives to what is currently being offered.

Whilst TALS can assist and be involved in the co-design and delivery of program for young people and adults across the justice system, this must be appropriately funded.

Recommendation

TALS should be resourced to co-design and lead partnerships to progress the aims of Closing the Gap, including reducing the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice and child safety systems.

Strategic priorities

Key reform priorities for TALS currently include:

- The reform of Tasmania’s Youth Justice System (including the immediate closure of Ashley Youth Detention Centre and raising the age of criminal responsibility to 14 years and detention 16 years)⁶;
- Reducing the rate of Aboriginal people in custody; and
- Supporting women experiencing or at risk of family violence and who are in the child safety system, ultimately reducing the risk of Aboriginal children in out of home care.

The following Closing the Gap targets are closely aligned with the work that TALS undertakes and our reform priorities:

- Target 10: By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent.
- 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.
- Target 12: By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent.
- Target 13: By 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced by at least 50 per cent, as progress towards zero.

TALS is also strongly advocating for appropriate resources to be allocated to both TALS and other Aboriginal community-controlled organisations to run programs and services to support Aboriginal people and children to reduce the key risks and drivers that lead to involvement in the justice system.

⁶ See, [Youth justice reform in Tasmania - Department for Education, Children and Young People \(decyp.tas.gov.au\)](https://decyp.tas.gov.au) for an overview of the current Youth Justice Blueprint. An Action Plan is currently being created, taking into account the recommendations of the recent Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings. The Final Report, including the recommendations can be found at www.commissionofinquiry.tas.gov.au.

TALS Services and Programs

TALS proudly employs lawyers and non-legal staff across Tasmania.

We represent clients in criminal, family, child safety and civil matters.

Aboriginal Liaison Officer Program

TALS employs Aboriginal Liaison Officers (ALOs)⁷ across the State who complete intake for our service and who provide both cultural and general support to clients with non-legal matters. Our ALOs are often the first touchpoint for community and are identified team members. The support ALOs provide may include attending Court, transport assistance, making appointments or referrals, assisting with Centrelink issues, National Disability Insurance Scheme (“NDIS”) issues and obtaining birth certificates/bank accounts/identification. We are seeing almost every single week, clients who have been in prison and who are released without access to any of the above documentation or Centrelink. There is a need for additional ALOs to assist with this work, particularly given the significant under resourcing of cultural support throughout the system that people are being forced to engage with.

Case Study (deidentified):

This case study provides an example of the support and legal advice that is offered post a matter being dealt with in the Court to highlight the breadth of services.

James is 28 years of age. In 2021, he was sentenced to 2 years in prison for various offences ranging from driving, firearms, dishonesty, and drug matters. He has a poor criminal history and has been to both Ashley Youth Detention Centre and Risdon Prison many times.

James has an intellectual disability and struggles to navigate day to day life. He has struggled with illicit substances since he was 13 years of age, after he left home.

James is supported by a TALS lawyer in his sentencing for both Magistrates and Supreme Court matters. He is also supported whilst in custody, with regular phone calls as there are concerns about his treatment in prison. There are also several charges that end up before the Court as things catch up with him whilst he is in custody, and he ends up getting sentenced around five times for matters that occurred prior to his incarceration as Police lodge more and more complaints at varying intervals.

When James can go for parole, his TALS lawyers liaises with the writer of his parole report to advocate for where James wants to be and his attitude around getting out. There are a few bumps in the road, that James and his lawyer work through with his family and his allocated parole officer about where he is going to live.

⁷ Two of these positions are part time (2-3 days per week).

James is paroled and he attends the TALS office for assistance. An Aboriginal Liaison Officer works with James over the next few weeks to obtain a Tax File Number, Identification Card and a Birth Certificate. The community engagement team also support James with problems he is having accessing his NDIS package which was applied for when he was in the prison.

James commences part time employment, is attending trauma counselling and is supported by his family. He is spending significant time with his 5-year-old daughter and has a positive relationship with the mother of his child. He regularly attends the TALS office to check in and to get support.

At the end of his parole, it is alleged that James tampers with his electronic monitoring device and he is arrested on a parole board warrant. James is extremely nervous about appearing before the Board and doesn't think he will be able to say what he needs to. A TALS lawyer assists James in preparing what to say before the Parole Board and writes a letter of support for James to outline his progress. Lawyers are not permitted to appear in parole hearings.

James is released again and completes his Parole. For the first time in his life, he feels he is a contributing member of society and can be there for his young daughter.

Criminal services

TALS represents clients in the Magistrates Court, the Supreme Court, and the Court of Criminal Appeal. Criminal matters represent the largest share of services provided.

In Tasmania, our Lawyers must act as both Solicitor and Barrister in TALS matters. This is a necessity due to our constrained funding, and the limited availability of barristers and alternative legal service providers. Where possible, we brief occasionally to external barristers or practitioners when there may be limited capacity in-house. This includes when staff are on leave or there are competing client commitments in other Courts and jurisdictions and lawyers are unavailable.

Between July 2020 and June 2023, 74.3% of all TALS services were criminal matters.

Case Study (deidentified):

This case study provides an example of the support and legal advice that is offered post a matter being dealt with in the Court to highlight the breadth of services.

Derik is 14 years of age. He comes to the attention of TALS staff when he is seen walking around with a shopping trolley in town which is loaded with personal belongings. He walks into a restaurant and asks for a drink. He is supported to come back to the TALS office and is provided some clothes and food. It is evident to staff based on experience that Derik has an intellectual disability and is functioning well below his age.

Derik is under the care of the Secretary and Child Safety have a Care and Protection Order in place to ensure his safety. Derik says that he has chosen to be on the street because Child Safety want him to stay with his mum, but he doesn't feel safe there due to violence and drug use.

TALS staff contact a local shelter, who advise that Derik is not able to stay there as Child Safety are responsible for him and they have said he needs to go to live with his mother. Over the course of the next few months, Derik attends the TALS office regularly to check in.

Derik has been offending locally, including robberies, assaults, and other dishonesty offences. There is a significant delay in Court Forensic reports, so TALS funds a private psychologist to undertake an assessment in respect of Derik assessing his fitness to plead. It is determined he is not fit and is functioning at the same level as an 8-year-old. TALS funded the report as there is a significant delay of between 3-6 months in a Court report being prepared.

Over the course of the next few months, the TALS lawyer works through his criminal matters with Prosecution and the Court and also attends care team meetings with Child Safety and others involved in his care to advocate for support for him.

At every turn, there is continued advocacy needed to ensure he is safe, protected and cared for. Without this advocacy, it is evident that he would have fallen through the cracks of the system and be another child who the system labels as "troubled" who has "voted with their feet" in choosing to be homeless.

The TALS lawyer advocates for warrants to not issue when he is not at Court due to his unique circumstances and provides updates on what has not occurred from a care perspective.

This ongoing and very tailored and specialised support has ensured that Derik does not get remanded in detention and does not fall through the cracks in the system.

Civil Law services

While Aboriginal people are over-represented in the criminal justice system, they are significantly under-represented in the civil justice system, in both enforcing and protecting their rights. The consistent level of under-funding of ATSILS forces our services to prioritise criminal law matters. TALS is no different in this regard. Our Civil Law services require significantly more resourcing. Between July 2020 and June 2023, only 10.7% of all TALS services were civil matters.

With limited capacity, TALS currently assists in minor civil matters, including some Restraint Orders matters, employment, debt recovery, defamation, discrimination, and we provide advice

in respect of personal injury and negligence matters and assist with referrals for ongoing legal case work.

The NLAP Agreement identifies eight Commonwealth civil law priority areas. TALS has almost no capacity to support client needs in these areas due to baseline funding constraints.

TALS did not have a dedicated civil lawyer prior to 23 October 2023. Due to the lack of baseline funding, TALS sought additional funding for a civil law pilot program which was successful via the State Government.⁸ This however is only for a 15-month period, and future funding is uncertain.

Family services (including child safety)

There are 8 lawyers who work in family and child safety, including those who are dedicated to supporting the 'SiS' Family Violence Prevention Service clients.⁹ Between July 2020 and June 2023, 15.0% of all TALS services were family matters (excluding SiS clients). Details of the SiS service are provided below.

This team has grown significantly in the last two years. Prior to 2022, TALS employed only one lawyer who supported all family and child safety clients across the State. The Board decided to invest in the growth of this area via non-baseline funding, to provide much needed support to local communities. However, the demand for services is overwhelming and, due to limited resourcing, we are restricted in our ability to support all those seeking these services. The uncertainty of ongoing funding also hinders TALS.

Of the services we provide, TALS assists with parenting and children's matters only, with funding not being extended to divorce and property settlements. SiS however occasionally assist with property settlements alongside parenting matters, but this is only in limited circumstances and where it would be otherwise detrimental to the client not to assist, and where resources allow.

Our family and child safety lawyers also appear as the Solicitor and Barrister.

We provide advice at all stages of child safety and family matters, including when proceedings in child safety have not commenced.

In addition, our non-legal team support the clients in addressing risk factors. This service extends beyond the usual, which would be to assist when someone is served with Court documents. It is our position that "getting in early" leads to the best outcomes, as often communication breakdowns between clients and Child Safety can be a significant barrier to positive outcomes.

⁸ Details of this program have already been provided to Dr Warren Mundy following our review meeting in September.

⁹ These positions are funded through baseline funding, NIAA funding for SiS, vulnerable women funding and TALS own funds.

Case Study (deidentified):

This case study provides an example of the legal and non-legal support TALS offers and how TALS and SiS work together.

Jen is 30 years old; she has been in and out of the criminal justice system since she was 16 years of age. She has always been in relationships where she has been physically and emotionally abused. She has low self-esteem and doesn't think she is good enough for anything better. This has stemmed largely from being sexually abused in the care of the State.

She has been in and out of Ashley Youth Detention Centre and the Mary Hutchinson Women's Prison constantly. She struggles with substance use and commits crimes to fund her addictions. Jen is supported by TALS with her criminal matters and is supported through a rehabilitative program run by the Court, which she does not complete but she learns a lot about addiction, and her trauma background which has led to triggers.

Whilst serving a period of imprisonment, Jen realises she is pregnant. It is evident that Child Safety will be wanting to be involved. TALS work with Jen to take pro-active steps to address concerns and risks whilst Jen is in custody. Jen meets with child safety regularly and with the support of TALS, works through how she can best communicate with child safety. Once she is released from prison, there is no involvement from child safety for months. They become involved after some notifications are made about concerns for the child and the risk of family violence.

A referral is made to the SiS team to support Jen through the child safety meetings, and to increase the Family Violence Order to apply additional protections for Jen and her child. There are also discussions again about communicating with child safety. Jen has had a positive relationship with her TALS lawyer for around 8 years, and she has trust in her. Jen's TALS lawyer vouches for the SiS team and the support that they can offer. The TALS lawyer attends the first meeting with the SiS lawyer to show the trust and create rapport.

Given lawyers cannot attend child safety meetings, a SiS casework attends the meeting with Jen. Child safety commend Jen on her insight and proactive approach to the risks and concerns raised. The case is closed the following day. Jen has also been provided some non-legal support from TALS and SiS and has also not been in any trouble with the law for over a year now, the longest she has ever spent out of custody as an adult.

In addition to our legal service, we also offer the following programs:

Community Legal Education

TALS Talks is our Community Legal Education Program (currently only funded through the State Government until the end of December 2023). TALS Talks has visited schools across Tasmania, educating young people on their legal rights, and laws relating to sex and consent, drugs and alcohol. We employ a part time teacher to create and deliver this work (which is also aligned to the Australian Curriculum) with the support of lawyers and the community engagement team.

Our SiS team regularly engage in community legal education across the State¹⁰, including collaborating with other Aboriginal organisations to deliver sessions in schools. SiS staff deliver education sessions around parenting, finances, and the Shark Cage Program which has this year been successfully delivered in the Mary Hutchinson Women's Prison.

We are also available to deliver sessions about any legal topic in any setting including in neighbourhood houses, stakeholder organisations and community organisations.

Bail Support Program

Tasmania does not have a bail support program, or other form of remand diversion program. Given the 'reducing incarceration' target in Closing the Gap and the evidence of success across Australia of such programs, this is incomprehensible.

In November 2022, TALS sought funding to develop the first bail support program in Tasmania via the Closing the Gap Capacity Building Fund. The modest proposal was for an amount of \$990,555 over 2 years to provide case workers and access to supports, for a statewide program. The aim of the program was to provide support to Aboriginal clients to meet the requirements of bail conditions and access supports to address the risk factors that have contributed to offending behaviours.

Instead, we received only \$250,000 for just over a 12-month period, allowing for only a small pilot program and only in Launceston.

We see a statewide Bail Support Program as fundamental to addressing Closing the Gap targets and argue it should be funded. Bail Support Programs have been tried and tested, and they work.

When clients are supported in attending Court, meeting bail, and addressing risks of re-offending, there is a significant cost benefit to the State, including in Police resourcing, Court costs and the cost of ultimately imprisoning someone.

¹⁰ This includes in more rural and remote areas like Cape Barron Island which requires transport by plane.

Recommendation

Provide a funded statewide Bail Support Program to support Aboriginal and Torres Strait Islander people while on bail.

Prison Program

We continued to support clients in the prison during the year, through the Remand to Work program. This two-year funded program ended in September 2023, however, we were successful in negotiating alternative funding with the Department of Justice to fund 2 dedicated identified positions in the prison over the next 2 years. Otherwise, no dedicated supports would have been available for Aboriginal people in custody, including remand and those serving sentences of imprisonment.

Further dedicated supports must be provided for Aboriginal people within remand and prison facilities. Two dedicated positions for what averages approximately one quarter of the prison population is simply not enough.

Custody Notification Service

TALS has lawyers on call 24/7 to support and provide advice to Aboriginal people in custody. This is a service that is not funded, and we utilise baseline funding to support the program. Tasmania is only one of two States who do not receive funding for this service.

To be able to provide this service without adequate funding, we are forced to use our existing staff. This includes our lawyers in addition to their day-to-day work, must work nights and weekends. Our Aboriginal Liaison Officers are then required to follow up with people who have been in custody, and our Administration Officers answer calls throughout the day from Police and undertake the administration work associated with the provision of the service.

We estimate it costs approximately \$300,000 a year to support the custody notification service in its current limited format. This includes the current on-call allowances paid to lawyers (\$100,000 per year) as well as the “in-kind” support TALS provides for the administration of the service, as well as the “lost resourcing” when lawyers have paid time off following a night or weekend shift.

With over a 50% increase in custody notifications between July 2020 and June 2023, this cost to TALS is not sustainable.

Further, if Tasmania were to realise the full benefits of a CNS, as seen in other Australian states, further funding would be required. This funding would ensure dedicated lawyers are available to provide advice, dedicated Aboriginal Liaison Officers and administration staff to deliver the operational needs of this.

It is such an important service and assists with the throughcare model of support TALS provide to clients from beginning to end. Being able to reach out and assist a client when they are in custody,

through to providing support and advice upon their release is an opportunity to create trust and rapport, as well as support safety and wellbeing.

Being notified of when Aboriginal people are in custody, means we generally know when most people are appearing in Court and can provide early and immediate advice rather than have someone appear on their own (possibly multiple times) before seeking representation. The impact of this cannot be understated. It reduces the number of people failing to appear at Court, which ultimately reduces the number of people in custody. It also means referrals can be made for support services to put someone in the best place when it comes to their Court appearance.

Case Study (deidentified):

This case study provides an example of how the notification service assists.

Brad is 20 years of age. He has been arrested for driving with an illicit drug present in his blood at 5pm on a Sunday. He uses both cannabis and amphetamines regularly. He is employed as a dairy farmer and needs his license for work. He is the only one who works in his family and has two children.

Brad is a notification through the notification service, as he is arrested driving home on a Sunday night after playing his guitar at a music festival all weekend.

There is no public transport where Brad lives. He and his family have only recently been able to secure housing. Brad has been living out of home since he was 14 and had an extremely difficult upbringing. Before being arrested, he finally felt everything was falling into place.

Brad doesn't understand how he could have tested positive as he had the drugs the night before and doesn't feel impacted.

His details are provided to the lawyer on call, who speaks to him in custody. He asks the lawyer to contact his partner to advise he will be home late and not to worry about him. He also asks for advice as he doesn't know how this could have happened. The lawyer advises that they will pass on the message to his partner and that they will call him the following day to discuss once he is released from custody.

Brad is called the following day and it is explained how long drugs can stay in someone's system, and that the charge is driving with it in blood, rather than being under the influence. It is also explained to Brad that his car will likely be regularly pulled over by Tasmania Police and random drug tests will be done. It is often seen in Court where someone faces multiple charges of driving with drugs, as Police know the driver has previously tested positive, so they regularly pull the car over to test the driver resulting in additional charges.

Brad is referred to drug and alcohol supports by an Aboriginal Liaison Officer to assist with his use of illicit drugs.

Brad no longer uses illicit drugs and drives. He is pulled over 4 times between his first arrest and his first Court date, but tests negative given the information he had received from TALS.

When Brad goes to Court, he has a letter from his drug counsellor confirming the support he has received. He receives the mandatory minimum penalty and applies for a Restricted License supported by a TALS lawyer. He receives a Restricted License so that he can drive to work, meaning he does not lose his job and does not lose his home.

Recommendation

Provide a funded 24/7 CNS where Aboriginal and Torres Strait Islander people have access to timely legal advice, and to regular and ongoing welfare checks and support.

NLAP Agreement

We have not had experience with the previous Indigenous Legal Assistance Partnerships (ILAP).

The current NLAP Agreement, between the Commonwealth and the States provides that the Agreement will support the delivery of Aboriginal and Torres Strait Islander specific legal assistance services, consistent with self-determination to facilitate the achievement of:

1. Enabling and empowering Aboriginal and Torres Strait Islander people in addressing their legal needs; and
2. Improving access to justice outcomes for Aboriginal and Torres Strait Islander people.

TALS is of the position that NLAP should be a tri-partite agreement including both the State and the Commonwealth. There must be shared responsibility for funding Aboriginal and Torres Strait Islander Legal Services (“ATSILS”) and supporting services and outcomes.

In respect of the term of funding, we note that there are significant changes that can occur even in a five-year period, and therefore there needs to be a regular opportunity to raise issues with current funding levels and distribution.

We see the benefit in a longer agreement to provide certainty, and if this were to be the case, it must have appropriate mechanisms to ensure there are opportunities within the term of the Agreement to review the quantum of funding to ensure there is capacity to meet emerging, unmet, and policy-driven legal need and demand.

Given that there have been several providers in Tasmania, to ensure certainty there should be a clause in any Agreement that the current service provider is provided first option to continue delivering the service. It is unacceptable that ATSILS should continue to have uncertainty where staff do not know in the leadup to any funding negotiations that they may lose their job. This is

now particularly challenging considering the changes to the *Fair Work Act* relating to short-term contracts.

Whilst TALS has a good relationship with the Department of Justice in Tasmania and the State Government, the funding we currently receive from the State is limited. TALS State funding makes up just over 5% of our overall funding. It makes sense if the Commonwealth are providing most of the funds, they are party to the Agreement to ensure accountability.

Recommendation

Any future agreement should be a tri-partite agreement between TALS, the State Government and the Commonwealth Government.

Any agreement must have mechanisms to ensure there are opportunities within the term of the Agreement to review the quantum of funding to ensure there is capacity to meet emerging, unmet, and policy-driven legal need and demand.

Details of any future agreement must be provided to the service provider as soon in 2024 as possible to ensure continuity in service delivery and retention of staff.

Challenges and Opportunities

Service demand and organisational growth

TALS has experienced:

- Over 50% increase in custody notifications since July 2020
- 15% increase in criminal files since July 2022
- 22% increase in family/child safety files since July 2022
- We saw a 20% increase in civil files between July 2020 and June 2021, however without a dedicated civil lawyer, services were re-prioritised and this dropped 8% between July 2022 and June 2023 due to the limited capacity of our other lawyers who were working in our family/child safety team

As a new organisation, we continue to work on training staff around data entry to ensure it is accurate. We also do not have accumulated data over time which would enable a true analysis of work undertaken.

More generally, TALS as an organisation has grown significantly since it commenced operations in July 2020. Over the last 18 months, we have:

- Seen a 95% increase in staffing, including additional management positions.

- Opened a new office in Burnie, expanding our reach in North-West Tasmania. Two criminal lawyers offer support for Magistrate and Supreme Court matters, and we provide non-legal support with a dedicated Aboriginal Liaison Officer for this region and beyond.
- In response to client demand and the complexity of matters, we have employed three new family lawyers, who provide support in parenting matters and child safety across the State. Demand in this area continues to grow.
- Commenced work supporting vulnerable people in the prison, where there is a complete lack of cultural support.
- Increased our Community Engagement team, including with the creation of a new position (Community Engagement and Program Manager) and additional Aboriginal Liaison Officer positions.
- Increased our legal representation in indictable matters in the Supreme Court, enabling our clients to receive culturally appropriate legal support, together with non-legal support from our team of Aboriginal Liaison Officers in Hobart, Launceston, and Burnie.
- Established our dedicated family violence prevention legal service with funding from NIAA and NLAP. SiS employs 3 lawyers, alongside a senior social worker and Aboriginal Education and Community Officer and an Administration Officer. It operates state-wide.
- Continued our strong advocacy and law reform initiatives on behalf of all Aboriginal people and their communities in Tasmania.
- This work has also been supported by a refreshed brand and logo, together with a new website.

Recommendation

Ensure we can substantially increase resources for Aboriginal Tasmanians to support criminal matters as Aboriginal adult prison population in Tasmania continues to be overrepresented.

Ensure we are resourced to meet the overwhelming demand in family and child safety matters with Aboriginal children and youth overrepresented in out-of-home care and youth detention.

Meet unmet civil needs and increase capacity in this practice area.

Enable TALS to sustainably strengthen our community engagement team to support clients with non-legal supports including referrals, cultural support and assistance navigating the criminal justice, youth detention and child safety systems.

Family Violence Prevention Legal Service (SiS)

Target 13 of Closing the Gap is that by 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced by at least 50 per cent, as progress towards zero.

TALS received funding from NIAA of \$550,000 per annum for two years to deliver a family violence prevention legal service pilot program in Tasmania in 2021. The new SiS service commenced

operation in September 2022 in Hobart only. Using additional funding from the Vulnerable Women’s program, TALS was able to expand the program to the North and Northwest in early 2023.

There was no genuine opportunity to negotiate the funding in 2023 when the pilot concluded. We were advised it would continue in the same quantum without there being an assessment of demand or our experiences or learnings from the pilot. \$550,000 to deliver a statewide program is completely insufficient to be able to meet the rising needs of communities right across Tasmania.

To enable true equity of access to SiS services, there must be the funding to employ staff across the State who can reach all areas including Flinders Island, Cape Barren Island, Queenstown and surrounds, northeast, east and remote southern areas in Tasmania.

SiS has the same recruitment challenges as the rest of TALS (see below), and salary expectations in respect of both legal and non-legal positions are often higher than what we can meet within our funding.

SiS has been undertaking significant work in the prevention and education space particularly in respect of running programs including Shark Cage, Money Matters, and parenting courses. The benefit of SiS running these programs is that we can ensure our clients have access to the programs when they need them, and they are delivered in a culturally safe way. Having the programs delivered by people they know and in a setting that they know, reduces barriers, and ensures clients can get the most out of the programs.

Broadly, this prevention and education work is not easily available for people to do and if SiS didn’t run the program in the prison, it wouldn’t occur. This is SiS stepping in to deliver a program that arguably should be otherwise available to people in custody. It is arguable that most women in the prison would have been directly or indirectly impacted by family violence.

Recommendation

Support diversion programs and intervention programs in the Courts, detention and prison environments to assist both the State and Commonwealth Governments in meeting Closing the Gap targets.

Rural and Remote

Tasmania is a small, rural and remote island and, with this, comes challenges of legal conflicts and the requirement to externally brief matters.

TALS does not have sufficient funding to be able to financially fund all matters where TALS is not able to assist in house. TALS requires funding to be able to ensure that clients who are not represented by TALS have the same level of legal support available to them.

Often Legal Aid does not fund practitioners to the same level (for example, additional funding to allow time for regular communication in the prison, or to read documents to a client), or the person needing assistance is not eligible for Legal Aid and is therefore disadvantaged by the mere fact TALS has a conflict. The person seeking assistance may not be eligible due to their income, assets, or the matter may not fall within the guidelines of what Legal Aid assists with (ie. they are not at risk of receiving a period of imprisonment).

Between February and July 2023, we actively monitored how many matters TALS needed to refer due to there being a conflict of interest. There was a total of 23 clients during that period. Fourteen were Family/Child safety matters, eight were criminal and one was civil.

In circumstances where TALS does brief externally (which is limited), we use the Legal Aid Guidelines on rates as a guide, including the hourly rates and hours needed for certain matters.¹¹

If we were to externally brief a two-week Supreme Court trial (as an example) to a barrister at Legal Aid rates, the cost would likely be around \$20,000.

Whilst it is difficult to be able to assess exactly how many people we would need to fund externally, given it will vary, we are seeking adequate funding to ensure that when there is a conflict, those that are eligible for our service, receive a service at the same level as what they would have received, should there not be a conflict. As an estimate, based on the sample period, we expect we could fund most conflict matters with a pool of \$300,000 annually.

Further, there are a limited number of practitioners who take on matters at Legal Aid rates in Tasmania. Across the state, we find it regularly difficult to find a lawyer to brief. This is particularly challenging in Devonport and Burnie to appear in the Magistrates Court, and at short notice. On many occasions, we have had to put in a request to the Court to appear by telephone as we have not been able to find a lawyer to appear for us on a matter. An example when this might occur is if we are advised of a person in custody, who is being brought before the Court in a quick timeframe, and our staff in the Burnie office have competing priorities.

When a client is arrested in Burnie and Devonport, are in custody and to appear before the Court, they are held at the Police station. Any call between a lawyer and client in this situation is monitored by a Police Officer. The only way we can therefore speak to a client privately is over the telephone in Court prior to the appearance which then delays the Court sitting.

This is not an acceptable situation to get instructions from a vulnerable person and is not giving them the best chance at bail. If we can brief a lawyer to appear, or if we had capacity to appear, these instructions can occur in person in the cells at Court.

We often face roadblocks in briefing family matters, particularly at short notice. We attempted to find practitioners prepared to take on SiS work at Legal Aid rates without much success. It took

¹¹ See, LACT Guidelines (legalaids.tas.gov.au)

days recently to brief a complex matter for trial when Orders were made at short notice for material to be filed.

Another consideration in Tasmania is that the Crown control the criminal lists and when matters will be listed for trials. They have trials that are primary trials, and often one or two “backstop trials”. Backstop trials are trials that sit behind primary trials that will only get on if the primary matter falls over. This can create weeks of uncertainty for both our internal lawyers and those that we may attempt to brief (when we do). This is especially difficult if the lawyer we brief on the matter is from a different jurisdiction to where the matter is being heard as it can lead to travel and other expenses being incurred without even knowing if the trial is proceeding.

Recommendation

Ensure the rural and remote challenges for TALS are supported to ensure clients are able to access services across the state and in the most rural and remote areas of Tasmania including the North West and islands off Tasmania

Operational Costs & Pay Parity

NLAP baseline funding increased by only 1.92% in 2023-24 and will be at the same rate for 2024-25. The TALS Enterprise Agreement, which came into effect in 2021, provides for a 2% increase each year. Additionally, we were obliged to increase superannuation by 0.5% from 1 July 2023.

Remuneration increases along with other increased operational costs including lease costs, transport and travel, insurance and general office expenses has placed significant pressure on TALS.

A realignment of baseline funding that retrospectively considers increases that are greater than the baseline funding increases is required. Following this, future baseline funding should be re-established to meet the current operational costs. Flexibility should be embedded to review, over the term of the funding agreement, disproportionate baseline funding to baseline wage and operational costs, to ensure the legal service for Aboriginal Tasmanian’s is not impacted and TALS remains a competitive employer in the market.

A further challenge placed upon TALS were changes in December 2022 to the Legal Practitioners Award and Legal Practitioners Agreement 2021. This resulted in legal practitioners in the State Service being integrating into the Tasmanian State Service Award (TSSA), which created a situation where TALS was an uncompetitive employer.

Our staff (legal and non-legal) with the same expected levels of qualifications and experience were paid significantly less than their colleagues at Tasmania Legal Aid, Department of Public Prosecution (DPP) and Prosecution Services.

To illustrate the issue, the below table outlines the discrepancies in salaries between staff at Legal Aid, and TALS (under the TALS Enterprise Agreement) where our staff undertake similar work.

To ensure a fair comparison, we accounted for the salary benefit our staff can choose to receive by taking advantage of our salary packaging offer (up to \$18,550 per year). This net benefit is approximately \$10,000.

Table 1: Salary comparison

	Variance between Legal Aid base salary to TALS base salary (incorporating salary benefit).
Level 4 Staff (Legal Aid Level 1)	TALS is competitive within this level
Level 5 Staff (Legal Aid Level 2)	TALS is not competitive. Variance \$8,968 - \$27,608
Level 6 Staff (Legal Aid Level 3)	TALS is not competitive. Variance \$28,990 - \$32,631
Level 7 Staff (Legal Aid Level 4)	\$33,062 - \$42,983

The substantial variances outlined above, particularly for our Levels 5-7 staff, created a serious risk for employee retention and attraction for our organisation.

When this significant change occurred (without any notice to us), this placed TALS in a difficult position with such a disproportionate gap in pay parity, which was supported in staff raising concerns. This placed TALS in an unexpected and untenable position.

To address the immediate risk to staff retention and client service delivery, TALS was forced to provide a one-off “retention payment”. This cost was unbudgeted in the financial year ended 30 June 2023.

To mitigate medium-longer term risks, in June 2023, TALS undertook a review of all salaries, and provided an additional 2% in July 2023 (total 4%) to assist with cost-of-living pressures and ensure a competitive position.

We also had to provide further increases to those staff in bands 5-7 to bring them closer to their colleagues at Legal Aid, Prosecution and the DPP. The one-off emergency payment provided to all ATSIIS in June 2023 allowed TALS to address the pay parity risks. Without it, it would not have been possible. On current NLAP baseline funding levels, it will be difficult for TALS to support this increased cost in future financial years.

To support full parity, meaning that TALS staff at levels 5-7 who are representing Aboriginal clients are paid on par with staff from Legal Aid and DPP, the estimate cost over two years is an estimated **\$391,221**.

	From 1 July 2023	From 1 July 2024
Full pay parity for Levels 5-7	\$161,922	\$141,653
Superannuation on increased remuneration	\$17,811	\$16,290
Additional 2% in EA	\$26,508	\$27,037
TOTAL	\$206,241	\$184,980

It should not be the case that staff who represent and support Aboriginal people are paid significantly less than their counterparts. There already appears to be a significant resource inequity, with multiple people from the Crown often appearing on the other side of proceedings when we appear in Court with one individual lawyer. The justice system in Tasmania cannot survive without defence lawyers, and staff to support legal services. At present the scales are unequal.

Recommendation

There be an additional emergency payment in 2024 to offset the external increase in operating costs for TALS to ensure that we can retain staff and continue service delivery in its current form.

Recruitment

There is limited supply of community staff and lawyers in Tasmania, both identified and non-identified and particularly those with experience. These challenges are further exacerbated when seeking staff of office across our rural and remote state.

It is our understanding that the sector generally has difficulties in recruiting staff for these reasons.

Recently, newly elected Law Society of Tasmania President, Julia Higgins, outlined that her top priorities in the next year were the attraction and retention of younger legal practitioners within the private profession and addressing the lack of criminal lawyers, particularly in the North-West and Northern Tasmania.

In April 2023, the Law Society of New South Wales released the 2022 national profile on solicitors. It found that Tasmania had the lowest ratio of solicitors to population of one in every 642 people. Only five per cent of a total of 891 Tasmanian lawyers work in country or rural areas.¹²

If TALS is unable to offer competitive salaries for our staff across the organisation, it is almost impossible to attract staff. While TALS is reliant on attracting staff who are not focused solely on

¹² See, 2022 National Profile of Solicitors - Final.pdf (lawsociety.com.au).

remuneration but who are motivated to influence social change and supporting vulnerable people, even those motivated on social change will be influenced by income when they are unable to pay their rent or mortgage.

It is also disappointing that staff, who are passionate about supporting vulnerable Aboriginal people, are paid less within the sector. It is not right and needs to change.

To provide examples of our recruitment challenges:

- We advertised at the end of 2022 for a lawyer for SiS (which is funded by NIAA). We interviewed three suitable lawyers; however, we could not secure any candidate due to their salary expectations.
- Our Burnie Senior Lawyer position (level 6 TALS) took six months to fill in 2021-22.
- Despite two attempts, we were unable to attract candidates for our Community Legal Education Officer position (level 5 TALS). We created an alternate solution to this by employing a teacher rather than a lawyer, but this delayed the start of this program.
- Our dedicated Civil Lawyer position took 2 rounds of recruitment to fill between June-September 2023.

Given the legacy of the past, retaining staff who have experience providing valuable legal support to Aboriginal people across Tasmania is an urgent consideration.

Lawyers with mid to high level experience (2+ years) are extremely difficult to replace. Even if we can replace them, we lose specialist knowledge and skills in working with Aboriginal people and their communities.

We want people, families, and communities to know the staff that work for our service and know who is there to help them when they are in custody or having their children removed. Being unable to attract the breadth of skills we required will have a disastrous impact on the service TALS delivers, and the change we can influence.

There is absolutely no denying that if we lose experienced staff, and cannot replace them, we will need to limit or halt service delivery. Our staff are already under significant strain, undertaking their usual work, additional work to meet current demands and working outside of hours in an unfunded custody notification service. We have an obligation to ensure the health, safety and wellbeing our people and urgent support is required here.

The legal profession in Tasmania is small, and we are often seeing conflicts of interest that prevent client's being able to access representation from other firms and services, particularly in a small area like Burnie or Devonport. There is also increased demand for legal services generally,

and without TALS being included as an option for service delivery, should we have to limit or halt services, it will undoubtedly lead to Aboriginal people being unrepresented.

The impact of this will increase court time and increase costs surrounding proceedings. Most importantly however, given the general distrust in the legal system and the historical oppression for Aboriginal people, it is an extremely possible that Aboriginal people will not exercise their rights and plead guilty, thinking that it is the only option when they may (and should) have a legal defense. Imprisonment rates continue to increase at an unacceptable rate, and they will increase further without appropriate representation.

Additionally, the prison system is currently not equipped to support Aboriginal people in custody in a culturally appropriate way, so TALS staff support this. Again, recruiting skilled staff is challenging. It should not take a death in custody to spark systemic change surrounding the support Aboriginal people receive in our prison and legal systems.

Recommendation

Attract, recruit and retain Aboriginal and non-Aboriginal skilled lawyers and non-legal staff to provide culturally considered services, in the highly competitive, rural and remote human resource market in Tasmania.

Organisational support and expertise

TALS has focused on the frontline services employing staff to be able to support demand. In 2015, the Tasmanian Aboriginal Community Legal Service employed around 6-8 lawyers across the State, we have more than doubled these numbers in under 10 years.

With increasing staff numbers due to increased service demand, there is a greater the need for support staff. Additional identified community engagement Aboriginal Liaison team members are required in addition to legal staff, and others to support information technology, policy and advocacy work, human resources, and finance.

TALS does not have a dedicated policy and advocacy position, this is completed by existing staff in addition to their normal duties.

TALS does not currently have dedicated or specialised role for data analysis, systems, or information technology within the organisation. We rely on outsourced support.

Communications, media and social media is facilitated by external consultants, which is a significant annual cost on limited baseline funding.

Our staff are continually over capacity when it comes to their work, and this is exacerbated when staff are on leave, are sick or we have a staff vacancy.

The following table provides an example of the positions that would be required as part of our baseline funding just to provide appropriate baseline legal service and support delivery.

No of Positions	Position Required
1	Principal Lawyer Family
1	Community Engagement Manager
1	Senior Lawyer - Child Safety
1	Senior Lawyer - Family Violence & Prevention
1	Lawyer - Family
1	Lawyer - Criminal
2	Lawyer - Civil
2	Social Workers
1	Data & Policy Officer
1	Aboriginal Liaison Team Leader
1	Communications & Media Officer
1	Community Legal Education Worker
1	Administration and Projects Officer
3	Aboriginal Liaison Officer
2	Legal Secretary

Not included in the above is staff to support a CNS, and any programs to close the gap, including the Bail Support Program.

Recommendation

Enable TALS to strengthen our community engagement team to support clients with non-legal supports including referrals, cultural support and assistance navigating the criminal justice, youth detention and child safety systems.

Enable TALS to actively contribute to policy and reform in the adult and youth justice and child safety systems in Tasmania, communicate this in order to more effectively work with Aboriginal people and Government.

Simplified and meaningful data requirements

The current requirements for data capture in accordance with the NLAP have been problematic for TALS.

We also consider that the data we are required to report twice-yearly does not successfully capture the breadth or complexity of the work. Accordingly, we believe these reports should not be used for the purposes of the NLAP review.

For example, complex criminal matters or indictable matters are only captured as one court representative service – and we are unable to reflect the legal advice, or court appearances that have been undertaken to support such matters.

The language in the current Data Standards Manual is also confusing, and we expect every provider is interpreting it differently. The data sets need to be simplified; while also ensuring that data is meaningful for the Government, the sector, and TALS. What are the key performance indicators that will help inform decisions, funding, and priorities?

We strongly support the use and focus on case studies – which tell powerful stories of the complexity of TALS work, and the success of legal and non-legal supports working together.

As TALS is a new organisation in comparison to other ATSILS around the country. We have had to create data systems and provide IT without any specific budget to do this. Further, we do not have funding to own our infrastructure (IT and buildings they are housed).

The twice-yearly reporting mechanism to capture the NLAP reporting requirements is complex and cumbersome to complete. TALS supports alternative data capture options, perhaps in an online form or via a data link service.

Recommendation

Data and reporting requirements should be limited to what is necessary to avoid burdensome work being done for little to no meaningful purpose.

NLAP data should not be used for the purpose of the NLAP Review as it does not accurately reflect the volume or complexity work that TALS undertakes.

Closing Remarks

TALS is appreciative of the opportunity to be part of the Review. It has provided an opportunity to reflect and consider the amazing work our team does on a day-to-day basis, and review and consider the true impact of the challenges that we face. They are significant.

The submission has provided guidance from our perspective on the Agreement in addition to the quantum of funding.

A primary focus must be on maintaining and expanding our services to ensure that we are there to assist vulnerable Aboriginal people and communities across Tasmania when they need it. Secondly, we must be able to retain and recruit skilled and committed staff. Without staff there isn't a service.

TALS is often forced to play many roles and fill many gaps in Tasmania given we are so far behind other States when it comes to dedicated intervention programs, bail support options, court programs and cultural support within detention and the prison.

Please do not hesitate to contact us should you have any further questions.