



**AMA**

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ABN 61 628 117 024

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The Commissioners  
Royal Commission into the Protection & Detention  
of Children in the Northern Territory  
PO Box 4215  
KINGSTON ACT 2604

Dear Commissioners

AMA Northern Territory (AMA NT) would like to make a submission to the Commission in respect to Section (h) of its Terms of Reference, namely "What improvements could be made to the child protection system of the Northern Territory, including the identification of early intervention options and pathways for children at risk of engaging in anti-social behaviour".

It should be noted that the national AMA President, Dr Michael Gannon has made comments (1) in respect to the Four Corners Program of 25/07/16 and these are noted below.

*AMA President, Dr Michael Gannon, said today that the disturbing images of the inhumane treatment of teenage boys in detention in 21<sup>st</sup> Century Australia have sent shockwaves through the Australian community.*

*"The cruelty, violence, and victimization experienced by these young people will have impacts on their mental and physical health for the rest of their lives," Dr Gannon said.*

*"The unacceptable abuse that took place at the Don Dale Detention Centre is clearly indicative of broader problems in the detention and prison systems in the Northern Territory.*

*"The AMA, at both the Federal and Territory level, has raised concerns over many years based on reports from doctors and other health professionals, including AMA members, about the poor condition and treatment of people in detention in the Territory, especially children - very often Indigenous teenagers.*

*"There must be a community debate about alternatives to incarceration, and serious investigation into alternative methods of rehabilitation for young offenders. This will require considering new ideas, and brave and creative thinking.*

*"A Royal Commission will put the spotlight on juvenile justice, and related health issues, and ensure that the inhumane treatment exposed by Four Corners never occurs in Australia again."*

*Dr Gannon said that the AMA Indigenous Health Report Card 2015 (2) – Treating the high rates of imprisonment of Aboriginal and Torres Strait Islander peoples as a symptom of the health gap: an integrated approach to both – called on the Australian Government to set a target for closing the gap in the rates of Aboriginal and Torres Strait Islander imprisonment.*

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*“Our Report Card showed clearly that Aboriginal and Torres Strait Islander people are failed by the health and social justice systems in Australia, and the victims are too often young people and teenagers,” Dr Gannon said.*

*“Indigenous Australians are 13 times more likely to be imprisoned than their non-Indigenous peers.*

*“Health issues – notably mental health conditions, alcohol and drug use, substance abuse disorders, cognitive disabilities – are among the most significant drivers of incarceration. We must also look at the intergenerational effects of incarceration,” Dr Gannon said.” (1)*

AMA NT is also supportive of the comments made by Dr Gannon and note the persistent decades old underlying drivers for the high numbers young Indigenous Territorians being involved in juvenile justice including lack of purpose and meaning in life, lack of opportunity, lack of safe and healthy living conditions and lack of education. Lack of forensic youth services, for example, is not a cause but a consequence of the above and would be less urgent were the fundamental determinants dealt with. As an example of this, the AMA Aboriginal and Torres Strait Islander Health Report Card for 2006 “Undue Punishment” (3) also focused on the significant overrepresentation of Indigenous Australians in prison and also with recommendations for further reform.

However, the significant lack of progress in this regard reflected in the lack of any improvement noted between the AMA Report Cards of 2006 and 2015 should be deeply shameful to Australia. In this context, the recommendations of the 2015 Report Card have significant importance.

#### Recommendations:

1. Set a national target for closing the gap in the rates of Aboriginal and Torres Strait Islander imprisonment.
2. Adopt a justice reinvestment approach to fund services that will divert Aboriginal and Torres Strait Islander people from prison.
3. Develop service models to support the expansion of Aboriginal Community Controlled Health Organisations (ACCHO’s) and other services as part of the integrated approach to improving the health of Aboriginal and Torres Strait Islander peoples in the community (including responding to mental health conditions, substance use disorders and cognitive disabilities based on need) and as a preventative measure to reduce imprisonment rates.
4. In partnership with ACCHO’s, prison health services and other services as appropriate, develop a model of health care that integrates ACCHO’s, prison health services and other services to deliver an integrated approach to service provision that aims to improve health and improve imprisonment rates at the same time.
5. Employ Aboriginal Health Workers and Indigenous health professionals in prison health services to support them to deliver a culturally competent health service.

#### **Very High levels of Aboriginal and Torres Strait Islander Child and Youth Incarceration**

A recent report from the Australian Institute of Health and Welfare into Indigenous Youth Justice (6) has noted:

- Indigenous young people aged 10–17 were 13 times as likely as non-Indigenous young people to be under supervision on an average day in 2010–11, rising to 15 times as likely in 2014–15.
- Over the 5-year period, rates of both Indigenous and non-Indigenous young people under supervision fell. This decrease was proportionally greater for non-Indigenous young people (from 17 to 12 per 10,000 aged 10–17) than for Indigenous young people (from 213 to 180 per 10,000), which resulted in an increase in the level of over representation of Indigenous young people.

The recent Australian Children's Commissioners and Guardians Report (7) notes that the NT has the highest rate of incarceration of children and young people from 10 to 17 years of age, far ahead of other States and Territories and Australian national averages (Table 1).

	Indigenous	Non Indigenous	Total	Rate/10,000
NT	41	3	44	16.68
WA	94	40	134	5.37
QLD	113	54	167	3.44
NSW	143	92	238	3.28
SA	23	16	38	2.42
ACT	1	7	8	2.21
VIC	13	69	83	1.51
TAS	2	5	7	1.50
Australia	430	286	720	3.16

Table 1. Detention of children and Young People 10-17 years June Quarter 2015 (7)

The report also notes that on an average night in 2014-2015, there were 480 Aboriginal and Torres Strait Islander young people in detention in Australia. Despite making up only 5.5 % of the overall population of 10-17 year olds, they made up over half the of all young people in detention in any one night (7)

Heffernan et al 2014 (4), using the National Prisoners Census 2012 (5) point to the following

- In 2002, there were 4,494 Indigenous adults in custody
- In 2012, there were 7,982 Indigenous adults in custody
- In 2012, the age standardized incarceration rate for Indigenous Australians was 1,914/100,000 compared to 129/100,000 with other Australians

Heffernan et al 2014 (4) add the following information in respect to Indigenous Incarceration:

- Inmates are mostly male (92%)
- 26% are less than 25 years old
- 48% are less than 30 years old
- Inmates are more likely to be charged with offences that cause injury
- Their average sentence length is 2 years
- 74% of Indigenous prisoners have a history of prior adult imprisonment compared with 48% of other prisoners

Heffernan et al (4) add that when compared to the general community, Indigenous prisoners have:

- Higher levels of unemployment
- Unstable accommodation
- Lower levels of education
- Poorer access to health services

Indigenous women often leave young children behind when they go into custody. They report a background of trauma, social disadvantage, related to trauma, family violence, sexual assault, alcohol and other drug use, racism, unemployment and poverty.

Indigenous prisoners with a disability

- Have earlier Police Contact
- Have higher levels of Police Contact
- And are less likely to receive s disability service
- (Heffernan et al 2014) (4)

**The issue of substance abuse (particularly alcohol) and Indigenous prisoners is of major concern**

- The 2015 AMA Report Card (2) on Indigenous Incarceration notes a strong association between Foetal Spectrum Alcohol Disorder (FASD) and offending/imprisonment
- The report card comments that 60% of adolescents with FASD had been in contact with the criminal justice system and Indigenous adolescents with FASD were at particular risk
- The reasons for offending behavior related to lower impulsive control, inappropriate reaction to fright and loud noises, inappropriate sexual behaviors, and being taken advantage of by other offenders for involvement in criminal activity. Once involved in the criminal justice system, they may forget to pay fines or obey court orders and become further and further enmeshed
- The NSW Inmate Health Survey 2009 (8) reviewed Substance Use Characteristics of Indigenous prisoners and found that 75% of male prisoners and 67.3% of female prisoners were intoxicated during their offence.
- Other substance abuse issues in respect to inhalants, cannabis and amphetamines are also higher in the Indigenous population (9) and are likely to have an impact on young Indigenous people in custody

The NSW Survey (8) also found the following mental health issues amongst Indigenous prisoners (Table 2)

	Male %	Female%
Psychiatric History	44.5	51.9
Psychiatric Admission	14.5	21.6
Current Psychiatric Medication	16.8	31.4
Moderate/Severe Depression	34.1	51.0
Suicidal Thoughts	33.6	39.2
Suicide Attempts	22.7	37.3

Table 2 Issues of mental Illness for Indigenous prisoners in NSW (NSW Inmate Survey 2009)

Other social and emotional issues such as intergenerational Trauma (10) and Malignant Grief (11) may also have an impact on reduced emotional resilience and further imprisonment rates for Indigenous youth. AMA NT recognises the problems that existing Forensic Mental Health Services and Alcohol and Other Drug Services in the NT have in addressing this additional unmet need of trauma informed care and mental health service delivery within the juvenile justice system. AMA NT recognises that substantial extra resources would be required to address these issues on an ongoing recurrent sustainable manner.

### **Alternative Approaches to Imprisonment for Indigenous Juvenile Offenders**

Over the last few decades, there have been a number of programs to address high rates of Indigenous Imprisonment. Restorative Justice and Conferencing (12, 13) where “all parties in a dispute come together collectively to deal with the aftermath and consider the implications for the future” (13) is one such approach.

Another approach is justice reinvestment where there is a diversion of money for imprisonment to communities containing high numbers of offenders. The money that would have been spent on imprisonment is reinvested into services that address the underlying causes of crime in these communities (AMA 2015 Report Card on Indigenous Health 2015, p 21). It has been suggested that Aboriginal Controlled Community Health Organisations (ACCHO’s) could partner with prison and other community services to reduce rates of reoffending and improve culturally safe health services within prisons as part of this justice reinvestment (AMA 2015 Report Card on Indigenous Health 2015, p 25).

### **Standards for Juvenile Justice**

The AMA NT recognises that improved standards for youth justice will be beneficial in the NT and nationally in Australia. Example of such a standards are the National Standards for Youth Justice Services issued by the Youth Justice Board for England and Wales in 2013 (14) and the Australian Children’s Commissioners and Guardians “Human rights standards in youth detention facilities in Australia; the use of restraint, disciplinary regimes and specified practices” (6).

AMA NT also feel that an external agency such as the NT Children’s Commissioner or NT Community Visitor Program needs to be funded on a sustainable recurrent ongoing basis to review and report on compliance with any established standards.

### **Accountability for Justice**

AMA NT recognises the need for improved screening of young offenders for mental health issues such as the Youth Justice Assessment Tool (15) although it is important that juvenile prison health and mental health services are appropriately resourced on a sustainable basis to respond to any issues that arise as a response to the survey.

Juvenile Correctional Facility performance Monitoring as suggested in Figure 1 of Mears and Butts (16) would also be useful in association with the developments of any standards. The authors suggest that such monitoring could involve such issues as: security, safety, order, care, activity, justice, conditions and management.

AMA NT hopes that the above is useful to the deliberations of the Royal Commission and look forward to giving any further information at the Commission’s pleasure.

Yours sincerely

Privacy



A/Professor Robert Parker  
**President**

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