



Northern Territory Mental Health Coalition

Submission to the

Royal Commission into the Protection and Detention of Children in the Northern Territory

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The Northern Territory Mental Health Coalition

About Us

The Northern Territory Mental Health Coalition (Coalition) is the peak body for the community managed mental health services in the Northern Territory. As a peak body the Coalition ensures a strong voice for member organisations and a reference point for governments on all issues relating to the provision of mental health services in the Northern Territory. The Coalition has a network of around 200 individuals, organisations and stakeholders including a membership of about 35 organisations across the Northern Territory.

The Coalition provides advice and policy input into mental health service provision and associated challenges to all levels of government as well as contributes to national mental health networks and associated peak bodies, as a member of Mental Health Australia and a founding and board member of Community Mental Health Australia, the Coalition contributes a perspective on the provision of effective and accessible mental health services in the Northern Territory.

The Coalition

- promotes and facilitates the dissemination and discussion of contemporary information, government policy positions and initiatives to member organisations,
- ensures, where possible within available resources, the provision of sector development services and support to member organisation, and
- actively networks with local and national organisations to promote awareness of the role of the Coalition and its members on issues related to the provision of quality mental health services across the Northern Territory.

Executive Summary

What we know

There are high rates of mental ill-health amongst young people in the Northern Territory, particularly amongst Aboriginal young people due to high levels of disadvantage and unresolved intergenerational trauma. We can expect that a high proportion of young people in detention have mental health issues, and that incarceration under current conditions will worsen their mental well-being.

Preventing offending and detention

Despite the rhetoric that often accompanies public debate, 'get tough' methods of reducing juvenile crime such as detention, curfews and boot camps are not effective in reducing recidivism rates.

Instead, effective, long-term prevention approaches to youth offending and detention should be based on:

- tackling disadvantage, including poverty, poor education, homelessness, and substance abuse,
- addressing unresolved intergenerational trauma resulting from processes of colonisation, through community-based healing approaches and the development of a trauma-informed service system, and
- supporting early childhood development programs proven to offset the effects of poor early childhood experience.

Responding to offending amongst young people

Responding to youth offending in a way that reduces harm, promotes good social outcomes, and saves government resources is a key strategy. However, detention is a very expensive, cost in-effective approach.

Justice reinvestment redirects money spent on detention to more cost-effective community-based therapeutic approaches. These include family-centred approaches such as Family Functional Therapy, Multi-Systemic Therapy, and Multidimensional Treatment Foster Care.

While shown to be effective in other places, implementation of these models in the Northern Territory requires adaptation to local society and culture in collaboration with service providers and the Aboriginal community.

Reforming detention

For some young people, detention may remain the most appropriate response for their own safety and for that of the community. For such cases, the youth detention system needs thorough top-to-bottom reform, including:

- reorientation from a punitive to a therapeutic approach,
- 'wrap around' access to mental health and other services,
- a trained workforce, including in the key areas of trauma, cultural safety, mental health, and crisis de-escalation, and appropriate infrastructure.

Recommendations

1. *That the Northern Territory Government publicly rejects ineffective 'tough on crime' approaches such as the detention of young people, curfews and 'boot camps', and instead provides public leadership on the need for an evidence-based approach to the prevention of youth offending.*
2. *That government provide adequate and sustained funding to community-based approaches to addressing youth disadvantage in the Northern Territory, including secure, on-going programs to address youth poverty, disengagement from education, homelessness and addiction.*
3. *That government support the sustained resourcing of Aboriginal community controlled, locally developed and led healing programs in Aboriginal communities to address unresolved intergenerational trauma.*
4. *That government resource the development of trauma-informed mental health and wellbeing services across the Northern Territory, including processes for training, adaptation and evaluation, as a key investment in the effectiveness of these services.*
5. *That government continue to support and expand the sustained implementation of evidence-based early childhood development and parenting programs as a highly cost-effective long-term strategy for reducing youth offending and detention.*
6. *That the Northern Territory Government adopt a 'justice reinvestment' approach by allocating a proportion of the resources currently spent on juvenile detention to supporting cost-effective community-based therapeutic approaches .*
7. *That the Northern Territory initially use these funds to set up as a matter of urgency an expert evidence-based study under independent oversight, that includes consultation with Northern Territory service providers and communities to determine the most appropriate community-based, therapeutic approaches to youth offending for the Northern Territory.*
8. *That following the expert study, the Northern Territory Government implement the recommended approach across several sites in the Northern Territory. Implementation is to:*
 - a. *include processes for adaptation of evidence-based approaches to local cultural and social conditions, in collaboration with local (and especially Aboriginal) communities and organisations,*
 - b. *be for a minimum initial five years to allow for program set up and adaptation, and*
 - c. *to include evaluation processes that allow for community and young people's input, to measure effectiveness, and cost-savings and provide the basis for adaptation and further investment.*
9. *Given the high proportion of young Aboriginal people coming before the courts, and the high prevalence of mental health issues amongst them, specialist Aboriginal youth courts should be established which are culturally appropriate and which involve senior members of the Aboriginal community. These courts should include aspects of 'mental health courts' including a focus on therapeutic outcomes and treatment, and the involvement of mental health professionals.*
10. *The Northern Territory Youth Justice Act should be amended to make rehabilitation of young people the primary objective of the Act in general and detention in particular.*

11. *That the Northern Territory Government transfer responsibility for youth justice out of the Department of Corrections and to an agency able to provide a focus on therapeutic approaches, such as the Department of Health or Territory Families.*
12. *That the Northern Territory Government commit to collaboration and information sharing between its agencies and community sector services to ensure the availability of 'wrap around' services for young people at risk of offending, in detention, or on release.*
13. *That the Elders Visiting Program be supported and extended as an important component of integrated therapeutic services available for Aboriginal young people in detention.*
14. *That all those responsible for providing services within youth detention facilities, including senior staff, local management and officers, and agencies providing services in detention centres be provided with adequate training to assist the young people in their care, including in trauma informed care, cultural safety, Youth Mental Health First Aid and crisis de-escalation and mediation.*
15. *That the Northern Territory Government commit to providing detention centres with the infrastructure necessary to support their therapeutic goals.*

Response to the Inquiry's Terms of Reference

The Northern Territory Mental Health Coalition (NTMHC) is the peak body for the community managed (NGO) mental health sector in the Northern Territory. As such, we and our members are concerned about the mental health and social and emotional wellbeing of young people in the Northern Territory, including those in detention who are a particularly vulnerable group.

We welcome the establishment of the *Royal Commission into the Protection and Detention of Children in the Northern Territory* in response to the airing of the *Four Corners* program on 25 July 2016 documenting the abuse of Aboriginal¹ children held in a youth detention facility in the Northern Territory [1].

However, as we do not have firsthand knowledge of them, we are not able to address the specifics of those events or of the treatment of young people in detention during the period being examined by the Royal Commission (terms of reference 1 to 6). Instead, this submission² focuses on the broader issues of youth detention in the Northern Territory seen from the perspective of mental health and social and emotional wellbeing. As such, our comments are more closely aligned with the Royal Commission's terms of reference relating to prevention and systemic issues (terms of reference 7 to 9).

Key facts

There are a number of key facts that need to inform policy, resourcing and practice when it comes to the youth justice system in the Northern Territory:

- There are high rates of mental ill-health amongst young people in the Northern Territory with young people over represented within mental health services compared to other age groups [2]. Although data is difficult to source for the NT, mental health and social and emotional wellbeing is known to be particularly poor amongst Aboriginal young people due to high levels of unresolved intergenerational trauma (see on page 8) (3rd National Aboriginal Health Summit).
- There are high numbers of Northern Territory young people in detention, and although the numbers have fallen in the last couple of years, the overall trend has been strongly upwards (a 73% increase from 2011 to 2015). Aboriginal young people are highly overrepresented in detention in the Northern Territory [4]. The majority of young people in detention are on remand that is, awaiting trial [5].
- A high proportion of young people in detention have mental health issues. While no precise figures for the Northern Territory are available, international research shows that a majority of young people in detention have significant mental health challenges (see for example [6]). A study in New South Wales [7] found almost nine in ten (87%) of young people in detention had at least one psychological disorder, and nearly three in four (73%) had two or more disorders. Aboriginal young people in

¹ In this submission, we use the term 'Aboriginal' to refer to 'Aboriginal and Torres Strait Islander' and/or 'Indigenous' as the preferred term in the Northern Territory.

² NTMHC would like to acknowledge the assistance of Edward Tilton in writing this submission, and to thank our Board members, especially Judy Davis (CatholicCare NT), Gwenda Freeman (Red Cross Australia), Sabine Wedemayer (Mental Health Association of Central Australia), and David Pugh (Anglicare NT) for their helpful analysis and comments.

detention were found to have particularly high rates of substance use or attention / behavioural disorders. This is consistent with what is observed by courts in the Northern Territory [8].

- Detention of young people has a negative impact on their mental well-being. While no studies are available for the Northern Territory, studies elsewhere have shown that with a significant proportion (one-third) of detained young people suffering from depression, the symptoms began *after* their detention, and that young people in detention are at higher risk of suicide and self-harm [9].

Preventing offending and detention

A key goal of the systematic reform that is needed to address the high levels of youth detention in the Northern Territory is the prevention of youth offending occurring, and reducing the rates of recidivism amongst young people who do offend.

What doesn't work

Despite the rhetoric that often accompanies public debate on reducing youth offending, a substantial independent evidence review for the NSW Minister for Juvenile Justice found that:

... traditional penal or 'get tough' methods of reducing juvenile crime, such as juvenile incarceration, overly strict bail legislation, trying juveniles in adult courts, 'scared straight' programs and so on, are not effective ... [10]

Parliamentary Privilege. Juvenile detention is ineffective due to the stigmatisation of young offenders, the lack of positive influences upon those in detention, and the failure to address the social and mental health issues underlying offending.

With reference to the Northern Territory situation, it should be noted that the review found 'boot camps' were ineffective in reducing recidivism, and expensive in terms of the indirect costs of crime in the future (page 48). Other approaches identified as being ineffective are curfews, 'scared straight' programs, probation, and trying young people in adult courts (page 53).

1. That the Northern Territory Government publicly rejects ineffective 'tough on crime' approaches such as the detention of young people, curfews and 'boot camps', and instead provides public leadership on the need for an evidence-based approach to the prevention of youth offending.

Addressing disadvantage

Parliamentary Privilege

This pattern is significant in the Northern Territory where magistrates have reported that:

Virtually all youths who come before the Youth Justice Court have some risks to their wellbeing for often complex reasons including homelessness, substance

misuse, having been the victim of abuse or having mental or physical health problems [8].

This suggests that strategies to reduce levels of youth offending must be founded on a determination to address such issues as poverty, poor education, homelessness, and substance abuse. **Parliamentary Privilege**

2. That government provide adequate and sustained funding to community-based approaches to addressing youth disadvantage in the Northern Territory, including secure, on-going programs to address youth poverty, disengagement from education, homelessness and addiction.

Intergenerational trauma

In addition to the broader areas of disadvantage above, the very high over-representation of young Aboriginal people in the criminal justice system in the Northern Territory points towards the need to address the particular circumstances they face.

A key concept is that of intergenerational trauma. Traumatic experiences in childhood can have lifelong effects, including mental ill health, poor educational and employment outcomes, addiction, difficulties with forming and maintaining relationships, and increased contact with the criminal justice system [12] [13].

In the case of Australia's First Peoples, it is now widely accepted that the traumatic processes of colonisation, including the forcible removal of children from their families, the suppression of culture, removal from country, disruption of social networks and destruction of an independent economic base have created a situation where traumatic experiences

... can be transferred from the first generation of survivors that have experienced (or witnessed) it directly in the past to the second and further generations of descendants of the survivors ... [this] intergenerational trauma ... is defined as the subjective experiencing and remembering of events in the mind of an individual or the life of a community, passed from adults to children in cyclic processes as 'cumulative emotional and psychological wounding' (3rd National Aboriginal Health Summit)

Unresolved intergenerational trauma may become embedded within a culture and passed on through families to children. In such cases, young people may adopt their own ways of coping which may be harmful to themselves and those around them such as addiction, criminal behaviour, violence, self-harm and suicide [14].

Despite the positive effects of culture, kin and country [15], there is strong evidence to support the theory that unresolved intergenerational trauma is a significant driver of offending among young people, and that it will manifest in other behaviours such as family violence into adulthood.

Although attempts to address intergenerational trauma are relatively new, two key approaches are suggested.

The first is *community-based healing*, through which locally developed and led programs attempt to resolve intergenerational hurts. Such approaches are diverse, but often

combine western therapy with traditional healing to build individual, family and community capacity [16]. Examples of such approaches in the Northern Territory have included the Rerranytjun Healing Centre (Yirrkala), and healing activities led by the Katherine Region Stolen Generation Aboriginal Corporation and the Northern Territory Stolen Generations Aboriginal Corporation [17]. Local Aboriginal control is key to the success of such programs.

The second approach is the development of *trauma-informed services*, such that service organisations are able to recognise the many different ways that the experience of unresolved trauma can manifest (for example, in mental health issues, or addiction, or violence) and address them in an informed way (3rd National Aboriginal Health Summit). Trauma-informed services are also more effective through being better able to address the effects of trauma, either direct or vicarious, on their own staff [18]. Given the high prevalence of mental health and wellbeing issues amongst young people in the Northern Territory, mental health and wellbeing services should be prioritised to become trauma-informed.

3. That government support the sustained resourcing of Aboriginal community controlled, locally developed and led healing programs in Aboriginal communities to address unresolved intergenerational trauma.

4. That government resource the development of trauma-informed mental health and wellbeing services across the Northern Territory, including processes for training, adaptation and evaluation, as a key investment in the effectiveness of these services.

Early childhood programs

There is good evidence that well-designed early childhood development programs can offset the effects of poor early childhood experience, including through reducing alcohol and drug use among young adults [19], increasing school retention rates [20], and dramatically reducing youth incarceration rates [21]. Pa [REDACTED] [REDACTED] [REDACTED]

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[REDACTED] The implementation and adaption of these programs in the Australian Aboriginal and Torres Strait Islander context is underway and showing positive results [22] [27].

5. That government continue to support and expand the sustained implementation of evidence-based early childhood development and parenting programs as a highly cost-effective long-term strategy for reducing youth offending and detention.

Responding to offending amongst young people

While prevention approaches are the most cost-effective way of addressing the issue of young people in detention, they are a long-term investment. In addition, no prevention approach can be perfect – while evidence-based approach such as those outlined above may substantially reduce the number of young people who offend, and thereby and save considerable government resources over the medium-to-long term, there will always be some young people who come into contact with the criminal justice system. Responding to youth offending in a way that reduces harm, promotes good social outcomes, and saves government resources will therefore remain a key strategy for government.

Detention is ineffective and expensive

Detention is not an effective response to young people's offending. In fact, there is evidence that detention may actually *increase* the risk of recidivism through a range of negative effects on young people including limiting their **opportunity to 'age out' of** antisocial behaviour, undermining their positive sense of self, exacerbating existing mental health issues, weakening the positive effects on a young person from family and social relationships, and damaging their educational attainment [23].

In addition to its lack of a positive effect on youth offending and recidivism, detention is a very expensive, cost ineffective approach:

Whether compared to alternatives in the here and now, or put to rigorous economic efficiency models that account for the long-term costs of crime and incarceration overtime, juvenile detention is not a cost-effective way of promoting public safety, or meeting detained young people's needs [9]

Parliamentary Privilege

Justice reinvestment: effective community-based therapeutic approaches

Justice reinvestment redirects money spent on detention to more cost-effective community-based therapeutic approaches. The savings from reduced detention rates could be invested in family centred, therapeutically focussed, community-based approaches to youth offending which have demonstrated effects on recidivism rates and are considerably more cost effective than detention. While diverse, such programs are generally rehabilitative in nature, draw on behavioural techniques, concentrate on high-quality implementation and focus on the environment in which the person lives. **Parliamentary**

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Parliamentary Privilege

There are other similar approaches (e.g. Aggression Replacement Training) which also have significant positive effects, all of which are cheaper and more effective than detention. Some, but not all, are already in use in parts of Australia. While these approaches are well-evidenced in other places, the Northern Territory context is unique. In particular, the high level of offending amongst young Aboriginal Territorians demands that any process for implementation includes processes for adaptation to local society and culture, in collaboration with service providers (including especially Aboriginal organisations) and the Aboriginal community.

- 6. That the Northern Territory Government adopt a 'justice reinvestment' approach by allocating a proportion of the resources currently spent on juvenile detention to supporting cost-effective community-based therapeutic approaches.**
- 7. That the Northern Territory initially use these funds to set up as a matter of urgency an expert evidence-based study under independent oversight, that includes consultation with Northern Territory service providers and communities to determine the most appropriate community-based, therapeutic approaches to youth offending for the Northern Territory.**
- 8. That following the expert study, the Northern Territory Government implement the recommended approach across several sites in the Northern Territory. Implementation is to:**
 - (a) include processes for adaptation of evidence-based approaches to local cultural and social conditions, in collaboration with local (and especially Aboriginal) communities and organisations,**
 - (b) be for a minimum initial five years to allow for program set up and adaptation, and**
 - (c) to include evaluation processes that allow for community and young people's input, to measure effectiveness, and cost-savings and provide the basis for adaptation and further investment.**

Appropriate criminal justice procedures

In the Northern Territory youth offenders are overwhelmingly likely to be Aboriginal, a high proportion of whom may have mental health issues, including those stemming from traumatic life experiences and/or intergenerational trauma. It is imperative, therefore, that criminal justice procedures are appropriate for this group of people.

Aboriginal Courts have been implemented in a number of jurisdictions in Australia, and include Circle Sentencing (New South Wales), the Koori Court (Victoria), the Murri Court (Queensland) and Kalgoorlie Court (Western Australia). Based on the principles of restorative justice, and involving Aboriginal Elders and respected community members, they seek to improve court attendance, reduce the breaching of court orders, reduce reoffending rates, and divert offenders into rehabilitation. Although evidence for their effectiveness is not strong in terms of quantifiable measures (with the exception of adult Koori courts in Victoria), they have been identified as contributing to better relationships

between the court and the Aboriginal community, improved access to services for Aboriginal people, and increased rates of court attendance [25].

In addition, *Mental Health Courts* have been set up in South Australia, Western Australia, Victoria and Tasmania. Such courts adopt a specialist problem-solving approach to deal with offenders that have a mental illness and/or intellectual disability, with a focus on therapeutic outcomes and treatment [25].

9. Given the high proportion of young Aboriginal people coming before the courts, and the high prevalence of mental health issues amongst them, specialist Aboriginal youth courts should be established which are culturally appropriate and which involve senior members of the Aboriginal community. These courts should include aspects of 'mental health courts' including a focus on therapeutic outcomes and treatment, and the involvement of mental health professionals.

Reforming detention

Despite prevention approaches and improved ways of dealing with young offenders, there may still be a proportion of young people for whom detention is the most appropriate response to their offending, both for their own safety and for that of the community. For such cases, the detention system needs to be thoroughly reformed from the brutal – and brutalising – practices publicly revealed by this year's *Four Corners* program. Key elements of this reform should include the following.

Reorienting youth detention towards therapeutic approaches

Any system of youth detention in the Northern Territory must be reformed to have an explicit and overriding focus on therapeutic rehabilitation and treatment, as concluded by the Government's own inquiry into the events at Don Dale Youth Detention Centre:

Everything that happens in a juvenile detention facility should in some way, either directly or indirectly, be aimed at that young persons eventual successful release and reintegration back into the community [5]

Young people sentenced to detention should be held in purpose built facilities designed for treatment and rehabilitation, rather than punishment, and operated in partnership with community services to meet the needs of young people for treatment and rehabilitation. As such, youth detention facilities should be operated by agencies that have a focus on and understanding of therapeutic approaches.

10. The Northern Territory Youth Justice Act should be amended to make rehabilitation of young people the primary objective of the Act in general and detention in particular.

11. That the Northern Territory Government transfer responsibility for youth justice out of the Department of Corrections and to an agency able to provide a focus on therapeutic approaches, such as the Department of Health or Territory Families.

Integrated access to mental health services

Reviews of the Northern Territory youth justice system have noted the almost complete lack of access to mental health services provided to young people in detention. For

example, the Northern Territory Children's Commissioner, after interviewing Corrections staff at Don Dale stated that:

[the Acting General Manager] acknowledged that there were very few services able to assist the young persons and considered this to be an issue ... [and] the majority of YJO [Youth Justice Officer] staff interviewed were of the opinion that there is no rehabilitation for young persons and that they rarely see counsellors or therapists at the Centre. They believed the young persons just come in and do their time [26].

It is understood that since that time, efforts have been made by the Department of Corrections to employ a clinical psychologist. While welcome, this is not enough. Proper and effective therapeutic care needs to be integrated across the community and detention systems, such that services and established relationships continue to be available to young people at risk of offending, while they may be facing court or in detention, and upon their release. Such 'wrap around' services will require a high degree of collaboration and information sharing between community sector and government services [8].

Given the high proportion of Aboriginal young people in detention, the Elders Visiting Program should be an important part of an integrated service delivery approach to young Aboriginal people in detention.

12. That the Northern Territory Government commit to collaboration and information sharing between its agencies and community sector services to ensure the availability of 'wrap around' services for young people at risk of offending, in detention, or on release.

13. That the Elders Visiting Program be supported and extended as an important component of integrated therapeutic services available for Aboriginal young people in detention.

Training for those working in youth justice

Several reviews of the youth justice system in the Northern Territory, including investigations into the incidents that have led to the current Royal Commission, have highlighted the need for better training for those working with young people inside youth detention centres [5, 8, 26]. It is clear from these reviews that the Corrections system has been incapable of acting systematically upon their recommendations [26]. It is also clear from the incidents at Don Dale in August 2014 how inadequately Corrections staff were trained to deal with traumatised young people from backgrounds marked by poverty, addiction and violence. This is recognised by many staff themselves:

All of the YJO staff interviewed were of the opinion that they had not received sufficient training to undertake their required daily duties. They stated that they received only minimal training (approximately 3 days) at the commencement of their employment, and that long term staff do not receive any refresher training except for first aid and fire training [26].

Training needs to be provided throughout the agency responsible for youth justice, including for senior staff, addressing at a minimum:

- intergenerational trauma / trauma informed care,

- cultural safety,
- mental health training including Youth Mental Health First Aid, and
- crisis de-escalation / negotiation / mediation training.

14. That all those responsible for providing services within youth detention facilities, including senior staff, local management and officers, and agencies providing services in detention centres be provided with adequate training to assist the young people in their care, including in trauma informed care, cultural safety, Youth Mental Health First Aid and crisis de-escalation and mediation.

Infrastructure

One of the effects of a public debate focused on 'tough on crime' responses to youth offending has been an increase in those detained and as a consequence, severely overcrowded detention facilities. Overcrowded detention centres with inadequate facilities to meet the needs of young people are psychologically stressful and likely to lead to the development of, or exacerbation of, mental health issues [9].

15. That the Northern Territory Government commit to providing detention centres with the infrastructure necessary to support their therapeutic goals.

Conclusion

The Northern Territory Mental Health Coalition members work to support the mental health and social and emotional wellbeing of the NT community. As such, our sector is a key partner in improved systems for preventing young people in the Northern Territory becoming involved in the criminal justice system, and for supporting those who do so to deal with the issues driving offending behaviours.

We strongly support investment in community-based mental health services as the most cost-effective approach to working with young people in the Northern Territory before, during and after their involvement in the criminal justice system.

We are convinced, on the basis of our own experience supported by a strong evidence base, that a serious investment now in community-level mental health and wellbeing services will be rapidly repaid through reduced levels of offending and the need for our young people to be detained.

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