



North Australian Aboriginal Justice Agency



Aboriginal Justice and Wellbeing Workshop Summary

~ 12 October 2021 ~

Introduction

On 12th October 2021 a group invited from Aboriginal Community Controlled Health and Justice organisations met at Mparntwe for the Aboriginal Justice and Wellbeing Workshop. Attendees came from across the Northern Territory. There was strong Aboriginal leadership present.

The criminal justice system comes from a colonial legacy and does not adequately reflect Aboriginal notions of justice and Aboriginal notions of social and emotional wellbeing. Many of our friends and colleagues across health and justice have been calling for positive changes for many decades. But the changes have not been nearly enough. In many ways this situation has become worse.

We need many more programs that invest in Aboriginal-led solutions. These programs should be the front and centre of the criminal justice system, and not just a program within or at the edge.

Aboriginal people are connected by language, kinship, land, law and culture and programs need to reflect, and be adaptive to this, for the individuals they support. For many people, programs need to be on Country and not once a person is in prison.

Programs need to be trauma-informed and in a genuine way as interpreted by Aboriginal people. By investing in Aboriginal-led solutions we create the opportunity for more Aboriginal educators, healers, workers in health and justice, to help grow and build other Aboriginal people to be agents of change.

We need to continue these conversations. Elders have been saying these things for a long time now – many of our Aboriginal people have told the multiple reports, inquiries, Royal Commissions relating to the criminal justice system. We will continue to say these things.

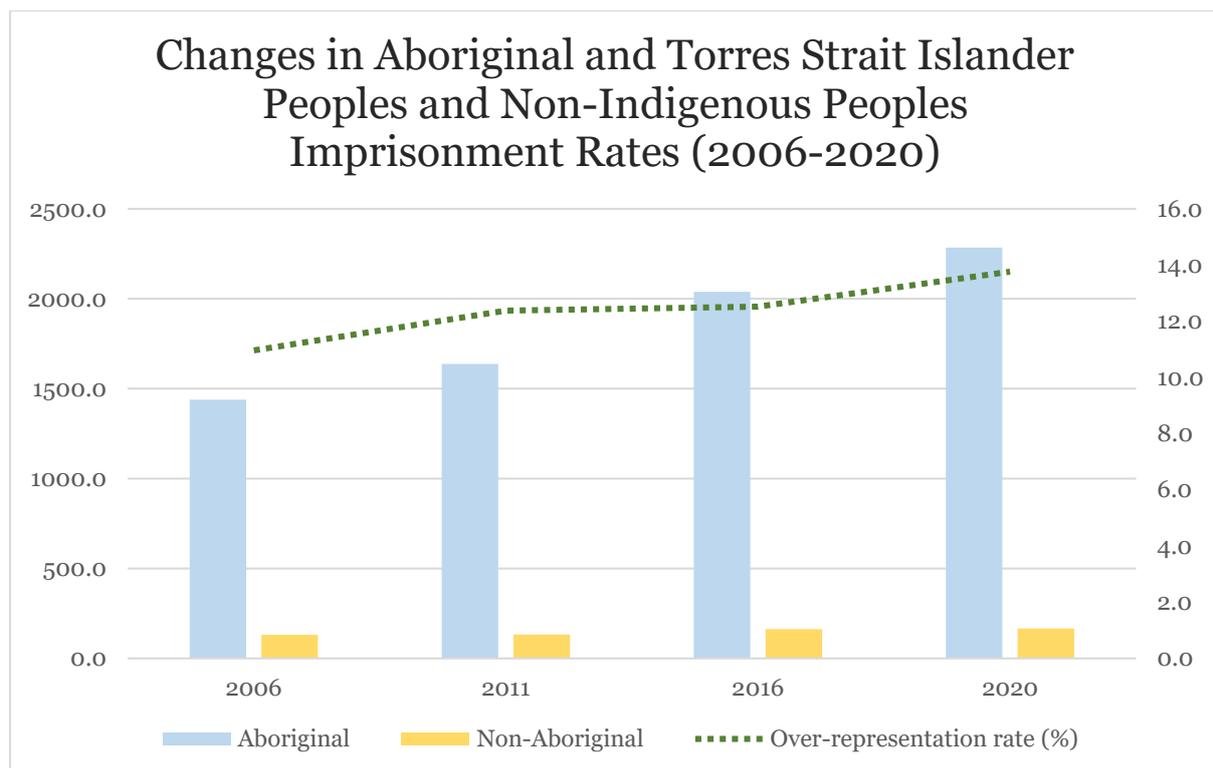
Who was there

36 people attended the workshop from across the five regions of the NT. 17 people came as representatives of Aboriginal health and AOD services, and 14 from Aboriginal legal services.

These 36 individuals came with an impressive depth and breadth of skills and experience, including: cultural authority, knowledge and understanding; domestic violence and child protection law; expertise in community development; experience with community corrections; community legal education and civil law; case management and Throughcare; welfare support, including through the Custody Notification Service; clinical mental health professionals, including forensic psychology; and experience working with AOD misuse.

What we heard: The issues

Internationally there is a trend of declining imprisonment, however Australia is going against this, with imprisonment rates rising overall across the nation. We have the highest incarceration rate since federation, and Aboriginal people comprise a disproportionate number of those imprisonedⁱ.



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2020*

For many groups and families this has become part of an intergenerational pattern of imprisonment. We see much higher rates of recidivism among Aboriginal people in contact with the justice system – 81% of all sentenced Indigenous people had a known prior imprisonment, compared with 29% of non-Indigenous peopleⁱⁱ.

There is a strong association between people with Mental Health disorders and incarceration, and people in prison are also more likely to engage in high-risk alcohol consumption, illicit use of drugs, and injecting drug use than the general populationⁱⁱⁱ. Despite this there is a lack of existing psychological therapy support for people in prison in the NT, and these people in prison are excluded from accessing any psychology support through the Medicare Benefit Scheme.

Workshop participants described many of the young people they work with as having really big emotions about situations in their lives and communities – lots of pain and anger – and not a lot of knowledge about what to do with this.

Alcohol and ganja are often looked to as the solution, for young people and adults alike. These substances are often not themselves the underlying problem, but a solution that people find for the pain they are feeling and don't know what to do with. What is really needed is a healing of that pain.

When people do come into contact with 'the system', lawyers and health professionals often use language and terminology that people don't understand. The system is complex and hard to navigate, even for the workforce who are trying to support people through it. Sometimes it can feel like a full time job for someone to jump through all the hoops required to manage their own health and justice needs.

We heard that the value of Land and Country is being placed too far down the list of priorities. We heard that it can sometimes be used against people in court proceedings if they are deemed 'transient' because they move between places with which they retain connections. In Child Protection cases, it is common for parents to be compelled to come into town, an environment they are not comfortable with, away from their support systems, in order to have access to their children.

When people are placed in prison they are separated from Country and miss out on family obligations and ceremony, causing further disconnection from culture and harm to that person and families' wellbeing. A lack of cultural understanding in the prison means people in prison relationships are being roomed together, leading to significant distress, and in some cases suicide.

There is a declining number of prisoners being granted parole in the NT, in part due to more people declining parole for themselves – 109 prisoners declined parole in 2019^{iv}. Many people don't fully understand the parole system, nor what rules they are expected to follow when they take parole.

Equally, once people are released from prison they may fear return to their communities due to ongoing retribution or feeling they are no longer welcome. We heard that there can also be a lack of communication between corrections and local Aboriginal organisations, particularly in remote areas, which might better facilitate the ongoing support of the person back in community.

In short: The criminal justice system is failing to 'rehabilitate' Aboriginal people.

This system is set up to fail Aboriginal people because it stems from a colonial legacy.

It will continue to fail unless we can fundamentally reshape it to reflect Aboriginal notions of justice, wellbeing and healing.

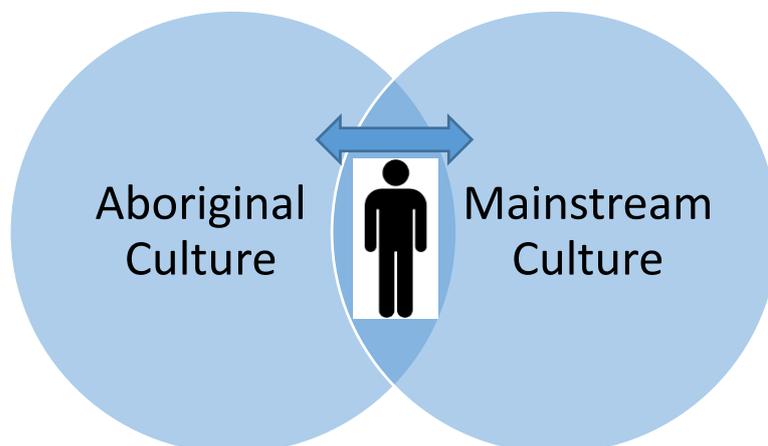
What we heard: The solutions

The social determinants of health are the same as the social determinants of incarceration. In line with public health approaches we know that we get significantly more gains from primary methods of crime prevention, such as stable housing and community development, than tertiary methods which focus on those who have already offended^v. Despite this, we also heard that the tertiary end of the system is where the greatest investments are still being made.

What is needed are programs grounded in Indigenous people's cultural values, beliefs and realities, using grass roots movements to bring about change. Programs must involve family, elders, respected people and the wider Indigenous community in all matters of incarceration and post release support. We equally need clear strategies to address underlying causes of reoffending such as grief, loss and trauma, substance abuse and health problems.

We heard from Senior Arrernte staff at Congress about the success of the Jaila Wanti Pilot, a culturally responsive, 12-part program developed and delivered by local Aboriginal men in the Alice Springs Corrections Centre. 80 men have now completed the program, with only 15 having returned to prison so far. We also heard that despite its success, it's funding has recently been discontinued.

We heard that the men Jaila Wanti works with exist in a space of tension between Aboriginal Culture and Mainstream Culture. The more we are able to open up this space between the two, the more opportunities we are able to create for that individual.



This requires two-way learning and sharing. We must listen to, respect and understand each other's perspectives – Aboriginal and non-Aboriginal, but also health and legal – if we are to effectively work together to address the issues we are facing. Aboriginal people have learnt about non-Aboriginal law, now it's time for the learning to flow the other way.

The justice and health systems, and their respective workforces, must work together to ensure our justice responses can be tailored to the specific health needs of the individual. We know that many people who come into contact with the justice system have cognitive disabilities, mental health conditions or undiagnosed FASD and yet there are not enough supports that are tailored for these people, even when they do have a formal diagnosis. Collaboration is required so that both systems can be adaptive and responsive to these health needs, within a framework of culturally safe, Aboriginal-led support.

We heard that when Language is used in the right way, creatively with cultural story and metaphor, we can break down barriers. Allowing clients to speak in their own language helps to build their confidence. Use of plain English and interpreters are also a vital part of effective communication, as well as involving the family in the communication process as much as possible.

For most people experiencing family violence in Australia the 1800 respect phone line is available 24 hours for confidential information, counselling and support. However, we heard that this phone line is largely inaccessible for Aboriginal people in our remote communities who may not speak English, and connecting this service with the NT Interpreting and Translating Service would make a significant difference.

We need to reconsider policies that say we can't employ people who have been in prison. This is a significant ongoing barrier to employment for many people that reinforces the cycle of poverty and incarceration for future generations.

We heard that Country is a place for healing. As organisations we need to make sure that our doctors get out of the clinic and lawyers out of the court room and spend time on Country with clients because that is where the healing really happens. Cultural education of professionals who work with Aboriginal communities should also be happening out on Country. Vivally, where families come in contact with the Child Protection system, children should be kept on Country. This is essential for them to retain connection to culture.

Some recommendations for reform

(this list is not exhaustive, but represents some of the key solutions which emerged in discussion through the workshop)

	Primary Crime Prevention	Secondary Crime Prevention	Tertiary Crime Prevention
Systems and funding	Ensure equitable access to housing	Advocate for access to interpreters for 1800 Respect phone line	Increased investment in bail support programs
	Increased investment in healing programs that address grief, loss, trauma and substance abuse	Justice Reinvestment	Increased investment in throughcare programs
	Increased investment in Aboriginal-led Family Violence Prevention programs	Therapeutic support options for people while in prison	Improve cultural understanding and responsiveness of prison systems, including training for prison officers
Organisation and workforce	Empowering voice of client, as experts in their own lives, including by empowering people to speak in their own language	Health Justice Partnerships	Resourcing for post-release programs for offenders in remote communities
	Increase capacity of workforce in culturally responsive, trauma-informed care	Community Legal Education	Improved communication and referral processes between corrections and remote health clinics post release
	Using language and metaphor creatively, including comparing clinical/legal terminology to traditional cultural narrative to unlock meaning	Targeted programs focus on developing skills and intrinsic motivations for people to change their behaviour	Rehabilitation programs focus around Risk-Needs-Responsivity model ^{vi}
Community	Community development, capacity building and increased local employment	Programs grounded in Aboriginal cultural values, beliefs and realities, using grass roots movements to bring about change	Aboriginal people involved in all matters of incarceration and post release support

References

ⁱ Australian Bureau of Statistics (2020). Prisoners in Australia

ⁱⁱ NT Government (2018). Reducing Reoffending and Imprisonment Rates of Aboriginal Territorians

ⁱⁱⁱ Australian Institute of Health and Welfare (AIHW) (2020b). Health of Prisoners. Retrieved from:
<https://www.aihw.gov.au/reports/australias-health/health-of-prisoners>

^{iv} Parole Board of the Northern Territory (2019). Annual Report

^v Battams, S., Delany-Crowe, T., Fisher, M., Wright, L., McGreevy, M., McDermott, D., & Baum, F. (2021). Reducing Incarceration Rates in Australia Through Primary, Secondary, and Tertiary Crime Prevention. *Criminal Justice Policy Review*, 32(6), 618-645. <https://doi.org/10.1177/0887403420979178>

^{vi} Public Safety Canada. Risk-need-responsivity model for offender assessment and rehabilitation 2007-06 <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rsk-nd-rspnsvty/index-en.aspx>