



Submission to the Northern Territory 2017/18 Budget

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Jesuit
Social Services
Building a Just Society

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Who we are

Jesuit Social Services works to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families and communities.

Jesuit Social Services works where the need is greatest and where it has the capacity, experience and skills to make the most difference. Jesuit Social Services values all persons and seeks to engage with them in a respectful way, that acknowledges their experiences and skills and gives them the opportunity to harness their full potential.

We do this by working directly to address disadvantage and by influencing hearts and minds for social change. We strengthen and build respectful, constructive relationships for:

- **Effective services** – by partnering with people most in need and those who support them to address disadvantage
- **Education** – by providing access to life-long learning and development
- **Capacity building** – by refining and evaluating our practice and sharing and partnering for greater impact
- **Advocacy** – by building awareness of injustice and advocating for social change based on grounded experience and research
- **Leadership development** – by partnering across sectors to build expertise and commitment for justice.

The promotion of **education, lifelong learning and capacity building** is fundamental to all our activity. We believe this is the most effective means of helping people to reach their potential and exercise their full citizenship. This, in turn, strengthens the broader community.

Our service delivery and advocacy focuses on the following key areas:

- **Justice and crime prevention** – people involved with the justice system
- **Mental health and wellbeing** – people with multiple and complex needs and those affected by suicide, trauma and complex bereavement
- **Settlement and community building** – recently arrived immigrants and refugees and disadvantaged communities
- **Education, training and employment** – people with barriers to sustainable employment.

Currently our direct services and volunteer programs are located in Victoria, New South Wales and Northern Territory, and include:

- **Brosnan Services:** supporting young people and adults in the justice system, and assisting them to make a successful transition from custody back into the community. Within the suite of services are Perry House, Dillon House and Youth Justice Community Support Services.
- **Jesuit Community College:** increasing opportunities for people constrained by social and economic disadvantage to participate in education, work and community life and reach their full potential.
- **Settlement Programs:** working with newly arrived migrants and refugees across metropolitan Melbourne, including the African Australian and Vietnamese communities.
- **Connexions:** delivering intensive support and counselling for young people with co-occurring mental health, substance and alcohol misuse problems.
- **Artful Dodgers Studios:** providing pathways to education, training and employment for young people with multiple and complex needs associated with mental health, substance abuse and homelessness.

- **The Outdoor Experience:** offering an alternative treatment service through a range of outdoor intervention programs for young people aged 15 – 25 years, who have or have had issues with alcohol and/or other drugs.
- **Support After Suicide:** supporting people bereaved by suicide, including children and young people.
- **Western Sydney Program:** delivering social enterprise and other community building that provide affordable food, training and employment opportunities to people living in the area of Mount Druitt, Western Sydney.
- **Just Leadership:** Working in partnership with community and corporate enterprises to foster leadership for a just society. This includes the African Australian Inclusion Program, a professional bridging program developed in partnership with the National Australia Bank.
- **Capacity building** activities in the Northern Territory and New South Wales with Aboriginal communities to improve their situation and to have more control over their lives.

In the Northern Territory we support the Eastern and Central Arrernte people in a number of ways to better their situation and have more control over their lives. As part of this work, we provide community capacity building support through the Stronger Communities for Children program in the remote communities of Atitere, Bonya, Engawala and Santa Teresa; are involved in a Men's Behaviour Change program in Alice Springs in partnership with Tangentyere Council and the Alice Springs Women's Shelter. We provide capacity building support in a number of other locations, including Wadeye, and work in a similar way in New South Wales (Mount Druitt and Bourke).

Jesuit Social Services is a member of the Northern Territory Making Justice Work campaign to promote evidence-based approaches to community safety in order to respond more effectively to crime in the community. We are also establishing a Group Conferencing program for children in the youth justice and child protection systems.,

For nearly 40 years, we have accompanied people involved, or at risk of becoming involved, in the criminal justice system. In Victoria we work with people to prevent and divert involvement in the justice system and support people exiting prison and youth justice facilities. This includes the Corrections Victoria Reintegration Program in North and West Metropolitan Melbourne (Reconnect), the African Visitation and Mentoring Program, Next Steps and Perry House residential programs, the Youth Justice Community Support Service, Youth Diversion Pilot Program and Youth Justice Group Conferencing.

Jesuit Social Services also delivers Barreng Moorop in partnership with the Victorian Aboriginal Childcare Agency and the Victorian Aboriginal Legal Service. This program provides intensive support to First Nations children (aged 10–14 years) who are at risk of engagement in the justice system, or are engaged with Victoria Police.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence people's lives and improve approaches to address long term social challenges. We do this by working collaboratively with Governments, communities and the community sector to build coalitions and alliances around key issues, and building strong relationships with key decision-makers and the community.

Our Learning and Practice Development Unit builds the capacity of our services through staff development, training and evaluation, as well as articulating and disseminating information on best practice approaches to intervening with participants across our programs.

Our recommendations

We call on the Northern Territory Government to:

1. Set out a 10 year Justice Strategy that sets a framework of specific actions to achieve justice targets to reduce Aboriginal over-representation in the justice system.
2. In partnership with the community, act immediately to put in place appropriate structures, plans and resources targeted to the Territory's most vulnerable communities to break the complex web of disadvantage.
3. Allocate Commonwealth Grants Commission funding according to the assessment of need and report transparently on funding allocation.
4. Ensure access to early childhood services for all young children in the Northern Territory by improving the quality of programs and staff as well as locational access to early years services.
5. Expand the reach of the Intensive Family Support Service to more communities.
6. Increase the capacity of Aboriginal and Torres Strait Islander (ATSI) controlled organisations to deliver the Intensive Family Support Service to ATSI families.
7. Implement an active, robust, and culturally safe Family Group Conferencing program across the Northern Territory.
8. Introduce student needs-based funding to ensure that extra resources go directly to the schools with the greatest need and to achieve proportionate universality for all children.
9. Establish a system and support mechanisms for young people reintegrating into school and training pathways.
10. Fund and support group conferencing in child protection and educational settings across the Northern Territory.
11. Invest in early intervention initiatives that use evidence-based research and action to design, pilot and evaluate measures to promote behaviour change and prevent male violence.
12. Invest in initiatives targeted at early intervention for young fathers who use, or are at risk of using, violence.
13. Provide adequate resources for recreation, after-hours activities and support for young people.
14. Fund and support diversion and restorative justice programs, including Youth Justice Group Conferencing, across the Northern Territory.
15. Legislate to raise the age of criminal responsibility to 12 years old.
16. Implement a system of restorative justice to address the needs of 10 and 11 year olds who come to the attention of the justice system.
17. Ensure remand is used as a last resort and amend the Bail Act to provide for the needs of children and young people.
18. Increase investment in bail support programs and bail accommodation to prevent vulnerable children from being detained.
19. Establish Children's Courts in all major regional and metropolitan centres across the Northern Territory.
20. Establish ATSI Children's Courts in all major regional and metropolitan centres across the Northern Territory.
21. Support vulnerable children with trauma-informed, therapeutic practices that are evidence based, culturally safe, and incorporate a strengths-based framework and specialist care.
22. Ensure clear and well-resourced partnerships with community organisations to effectively implement a through-care model for young people exiting the justice system.
23. Ensure that youth detention officers and other staff in youth detention centres are trained in a trauma-informed youth specific therapeutic practice framework by experienced and qualified instructors.
24. Invest in a purpose-built Alice Springs Youth Detention Centre, including rehabilitation and therapeutic support.

25. Repeal mandatory sentencing laws under sections 78B – 78DH of the Sentencing Act (which enact five levels of violent offences, with varying minimum sentences) and section 31 of the Traffic Act.
26. Provide additional non-custodial sentencing options, to avoid unnecessary imprisonment due to the lack of community work, therapeutic or rehabilitative programs availability in particular locations.
27. Re-instate the SMART Court or equivalent to more effectively address substance misuse issues that contribute to offending behaviour and to divert people from prison, without blanket prohibitions on violent offences being eligible.
28. Ensure clear and well-resourced partnerships with community organisations across the Northern Territory to effectively implement a through-care model for people exiting prison or youth detention.
29. Introduce diversion and a restorative justice approach in the adult justice system.
30. Introduce a specialist therapeutic approach of dealing with young people aged 18-24 years in the criminal justice system in recognition of their ongoing brain development, including legislative provisions that set out the principles that should apply, additional rehabilitative sentencing options, and alternative custodial facilities.
31. Fund and support Community Justice Groups in Aboriginal communities, as per recommendation 73 of the *Little Children are Sacred* report.
32. Reinststate Community Courts (or similar) to strengthen community-driven responses to crime and reduce the over-representation of ATSI people in the justice system.
33. Provide adequate resources and opportunities for rehabilitation, therapy and counselling in Alice Springs Correctional Centre.
34. Ensure more specialised options within prisons are available for people with cognitive disability.
35. Provide alternative rehabilitative responses in the community for people found unfit to plea due to cognitive impairment.
36. Establish more secure facilities for unsentenced, high risk individuals (outside of the prison environment) which support their rehabilitation and transition into the community.
37. Develop and implement a framework for planning and resourcing therapeutic programs and services targeting people with cognitive impairment throughout the corrections system.
38. Ensure that all people with cognitive impairments can access specialised, problem-solving programs at courts. This should be underpinned by consistent screening and referral processes.
39. Ensure people with a cognitive impairment have access to an Independent Third Person at key stages of their engagement with the justice system.
40. Develop a staged approach to release from custody for people with cognitive and psychiatric impairment, involving day release to build connections to community and links with support services.

Introduction

Jesuit Social Services welcomes the opportunity to make a submission to the *2017/18 Northern Territory Budget*.

We believe every Australian should have access to the opportunities in life that will enable them to flourish – to complete their education, to get a job, to access safe and affordable housing, to raise their children in safe communities and to see the next generation thrive.

In a tight budget environment, spending must prioritise social and community services that enable communities to flourish. These services form the fabric needed to address the very social problems that contribute to crime, such as educational disengagement, concentrations of long term unemployment, drug and alcohol problems and family dysfunction.

We welcome the Government's commitment to policies that support the health and wellbeing of young people in the Northern Territory, as well as its support for the aims of the Making Justice Work campaign. We believe Jesuit Social Services' recommendations will help the Government meet these commitments, and ultimately create a fairer and safer Territory.

Who we work with

Jesuit Social Services works with and advocates for people with multiple and complex needs. These people are often some of the most disadvantaged Australians. They can face a range of co-occurring and interrelated issues, such as homelessness, disability, substance misuse, health problems, and involvement in the child protection and criminal justice systems. These overlapping issues often mean that recovery is harder to achieve and sustain.

For a number of people in the Northern Territory, the complexity of their needs means that they struggle to remain engaged in formal treatment and support services. While our social and welfare systems are able to meet the needs of the majority of people, they are often not adapted to cater for the NT's most vulnerable people.

For people with multiple and complex needs, a whole-of-person approach is critical in addressing the unique mix of intersecting and overlapping issues that each individual faces. For many of our program participants, developing skills, such as independent living skills and interpersonal skills, and building their confidence are the building blocks to recovery.

With this understanding, we recognise that a whole-of-government approach, where the service systems work together and targets locations of entrenched disadvantage, is the most effective way to meet the needs of society's most vulnerable.

This is how to make a real difference, and underpins our recommendations in this submission.

Addressing entrenched disadvantage

In 2015, Jesuit Social Services along with Catholic Social Services Australia released the findings of its *Dropping off the Edge* Report (DOTE)¹, which found that complex and entrenched disadvantage continues to be experienced by a persistent number of locations in each state and territory across Australia, including the Northern Territory.

Of particular concern for Jesuit Social Services is the distribution of significant disadvantage across the entire Northern Territory. The patterns of disadvantage vary greatly across the Territory, with some areas showing low levels of disadvantage on certain indicators and high levels of disadvantage on others. Our research found that different areas experience disadvantage in vastly different ways; for example:

- In the Tiwi Islands, disadvantage is felt in the lack of internet access, low family incomes and young adults not engaged in work or study - ranked first on all of these indicators. Economic indicators therefore showed disadvantage while social indicators (criminal convictions, prison admissions) were less prominent.
- East Arnhem ranked second on unemployment and long-term unemployment, young adults not engaged in work or study, unskilled workers, and the level of post-school qualifications. Again, the issue is around income and skills.
- In Katherine, disadvantage is reflected in the rankings for criminal convictions, domestic violence and prison admissions (ranked first on each of these). On the other hand, skills appear to be at a higher level than in many other locations.

While disadvantage is shown in different forms across the Northern Territory, certain localities account for a disproportionate level of disadvantage, with only one Statistical Local Area showing no extreme disadvantage on any indicator. Our research found that 25% of locations accounted for 47% of the highest disadvantage rankings. These findings highlight both the complexity and persistence of locational disadvantage in the Northern Territory.

Jesuit Social Services has consistently argued that public policy must pay greater attention to the role of structural factors and social inequality as key determinants of health and wellbeing, and therefore as drivers of demand for community services.

In addition to addressing structural determinants, government must also tackle disadvantage through the provision of services. Here investment must be forward-looking and preventative. From our experience, we know the best way to reduce crime and the burden on our criminal justice system is to tackle its root causes. In order to do this, effective universal services are needed in education, health and family services, as well as access to safe and affordable housing. We must have the resources to respond to people in our community who fall through the cracks, and provide holistic interventions during times of crisis. And, fundamentally, we need to commit to long-term, local, community-led solutions in areas of deepest disadvantage.

Stronger communities

The social fabric of communities can play an influential role in buffering the worst effects of disadvantage², with community factors being shown to influence mental health levels in children³, education and levels of safety and crime⁴.

In the Northern Territory, there is an undue reliance on crisis services and the criminal justice system to pick up the pieces, rather than a sustained focus on strengthening communities and intervening as early as possible to tackle the root causes of disadvantage. The emphasis on punitive law and order policies impacts most heavily on the most disadvantaged.

The impacts of trauma (including neglect and exposure to violence) on children are severe and have lasting consequences, with altered brain growth and psychological functioning shown to be linked to trauma⁵. There are long-term social costs associated with this, including mental health issues and other chronic health problems, criminality, homelessness, substance misuse and abuse and intergenerational transmission of abuse. It is estimated that child abuse and neglect in Australia costs almost \$5 billion per year, including interventions and the associated long-term human and social costs⁶.

A sustained, whole of community approach

A number of communities in the Northern Territory experience persistent and entrenched disadvantage. A new approach is needed so we don't continue to fail the communities that bear the greatest burden of disadvantage. A sustained long-term commitment across the government, community and business sectors is urgently required to resolve this complex problem.

Jesuit Social Services calls on the Northern Territory Government, in partnership with the community, to set out a 10 year Justice Strategy that sets a framework of specific actions to achieve justice targets to reduce Aboriginal over-representation in the justice system, and to act immediately to put in place appropriate structures, plans and resources targeted to our most vulnerable communities to break the complex web of disadvantage.

A multi-layered, cooperative and coordinated strategy is required - one which is owned and driven by the community. It must involve all layers of government along with the business and community sectors, reflecting shared responsibility and joint commitment to resolve this entrenched problem. This strategy must take account of the unique characteristics and circumstances of local communities and be sustained over the long term. It must be:

- **Targeted** – The response must be targeted or concentrated to specific areas that meet the most severe criteria for disadvantage.
- **Tailored** – The policies, programs and approach to dealing with disadvantage in a community must be unique to that community's needs, tailored to their particular circumstances, based on the unique linkages between indicators in that area and supplemented by informed audits of existing programs in that locality.
- **Integrated and cooperative** – The response needs to acknowledge that disadvantage in one dimension of life (e.g. unemployment) reinforces disadvantage in other areas (e.g. household income). Effective responses to reducing disadvantage must address the multiple and interrelated causes and exacerbating factors that underpin the entrenched nature of disadvantage experienced by communities. Effective responses therefore involve cooperation between government and departmental portfolios, integrated community initiatives and coordination between different levels of government.
- **A long term horizon** – DOTE 2015 demonstrates that not only is entrenched disadvantage persistent across time but that short-term policies do not work in addressing the experience of disadvantage among communities. A long-term, bipartisan commitment is vital to prevent communities from dropping off the edge.
- **Community owned and driven** – Community leaders must be engaged to drive sustained change. A new approach must recognise the strength within communities and work with them to build capacity, generate action, attract external resources and maintain direction and energy. There is a well-documented history of the benefit of 'aid', disconnected from the strengthening of specific community capacities, tapering off and disappearing once external inputs cease.

- **Engaged at the individual, community and national levels** – Research into the outcomes people experience in life demonstrates that individuals are affected by their own capabilities and opportunities, their family circumstances, their community, and the broader social and economic environment. Any effective change in the outcomes for individuals must therefore include action across these three domains of life: individual, community and macro environment.

We call on the Northern Territory Government to set out a 10 year Justice Strategy that sets a framework of specific actions to achieve justice targets to reduce Aboriginal over-representation in the justice system.

We call on the Northern Territory Government, in partnership with the community, to act immediately to put in place appropriate structures, plans and resources targeted to the Territory's most vulnerable communities to break the complex web of disadvantage.

A commitment to this strategy must be reflected in the allocation of funding to support services in the most disadvantaged areas of the Northern Territory. The funding the Northern Territory Government receives from the Commonwealth Grants Commission (CGC) is allocated based on an assessment of need. However, there is no obligation to spend the funds in accordance with the CGC's assessment. While 68 per cent of the \$3.4 billion in revenue given to the Northern Territory in the 2015-2016 financial year was assigned due to needs in remote areas, the government allocated only 53 per cent, a difference of \$500 million⁷. Resources must flow through to vulnerable communities and should reflect CGC's assessment of need.

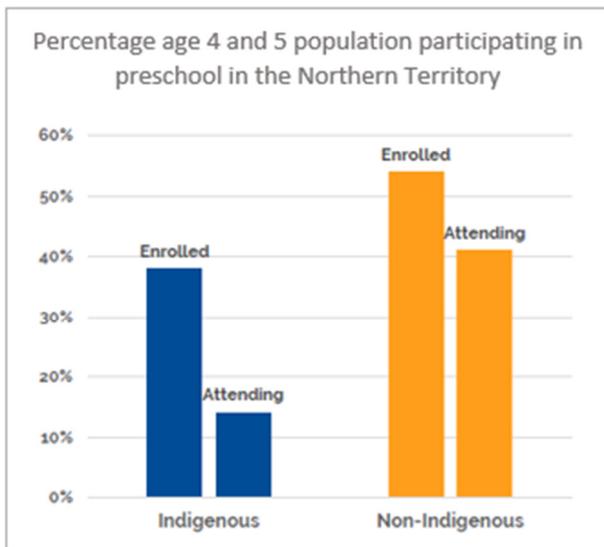
We call on the Northern Territory Government to allocate Commonwealth Grants Commission funding according to the assessment of need to ensure that vulnerable communities are appropriately resourced and to report transparently on funding allocation.

Early childhood, health and education

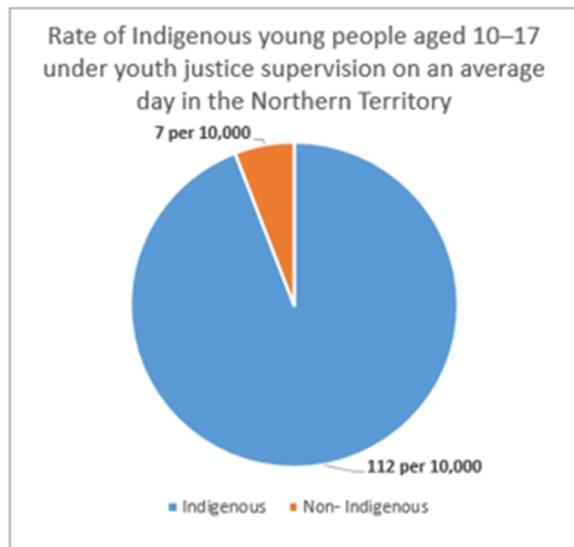
Access to early childhood services is crucial in giving young Territorians the best possible start in life. Unfortunately, many young children are missing out on early childhood education and health services.

The Northern Territory has the lowest number of preschool programs delivered by a qualified preschool teacher and the largest gap in attendance rates between Aboriginal and Torres Strait Islander (ATSI) and non-ATSI children⁸. The Northern Territory also has the highest number (23.1 per cent) of developmentally vulnerable young children compared to other states on the Australian Early Development Census.⁹

Investment in high quality services for children and parents during the early years can have positive impacts on health and wellbeing and also, critically, in reducing the likelihood of contact with the criminal justice system.¹⁰ The graphs below highlight the under representation of Indigenous children in preschool and their over representation in the youth justice system.



Source: ABS. (2015). 4240.0 Preschool Education – Australia, 2015. Canberra: ABS.



Source: AIHW. (2016). Youth Justice in Australia 2014–15, Bulletin No. 133. Cat. No. AUS 198. AIHW: Canberra.

Investment in early childhood development and health is the most cost effective strategy for the government to tackle disadvantage. Cost-benefit analysis of early childhood education and care programs shows that they generate more than \$7 in benefits for every dollar that is invested.¹¹ Investment should take place through enhancing maternal and child health services, developing support programs for parents, ensuring that all children attend high quality early learning programs delivered by qualified teachers and keeping trauma-informed therapeutic approaches at the centre of any response.

We call on the Northern Territory Government to ensure access to early childhood services for all young children in the Northern Territory by improving the quality of programs and staff as well as locational access to early years services.

Stronger families

Recognising the role of parents and families in young people’s development, greater support is needed to prevent child protection interventions.

Early intervention programs in parenting are key to diverting families at risk of becoming involved in the child protection system. These programs must be flexible and take a strengths-based approach to meeting the unique needs of each family and child.

The Intensive Family Support Service works with parents whose children are identified as vulnerable or at risk of neglect. The program operates in a select group of communities in the Northern Territory and provides face-to-face and group sessions designed to help them strengthen parenting and household management skills. These services should be made more widely available to communities across the Northern Territory. Additionally, funding ATSI-controlled organisations to deliver these programs will ensure that ATSI families are receiving the most effective support.

We call on the Northern Territory Government to expand the reach of the Intensive Family Support Service to more communities.

We call on the Northern Territory Government to increase the capacity of ATSI-controlled organisations to deliver the Intensive Family Support Service to ATSI families.

Further, in cases where families come to the attention of Child Protection there must a strong emphasis on restorative responses that recognise the importance of family and extended family to a child's wellbeing, especially in ATSI communities. Child protection legislation in the Northern Territory makes provision for alternative dispute resolution in the form of court ordered mediation conferences, however these do not currently form an active part of child protection practice¹². Instead child protection matters are resolved through court proceedings which can be complex, lengthy, hostile and not culturally sensitive, resulting in poor outcomes for the child. The current response system is ineffective at providing for the wellbeing of young Territorians, particularly ATSI children who are significantly overrepresented in out-of-home care and are at risk of continuing abuse and neglect after being removed from their families¹³.

Family Group Conferencing (FGC) is one way of achieving significantly better outcomes for children and families. Compared with court ordered outcomes, FGC results in higher levels of reunification with family, more kinship placements and better family unity¹⁴.

FGC is based on the principles of restorative justice and community building and encourages the immediate and extended family to take responsibility for the care and protection of a child who is subject to, or at risk of, abuse or neglect. It involves bringing family and other key people together to develop an plan of care for the child with the support of appropriate services. While concerns include lack of procedural fairness, confidentiality and failure to recognise power imbalances in families and with stakeholders, appropriate safeguards can successfully overcome these concerns and achieve genuine and positive outcomes¹⁵.

A FGC pilot program was implemented in Alice Springs in 2011 and an evaluative report from the Menzies School of Health Research suggests that it was successful and received positive feedback from participants¹⁶. While there is reasonable evidence to suggest that FGC could be implemented successfully, the program was not continued or expanded across the Northern Territory and the Government, instead, continues to rely heavily on court proceedings – which ultimately deliver outcomes that perpetuate disadvantage.

We call on the Northern Territory Government to implement an active, robust, and culturally safe Family Group Conferencing program across the Northern Territory.

Access to education

Addressing educational disengagement is crucial in tackling disadvantage. Children who attend school in remote or very remote areas of the Northern Territory make up 45.5% of the overall student population¹⁷ and these students are years behind their counterparts in urban areas¹⁸. Attendance rates in remote locations are significantly lower than urban locations (61.4 per cent compared with 88 per cent in term 2, 2016¹⁹) and this disproportionately disadvantages ATSI young people²⁰, who have a significantly greater population in very remote areas. Currently, Northern Territory funding for schools typically favours urban schools over remote schools, further compounding disadvantage.²¹

We call on the Northern Territory Government to introduce student needs-based funding to ensure that extra resources go directly to the schools with the greatest need and to achieve proportionate universality for all children.

Engagement in education

Equally, there must be a focus on reintegrating young people into the education system generally, and after they leave detention. This involves addressing the systems which are in place for reintegration into education, and also providing support. Enrolment in education and training is only the first step, and for vulnerable young people intensive support is often required to ensure ongoing engagement and success. The role of schools and the wider education system must be clarified here, particularly the question of who has responsibility (Youth Justice or Education Departments) for engaging and supporting young people into learning. A young person's involvement with the youth justice system often coincides with disengagement from school. To address these issues school must be recognised as an important community and young people must be given the opportunity to continue their relationship with their school community while in detention and on return to the community.

We call on the Northern Territory Government to establish a system and support mechanisms for young people reintegrating into school and training pathways.

Jesuit Social Services believes that there is an opportunity to work in a better way with young people who find themselves in challenging situations in out-of-home care and educational settings. Currently these young people have limited access to a therapeutic, diversionary, restorative based process to work through the issues they face. Too often, the criminal justice system ends up being the default response for these young people. A restorative justice approach, using the Group Conferencing is a more effective means of addressing conflict and repairing the harms experienced by children in residential units and in preventing exclusion in school settings.

We call on the Northern Territory Government to fund and support group conferencing in child protection and educational settings across the Northern Territory.

Addressing male violence

In the Northern Territory, 60 per cent of assault offences are associated with domestic and family violence and 82 per cent of victims of these offences are women²². Furthermore, domestic and family violence in the NT is characterised by higher rates of serious assaults, including the use of weapons capable of inflicting great harm.²³ ATSI women and children are disproportionately affected by this violence.

There are currently established and invaluable organisations that support victims of men's violence in the Northern Territory. There is also a small range of behaviour change programs for perpetrators of violence which are generally linked to the justice system.. However, there remains a significant gap in understanding and responding to boys and men who use violence or are at risk of doing so. There is a need for a broader range of interventions for men who use violence than is currently available, and for innovation and an expanded evidence base about strategies that are effective in reducing and stopping male violence.

Despite the cycle of harm played out across generations, not enough is being done to support children and young people's safety, and to respond early to children and young people at risk of becoming perpetrators themselves. Jesuit Social Services notes that Tangentyere Council has recently been funded by the Northern Territory Government to deliver a Domestic and Family Violence Specialist Children's Service, to better address violence behaviour perpetrated by young men. It is essential that these types of early intervention programs are adequately resourced with long term funding, and are appropriately evaluated.

The importance of working with men and boys who use violence was noted in the Northern Territory's *Domestic and family violence reduction strategy 2014-2017*. It acknowledged that lasting attitudinal and behavioural change would come from perpetrators taking responsibility for their own actions, and identified the need for evidence-based perpetrator programs to tackle these changes²⁴.

To respond to this issue, Jesuit Social Services is working to establish a Men's Institute (working title) focused on finding solutions to the problem of male violence.

The Institute will be a central hub of ideas that will use evidence-based research and action to design, pilot and evaluate interventions to promote behaviour change and prevent male violence. The program will develop early intervention responses, initially targeting boys and young men using violence against family members, and young fathers using violence. These responses will complement existing programs and interventions by drawing on Jesuit Social Services' experience and expertise working with men and boys in the criminal justice system to develop new models of intervention. Working in partnership with other program providers will be critical to this approach.

We call on the Northern Territory Government to invest in early intervention initiatives that use evidence-based research and action to design, pilot and evaluate measures to promote behaviour change and prevent male violence.

We call on the Northern Territory Government to invest in initiatives targeted at early intervention for young fathers who use, or are at risk of using, violence.

Youth Justice

Prevention

It is critical to recognise the important role played by family and community in the development of young people and as protective factors against involvement in criminal justice system. The key to fostering increased family and community connections are: adequate resourcing for initiatives; quality evidence-informed approaches; and coordination between services.

Building children and young people's links to community is important in preventing harm and keeping them out of the criminal justice system.

Preventing children's involvement in the criminal justice system requires a wider approach for building safe and nurturing communities, and education systems must be part of this. As a practical starting point, we believe that schools and the wider education system should be brought into consultation and governance approaches at all levels of the youth justice system, from local to more formal arrangements.

Safe and nurturing communities where children have the opportunity to develop are less likely to have young people who are involved in the criminal justice system. There are structural factors at play here, which can only be overcome through action to tackle entrenched disadvantage and by providing high quality universal education and health services.

From our experience in Central Australia, a key issue is the absence of appropriately resourced recreation and after-hours activities and support services for vulnerable young people. This issue has consistently been highlighted by community organisations. The need for these activities is supported by evidence from the Australian Institute of Criminology which has identified that the number of

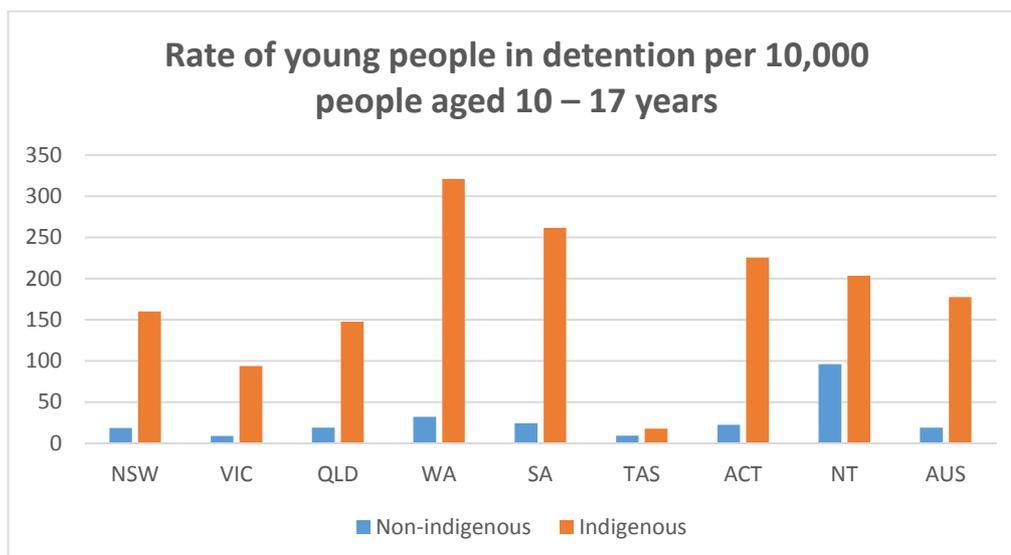
assault and public disorder offences in the Northern Territory increases in the late afternoon and evening and peaks at night.²⁵

A range of early intervention responses based on the needs and risks of young people are required to divert them from further involvement in the justice system. This should include re-engagement in education, support to participate in pro-social activities, and culturally safe venues that allow them to undertake arts, music or other activities.

We call on the Northern Territory Government to provide adequate resources for recreation, after-hours activities and support for young people.

Restorative justice

In 2014/2015, the Northern Territory had the highest rate of non-indigenous young people in detention, with 96 per 10,000 young people in detention compared to the national average of 18.8.²⁶ The Northern Territory had the fourth highest rate of imprisonment of ATSI people, with this group over-represented in the justice system. In the Northern Territory, ATSI people are 17 times more likely than the non-ATSI population to be under supervision on an average day, a fact that is linked to extreme disadvantage experienced in the critical areas of health, education, employment and housing²⁷.



Source: AIHW 2016, *Youth Justice in Australia 2014 – 2015, Bulletin 133*.

The undue reliance on detention in criminal justice policy in the Northern Territory is both ineffective and costly. There is little evidence that tougher sentencing policy improves community safety through deterrence or incapacitation.²⁸ In fact, several studies found that imprisonment increases the likelihood of offending behaviour and has the potential to negatively affect prisoners, particularly younger, lower-risk offenders^{29 30}.

Most young offending is episodic, transitory and unlikely to constitute a risk to the safety and welfare of the community. Children need the opportunity to learn from their mistakes and where appropriate, to make amends for behaviour that has harmed others.

The Northern Territory urgently needs a shift away from costly, punitive law-and-order policies towards restorative justice practices.

Restorative practices are more effective in reducing re-offending and making our communities safer. Jesuit Social Services' work with young people in the justice system in Victoria uses a problem-solving approach to offending that is based on principles of restorative justice, which balances the needs of offenders, victims and the community and aims to help the young person make amends for the harm done. This approach is effective; 80 per cent of restorative justice program participants had not reoffended after two years³¹ (compared with over half of the young people who had been in youth detention going on to reoffend)³².

Restorative justice is more cost-effective than keeping a young person in detention. For every \$1 invested on Youth Justice Group Conferencing, for example, the Victorian Government saves at least \$1.21 in the short term and this saving is likely to increase in the long term.³³ On every level, it makes more sense to divert young people away from the justice system.

While the Northern Territory *Youth Justice Act* provides for pre-court and pre-sentence conferencing options for young people, to date this has been chronically underutilised and there is scope for significant improvements to diversion pathways in the Northern Territory.

Currently, diversion is not widely or consistently offered and does not necessarily meet young people's unique needs. ATSI young people are more likely to be denied a diversion option (52 per cent denied diversion) compared with non-ATSI young people (46 per cent denied diversion) and therefore are more likely to be unnecessarily exposed to the court system³⁴. Additionally, diversion is not available as an option in many regional and remote areas across the Top End of the Northern Territory due to lack of resources.

A well-implemented system of diversion and restorative justice responses is critical to ensuring that young people do not become entrenched in the criminal justice system.

We call on the Northern Territory Government to fund and support diversion and restorative justice programs, including Youth Justice Group Conferencing, across the Territory.

Positive examples of diversion and restorative justice approaches

Jesuit Social Services is proud to be a part of Victoria's innovative and effective youth justice system, which outperforms most states and territories in key indicators including youth recidivism and crime rates. This is the result of policies and investment focused on preventing crime, diverting children and young people from the justice system, and supporting restorative justice approaches that foster positive relationships between people who offend, victims and the wider community. Partnerships between government, the courts, public sector agencies and the community sector have been critical to this success.

The following programs offer examples of responses that contribute to the positive development of young people, and, as highlighted earlier, emphasise:

- the importance of restorative justice principles, processes and practice
- a therapeutic approach that responds to the needs of vulnerable children, particularly those in the child protection system who come into contact with the justice system
- an understanding of the particular needs of ATSI children and young people who are overrepresented in the youth justice system
- the critical role of education as a protective factor, and the need to ensure vulnerable children's continued engagement in school.

Barreng Moorop

Recognising the need to divert vulnerable children away from the youth justice system, Jesuit Social Services delivers the Barreng Moorop program in partnership with the Victorian Aboriginal Legal Service (VALS) and the Victorian Aboriginal Child Care Agency (VACCA).

Barreng Moorop works with 10-14 year old children, their siblings and their families residing in the North and West metropolitan regions of Melbourne who intersect the criminal justice system. The program provides culturally responsive trauma-informed services to divert young Aboriginal people away from the criminal justice system. Since its inception in 2015, Barreng Moorop has assisted 35 Aboriginal children and their families.

Barreng Moorop works with the whole family and community (where appropriate) to provide a wrap-around response, understanding the composition of Aboriginal families, in which the extended family plays an active role. The responsibility of child care and rearing is shared amongst a range of family members with, in many cases, a multi-generational core of kin providing primary care.

Barreng Moorop works with family members with the focus of using family, community and culture as a protective factor to divert young people away from the criminal justice system in a manner which is sustainable and genuine.

Barreng Moorop uses trauma informed practice which acknowledges past trauma Aboriginal people have experienced throughout history due to colonisation, loss of culture and connection to land and the removal of children from their families. We note that these factors and the impact of transgenerational trauma plays out in the daily life of many of the Aboriginal children and families we work with.

Case study: Barreng Moorop

LP has just turned 15. He is enrolled at a school in Preston, however his attendance is low. He is currently in the care of his mother and resides with her and his sister in a private rental.

The relationship between him and his mother is strained, with LP often making judgments about her parenting. He often makes reference to his mother's AOD use and history of involvement in the criminal justice system. It is reported that his mother has bipolar disorder.

LP openly states that he uses cannabis, smokes cigarettes and occasionally drinks alcohol. He is currently sleeping a lot during the day and staying up late at night which is impacting on his routine and diet. LP's father resides in Melbourne however their contact is sporadic. LP has stated that he has little knowledge or interest in his cultural background.

He is facing multiple charges in front of the courts. These include arson, threats to kill and criminal damage. All matters have been adjourned to a later date. As part of LP's bail conditions he must reside with his mother, abide by a 10pm curfew, and not have contact with two particular males.

Barreng Moorop is addressing these issues by:

- Working collaboratively with a Koorie Education Support Officer to improve school attendance.
- Assisting with transport to and from school.
- Assisting with legal and court support, transport and emotional support.
- Liaising and assisting his lawyer where possible.
- Writing court support letters.
- Advocating for LP to access a diversion program.
- Engaging him in pro-social activities.
- Encouraging him to participate in cultural activities such as NAIDOC week celebrations.
- Linking him to the Victorian Aboriginal Health Service (VAHS).
- Providing education about AOD use.
- Supporting him to stop smoking cigarettes
- Assisting LP to develop a routine and improve his physical health, including through gym and Muay Thai classes.
- Improving his diet and general health; he has an appointment booked at VAHS.

Youth Diversion Pilot Program

The Youth Diversion Pilot Program commenced in mid-2015 in seven Children's Courts in Victoria.

A young person appearing in the Children's Court for the first or second time for a low level offence can be referred to the Diversion Program by the Magistrate. If the young person successfully meets the

requirements of the Diversion Plan then a criminal conviction will not be recorded. This has many positive benefits, including enhanced prospects for engaging in future employment.

Key outcomes

Over 90 per cent of participants have successfully completed the diversion program and had their matter dismissed. Common positive outcomes include:

- young people demonstrating a better understanding of the impact of their offending
- improved family and community relationships
- re-engagement with education
- improved mental health.

The program has received consistently positive feedback from Victoria Legal Aid, police prosecutors and the broader court network.

Selected case studies: Youth Diversion Pilot Program

Male aged 17 (Theft, Trespass and Obtain Property by Deception charges)

The young man has an intellectual disability and severe language delay. His plan was to work more on reading and writing, and have further restorative justice discussions around the offences. He participated well in everything and was assisted in writing a letter of apology. The young man is also now receiving one-on-one support two days a week with his education and the school is researching and trying different programs with him to improve his literacy. He reported that things have been 'heaps better' with his school.

Female aged 16 (Possess Cannabis, Possess Controlled Weapon, Possess Prescribed Graffiti Implement, Possess Liquor under Age 18 charges)

This young woman had been disengaged from school for several years and experienced daily cannabis use and anxiety/depression due to grief and loss issues. She was supported to re-engage with education, and linked with drug and alcohol support and ongoing support through the Youth Support Service.

Responses to the question "What has been the most significant change for you since coming to the Youth Diversion Pilot Program"? (taken from exit interviews conducted with participants)

- I have more motivation to do things, get a job and go to the gym. I have goals now.
- Not getting in trouble, keeping clean.
- Getting back into school.
- Studying more, don't have to go to court.
- More positive outlook on life.
- Able to talk about future and mum trusts me.
- Staying off the streets and keeping out of trouble.
- I stopped doing drugs.
- I haven't been in trouble since and have changed who I hang around. I now just do the right thing.

Youth Justice Group Conferencing

The Jesuit Social Services Youth Justice Group Conferencing program involves a meeting between young people who have offended, their victims, the police and the wider community. The program is grounded in principles of restorative justice, which emphasise reparation and restoration³⁵, and aims to:

- raise the young person's understanding of the impact of their offending on the victim, their family and/or significant others and the community
- reduce the frequency and seriousness of re-offending by the young person completing the program
- improve the young person's connection to family/significant others and their integration into the community
- negotiate an outcome plan that sets out what the young person will do to make amends for their offending
- increase victim satisfaction with the criminal justice process
- divert the young person from a more intensive sentence³⁶.

Youth Justice Group Conferencing is a problem-solving approach to offending that emphasises the offender's personal accountability, encourages an inclusive decision-making process that encourages participation, and aims to right the harm caused by an offence³⁷.

Jesuit Social Services delivers Youth Justice Group Conferencing throughout metropolitan Melbourne.

Key outcomes

A 2010 KPMG independent evaluation of young people who completed a Youth Justice Group Conference between 2007 and 2009 found that more than 80% of participants had not reoffended two years later – this compared to 57% for the comparison group (i.e. young people who had been placed on Probation or on a Youth Supervision Order)³⁸.

Navigator

Recognising the importance of school engagement as a protective factor against involvement in the criminal justice system, Jesuit Social Services has recently started delivering casework and support to disadvantaged young learners as part of the Victorian Government's Navigator initiative. Navigator works with disengaged learners aged between 12 and 17 to engage with them and their support networks to support them to return to education or training.

Re-engaging vulnerable young people in educational, learning and employment pathways gives them the foundational skills and opportunities they need to flourish. The Navigator pilot program will operate in a number of areas in Victoria that experience significant disadvantage including higher rates of long-term unemployment and family violence. The program's work will include the development of individualised learning and cultural plans and restorative practice including therapeutic and practical support.

The age of criminal responsibility

A small number of vulnerable children enter the criminal justice system at a very young age. According to the Department of Correctional Services, 65 children under 15 years of age were held in youth detention in the Northern Territory in 2014-15³⁹. We know this group is among the most vulnerable in our community and that children first detained between the ages of 10 and 14 are more likely, compared to those first supervised at older ages, to have sustained and frequent contact with the criminal justice system throughout their life⁴⁰.

Child offending experts, psychologists and criminologists agree that younger children have rarely developed the social, emotional and intellectual maturity necessary for criminal responsibility before the age of 14 years and also lack the capacity to properly engage in the justice system. Consequently, procedural fairness cannot be assured and criminal justice proceedings fail to guarantee a just response to children’s behaviour. The most effective approach to prevent these children’s trajectories into the justice system is to address the issues driving their vulnerability such as family dysfunction, trauma, abuse and neglect.

In line with international standards embodied in the United Nations Convention on the Rights of the Child and enacted in many overseas jurisdictions⁴¹, we recommend raising the age of criminal responsibility to the age of 12 years (as a minimum). According to an international study of 90 countries, 68 per cent had a minimum criminal age of 12 or higher, with the most common age being 14 years.⁴²

Age of criminal responsibility: international comparison

AUS	NZ	CAN	ENG	USA**	FRA	GER	SWE	NED	CHN	JPN
10	10-14*	12	10	6-12	13	14	15	12	14	14

Source: Hazel 2008, *Cross-national comparison of youth justice*, Youth Justice Board for England and Wales.

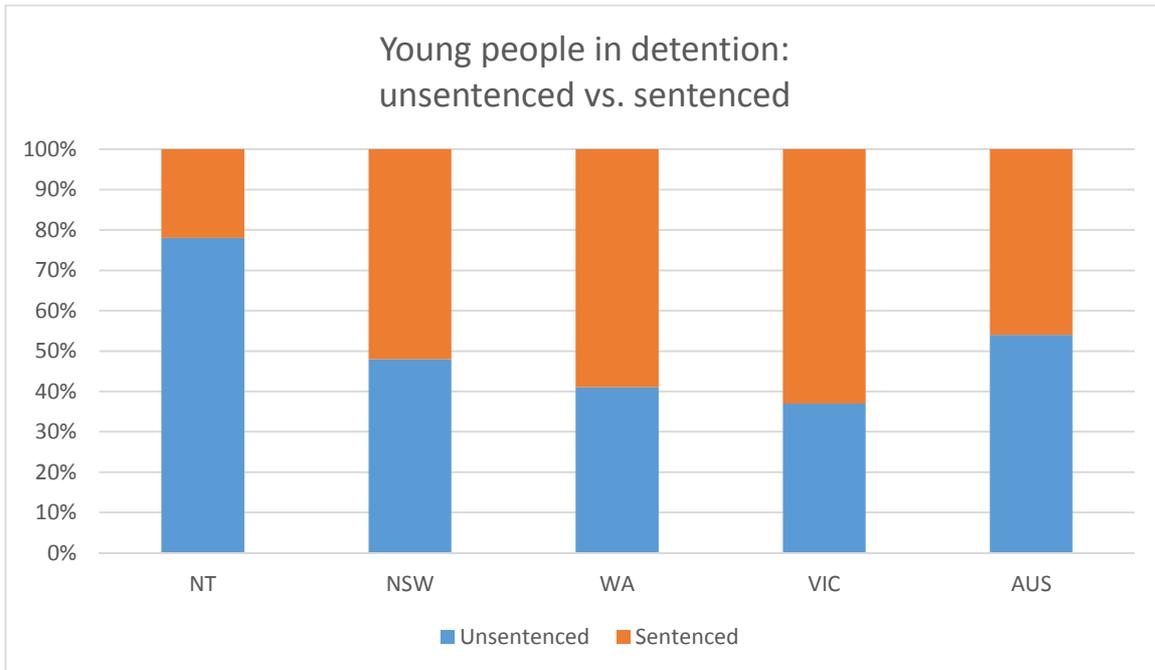
We recommend that the Northern Territory Government and the Australian Government legislate to raise the age of criminal responsibility to 12 years old.

We recommend putting in place evidence-based approaches to supporting vulnerable children who are below this age. This should include less formal methods of holding them to account, such as restorative justice and family centred approaches as well as preventative measures which target the social and economic factors which lead to anti-social behaviour.

We recommend that the Northern Territory Government implement a system of restorative justice to address the needs of 10 and 11 year olds who come to the attention of the justice system.

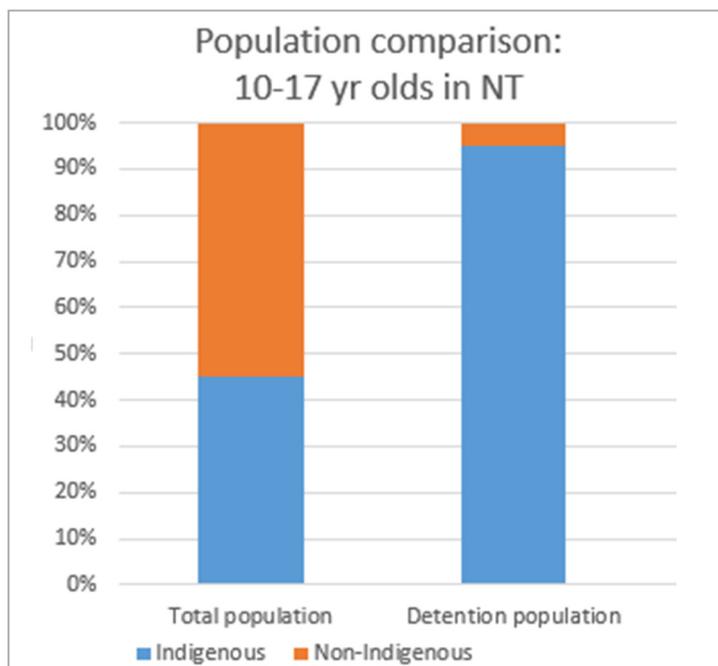
Bail and remand

The use of remand in the Northern Territory is often unnecessary and far too common to be considered a last resort. On an average day in 2014/15, the vast majority (78%) of young people in detention facilities in the Northern Territory were unsentenced.⁴³ This is significantly higher than other jurisdictions, such as New South Wales (48%), Western Australia (41%) and Victoria (37%), and is above the national average (54%).⁴⁴



Source: AIHW 2016, Youth Justice in Australia 2014 – 2015, Bulletin 133

Additionally, ATSI children and young people are significantly overrepresented in detention in the Northern Territory. While ATSI children constitute 45% of the total population aged 10-17 in the Northern Territory, they constitute 95% of 10-17 years old in detention.⁴⁵



Source: AIHW 2016, Youth Justice in Australia 2014 – 2015, Bulletin 133

The disproportionate number of young people on remand in the Northern Territory makes it clear that the principle of custody as an option of last resort is not routinely applied. Evidence shows that early contact with detention leads to higher likelihood of reoffending down the track. Children first supervised at 10 – 14 years old spent longer periods under supervision at older ages - half returned to supervision and spent 18 months or more there compared to only 15% of those first supervised between 15 – 17 years.⁴⁶

Bail legislation must ensure that children and young people are not unnecessarily remanded - this must be reinforced by a culture of practice among decision makers that children and young people be diverted from custody and into the community. The Bail Act (NT) does not include adequate provisions for young people. The Act is unnecessarily restrictive and punitive and often impacts upon young people who find it more difficult to obtain bail. Specific provisions must be introduced which take into account children and young people's particular concerns and needs.

Central Australian Aboriginal Legal Aid (CAALAS) and the Northern Australia Aboriginal Justice Agency (NAAJA) have made comprehensive recommendations for review and amendment of the Bail Act, which we commend to the Commission. Of particular note is NAAJA's *Submission to the Review of the Bail Act (NT)* of March 2013 which outlines additional criteria further to Section 24 of the Act which must be considered in making decisions relating to young people⁴⁷. These include taking the following into account:

- a) That young people have rights and freedoms before the law equal to those enjoyed by adults and, in particular, a right to be heard and a right to participate in the processes that lead to decisions that affect them
- b) Family relationships between a young person and members of his or her family should be preserved and strengthened wherever possible
- c) The education or employment of a young person should proceed without interruption wherever possible
- d) A young person's sense of racial, ethnic or cultural identity should be acknowledged and a young person should be able to maintain their racial, ethnic or cultural identity
- e) The detention or imprisonment of a young person is to be used only as a last resort, only if there is no appropriate alternative and only for the shortest appropriate period of time
- f) Conditions imposed on young people must be limited to those that are necessary and proportionate to an objective consistent with this Act and comply with s28 (see proposed amendment to s28 in Recommendation 5)
- g) In imposing any conditions upon a young person, the court must take into account the young person's ability to understand and to comply with those conditions
- h) The age and maturity of the youth, including their capacity for complex decision making, planning and the inhibition of impulsive behaviours.

We fully support implementation of these recommendations.

We call on the Northern Territory Government to ensure remand is used as a last resort and amend the Bail Act to provide for the needs of children and young people.

Underpinning this, the ability for all young people to access bail support programs and bail accommodation is crucial in reducing the number of young people on remand. Investing in programs which provide a viable and targeted alternative to detaining unsentenced children and young people ensures that they are prevented from becoming entrenched in the justice system. Opportunities are being missed to reduce criminal behaviour, divert vulnerable children and young people from the criminal justice system and provide them with pathways so that they can become productive members of the community.

The Northern Territory Government must support bail support programs which partner with courts, police, families and communities to deliver holistic youth focussed outcomes. Bail support programs that have been implemented in Queensland and Victoria involve community agencies in delivering services to reduce the risk of breaches. These programs ensure that young people are not unnecessarily remanded and increases their chances of integrating back into their communities successfully, without the disruption of time in detention.

We recommend that the Northern Territory Government provide increased investment in bail support programs and bail accommodation to prevent vulnerable children from being detained.

Specialist courts

The Courts system is a crucial element of youth justice and impacts on the effectiveness of the system to deliver appropriate outcomes for children and young people. The needs of children are distinct from those of adults and this must be reflected in the court processes they are engaged in. Similarly, ATSI children and young people must be met with culturally appropriate practices in order to effectively achieve appropriate justice outcomes.

Establishing distinct and specialised Children's Courts in Alice Springs and other major regional centres must be a priority. Experience in other jurisdictions shows the benefits of specialist children's courts dedicated to hearing criminal matters where young people are involved, with the capacity to tailor processes, decision making and supports to hold young people to account while addressing wider needs that underlie their offending⁴⁸.

We believe that the process of developing a comprehensive Children's Court system which is accessible across the Northern Territory is critical. Specialised Children's Courts must consider the provision of facilities for children and young people which are separate from adults as well as the need for specialist youth legal practitioners⁴⁹. There must also be adequate links to services at court, including interpreters, as unavailability of interpreters in court can lead to delays and unnecessary periods in custody⁵⁰. The government should support the efforts of Aboriginal Legal Services to cover this gap.

We call on the Northern Territory Government to establish Children's Courts in all major regional and metropolitan centres across the Northern Territory.

Further to this, there is significant need to establish a court which integrates culturally appropriate processes for Aboriginal communities and involves these communities in the justice process. Experience in Victoria with the Children's Koori Court shows the benefits of a court dedicated to hearing criminal matters where young ATSI people are involved.

The Children's Koori Court, established in 2005, operates in nine locations across Victoria and aims to address the over-representation of young Koori people in the criminal justice system⁵¹. The Court deals with young Koori people who have been found guilty of committing a criminal offence. The sentencing options in Koori Court are the same as in mainstream criminal cases but the court process is different. The Koori Court involves relevant members of the young person's community through the participation of elders and respected persons.

Koori courts across Victoria have been successful in reducing reoffending and reconnecting ATSI people with their communities⁵². Many people say it is the first time they felt they were treated with respect by the justice system⁵³.

Access to this system ensures that ATSI young people in Victoria have access to culturally appropriate justice mechanisms that address the underlying issues contributing to their offending. The system also provides tailored decisions which divert young people from detention and strengthens community ties, thereby reducing their chances of reoffending.

Establishing a Children's ATSI Court system in the Northern Territory which is accessible in all major regional and metropolitan centres is critical to reducing overrepresentation of ATSI young people in youth detention and diverting them to more constructive justice alternatives.

We call on the Northern Territory Government to establish ATSI Children's Courts in all major regional and metropolitan centres across the Northern Territory.

Trauma informed care

The vast majority of young people in youth detention in the Northern Territory are ATSI. Children and young people in contact with the justice system are among the most vulnerable and disadvantaged in the community and generally progress on to have higher rates of offending throughout their lives. The causes of offending in younger children are strongly connected to their environment and its impact on their development.

For ATSI young people in youth detention, they have the added complexity of the impact of intergenerational trauma, grief, loss and locational disadvantage. Colonisation and discriminatory government policies have seen generations of Aboriginal people experience racism, dispossession, early deaths of family and community members and the forced removal of children.

Recognising the unique and highly complex vulnerability of young people in youth detention, and the impact that trauma has played in their offending behaviour, it is critical that custodial settings adopt a trauma-informed approach, where possible, to prevent these young people from re-entering the justice system.

There is a strong need for youth justice custodial environments to provide cultural safety, health and mental health services, alcohol and drug services, disability support, and responses to young people's experience of trauma. What is needed is a holistic and therapeutic approach that is integrated into a wider through-care model.

Through a commitment to embracing trauma informed care and practice, the Northern Territory Government will create opportunities for survivors of trauma to heal, and will also work towards breaking the cycle of disadvantage and intergenerational trauma, thereby reducing crime and recidivism.

A commitment to staff development and training must incorporate a focus on trauma: its impacts, prevalence and potential for re-traumatisation across multiple services and agencies including health care, education, criminal justice, child welfare and other social service systems⁵⁴.

We call on the Northern Territory Government to support vulnerable children with trauma-informed, therapeutic practices. These must be evidence based, culturally safe and inclusive, and incorporate a strengths-based framework and specialist care.

Through-care model

We believe that ongoing, coordinated, youth-focused practice can produce better outcomes for young people in the criminal justice system. Resourcing for the wider needs of young people on orders should be provided, and this support should be delivered by community organisations in the Northern Territory. There is a need for greater clarity regarding the role and relationship of community sector organisations to a through-care model.

The Victorian Youth Justice Community Support Service provides an example of this approach. In this model, government Youth Justice Workers are responsible for supervising young people on community based orders, while community organisations provide case management support with housing, education, mental health, and alcohol and drug needs. The community consortia are funded by government to deliver services under formal partnership arrangements. A 2013 evaluation of the program found that it delivered an effective form of support and had improved outcomes for young people in the system⁵⁵.

The Northern Territory Government should ensure clear and well-resourced partnerships with community organisations to effectively implement a through-care model for young people exiting the justice system.

Staff training

Youth detention officers and staff within youth detention centres are critical aspects of the young people's experience of detention. The influence that these officers' behaviour has on young people in their care is significant.

The needs of young people in detention differ greatly from those of adults. Consequently the practice framework in youth detention centres should reflect this. It is critical that staff in youth detention centres are specifically trained in working with children and young people. It is not appropriate that these young people are cared for by adult corrections officers with no youth specific training.

Staff must be trained in youth specific practice frameworks and frequently update their skills. This training must be comprehensive and delivered by instructors who have adequate experience and qualifications in therapeutic approaches to youth justice. Principles of a youth specific framework must include training around understanding trauma, child brain development, impulsive adolescent behaviours and how to de-escalate it, alcohol and other drug issues, and the impact of family violence on young people.

A therapeutic and trauma informed approach to youth detention will significantly reduce the acute stress which young people experience while detained, and has the potential to greatly improve outcomes for young people leaving detention.

We call on the Northern Territory Government to ensure that youth detention officers and other staff in youth detention centres are trained in a trauma-informed youth specific therapeutic practice framework by experienced and qualified instructors.

Alice Springs Youth Detention Centre

The Alice Springs Youth Detention Centre breaches several International Human Rights conventions - through its co-location with the adult detention facility; its chronic lack of space; and the lack of rehabilitation services. Currently, children and young people detained at the Alice Springs Youth

Detention Centre have poor prospects for rehabilitation, with no therapeutic support or other rehabilitation services being offered.

Jesuit Social Services has serious concerns about the wellbeing of young people in detention, many of whom have experienced significant early childhood trauma, have cognitive impairments and/or undiagnosed Foetal Alcohol Spectrum Disorder. Therapeutic support is needed for these young people to rehabilitate and achieve change. It has been shown that rehabilitation and intervention programs can dramatically reduce recidivism rates, with the most effective programs working alongside young people's families and close community⁵⁶.

We call on the Northern Territory Government to invest in a purpose-built Alice Springs Youth Detention Centre, including rehabilitation and therapeutic support.

Adult Justice

The Northern Territory has the highest imprisonment rate in the country at 923 prisoners per 100,000 adult population in 2016. This figure places the Northern Territory with a higher imprisonment rate than any other country in the world, although comparisons can be difficult given the low gross numbers in the Northern Territory (1,666 adult prisoners in 2016) when compared with other jurisdictions like New South Wales (12,629 adult prisoners in 2016).⁵⁷ Additionally, a significant number of people imprisoned in the Northern Territory are repeat offenders (seven out of ten in 2015).

The Northern Territory also has a significant over-representation of Aboriginal and Torres Strait Islanders in the justice system – 84 per cent of the prison population at 30 June 2015, the largest proportion of ATSI prisoners of any state or territory.⁵⁹ The ATSI imprisonment rate was 14 times the non-Indigenous imprisonment rate (2,471 prisoners per 100,000 ATSI adult population compared with 180 prisoners per 100,000 adult non-ATSI population).¹

Mandatory Sentencing

Mandatory sentencing was introduced in 2013 for violent offences under the Sentencing Act. Mandatory sentencing disproportionately affects people from ATSI backgrounds.⁶⁰ In 2015 there was a seven per cent increase in the imprisonment rate of adult offenders from 2014⁶¹ – the most common offence or charge were acts intended to cause injury which are often the crimes covered by mandatory sentencing laws.

Mandatory sentencing violates international human rights obligations and there is no evidence that it works as a deterrent. Incarceration costs \$321.97 per day per prisoner.⁶² Not only is it an unnecessary use of taxpayer's money to imprison people, particularly for minor offences, but it is also an ineffective deterrent to crime.

We call on the Northern Territory Government to repeal mandatory sentencing laws under sections 78B – 78DH of the Sentencing Act (which enact five levels of violent offences, with varying minimum sentences) and section 31 of the Traffic Act.

¹ This is the age standardised imprisonment rate, as calculated by the ABS, due to the age disparity between the Aboriginal and Torres Strait Islander and non-Indigenous populations.

Currently in the Northern Territory, too many people end up in the prison system for unnecessary offences that have the capacity to be dealt with outside of the prison system. Whilst there is a place in our society for custodial sentences, they must always be used as a last resort with the end goal being rehabilitation and successful reintegration into the community as a contributing citizen. The absence of adequate sentencing options that include community work or therapeutic or rehabilitative programs is a missed opportunity to support an individual's rehabilitation and prevent further contact with the justice system. The introduction of these sentencing options, in line with other states and territories in Australia, would see the strain on the prison system reduce, along with reduced prison spending and more effective long-term outcomes for people who come into contact with the justice system.

We call on the Northern Territory Government to provide additional non-custodial sentencing options, to avoid the situation where people are sentenced to imprisonment because there are no community work, therapeutic or rehabilitative programs available in their location.

Substance Misuse Assessment and Referral for Treatment (SMART) Court

The Substance Misuse Assessment and Referral for Treatment (SMART) court was set up to hear criminal matters in the local courts, where the defendant had a history of serious alcohol and/or drug problems. It had the ability to:

- impose treatment orders instead of custody where a person is found guilty of an offence
- grant bail on condition that the offender complies with the SMART order
- monitor progress of the order.

The intention was to address the substance misuse issues contributing to offending behaviour and to divert people from prison. While the SMART court had a therapeutic focus, there were significant limitations. It only sat in Darwin, and was not available in other regional centres and remote communities. It also imposed conditions difficult for people from remote communities to comply with (i.e. reporting to the SMART court fortnightly for the duration of the order). And most significantly, it prohibited those facing violence-related charges from being referred to the SMART Court. The SMART court was only operational for 18 months but anecdotally was already making an impact on those who participated in it.

In 2013 the previous government introduced the Alcohol Mandatory Treatment Act, which uses a medical intervention to address chronic drinkers who are publicly intoxicated. People who have been accused of committing criminal offences are not dealt with through this Act – their cases proceed through the criminal justice system. Therefore, the current system fails to address the link between substance misuse and offending, and fails to make use of an opportunity for people to be treated for their substance misuse problems as well as diverted from the justice system.

We call on the Northern Territory Government to re-instate the SMART Court or equivalent to more effectively address substance misuse issues that contribute to offending behaviour and to divert people from prison, without blanket prohibitions on violent offences being eligible.

Through-care model

Co-ordinated, ongoing support for people in the justice system can produce more effective responses and better outcomes in the long term. Currently, the support provided by community-organisations lacks clarity of role, purpose and resources. Adopting a through-care model, serviced by community

organisations, to provide support for people exiting prison would greatly improve their reintegration into the community and help reduce recidivism.

In Victoria, for example, Jesuit Social Services runs the ReConnect program for people exiting prison. This program provides targeted and intensive reintegration outreach services for serious violent or sex offenders, Aboriginal and Torres Strait Islander, women prisoners, and prisoners with high transitional needs.

ReConnect aims to:

- create individual transition plans for people exiting prison
- provide assertive outreach and practical assistance to people exiting prison
- assist people exiting prison to address the underlying causes of their offending
- facilitate community reintegration and reduce re-offending.

We call on the Northern Territory Government to ensure clear and well-resourced partnerships with community organisations across the Northern Territory to effectively implement a through-care model for people exiting prison or youth detention.

Diversion for adults

National and international research has highlighted the inefficacy of prisons to deter people from crime and to rehabilitate people coming into contact with the justice system.⁶³ A term of imprisonment increases the likelihood of committing further crime: according to data in Victoria the likelihood of reoffending following a sentence of imprisonment was nearly 25 per cent higher than for those who received a wholly suspended sentence.⁶⁴ Prisons are also very costly, with the NT Government spending \$321.97 each day per prisoner.⁶⁵

Seventeen USA states are now focusing on reducing prison populations, diverting people from the criminal justice system and supporting re-entry into the community. This has seen significant decreases in prison populations.

We call on the Northern Territory Government to introduce diversion and a restorative justice approach in the adult justice system.

Young adults face problems that are specific to their stage of life. Researchers have suggested that the late teens and early twenties is a period of 'emerging adulthood'. The evidence shows that young adults in the justice system, particularly young men, are more challenging to manage and harder to engage. We know that a significant number of young adults in the justice system are faced with considerable difficulties and that without assistance will be more likely to reoffend. Young adults are at greater risk of mental health problems, substance abuse, unemployment and homelessness. However, young adults are also more amenable to rehabilitation and change than older adults who commit the same offences. A specific response that is tailored to 18-25 year olds' brain development and capacity to be rehabilitated is crucial for preventing a pathway to further crime and entrenchment in the justice system.

We call on the Northern Territory Government to introduce a specialist therapeutic approach of dealing with young people aged 18-24 in the criminal justice system in recognition of their ongoing brain development, including legislative provisions that set out the principles that should apply, additional rehabilitative sentencing options, and alternative custodial facilities.

Community-driven responses to crime

Addressing the over-representation of people from ATSI backgrounds in the justice system requires integrating Aboriginal restorative justice models into the broader justice system. The 2007 *Little Children are Sacred* report conducted extensive consultations with Aboriginal people in remote communities.⁶⁶ It made a number of powerful recommendations, based on these consultations, that have never been implemented.

Arguably one of the most significant recommendations concerned the establishment of Community Justice Groups across Aboriginal communities in the Northern Territory.² These would be comprised of local Elders and community leaders. Community Justice Groups would work side-by-side with the mainstream justice system to craft locally relevant and culturally meaningful interventions for those with matters before the court. Community Justice Groups would be funded, with Elders paid for their time. They would have a coordinator who could assist them to negotiate the complex legal landscape; for example liaising with courts, police, Corrections, Territory Families, prosecution and defence. They would oversee therapeutic responses in court (such as Community Court sittings as described below), as well as out of court, such as: supervising defendants being sent to live on an outstation under strict supervision; restorative justice conferences; participation in Law and Ceremony; and undertaking community work to repair harm to victims, benefit the local community, and teach them skills that could form a pathway to employment, training or education.

While specialist Aboriginal courts operate in every state and territory in Australia, the availability of these courts in the Northern Territory has been significantly limited since the abolition of Community Courts in 2011.

The Community Court model emphasises therapeutic and restorative justice approaches and increases the participation of ATSI people in the justice system.⁶⁷ It recognises the role that family, culture and community play in the care of people and the social controls imposed for people in ATSI communities.

We call on the NT Government to implement more effective and culturally relevant responses to crime to address the over-representation of ATSI people in the justice system. This includes creating opportunities for more culturally appropriate sentencing options and enabling greater involvement for the individuals' community and family. This response must operate alongside effective community-based rehabilitation and diversion programs to address the underlying causes of crime and assist the individual to understand the impact of their behaviour on others.

The Northern Territory Government should Fund and support Community Justice Groups in Aboriginal communities in the Northern Territory, as per recommendation 73 in the *Little Children are Sacred* report.

² See recommendation 73.

The Northern Territory Government should reinstate Community Courts (or similar) to strengthen community-driven responses to crime and reduce the over-representation of ATSI people in the justice system.

Alice Springs Correctional Centre (ASCC)

The Alice Springs Correctional Centre (ASCC) is chronically overcrowded. There are limited opportunities for rehabilitation, therapy and counselling, with the ASCC no longer providing rehabilitation/treatment services such as the Violent Offenders and Sexual Offenders program. People in ASCC must now apply for a transfer to the Darwin correctional centre to receive this type of support, where they are further isolated from family.

We call on the Northern Territory Government to provide adequate resources and opportunities for rehabilitation, therapy and counselling in Alice Springs Correctional Centre.

Indefinite detention

Jesuit Social Services has serious concerns about the interactions of people with cognitive and psychiatric impairments at all points in the criminal justice system, particularly regarding their indefinite detention.

Under current Australian schemes, the criminal justice system does not easily adapt and respond to the complex and varied needs of people with cognitive and psychiatric impairment. There is a distinct lack of specialised screening and assessment tools, a lack of access to appropriate therapeutic support services, inflexible and inadequate legislative schemes and a lack of appropriate and rehabilitative diversion options.

People with cognitive and psychiatric impairments are at high risk of entering and re-entering the justice system without receiving the crucial support they need, including interventions to reduce offending. We are greatly concerned that this issue has a disproportionate impact on Aboriginal and Torres Strait Islander people given that they are over-represented in both the criminal justice system and amongst people with disabilities.

Jesuit Social Services strongly recommends the introduction of appropriately resourced, accessible and specialised assessment and screening tools at all key points of the justice system. Coupled with this is the need for appropriately resourced and specialised therapeutic support options both within the community and in prison, including in remote and regional Australia. Assessment, diagnosis and appropriate therapeutic support at the earliest opportunity and along the continuum would reduce the likelihood of further contact with the criminal justice system as well as ensuring compliance with Australia's Human Rights obligations.

As outlined in our submission to the Senate Inquiry into the indefinite detention of people with cognitive and psychiatric impairment in Australia (available at <http://jss.org.au/senate-inquiry-into-the-indefinite-detention-of-people-with-cognitive-and-psychiatric-impairment-in-australia/>), we make the following recommendations.

We call on the Northern Territory Government to:

- Ensure more specialised options within prisons are available for sentenced people with cognitive disability.
- Provide alternative rehabilitative responses in the community for people found unfit to plead due to cognitive impairment.
- Establish more secure facilities for unsentenced, high risk individuals (outside of the prison environment) which support their rehabilitation and transition into the community.
- Develop and implement a framework for planning and resourcing therapeutic programs and services targeting people with cognitive impairment throughout the corrections system.
- Ensure that all people with cognitive impairments can access specialised, problem-solving programs at courts. This should be underpinned by consistent screening and referral processes.
- Ensure people with a cognitive impairment have access to an Independent Third Person at key stages of their engagement with the justice system.
- Develop a staged approach to release from custody for people with cognitive and psychiatric impairment, involving day release to build connections to community and links with support services.

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