



Submission to the Northern Territory *Alcohol  
Policies and Legislation Review*

July 2017



**Jesuit**  
**Social Services**  
Building a Just Society

# Table of Contents

Who we are .....	2
Introduction.....	3
Addressing entrenched disadvantage .....	4
Social and economic determinants of alcohol abuse among the Aboriginal and Torres Strait Islander population.....	5
The criminalisation of alcohol misuse .....	6
Paperless arrests.....	6
Mandatory Sentencing .....	6
Alcohol Protection Orders .....	6
Mandatory Alcohol Treatment.....	7
Demand reduction.....	7
Increased education about alcohol-related harm.....	7
Restorative justice .....	7
Strengthen community decision-making around alcohol consumption in communities .....	8
Resource Aboriginal Community-Controlled Health Organisations to address alcohol misuse .....	9
Harm reduction .....	9
The absence of therapeutic jurisprudence in the Northern Territory .....	9
The need for an Alcohol and Other Drug Court .....	10
Bring back the CREDIT Bail Program.....	11
Justice processes must be supported with access to therapeutic, culturally strengthening rehabilitation services .....	12
References .....	13

For further information please contact:

Sally Parnell

Acting CEO, Jesuit Social Services

03 9421 7600

sally.parnell@jss.org.au

## 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.

For 10 years in the Northern Territory we have worked alongside 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, and are a member the Northern Territory-wide Making Justice Work campaign to promote evidence-based approaches to community safety in order to respond more effectively to crime in the community. We also 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).

In 2016, we established an office in Darwin. Our Darwin activities include policy and advocacy work, where we work alongside the Policy Unit in Victoria. We commenced piloting Youth Justice Group Conferencing in Darwin, Palmerston and Katherine in early 2017, which aims to help young people see the impact of their actions on victims of crime, and to support young people to restore relationships with those they have harmed.

## Introduction

Jesuit Social Services welcomes the opportunity to respond to the Northern Territory *Alcohol Policies and Legislation Review*.

The extent of alcohol misuse in the Northern Territory is not a new phenomenon and has been brought to light on numerous occasions over many years.<sup>1</sup> Previous governments have tried to stem the harm caused by alcohol misuse, with limited enduring impact.<sup>2</sup> Territorians continue to consume an alarming quantity of alcohol each year. The Northern Territory is the third-highest consumer of alcohol in the world, at 13.27 litres per capita.<sup>3</sup>

Alcohol abuse in the Northern Territory has resulted in a large amount of preventable harm:

- More than 1 in 4 Australians have been a victim of an alcohol-related incident, with verbal abuse being the most common.<sup>4</sup>
- The Northern Territory has the highest rates in the country of hospitalisations and deaths related to alcohol misuse: 11.8% of deaths (compared to 3.9% nationally) and 2.7% hospitalisations (compared with 1.8% nationally).<sup>5</sup>
- Fifty-six per cent of domestic violence incidents are alcohol-related.<sup>6</sup>

Risky alcohol consumption is not limited to the Aboriginal and Torres Strait Islander (ATSI) population, with 14.2 per cent of the ATSI population and 24.9 per cent of the non-ATSI population being at-risk of long-term harm due to excessive alcohol consumption.<sup>7</sup> The ATSI population has a higher rate of people abstaining, at half of the population, compared with 15.4 per cent of the non-ATSI population.<sup>8</sup> However, alcohol misuse disproportionately harms the ATSI population:

- Alcohol-attributable deaths rates are 9-10 times higher for ATSI people in the Northern Territory.<sup>9</sup>
- Nationally, rates of Foetal Alcohol Spectrum Disorder are four times higher among the ATSI population.<sup>10</sup>
- In 2012/2013, alcohol-related hospitalisations were nine times higher for ATSI people in the Northern Territory.<sup>11</sup>
- Nationally, ATSI women are 33 times more likely to be assaulted than non-ATSI women, with around half of assaults being alcohol-related.<sup>12</sup>
- Alcohol misuse is closely linked to increased rates of child neglect and abuse. In the Northern Territory, 78% of notifications to child protection are for ATSI children, where neglect is the most common category of abuse.<sup>13</sup>

The extent of alcohol abuse is long standing in Central Australia and filters into places over large distances. Drinking takes a different form in remote communities. It is often social, with the same people, and in places which are widely known (such as creeks). Issues often arise when intoxicated people return from drinking to houses and communities, where violence, deaths and other social impacts can occur. For many ATSI people drinking is incremental, rather than binge, and starts from a very young age.

This submission has a strong focus on demand reduction, through early intervention and prevention measures, and harm reduction, through investment in rehabilitation and therapeutic approaches. Through our work in the Northern Territory, Jesuit Social Services largely encounters alcohol misuse when it intersects with the justice system. Our submission, therefore, has a particular focus on the criminalisation of alcohol abuse and ways the justice system can more effectively reduce alcohol-fuelled crime.

## Addressing entrenched disadvantage

*Would it be helpful to go into a deprived Australian Aboriginal population and point out that they should really take better care of themselves—that their smoking and obesity were killing them; and if they must drink, please do so in moderation? Unlikely. To borrow Geoffrey Rose’s term, we need to examine the causes of the causes: the social conditions that give rise to high risk of non-communicable disease whether acting through unhealthy behaviours or through the effects of impossibly stressful lives.<sup>14</sup> – Sir Michael Marmot*

The social determinants of high-risk alcohol consumption and alcohol-related harm have been widely researched. Research shows that higher rates of alcohol-related harm exist among lower socio-economic groups than wealthier groups for the same level of alcohol consumption, due to the concurrent layers of disadvantage that exacerbate inequities in alcohol-related harm.<sup>15</sup>

In 2015, Jesuit Social Services along with Catholic Social Services Australia released the findings of its *Dropping off the Edge* Report (DOTE)<sup>16</sup>, 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 per cent of locations accounted for 47 per cent of the highest disadvantage rankings. These findings highlight both the complexity and persistence of locational disadvantage in the Northern Territory.

Entrenched disadvantage must be addressed as part of a thorough strategy to reduce alcohol misuse and related harm in the Northern Territory. Responses to alcohol abuse will never be fully effective without efforts to address the underlying causes.

**We call on the Northern Territory Government to develop a whole-of-government, long-term strategic approach to address entrenched and localised disadvantage.**

## Social and economic determinants of alcohol abuse among the Aboriginal and Torres Strait Islander population

*People often drink because there are no jobs, and they are not being heard. There is not much else to do, and drinking often passes the time, and dulls people's senses as well as thoughts –*  
Jesuit Social Services staff member

There is a clear relationship between excessive alcohol consumption and ATSI experiences of disadvantage, with alcohol misuse stemming from issues including:<sup>17</sup>

- *Low levels of educational attainment:* Higher rates of binge drinking are associated with lower levels of educational attainment among the ATSI population.
- *Connection to and loss of culture and country:* Strong positive cultural environments have a protective effect against high risk drinking behaviours; the loss of culture is both a determinant and consequence of harmful alcohol use.
- *Unemployment:* The lack of employment opportunities, boredom and lack of meaningful engagement correlates to higher rates of alcohol abuse.
- *Homelessness:* Unstable housing and overcrowding in housing is a key determinant of poor health and wellbeing, and has been particularly identified as a cause of alcohol misuse in communities in the Northern Territory.
- *Racism:* The stress and psychological impact of racism is associated with increased alcohol consumption.
- *Trauma:* There is a strong link between intergenerational trauma and alcohol misuse. Alcohol is often used to self-medicate against the pain of trauma. Trauma is further transmitted across generations when young children are exposed to alcohol misuse.<sup>18</sup>
- *Weakening of traditional governance structures:* The destruction of traditional and effective forms of governance, including respect for elders, is seen as a social determinant of alcohol misuse.

Jesuit Social Services firmly believes that the extent of disadvantage among the ATSI population cannot be fully addressed without efforts to strengthen formal recognition, embed ATSI governance structures and facilitate self-determination.

Solutions to alcohol issues in the Northern Territory need to be driven by the community. In ATSI communities, it is imperative that people's voices are heard and the community has control over the policies implemented to address alcohol misuse. Drawing on traditional power structures and resolution strategies to address complex social issues strengthens ATSI self-determination and ensures responses are culturally appropriate and relevant to the local context.

A recent example of this is the concern that a number of strong community leaders from Yirrkala expressed at a community forum regarding the introduction of the Banned Drinkers Register.<sup>19</sup> The town currently has an alcohol permit system, which allows local communities to decide whether to limit how much alcohol individuals can purchase. This system is mostly working well due to the community support for the initiative and local community members are concerned that the Banned Drinkers Register will undermine an effective system that is already in place.

**We call on the Northern Territory Government to invest in ATSI community-controlled solutions to address alcohol misuse.**

Jesuit Social Services also supports Danila Dilba's<sup>20</sup> recommendations that:

- The Government must immediately commence the development of a strategy to improve the social determinants of health for all Territorians, with a particular focus on Aboriginal people as the most disadvantaged against most of the measures of the social determinants.
- The Social Determinants of Health Strategy must be led by Government with a genuine commitment to implement the Strategy and it must be developed in genuine collaboration with Aboriginal people, communities and organisations along with appropriate input from other groups who are disadvantaged across the determinants.

## The criminalisation of alcohol misuse

Too often, alcohol abuse is unnecessarily responded to punitively, creating entry points to become entrenched in the justice system. There are a number of mechanisms that see people, disproportionately ATSI people, punished for excessive drinking.<sup>21</sup> These triggers include paperless arrests, mandatory sentencing, alcohol protection orders and mandatory alcohol treatment.

### Paperless arrests

Introduced under the previous government in 2014 as a means to respond to disorderly and drunk behaviour in public spaces, paperless arrests enable police to arrest a person who has committed or is about to commit an 'infringement notice offence', and hold them for up to four hours or until they are no longer intoxicated.<sup>a</sup> Previously, these offences were dealt with by an on-the-spot fine. This means that while a court is unable to imprison a person, police are able to detain them for up to four hours or until they are no longer intoxicated. This exertion of police power has been discriminately exercised, with 70 per cent of people locked up in the first seven months being of ATSI background.<sup>22</sup> Despite the death of Kumanjayi Langdon and the coroner's harsh criticism of the scheme, the High Court deemed the policy lawful. The High Court did, however, place limitations on police by asserting the need to release someone as soon as reasonably practical, following a decision by police as to what action is to be taken. In practice, the scheme unnecessarily encourages arrest and detention, with inadequate oversight as to the application of the law. Detention of any kind must always be used as a last resort and certainly should not be the default response to public drunkenness.

### Mandatory Sentencing

Mandatory sentencing exists for a wide range of offences in the Northern Territory, including violent offences, property crimes, drug offences, sexual offences and breaching domestic violence orders. Mandatory sentencing disproportionately affects people from ATSI backgrounds.<sup>23</sup> In 2015 there was a seven per cent increase in the imprisonment rate of adult offenders from 2014 – the most common offence or charge were acts intended to cause injury, which are often the crimes covered by mandatory sentencing laws.<sup>24</sup> Mandatory sentencing violates international human rights obligations and there is no evidence that it works as a deterrent or makes the community safer.<sup>25</sup> Incarceration costs \$315.54 per day per prisoner.<sup>26</sup> 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.

### Alcohol Protection Orders

Alcohol Protection Orders are issued by police when a person is charged with an offence that is punishable by more than six months of imprisonment, and the police believe that the person was under the influence of alcohol. The Alcohol Protection Order bans the consumption and possession of alcohol and the person being present in any licensed venue (this includes any place that sells beer such

---

<sup>a</sup> Infringement notice offences include a range of offences, but in particular include public order offences such as consuming liquor at a regulated place in a designated area, or offensive conduct.

as a football stadium, an entertainment centre, small local supermarkets or certain areas of the airport). It also gives police extraordinary powers to stop, search and arrest, with limited appeal options. This is another example of a policy that disproportionately affects ATSI people, with 85 per cent of APOs being issued to ATSI people.<sup>27</sup> All too often, APOs are not sufficiently explained to people with limited English levels. This has seen individuals accumulate a series of APOs, with no effective response to the alcohol misuse.

### Mandatory Alcohol Treatment

Under the *Alcohol Mandatory Treatment Act*, a person can be detained for three months if they have been placed in protective custody three times in two months for excessive alcohol consumption, for the purpose of alcohol treatment. Jesuit Social Services has previously opposed the scheme, due to its coercive approach, significant cost and lack of evidence-base as an effective way of responding to alcohol misuse.<sup>28</sup> This form of involuntary detention raises serious human rights concerns, which have been shared by a significant portion of the community sector.<sup>29</sup>

The recent evaluation of the Alcohol Mandatory Treatment scheme identified a number of issues with the program, including poor design and monitoring of the program, the significant expense (an average of \$95,000 per person in 2015/16) and the lack of long term health benefits resulting in people cycling in and out of the treatment program.<sup>30</sup>

This series of responses to excessive alcohol consumption is out of place in the Territory, not only because they have been shown to discriminate against ATSI people in practice (further heightening their experience of disadvantage and cementing their entrenchment in the justice system), but more importantly, they have not been successful in addressing the underlying causes of alcohol misuse, deterring excessive alcohol consumption or making the community safer.

**We call on the Northern Territory Government to abolish the paperless arrests scheme, mandatory sentencing, Alcohol Protection Orders and the Alcohol Mandatory Treatment scheme.**

## Demand reduction

### Increased education about alcohol-related harm

Educating the public about the dangers of high-risk alcohol consumption is a first critical step in preventing ongoing alcohol misuse. It is imperative that education targets people of all ages, including young people, to prevent dangerous drinking habits from developing. Education campaigns must be delivered in native languages and in sync with cultural understandings of health to ensure the message resonates with people. Education campaigns must also be sensitive to people's literacy capacities and be delivered in a coordinated manner via a number of different avenues.

An example of a successful community education program is the Living With Alcohol program that ran in the Northern Territory between 1992 and 2002. The combination of a levy on beverages of more than 3 per cent alcohol to fund the program – and increased treatment, public education and other prevention activities – was highly effective. It saw a reduction in alcohol attributable injuries in the short term and chronic disease in the long term.<sup>31</sup>

### Restorative justice

Restorative justice practice can also be adopted to help individuals who consume alcohol excessively to develop a better understanding of the impact of their drinking on their family and community. Restorative justice practices, such as group conferencing, work to restore the harm that has occurred and increase the person's understanding of the impact of their offending behaviour on other people. Research shows this to be a highly effective process with positive outcomes in the justice system context, including reduced recidivism rates and high rates of victim satisfaction.<sup>32</sup> While Jesuit Social Services is not aware of any targeted restorative justice programs for alcohol-related harm in a non-

judicial setting, the benefits of this process in deepening understanding of the impact of harm and restoring relationships with those harmed suggest that it can play a positive role in educating people about the impact of their alcohol misuse on their family, friends and community.

There is also the potential for community Elders, trained in restorative practice, to have restorative conversations with members of the community in relation to their alcohol misuse. This draws on traditional power structures in the community to help educate people who misuse alcohol about the impact it has on them, their family and the community. It is pleasing to see the Department of Health investing in initial training of this kind in 2017.

**We call on the Northern Territory Government to invest in whole-of-community education campaigns and prevention activities, including restorative programs, to reduce alcohol-related harm.**

### Strengthen community decision-making around alcohol consumption in communities

Given the intersection of excessive alcohol consumption, disadvantage and ATSI self-determination, addressing alcohol-misuse must extend beyond singular issues and focus on the healthy functioning of communities. A useful starting point for understanding healthy community functioning is a framework developed by Vinson and Rawsthorne that identifies the attributes that influence the functioning of communities, and how these interact. The framework comprises four important clusters of activity:<sup>33</sup>

- the substance and style of decision making in a community
- the way in which resources are generated and allocated within a community
- the integration of people, groups and community organisations
- how direction, energy and motivation is maintained within a community.

Strategies to reduce alcohol-related harm must include investment in activities that strengthen these attributes and through this build better functioning communities. Examples of initiatives that work towards strengthening these attributes include *Pathways to Prevention* in Queensland, *Communities that Care* programs in Victoria, and the Community Engagement Framework in the town of Mildura. *Pathways to Prevention* and *Communities that Care* focus on integrating different groups and resources in order to promote the wider health and social wellbeing of younger children and in doing so address many of the risk factors of later alcohol misuse. In Mildura, the Community Engagement Framework strengthens different aspects of community functioning by bringing together different stakeholders and building collaborative efforts in areas such as mental health, education, child wellbeing and safety. Moving forward, the Northern Territory should focus on expanding these types of approaches to disadvantaged localities.

Already, there is strong groundwork for community-led decision-making in some communities in the Northern Territory. Community Justice Groups such as the Ponki Mediators in the Tiwi Islands, the Kurdiji group in Lajamanu, the Yuendumu Mediation group and the Burnawarra Elders in Maningrida create dialogue between ATSI law and Northern Territory law, and play an important role in the justice system by informing the judiciary about the particular cultural background of an offender from the community.<sup>34</sup> They are therefore well-placed to advise on and direct local solutions to alcohol misuse. For example, with the assistance of the Northern Australian Aboriginal Justice Agency, the Kurdiji group successfully engaged with the Northern Territory Liquor Licensing Commission to have the Liquor License of the Top Springs Hotel restricted due to concerns over alcohol-fuelled violence, road fatalities and other alcohol-related harm stemming from take-away liquor purchased there.<sup>35</sup> Since losing funding in the late 1990s, the Community Justice Groups have received no government funding and operate on an ad hoc basis.

Given the challenge of applying Territory-wide policy in remote communities effectively, communities need to be able to influence alcohol consumption in their local areas. Not only does this empower communities to take responsibility for social issues that affect them, but also ensures policies are adapted to the local context in which they are applied. Local decision-making bodies, Community Justice Groups and local health organisations have a key role to play in assisting communities to work together cohesively to develop strategies that address and prevent alcohol misuse in their local areas.

**We call on the Northern Territory Government to empower local communities to influence alcohol regulation and consumption in their local areas.**

[Resource Aboriginal Community-Controlled Health Organisations to address alcohol misuse](#)  
ATSI community-controlled health organisations (ACCHOs) have a significant role to play in working with ATSI people who have alcohol misuse issues. Research highlights the efficacy of ACCHOs in improving ATSI people's health outcomes.<sup>36</sup> They have a strong focus on prevention, early intervention and comprehensive care, which reduces barriers to accessing health services. ACCHOs also have a role to play in training the medical workforce to work in a culturally strengthening way with ATSI clients. In relation to alcohol misuse, ACCHOs have the cultural capacity to engage ATSI people in a holistic manner that places alcohol misuse in the context of traditional understandings of health and wellbeing. The capacity of ACCHOs to support people in need must be sufficiently resourced, across prevention, early intervention and rehabilitation.

**We call on the Northern Territory Government to invest in ACCHOs to deliver harm-prevention and health-related initiatives to address alcohol misuse among the ATSI population.**

## **Harm reduction**

### [The absence of therapeutic jurisprudence in the Northern Territory](#)

The link between high alcohol consumption and crime is well-founded and has seen devastating impacts in the Northern Territory. In the Northern Territory a significant amount of crime occurs while under the influence of alcohol. Assaults account for 86 per cent of offences against the person and over 50 per cent of these are under the influence of alcohol.<sup>37</sup>

The preference of mass incarceration over therapeutic jurisprudence in the Northern Territory in recent years has seen an increase in the imprisonment rate despite a decrease in crime.<sup>38</sup> Almost 60 per cent of prisoners released go on to reoffend, demonstrating the ineffectiveness of incarceration in responding to the underlying causes of crime.<sup>39</sup>

Justice system responses to alcohol-fuelled crime must take a therapeutic approach, which addresses the reasons behind alcohol misuse, in order to effectively prevent further offending. For example, alcohol-related diversion programs have been found to be cost-effective with an estimated saving of \$111,458 per person, for those participating a community residential program compared with prison.<sup>40</sup> Additionally, for ATSI people, benefits have further included lower mortality and better health outcomes which have been estimated to save a further \$92,759.<sup>41</sup>

**We call on the Northern Territory Government to reform the justice system to embrace a culture of therapeutic jurisprudence, including investment in diversion and restorative justice programs.**

As outlined below, there are several initiatives that the Northern Territory Government should invest in to ensure a more therapeutic response to alcohol-fuelled crime. A number of these have been piloted in the past, only to be dismantled before any evaluation had taken place and in spite of anecdotal success stories.

#### The need for an Alcohol and Other Drug Court

Alcohol and drug courts emerged after sentencing people with substance abuse issues to prison was recognised as a highly ineffective sanction that had a 'revolving door effect'. Problem solving courts use sentencing to coordinate services to address the substance misuse and assist with rehabilitation, thus using legal processes to address complex social issues and increase community safety. By addressing the substance misuse and other underlying problems such as housing, health, education and employment (which contribute to the offending behaviour) Alcohol and Drug Courts provide an effective intervention and decrease the risk of reoffending.<sup>42</sup> International and Australian evidence over the last 20 years highlights the success of drug and alcohol courts as being a cost-effective and constructive alternative to incarceration.<sup>43</sup>

In the Northern Territory, 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). 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, and was disbanded before it had been evaluated. Despite its limitations, sector feedback indicated it was already making an impact on those who participated.



Figure 1: The Te Whare Whakapiki Wairua AODT Court Therapeutic Framework

The Northern Territory should re-introduce an Alcohol and Drug Court, however one that has a cultural strengthening approach to ensure that both ATSI and non-ATSI people are able to benefit from the court. An example of such a court is the Te Whare Whakapiki Wairua, The Alcohol and Other Drug Treatment Court in New Zealand. This Alcohol and Drug Treatment Court combines New Zealand’s legal processes with the traditional Maori role of law, and has a focus on recovery based on USA best practice in AODT Court settings.<sup>44</sup> A recent evaluation of the court concluded that the court practices had seen “transformational change” for participants and their whānau<sup>45</sup>, and that participants benefited from developing a greater understanding of the recovery journey and the services available.<sup>46</sup>

**We call on the Northern Territory Government to introduce a culturally strengthening alcohol and other drug treatment court to foster a strong rehabilitative response to alcohol-fuelled crime.**

#### Bring back the CREDIT Bail Program

To complement the Alcohol and Drug Court, the CREDIT/Bail program should be implemented to support people before they are sentenced. Previously existing in the NT but discontinued because it was deemed an unnecessary addition to the SMART Court, the CREDIT/Bail program is a bail diversion program involving residential or outpatient drug treatment for people whose offending is related to substance misuse. When it operated in the NT, the program was very successful, with high completion rates.<sup>47</sup> The equivalent program in Victoria has also had great success, with only 2.5 per cent of participants who successfully completed this program receiving a custodial sentence, compared to 30 per cent of non-participants.<sup>48</sup>

In Victoria the Drug Court and the CREDIT/Bail program have successfully worked together because they address substance misuse issues at different points in the justice continuum. The Bail program provides an incentive for people to start to address their substance misuse issues before sentencing, while the Drug court sentencing sees people successfully assisted with their alcohol misuse issues for the long term, as well as any other underlying issues being addressed.<sup>49</sup> Such a system in the Northern Territory would ensure that people who come into contact with the justice system who have alcohol misuse problems are supported at each step of the justice process, thus increasing the potential for long term behaviour change.

To ensure the CREDIT/Bail program has the greatest capacity to be effective, it should also adopt a strong cultural focus, similar to the Te Whare Whakapiki Wairua. Not only would this make it a more effective intervention – by ensuring the cultural relevance for ATSI participants and strengthening their connection to culture (a protective factor) – it would also ensure the bail program aligns with the Alcohol and Drug Court processes once the person is sentenced.

**We call on the Northern Territory Government to re-instate the CREDIT/Bail program for alcohol and drug related offending, with a cultural focus.**

Justice processes must be supported with access to therapeutic, culturally strengthening rehabilitation services

The capacity of the justice system to respond effectively within a therapeutic framework is dependent on the availability and access to culturally appropriate, evidence-based rehabilitation services.

There are clear gaps in the current services available in the Northern Territory to meet the needs of people with alcohol misuse issues. A number of organisations and inquiries have highlighted the lack of access to services by ATSI people (particularly those in remote communities), the shortage of services and lack of sustainable funding.<sup>50</sup>

Night patrols and sober up shelters both play a key role in minimising harm when people drink to excess. These services are limited to the night time, despite people’s drinking behaviours warranting daytime services also. These first point of contact services can be effectively used as entry and referral points to ongoing treatment to encourage people to engage in primary health care and rehabilitation services.

Residential rehabilitation facilities are required in all major regional centres to make them accessible to remote communities. While centres in Darwin, Alice Springs and Katherine are important, people from remote communities are required to travel far from home, disconnecting them from family and community. For residential rehabilitation to be effective, it is important that any disconnect from support networks and normal life is minimised. Additionally, there is a need for rehabilitation services that are adapted to the unique needs of specific groups, such as for young people, people with disability and women.<sup>51</sup> A flexible range of services, not a one size fits all approach, is required.<sup>52</sup>

Internationally, there are a number of examples of evidence-based, culturally-strengthening rehabilitation and treatment programs.<sup>53</sup> In Canada, the National Native Alcohol and Drug Abuse Program is responsible for 52 residential treatment centres and 550 prevention programs, each with a strong focus on native spirituality. Through the use of the medicine wheel, which takes a holistic approach to understanding alcohol-related problems, this program has had a more positive response from Indigenous people than mainstream services. In the United States, the majority of Indigenous alcohol and substance abuse programs are community controlled, which ensures a holistic, culturally-informed concept of health and wellbeing is used to connect people to culture as part of the recovery process. In New Zealand, the Treaty of Waitangi has enabled the Maori people to develop their own response to alcohol abuse, which has seen them develop a four-faceted model involving Taha Tinana (physical health), Taha Wairua (spiritual health), Taha Whānau (family health) and Taha Hinengaro (mental/emotional health). Evidence and trends in service users highlight the effectiveness of culturally strengthening treatment services for Indigenous people, both in their willingness to access the service and the effectiveness it has with this group.<sup>54</sup>

**We call on the Northern Territory Government to ensure access to a wide range of rehabilitation services across the Territory and ensure these services are adequately resourced to support the therapeutic efforts of the justice system.**

## References

- <sup>1</sup> See House of Representatives 2015, Standing Committee on Indigenous Affairs 2015, *Alcohol, hurting people and harming communities: Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities*, The Parliament of the Commonwealth of Australia, Canberra; Minter Ellison 2015, *Stronger Futures in the Northern Territory Act 2012: Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm*, Commonwealth of Australia; House of Representatives, Standing Committee on Social Policy and Legal Affairs 2012, *FASD: The Hidden Harm – Inquiry into the prevention, diagnosis and management of Foetal Alcohol Spectrum Disorders*, The Parliament of the Commonwealth of Australia, Canberra.
- <sup>2</sup> D’Abbs, P. 2012, *Problematizing alcohol through the eyes of the other: Alcohol policy and Aboriginal drinking in the Northern Territory, Australia*, Contemporary Drug Problems, Vol. 39, pp. 371 – 396.
- <sup>3</sup> Loxely, W. et al 2016, *National Alcohol Sales Data Project (NASDP) Stage Five Report 2016*, national Drug Research Institute, Curtin University, Perth. World Health Organisation 2014, *Global Information System on Alcohol and Health (GISAH)*, [http://gamapserver.who.int/gho/interactive\\_charts/qisah/consumption\\_adult/atlas.html?detectflash=false](http://gamapserver.who.int/gho/interactive_charts/qisah/consumption_adult/atlas.html?detectflash=false), last accessed 7<sup>th</sup> July 2017.
- <sup>4</sup> Australian Institute for Health and Welfare 2016, *Australia’s Health 2016*, Australia’s health series no. 15, Cat. No. AUS 1999, AIHW, Canberra.
- <sup>5</sup> Gao C., Ogeil R. and Lloyd B. 2014, *Alcohol’s burden of disease in Australia*, FARE and Vic Health in collaboration with Turning Point, Canberra.
- <sup>6</sup> Department of the Attorney-General and Justice 2017, *Northern Territory Crime Statistics: Data through April 2017*, Northern Territory Government, Darwin.
- <sup>7</sup> Productivity Commission 2017, Report on Government Services 2016, Canberra.
- <sup>8</sup> Ibid.
- <sup>9</sup> Department of Health 2017, *Issues paper: Northern Territory Alcohol Policies and Legislation Review*, Northern Territory Government, Darwin.
- <sup>10</sup> House of Representatives 2015.
- <sup>11</sup> People’s Alcohol Action Coalition & Foundation for Alcohol Research and Education 2016, *Northern Territory 2016 Election Platform: Calling time on too much grog in the NT*.
- <sup>12</sup> House of Representatives 2015.
- <sup>13</sup> Office of the Children’s Commissioner Northern Territory 2016, *Annual Report 2015-2016*, Northern Territory Children’s Commissioner, Northern Territory Government, Darwin.
- <sup>14</sup> Marmot, M. 2005, ‘Social determinants of health inequities’, *The Lancet*, Vol. 365, pp. 1099 – 104.
- <sup>15</sup> Roche, A., Kostadinov, V. and Nicholas R. 2015, *The social determinants of inequities in alcohol consumption and alcohol-related health outcomes*, VicHealth, Melbourne.
- <sup>16</sup> Vinson, T. & Rawsthorne, M. (2015), *Dropping off the Edge 2015*, Jesuit Social Services and Catholic Social Services Australia, <http://www.dote.org.au/findings/full-report/>
- <sup>17</sup> House of Representatives 2015.
- <sup>18</sup> This has been widely researched. See the Healing Foundation and the Bringing Them Home Report (1997) as initial places for more detail.
- <sup>19</sup> Everingham, S. 2017, *Aboriginal leaders concerned about return of NT Government’s Banned Drinkers Register*, ABC News, published 4<sup>th</sup> July 2017.
- <sup>20</sup> See [https://alcoholreview.nt.gov.au/\\_data/assets/pdf\\_file/0003/436053/Danila-Dilba-Health-Service-Submission.pdf](https://alcoholreview.nt.gov.au/_data/assets/pdf_file/0003/436053/Danila-Dilba-Health-Service-Submission.pdf)
- <sup>21</sup> Hunyor J. 2015, ‘Imprison Me NT: Paperless Arrests and the rise of executive power in the Northern Territory’, *Indigenous Law Bulletin*, Vol. 8, Issue 21, pp. 3-9.
- <sup>22</sup> Ibid.
- <sup>23</sup> Smart Justice, *Mandatory sentencing*, Melbourne.
- <sup>24</sup> Ibid.
- <sup>25</sup> Hunyor 2015.
- <sup>26</sup> Productivity Commission 2017.
- <sup>27</sup> Hunyor 2015.
- <sup>28</sup> Jesuit Social Services 2013, *Submission to The Alcohol Mandatory Treatment Bill 2013 – Comments to the Northern Territory Department of Health*, Melbourne.
- <sup>29</sup> See Lander, F., Gray, D., and Wilkes, E. 2015, The Alcohol Mandatory Treatment Act: evidence, ethics and the law, *Medical Journal of Australia*, Vol. 203, issue 1, pp, 47 – 49; APONT 2013, *Not under the influence of evidence: A sober critique of the Alcohol Mandatory Treatment Bill*, APONT Submission on the NT Alcohol Mandatory Treatment Bill.
- <sup>30</sup> PwC’s Indigenous Consulting 2017, *Evaluation of the Alcohol Mandatory Treatment Program*.
- <sup>31</sup> Chikritzhs, T., Stockwell T. and Pascal, R. 2005, ‘The impact of the Northern Territory’s Living With Alcohol program, 1992 – 2002: revisiting the evaluation’, *Addiction*, vol. 100, Society for the Study of Addiction, pp. 1625 – 1636.
- <sup>32</sup> Larsen, J. 2014, *Restorative justice in the Australian criminal justice system*, AIC Reports, Research and Public Policy Series 127, Australian Institute of Criminology.
- <sup>33</sup> Vinson, T., and Rawsthorne, M. 2013, *Lifting Our Gaz*, Common Ground Publishing.

- 
- <sup>34</sup> Anderson P. and Nicholson, J. 2007, *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*, Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Northern Territory Government, Darwin.
- <sup>35</sup> Northern Australian Aboriginal Justice Agency 2014, *Submission to Forrest Review*, Darwin.
- <sup>36</sup> Panaretto, K. et al. 2014, 'Aboriginal community controlled health services: leading the way in primary care', *Medical Journal of Australia*, Vol. 200, Issue 11, pp. 649 – 652.
- <sup>37</sup> Department of the Attorney-General and Justice 2017.
- <sup>38</sup> Department of the Attorney-General and Justice 2017; Australian Bureau of Statistics 2017, *4517.0 prisoners in Australia 2016*, Canberra.
- <sup>39</sup> ROGS 2017, Justice, Table C.5
- <sup>40</sup> Australian National Council on Drugs 2013, *An economic analysis for Aboriginal and Torres Strait Islander Offenders: Prison Vs Treatment*, ANCD Research Paper 24, National Indigenous Drug and Alcohol Committee, Canberra.
- <sup>41</sup> Ibid.
- <sup>42</sup> Government Advisory Services 2014, *Evaluation of the Drug Court of Victoria: Final Report*, Magistrates' Court of Victoria, Melbourne.
- <sup>43</sup> Ibid.
- <sup>44</sup> Thom, K. and Black, S. 2017, *Ngā whenu raranga/ Weaving strands: #1: The therapeutic framework of Te Whare Whakapiki Wairua/ The Alcohol and Other Drug treatment Court*, University of Auckland, Auckland.
- <sup>45</sup> The term 'whānau' in Maori means extended family or a community of families who live together.
- <sup>46</sup> Smith, L., Chetwin, A. and Marama, M. 2016, *Final process Evaluation for the Alcohol and Other Drug Treatment Court: Te Whare Whakapiki Wairua*, Litmus, Auckland.
- <sup>47</sup> Pyne A. 2012, 'Ten Proposals to Reduce Indigenous Over-representation in Northern Territory Prisons', *AILR*, vol. 16, no. 2.
- <sup>48</sup> Victorian Ombudsman 2015, *Investigation into the reintegration and rehabilitation of prisoners in Victoria*, Melbourne.
- <sup>49</sup> Government Advisory Services 2014.
- <sup>50</sup> House of Representatives 2015; Australian National Council on Drugs 2013; Foundation for Alcohol Research and Education and People's Alcohol Action Coalition 2016, *Northern Territory 2016 Election Platform: Calling time on too much grog in the NT*.
- <sup>51</sup> House of Representatives 2015.
- <sup>52</sup> Ibid.
- <sup>53</sup> Ibid.
- <sup>54</sup> Ibid.