

Creating a Just and Safe Northern Territory

August 2016



This Northern Territory election, Jesuit Social Services is calling on parties and candidates to commit to two key areas for action to tackle the root causes of disadvantage and build a more just and safe society:

1 Ensure all children and young people have the opportunity to flourish

- Ensure all children have access to early childhood education and health services to give them the best start to life
- Ensure high-quality education is accessible for all school children in the Territory by introducing a needs based funding model
- Fund Bail Support programs and Bail Accommodation for young people
- Invest in restorative justice programs for young people in contact with the justice system
- Embrace cross-service trauma-informed care and practice.

2 Provide a humane and therapeutic response for people with cognitive and psychiatric impairments in the justice system

- Remove the indefinite detention of people who are deemed unfit to plead from the relevant legislation
- Commit fully to the principle of detention as a place of last resort for all people
- Provide alternative rehabilitative responses in the community for people found unfit to plead due to cognitive impairment
- Develop culturally responsive assessment and screening tools for people with cognitive and psychiatric impairment
- Ensure all relevant staff in the justice system receive adequate support and training to enhance their awareness and understanding of cognitive impairment
- 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

- Prevent homelessness among people with cognitive disabilities exiting prison by developing a cooperative approach with housing services with a specific focus on the needs of people with cognitive or psychiatric impairment, and/or complex needs.

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. We value all persons and seek 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.

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 are involved in a Men's

Behaviour Change program and support the 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).

For nearly 40 years, we have accompanied people involved in the criminal justice system. In Victoria we work with people in the justice system supporting people exiting prison and youth justice facilities. This includes the Corrections Victoria Reintegration Program in North and West Metropolitan Melbourne (Reconnect), the African Australian Community Transition (AACT) program, Next Steps and Perry House residential programs, the Youth Justice Community Support Service, Youth Diversion Pilot Program and 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.

Ensure all children and young people have the opportunity to flourish

The social fabric of communities can play an influential role in buffering the worst effects of disadvantage¹, with community factors being shown to influence mental health levels in children², education and levels of safety and crime.³

In the Northern Territory, instead of a sustained focus on strengthening communities and intervening as early as possible to tackle the root causes of disadvantage, there is an undue reliance on crisis services and the criminal justice system to pick up the pieces. Despite a wealth of research and evidence supporting restorative justice principles and a Justice Reinvestment approach, the trend towards punitive law and order policies is impacting 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 trauma.^{4,5} There are long-term social costs associated with this, including mental health issues, 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 costs.⁶

WHAT THE NORTHERN TERRITORY GOVERNMENT SHOULD DO

Initiative 1: Ensure all children have access to early childhood education and health services to give them the best start to life

Initiative 2: Ensure high quality education is accessible for all school children in the Territory by introducing a needs-based funding model

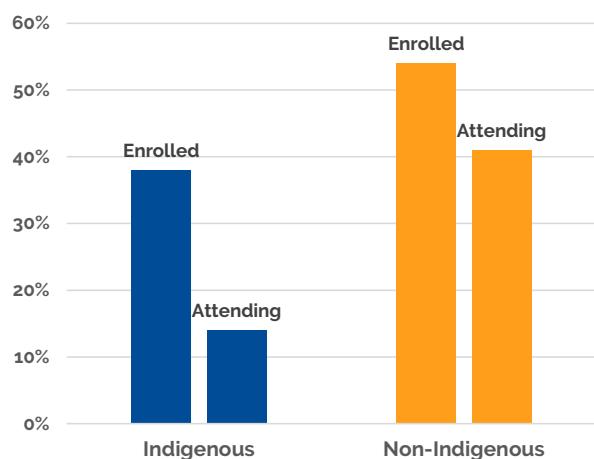
Access to early childhood services is crucial in giving young Territorians the best start possible. Unfortunately, many young children are missing out on early childhood education and health services.

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-ASTI children.⁷ The 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.⁸ Investment in high quality services for children and parents during the early years can have positive impacts not only on health and wellbeing but also in reducing the likelihood of contact with the criminal justice system.⁹ Figures 1 and 2 highlight the correlation between low attendance rates in preschool and the likelihood of offending in the future.

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.¹⁰ 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 and keeping trauma-informed therapeutic approaches at the centre of any response.

We call on the government to ensure the access of early childhood services for all young children in the Territory by improving the quality and locational access to early years services.

FIGURE 1. NORTHERN TERRITORY CHILDREN AGED 4 AND 5 PARTICIPATING IN PRE-SCHOOL, 2015



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

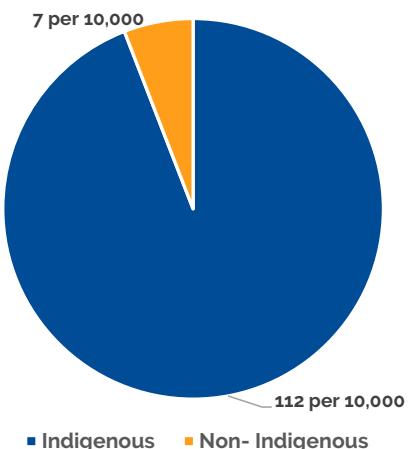
Addressing educational disengagement is crucial in tackling disadvantage. Children in disadvantaged areas of the Territory are many years behind their counterparts in urban areas. Attendance rates in very remote locations are significantly lower than urban locations (64.2 per cent compared to 89.8 per cent) and unfortunately this disproportionately disadvantages Aboriginal young people (who have a significantly greater population in very remote areas) from accessing education. Currently, Territory funding for schools typically favours urban schools over remote schools, further compounding disadvantage.

We call on the 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.

Initiative 3: Fund Bail Support programs and Bail Accommodation

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 majority (78 per cent) of young people in the Northern Territory (in detention facilities) were unsentenced.¹¹ Of particular concern is the significant number of Aboriginal and Torres Strait Islanders (95 per cent of those in detention) who experience remand.¹²

FIGURE 2. YOUNG PEOPLE AGED 10–17 UNDER YOUTH JUSTICE SUPERVISION ON AN AVERAGE DAY IN THE NORTHERN TERRITORY



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

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 clearly 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 per cent of those first supervised between 15–17 years.¹³

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.

Bail legislation must ensure that children and young people are not unnecessarily remanded, and this should be reinforced by a culture of practice and support among decision makers so that children and young people are diverted from custody and into the community. 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.

We call on the government to ensure remand is used as a last resort and to better invest in bail support programs and bail accommodation to prevent vulnerable children from becoming entrenched in the youth justice system.

Initiative 4: Invest in restorative justice programs for young people in contact with the justice system

In 2014/2015, the Northern Territory had the highest rate of young people in detention, with 96 per 10,000 young people in detention compared to the national average of 18.8.¹⁴ The Northern Territory had the fourth highest rate of imprisonment of Aboriginal and Torres Strait Islander people, with this group over-represented in the justice system. In the Territory, Aboriginal and Torres Strait Islander people are 17 times more likely than the non-Aboriginal population to be under supervision on an average day.

TABLE 1. YOUNG PEOPLE IN DETENTION ACROSS AUSTRALIA, 2014–15

Jurisdiction	Rate of young people in detention*	Rate of Indigenous young people in detention**
AUS	18.8	177.4
NT	96.0	203.4
NSW	18.4	160.1
VIC	8.6	93.7
QLD	18.9	147.4
WA	31.9	321.1
SA	24.3	261.7
TAS	9.0	17.7
ACT	22.2	225.4

Source: AIHW. (2016). *Youth Justice in Australia 2014–15*.

Bulletin No. 133. Cat. No. AUS 198. AIHW: Canberra.

* Detention per 10,000 people aged 10–17 years

** Detention per 10,000 people in the Indigenous population aged 10–17 years.

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.¹⁵ In fact, several studies into whether imprisonment reduces the likelihood of reoffending found that it actually increases the likelihood of offending behaviour and has the potential to negatively affect prisoners, particularly younger, lower-risk offenders.¹⁶

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.

Restorative practices are more effective in reducing re-offending and making our communities safer. Our work with young Victorians in the justice system 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 participants had not reoffended after two years¹⁷ (compared to over half of the young people who had been in youth detention going on to reoffend).¹⁸

Restorative justice is far more cost-effective than keeping a young person in detention. For every \$1 invested on Group Conferencing, for example, the Government saves at least \$1.21 in the short term and this saving is likely to increase in the long term.¹⁹ On every level, it makes more sense to divert young people away from the justice system.

The Northern Territory urgently needs a shift away from costly, punitive law-and-order policies towards restorative practices and Justice Reinvestment as guiding principles.

We call on the government to commit to funding and supporting Youth Justice Group Conferencing across the Territory.

Initiative 5: Commit to cross-service trauma-informed care and practice

Through a commitment to embracing trauma informed care and practice, the Northern Territory Government will not only create opportunities for survivors of trauma to heal, but will also work towards breaking the cycle of disadvantage and intergenerational trauma.

We need a commitment to work-force development and training that incorporates 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 systems.²⁰

Given the strong link between trauma and criminal behaviour, the government must commit to supporting 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.

Provide a humane and therapeutic response for people with cognitive and psychiatric impairments in the justice system

Jesuit Social Services has serious concerns about the interactions of people with cognitive and psychiatric impairments at all points of the criminal justice system, with particular concern regarding the indefinite detention of people with cognitive and psychiatric impairments. This clearly breaches Australia's obligations under the International Covenant of Civil and Political Rights and the International Convention on the Rights of Persons with Disabilities.

People with cognitive and psychiatric impairments are at high risk of 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.

In the Northern Territory, there is a serious lack of screening and diagnostic tools, which means there is no definitive data on the number of people with cognitive impairment and mental health issues in the criminal justice system. The 2008 Northern Territory Ombudsman's report confirmed the absence of both qualitative and quantitative data to indicate the levels of cognitive impairment and mental health amongst prisoners.²² However, anecdotal evidence indicates disproportionately high levels of cognitive impairment in the justice system — statistics that are reflected in other Australian jurisdictions.

We call on the Northern Territory government to adequately protect and accommodate people with cognitive and psychiatric impairments and to end the arbitrary and indefinite detention of people in these groups.

WHAT THE NORTHERN TERRITORY GOVERNMENT SHOULD DO

The criminal justice system needs to adapt and respond to the complex and varied needs of people with cognitive and psychiatric impairment. This includes specialised screening and assessment tools, access to appropriate, therapeutic support services, flexible and appropriate legislative schemes and appropriate and rehabilitative diversion options.

Initiative 6: Remove the indefinite detention of people who are deemed unfit to plead from the relevant legislation

Initiative 7: Commit fully to the principle of detention as a place of last resort for all people.

Initiative 8: Provide alternative rehabilitative responses in the community for people found unfit to plead due to cognitive impairment.

Detention of people with cognitive impairments and psychiatric impairments should only be used as a last result and must be suited to the person's circumstances/needs, including specialised, therapeutic programs. Wherever possible, people with cognitive and psychiatric impairments should be dealt with and supported as part of a health response. This will require legislative change, including repealing mandatory sentencing laws, amendments to bail laws and amendments to relevant legislation to remove the indefinite detention of people who are deemed unfit to plead.

Initiative 9: Develop culturally responsive assessment and screening tools for people with cognitive and psychiatric impairment.

Initiative 10: Ensure all relevant staff in the justice system receive adequate support and training to enhance their awareness and understanding of cognitive impairment.

Jesuit Social Services strongly recommends the introduction of appropriately resourced, accessible and specialised assessment and screening tools at all key points in the justice system. Diagnosis and appropriate, therapeutic support at the earliest opportunity would reduce the likelihood of further contact with the criminal justice system as well as ensuring compliance with our human rights obligations. Clear communication is required to foster procedural fairness and encourage practices that genuinely engage people as they move through the criminal justice system (e.g. presenting visual information with simple language to improve understanding).

Initiative 11: 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.

Initiative 12: Prevent homelessness among people with cognitive disabilities exiting prison by developing a cooperative approach with housing services with a specific focus on the needs of people with cognitive or psychiatric impairment, and/or complex needs.

Coupled with this is the need for appropriately resourced and specialised therapeutic support options both within the community and in prison. There is a serious lack of supported accommodation options for people with cognitive impairment in the NT, and access to appropriate treatment and support is limited. The current arrangements for release on parole or straight release for the vast majority of people exiting prison need to be reformed and replaced, wherever possible, with a process of staged release into the community.

We know that over 30 per cent of prisoners exiting custody are expecting to be homeless on release²², and that those with complex needs experience greater homelessness and housing disadvantage.²³ For people with complex needs, homelessness is both a trigger and compounding factor in contributing to involvement in the justice system.

Safe, affordable and supported housing is fundamental to people's ability to get their lives back on track. It is therefore vital that housing issues are resolved prior to prison release. The combination of housing and intensive support is crucial for people with cognitive impairment, providing the security and stability of housing with the intensive support needed to help individuals develop independent living skills and networks of support. Ideally, people with cognitive disabilities exiting prison would spend a period of time in supported accommodation to build their independent living skills and connection to the community before transitioning on to further stable housing where they can continue to access support.

NOTES

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