



Submission to the
Northern Territory Alcohol Policies and Legislation Review
July 2017

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Executive summary

Making Justice Work (MJW) welcomes the opportunity to provide a submission to the Northern Territory Government's Alcohol Review.

MJW calls for bi-partisan, evidence and rights based based, health focussed and locally relevant responses to alcohol policy in the Northern Territory.

Criminalising people who are homeless or who use alcohol does not work to reduce the harms of alcohol or increase harmony in the community.

MJW's recommendations to the Northern Territory Alcohol Review are consensus positions developed by the more than twenty-five MJW member organisations in the lead up to the Northern Territory 2016 election.

The recommendations encompass law and justice issues directly and indirectly related to alcohol related harms in the Northern Territory.

Recommendations

- | | |
|-------------------|---|
| Recommendation 1 | Establish a comprehensive evidence-based plan to minimise the harm caused by alcohol |
| Recommendation 2 | Implement the recommendations of the Legislative Assembly of the Northern Territory Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder (2015) |
| Recommendation 3 | Implement recommendations of the House of Representatives Standing Committee on Indigenous Affairs report on the harmful use of alcohol in Aboriginal and Torres Strait Islander communities (2015) |
| Recommendation 4 | Abolish paperless arrests |
| Recommendation 5 | Abolish Alcohol Protection Orders |
| Recommendation 6 | Abolish Alcohol Mandatory Treatment scheme |
| Recommendation 7 | Abolish mandatory sentencing |
| Recommendation 8 | Develop an Aboriginal Justice Agreement |
| Recommendation 9 | Establish Specialist Youth Court in Alice Springs |
| Recommendation 10 | Establish Alcohol and Other Drugs Court |
| Recommendation 11 | Establish Mental Health Court |
| Recommendation 12 | Increase services and programs that encourage and maintain links to culture, community and country, and facilitate reintegration to the community |
| Recommendation 13 | Increase resources for prisoner through care |
| Recommendation 14 | Bail support and accommodation including <ul style="list-style-type: none">▪ Provide accommodation support to young people on bail▪ Provide casework to young people on bail to ensure they are engaged in education and training, and receive financial and therapeutic support |
| Recommendation 15 | Better Resources for Diversion |

- Youth Conferencing
 - Therapeutic responses - camps and community programs
 - Development of support link referral points
 - Youth specific drug and alcohol programs
- Recommendation 16 Early intervention and primary prevention
- Invest in early childhood and family support programs
 - Reengage disaffected young people in the education system
 - Ensure youth services both developmental and recreational are essential services delivered in communities in the same way as other essential services such as health, housing, police and education
 - Structured recreational activities delivered across the Territory
 - Establish informational and referral spaces for young people

About us

'Making Justice Work' in the Northern Territory brings together a wide range of groups with a common interest in effective responses to crime in our community.

Learn more about the campaign at www.makingjusticework.org.au

APPENDIX 1: MJW 2016 NT election ASK 1 Aboriginal Justice Agreement

We call for an Aboriginal Justice Agreement that sets out how government and Aboriginal people will work together to make justice work in the NT. The agreement will be the result of a process that is based on, and builds, trust and engagement and will lead to practical solutions that meet the needs of our community.

The Aboriginal Justice Agreement (AJA) Victoria

Each phase of the Aboriginal Justice Agreement (AJA) builds on the one before it. The first phase lays the foundation for improved Koori justice outcomes in Victoria by developing robust partnerships and infrastructure, and putting in place a range of new Koori justice initiatives.

The second phase focuses on preventing the progression of young Koories into the system, reducing reoffending, and changing the justice system to be more responsive and inclusive in its approach to Koories. It has a strongly place-based approach, focusing on strengthening community justice responses to address issues locally.

In 2013, the Victorian Government and the Koori community signed the Aboriginal Justice Agreement Phase 3 which continues the work to improve Koori justice outcomes and reduce over-representation in the criminal justice system. This third phase of a long-term change strategy is to be rolled out in stages over a generation until the gap is closed.

In March 2015, the department launched the [Aboriginal Social and Emotional Wellbeing Plan](#) to focus on improving the mental health and wellbeing of Aboriginal people while incarcerated and upon their release. Justice Health and Corrections Victoria are responsible for driving the implementation of the plan in partnership with relevant government and community organisations.

The plan is due to be completed in June 2018 to coincide with the conclusion and evaluation of Phase 3 of the Aboriginal Justice Agreement. This will allow learnings from the evaluation of the plan to inform future activity for the next iteration of the Aboriginal Justice Agreement.

<http://www.justice.vic.gov.au/home/your+rights/aboriginal+justice+agreement/victorian+aboriginal+justice+agreement>

Possible outcomes of an Aboriginal Justice Agreement

1. More culturally appropriate diversion programs tailored to individual needs

- Ensuring Aboriginal young people have equal access to youth diversion and community support options. This includes (a) eligibility criteria that do not exclude Aboriginal young people, (b) access to diversion in regional and remote areas, (c) role of Aboriginal Elders/mentors in diversionary process
- Children's Koori Court – Children's Court of Victoria
 - Involvement of community elders sitting alongside the Magistrate
 - Proceedings occur around a table that is very inclusive of the young person who has a voice and is directly engaged in the process

- The presence of local support services to engage with young people and accept referrals, the use of deferrals of sentence to enable young people to go and engage with programs prior to sentencing
 - (Adult) Koori Court – Magistrates’ Court of Victoria
 - The Koori Court has been created under the Magistrates Court Act 1989. It operates as a division of the Magistrates’ Court, which sentences Indigenous defendants
 - Koori Elders or Respected Persons, the Koori Court Officer, Koori defendants and their families can contribute during the Court hearing. This helps to reduce perceptions of cultural alienation and to ensure sentencing orders are appropriate to the cultural needs of Koori offenders, and assist them to address issues relating to their offending behaviour
 - *Ngā Kooti Rangatahi* Court (Maori Youth Court - New Zealand) as good practice example of culturally strengthening Court process
 - Aim is to reduce reoffending by Māori young people (‘Rangatahi’) and to provide a rehabilitative response by *encouraging strong cultural links and meaningfully involving local Māori communities* in the youth justice process¹
 - Ngā Kooti Rangatahi sittings begin with a pōwhiri process which involves a karanga (call to welcome), whaikōrero (speeches), and kai (morning tea)
 - Maori elders, called kaumātua, are present in the proceeding
 - During the proceeding the rangatahi (youth) presents a ‘pepeha in te reo’, which is a speech telling elders and others present who they are and where they come from
 - Cultural competence must be at the core of assessments, counselling sessions, treatment programs²
 - Prison exacerbates underlying causes of crime in particular Indigenous Health: In the National Prisoner *Health* Data Collection 2012, eight in ten prisons involved reported ‘never’ having been visited by an Aboriginal Community Controlled Health Organisation or an Aboriginal Medical Service³
- 2. Culturally relevant and accessible alcohol and drug counselling, psychological, residential rehabilitation programs and psychiatric counselling, anger management and family violence counselling services;**
- CAAPS - Community-based substance misuse services that supports Aboriginal and Torres Strait Islander families who are experiencing AOD issues
 - FORWAARD - Provides residential support and AOD treatment
 - Tangentyere *Men’s Behaviour Change Program* (MBCP) in Alice Springs
 - BushMob - residential rehabilitation for young people in Alice Springs
 - Kungas Stopping Violence Program
- 3. Wulgunggo Ngalu Learning Place Victoria⁴**
- At Wulgunggo Ngalu, participants can fulfil the requirements of their Community Correction Orders and connect with, or further strengthen, their culture

- Community Corrections works closely with management and staff at Wulgunggo Ngalu Learning Place to ensure each participant's successful transition into and out of Wulgunggo Ngalu Learning Place. Staff also work to connect participants with the services they need in their home community

APPENDIX 2: MJW 2016 NT election ASK 2 Specialist and therapeutic Courts

We call on the NT government to commit to establishing and resourcing specialist and therapeutic Courts across the Territory's entire justice system. Therapeutic Courts have proven to be effective - they allow the system to respond to the underlying issues behind offending and capture opportunities to steer people away from the criminal justice system wherever possible.

We need:

- a system that responds to issues in the community and the causes of offending;
- processes that support the best outcomes for the community;
- linking between the Court and referral agencies;
- community support and expertise to be connected to the Court system;
- properly resourced linking structures that connect people with available services.

Evidence and examples

1. 'Problem solving' Courts can address underlying issues:

- The SMART Court in the NT is an example of a problem-solving Court. This needs to be evaluated and reinstated
- Having coordinated, team based approach linking clients to support services such as drug and alcohol treatment, crisis accommodation, disability services and mental health services based on Victorian CISP model
- Mental Health Court
- A specialist Domestic Violence Court
- It is important that people have equal access to diversion and community support options. Barriers include:
 - eligibility criteria that excludes Aboriginal people or young people or those on short sentences
 - diversion programs that aren't available to people in regional and remote areas
 - diversion programs that do not have a role for Aboriginal Elders/mentors in diversionary process

2. Examples of positive effects of specialist Courts

- NSW Drug Court Completion Program⁵
- Victorian Court Integrated Services Program (CISP)⁶
- Magistrates Early Referral Treatment (MERIT) program⁷
- Hobart Specialised Youth Justice Court - Works intensively with youth. Evaluation of pilot found that it was able to 'demonstrate greater consistency in decision-making about young offenders; harnessed greater psychosocial expertise in youth justice matters; ensured better coordination of agency services brought to the Court and has seen greatly increased collaborative work among those agencies to develop optimal interventions for the young offenders'⁸

3. Examples of how Courts access culturally appropriate programs tailored to the individual or child's needs

- Children's Koori Court Victoria
 - Involvement of community elders sitting alongside the Magistrate
 - Proceedings occur around a table that is very inclusive of the young person who has a voice and is directly engaged in the process
 - The presence of local support services to engage with young people and accept referrals, the use of deferrals of sentence to enable young people to go and engage with programs prior to sentencing
- (Adult) Koori Court Victoria
 - The Koori Court has been created under the *Magistrates Court Act 1989*. It operates as a division of the Magistrates' Court, which sentences Indigenous defendants
 - Koori Elders or Respected Persons, the Koori Court Officer, Koori defendants and their families can contribute during the Court hearing. This helps to reduce perceptions of cultural alienation and to ensure sentencing orders are appropriate to the cultural needs of Koori offenders, and assist them to address issues relating to their offending behaviour
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 - During the proceeding the rangatahi (youth) presents a 'pepeha in te reo', which is a speech telling elders and others present who they are and where they come from

APPENDIX 3: MJW 2016 NT election ASK 3 Rehabilitation and reintegration

One of the key roles prison must play in our society is rehabilitating people for their return to the community. That's why we want to see increased funding for rehabilitation, reintegration and employment programs for young people and adults already in the system. Crucial to this is action to address the shocking overrepresentation of Aboriginal people in the criminal justice system and police custody.

Reintroduce rehabilitation into objects

Objects assist in statutory interpretation (see s62A of *Interpretation Act*). The *Correctional Services Act 2014* does not contain objects. Importantly the word rehabilitation appears only in s167 (approval of rehabilitation programs and work programs) and s193 (4) (restitution for harm to correctional services includes rehabilitation of dog).

The following objects were included in an earlier version of the Bill, and should be considered:

(1) This Act has the following objects:

- (a) to ensure that offenders who are ordered to be held in custody are removed from the general community and placed in a safe, secure and humane environment;
- (b) to ensure that offenders who are not required to be held in custody are kept under supervision in a safe, secure and humane manner;
- (c) to ensure that the safety of persons having the custody or supervision of offenders is not endangered;
- (d) to provide for the rehabilitation of offenders with a view to their reintegration into the general community.

Evidence

1. Using risk and need assessments to inform case management reduces recidivism

- An assessment produces a risk score that allows programs to sort individuals based on risk levels in a consistent and reliable manner, tailor interventions, and prioritize resources for those who are at higher risk of reoffending.¹⁰ Cultural competence must be at the core of assessments, counselling sessions, treatment programs¹¹
- Programs should mainly target high risk individuals and low risk individuals should be kept out of the justice system

2. Community supervision policies and practices that promote successful re-entry should be implemented

- Community-based programs have a greater impact on recidivism than those based in prisons¹²

3. Community Justice reduces crime

- Neighbourhood Justice Centre (NJC) in Yarra, Victoria (Modelled off Red Hook, first in Australia) - Since its establishment in 2007, crime rate in Yarra has reduced by 31%. Property crime has declined by 40%¹³

4. 'Community Justice' courts more effective in administering community work

- NJC evaluation¹⁴ shows: completion rate for Community Based Orders is 75% compared with a state-wide average of 65%, and offenders completed 105 hours of unpaid work on average compared with a state average of 68 hours

5. Community justice reduces recidivism

- NJC - Recidivism rates reduced from 41% down to 34% - a drop of 7%. In comparison to offenders from other courts (with the same profile), NJC offenders were 14% less likely to re-offend¹⁵

6. Community justice is cost-effective

- NJC - Benefit cost modelling showed that for every \$1 invested in the NJC, the expected return would range between \$1.09 and \$2.23

Examples

1. Culturally relevant and accessible alcohol and drug counselling, psychological and psychiatric counselling, anger management and family violence counselling services;

- Investing in community-based treatment. Examples:
 - CAAPS - Community-based substance misuse services that supports Aboriginal and Torres Strait Islander families who are experiencing AOD issues
 - FORWAARD - Provides residential support and AOD treatment
 - Tangentyere *Men's Behaviour Change Program* (MBCP) in Alice Springs. Men's behavioural change programs also need to be more accessible to those in custody (there is a lack of these programs at the Alice Springs Correctional Centre)
 - BushMob - residential rehabilitation for young people in Alice Springs
 - Kungas Stopping Violence Program, auspiced by CAALAS in Alice Springs

2. Increasing resources for prison support and Throughcare Projects, which provide intensive pre and post release case management;

- NAAJA Throughcare Project - Voluntary, strength-based holistic program with low caseloads, high intensity. Results indicate low rates of reoffending/ breaches of orders (16%) for those part of program

3. Wulgunggo Ngalu Learning Place Victoria¹⁶

- At Wulgunggo Ngalu, participants can fulfil the requirements of their Community Correction Orders and connect with, or further strengthen, their culture. Community Corrections works closely with management and staff at Wulgunggo Ngalu Learning Place to ensure each participant's successful transition into and out of Wulgunggo Ngalu Learning Place. Staff also work to connect participants with the services they need in their home community

4. Community-driven initiatives to support offenders when they leave prison;

- Strong Bala men's program in Katherine

5. Reducing the caseload and shifting the focus of the role of Community Corrections officers.

- So that they can work with people who are released on parole and under supervision to support their re-integration, rather than having only a policing/compliance role
- The Crime and Justice Institute (CJI), with support from the National Institute of Corrections (NIC), identified eight evidence based practices (EBPs) for effective community supervision (See endnotes)¹⁷
- Work and Development Orders in NSW- designed to allow eligible clients to reduce their fines through unpaid work with an approved organisation and through certain courses or treatment

6. Establish Community Justice Centres modelled on Neighbourhood Justice Centre

- This should be tailored to local conditions (for example, Palmerston will be different to Lajamanu) but with the court as the 'hub' to connect people with the support services needed and put in place appropriate community work in an individual's case

7. More meaningful community work options to contribute to the community:

- Constructing bunk beds for families in need, building homes
- Removing graffiti, rubbish collecting, mowing grass in parks/community spaces
- Volunteer work for community organisations (soup kitchens, Salvation Army)

8. More community work options in more regional and remote areas

- Many parts of the NT do not have community work projects

APPENDIX 4: MJW 2016 NT election ASK 4 Reduce the number of young people being locked up

We call on government to take urgent steps to reduce the number of young people being locked up. The NT locks up young people more often than anywhere else in Australia. This damages our youth and does not make the community safer. We have to make sure detention is a last resort, used only when community safety is at risk.

Defining 'diversion'

'Diversion' can occur at various stages of the criminal/court process. It is generally focused on keeping people out of the criminal justice system.

Police/pre-charge diversion

Police or pre-charge diversion for youth occurs when police divert someone as an alternative to pursuing formal criminal charges. The wrongdoer must accept responsibility for the offence(s) before being diverted.

Police in the NT do this in relation to young people under the Youth Justice Act. In other jurisdictions, it is also used for young adult offenders (18-21) or first offenders, or people with special needs, to avoid stigma and negative consequences of involvement in the criminal justice system.

Police diversion generally involves a structured, intensive program - this might involve a conference with the victim, or require the young person to attend counselling. It generally also involves case management over a number of months.

Diversion in the NT is different from other states and territories in that police not only refer to diversion, but they administer it. This has led to concerns about police being 'gatekeepers' of who is deemed (in)eligible for diversion.

Court diversion

The second type of diversion is court diversion. Under the Youth Justice Act, this allows the court to refer young people to be reconsidered for diversion. If the young person completes the process of diversion, the charges are withdrawn.

There are also processes that may be considered forms of adult diversion - for example, a judge might ask a person charged with driving unlicensed to take steps to get a licence, and if they do, the charge will be dismissed.

Sentencing and 'diversion' from custody

'Diversion' is sometimes also used to describe sentencing options that avoid a prison sentence: for example, community work, home detention, a suspended sentence with a condition to undertake rehabilitation treatment might all be thought of as diversion from custody in the broader sense - but

these all take place of a formal criminal charge that a court oversees after a plea. These options may be better considered as sentencing alternatives, rather than 'diversion'.

Detailed evidence

1. Early Childhood is the key to the primary prevention of youth incarceration.

Evidence based early childhood programs, such as the Nurse Family Partnership Program, have been shown to reduce by more than 75% interactions between young people and the criminal justice system^{18, 19}

2. When young people are exposed to the criminal justice system they are much more likely to become adult offenders²⁰

- The age of onset predicts a relatively long criminal career duration and the commission of relatively many offences
- The peak onset age of offending is between eight and fourteen years

3. 'Tough on crime' methods do NOT reduce reoffending

- Studies conducted in Australia, the USA, New Zealand and Europe show that 'lock 'em up, get tough' methods such as juvenile incarceration, overly strict bail legislation, boot camps, trying juveniles in adult courts, 'scared straight' programs and so on, are not effective in reducing offending/reoffending²¹

4. The evidence shows that diverting young people away from courts reduces re-offending

- A study by the Australian Institute of Criminology found that young people diverted from the court system were less likely to have further involvement in the criminal justice system²²
- 2011 Review of Youth Justice in NT recommended the need for more diversionary programs and increased eligibility for diversion in light of increasing rates of youth crime²³
- A meta-analysis of 45 studies was undertaken which involved 72 diversion programs assessed 14,573 diverted youth and 18,840 youth processed by the traditional justice system indicated that diversionary measures (both intervention and caution programs) were more effective in reducing recidivism than traditional justice system (average base rate of recidivism was 31.5% compared to 41.3%)²⁴
- Meta-analysis study: included 7,304 juveniles across 29 experiments reported over a 35-year period concluded that juvenile system processing does not appear to have a crime control effect
- An evaluation of juvenile reoffending rates in Victoria concluded that rates of not reoffending after two years were; 80% from Youth Justice Conferencing pre-sentence, 57% from community based supervision, 43% from detention
- Juvenile pre-court diversion scheme in the NT found that 76% of participants did not reoffend in the first 12 months following diversion²⁵
- In New Zealand, since introduction of restorative justice approaches in the last decade the numbers of young people apprehended, charged and appearing in the Youth Court have decreased, the numbers of young people in detention have decreased, and at the same time, youth crime rates have also decreased²⁶

5. Diversionary programs must be properly funded and evaluated to maximise effectiveness

- Current diversion programs are sometimes overly-restrictive in their eligibility, catchment or do not have ongoing government funding²⁷
- Studies show program completion within diversionary programs impacts outcomes of recidivism, with those failing to complete the program continuing to show high levels of recidivism²⁸

6. Diversion is cost effective

- In the NT, youth detention in 2014/15 cost over \$350,000 per year²⁹
- In Victoria evaluated costs per person for three months were; \$5,022 for Youth Justice Conferencing, \$4,775 for Community based supervision and \$48,221 for detention.³⁰
- A study by the NSW Bureau of Crime and Statistics research concluded that the Youth Justice Conferencing scheme is more cost-effective than the Children's Court at dealing with young people that are charged with non-serious offences.³¹

7. Studies have shown that poverty, unemployment, alcohol abuse and child neglect are strong risk factors which increase the risk of involvement in crime³²

8. There is strong evidence that early intervention programs targeting at-risk children and youth are cost-effective ways to reduce crime³³

Evidence of successful early intervention measures (*Statistics in Endnotes*):

- Alcohol and Other Drugs (AOD)
 - NSW Drug Court Completion Program³⁴
 - Victorian Court Integrated Services Program (CISP)³⁵
 - Magistrates Early Referral Treatment (MERIT) program³⁶
- **Intensive Case management**
 - Attorney General Indigenous Justice Program³⁷
 - Indigenous Justice Diversionary Program providing case management and support services³⁸
- **Diversion**
 - Juvenile pre-court diversion scheme in Northern Territory³⁹
 - Victorian adult diversion program s59 Criminal Procedure Act 2009⁴⁰
 - NSW legislated s10 Crimes (Sentencing Procedure) Act 1999⁴¹
- **Education**
 - Love BiTES⁴² and SUPA Kids- School based Domestic and Family Violence education programs
- **Housing**
 - No NT / Australian examples
- **Community Work**
 - No NT / Australian examples
- **Programs building resilience and targeting domestic violence⁴³** (More than 60% of assault offences in the NT are associated with Domestic Violence)
 - Love BITES and SUPA Kids Australian school programs⁴⁴

Examples

4. More culturally appropriate diversion programs tailored to the individual child's needs

- Ensuring Aboriginal young people have equal access to youth diversion and community support options. This includes (a) eligibility criteria that do not exclude Aboriginal young people, (b) access to diversion in regional and remote areas, (c) role of Aboriginal Elders/mentors in diversionary process
- Children's Koori Court – Children's Court of Victoria
 - Involvement of community elders sitting alongside the Magistrate
 - Proceedings occur around a table that is very inclusive of the young person who has a voice and is directly engaged in the process
 - The presence of local support services to engage with young people and accept referrals, the use of deferrals of sentence to enable young people to go and engage with programs prior to sentencing
- *Ngā Kooti Rangatahi* Court (Maori Youth Court - New Zealand) as good practice example of culturally strengthening Court process
 - Aim is to reduce reoffending by Māori young people ('Rangatahi') and to provide a rehabilitative response by *encouraging strong cultural links and meaningfully involving local Māori communities* in the youth justice process⁴⁵
 - Ngā Kooti Rangatahi sittings begin with a pōwhiri process which involves a karanga (call to welcome), whaikōrero (speeches), and kai (morning tea)
 - Maori elders, called kaumātua, are present in the proceeding
 - During the proceeding the rangatahi (youth) presents a 'pepeha in te reo', which is a speech telling elders and others present who they are and where they come from

5. Increased housing support:

- 75% youth on remand in the NT
- Extreme need for bail and post-release transitional housing support
- More accommodation like CASY House Youth Refuge - provides 24-hour support and accommodation for young people. However, it is always at full capacity and turns away between 10 and 15 young people a month⁴⁶

6. Integrated, court-centred programs addressing underlying causes of offending:

- Hobart Specialised Youth Justice Court - Works intensively with youth. Evaluation of pilot found that it was able to 'demonstrate greater consistency in decision-making about young offenders; harnessed greater psychosocial expertise in youth justice matters; ensured better coordination of agency services brought to the court and has seen greatly increased collaborative work among those agencies to develop optimal interventions for the young offenders'⁴⁷

7. Restorative Justice

- Pre-sentence Conferencing
 - Section 84 of Youth Justice Act, need for dedicated resources to support these in all parts of the NT

- Brings together those involved in an offence including the young person, their family and victims of offending
- Studies have shown that, where conferences have been implemented, they have been successful in achieving positive outcomes (See endnotes)⁴⁸

8. Early intervention programs:

- Tiwi Islands Diversion (Northern Territory)
 - Diversionary program that utilises strength of Tiwi Elders (Ponki Mediators) to engage Tiwi youth who are at risk of entering the criminal justice system in prevention activities, such as mediation conference, school, cultural activities, sport and recreation
- Clean Slate Without Prejudice boxing program for kids in Redfern
 - Launched by police at Redfern in partnership with local Aboriginal leaders. Program provides boxing training three times a week as well as support in finding accommodation, jobs and education. Has shown great results in helping young people turn lives around, reducing crime in Redfern⁴⁹

9. Housing assistance:

- CASY House Youth Refuge - provides 24-hour support and accommodation for young people. However, it is always at full capacity and turns away between 10 and 15 young people a month⁵⁰

10. Tackling alcohol and drug-related harm:

- Aboriginal community-controlled health organisations overseeing individualised alcohol and other drug treatment plans. (NAAJA and Danila Dilba currently working on a trial program)
- Residential rehabilitation programs especially those that are culturally safe:
 - CAAPS - Community-based substance misuse services that supports Aboriginal and Torres Strait Islander families who are experiencing AOD issues
 - FORWAARD - Provides residential support and AOD treatment
 - BushMob - residential rehabilitation for young people in Alice Springs

8. Early intervention:

- Family Partnership Program in Alice Springs⁵¹ - Evidence based nurse-led home visiting program that supports women pregnant with an Aboriginal and/or Torres Strait Islander child to improve their own health and the health of their baby
- CISP - a bail support program and that a person can be assessed for CISP before entering a plea⁵²

9. Therapeutic programs for offenders:

- Tangentyere *Men's Behaviour Change Program* (MBCP) in Alice Springs
- Kungas Stopping Violence Program, at CAALAS in Alice Springs

10. Community education programs to raise awareness about domestic and family violence:

- **LOVE BiTES** - Successful school-based domestic and family violence and sexual assault prevention program

APPENDIX 5: MJW 2016 NT election ASK 5 Abolish mandatory sentencing

Mandatory sentencing has failed to make the NT a safer place. We call for it to be abolished in all its forms.

Evidence

1. Mandatory sentencing does not work

In December 2015 the NT Government released a [Review of the Northern Territory Sentencing Amendment \(Mandatory Minimum Sentences\) Act 2013](#)⁵³

The report outlines areas where no conclusive impacts were seen as a result of mandatory sentencing including:

- While a substantial decrease in violent offences recorded by Police occurred several months following mandatory sentencing, this is thought to be the result of another initiative
- A significant decrease in violent reoffending occurred for male Indigenous offenders released from prison after serving time for assault offences committed in the new mandatory sentencing regime. However, as with the decline in offending, this decline is thought to be the result of another initiative
- Mandatory sentencing did not result in an increase in the overall percentage of first-time violent offenders sent to prison, due to an ongoing and apparently unrelated drop in the percentage of these offenders receiving partially suspended sentences
- The percentage of repeat violent offenders sentenced to prison was 96 per cent in the two years prior to mandatory sentencing and unchanged in the 15 months following mandatory sentencing
- Mandatory sentencing had no apparent impact on average sentence lengths for first-time violent offenders sentenced in the Court of Summary Jurisdiction, or for violent offenders sentenced in the Supreme Court
- The time to finalise violent defendants in the Supreme Court did not show a material change following mandatory sentencing
- Prisoner numbers did not rise following the implementation of mandatory sentencing. The number of prisoners in custody for assault fell below its projected level two months prior to mandatory sentencing. While prisoner numbers temporarily returned to the projected level several months after mandatory sentencing was implemented, they did not rise above the projected values as was expected
- Notwithstanding mandatory sentencing and other 'tough on crime' measures leading to more people being incarcerated, between 2010 - 2014 recorded assaults grew 24% in the NT⁵⁴
- When the Northern Territory introduced mandatory sentencing for property crime in 1997, property crime rates in the NT increased and then decreased after mandatory sentencing was removed⁵⁵

2. Sending people to jail is very expensive

- It costs over \$350,000 per youth detainee per year in the NT.⁵⁶ When we consider the effectiveness of mandatory sentencing, we need to consider the cost and the opportunity cost: what else could we be spending this money on?
- Justice Reinvestment strategies are needed. In one Australian study, putting aside the improved health outcomes, the total financial savings from community residential rehabilitation compared to prison were \$111 458 per offender per year (Deloitte 2013 Report)

3. Exposing someone to prison doesn't reduce reoffending and may in fact increase it⁵⁷

- Imprisonment creates a criminal learning environment⁵⁸
- Between 2010 and 2014- the Northern Territory imprisonment rate grew from 663 prisoners per 100,000 adult population, to 830 prisoners per 100,000 adult population.⁵⁹ In June 2015 it grew further to 885 prisoners per 100,000 adult population. NT continues to have the highest imprisonment rate of any state or territory and almost 200 prisoners higher than the US thus making it one of the highest in the world⁶⁰
- The daily average number of prisoners in the NT has more than doubled in the last 20 years⁶¹
- 71% of adult prisoners in the Northern Territory have served a previous term⁶²
- Prison exacerbates underlying causes of crime in particular Indigenous Health: In the National Prisoner *Health* Data Collection 2012, eight in ten prisons involved reported 'never' having been visited by an Aboriginal Community Controlled Health Organisation or an Aboriginal Medical Service⁶³

4. 'Tough on Crime' policies disproportionately affect Aboriginal and Torres Strait Islander People

- At June 2015, Aboriginal and Torres Strait Islanders comprised 84% (1,344 prisoners) of the adult prisoner population⁶⁴
- In June 2015, the Aboriginal and Torres Strait Islander age standardised imprisonment rate was 14 times the non-Indigenous age standardised imprisonment rate⁶⁵
- The 'imprisonment gap' is symptomatic of the health gap - It is estimated that, on average an Indigenous person born in 2010 - 12 will live around 10 years less than a non-indigenous person⁶⁶
- High levels of stressful life events such as; of social exclusion, unemployment, lower access to quality education, poverty, lack of political power, and racism can cause psychological distress, trauma, mental health conditions and disorders, and contribute to at-risk substance use disorders⁶⁷
- The high rate of alcohol-related crime is contributing significantly to the huge overrepresentation of Aboriginal and Torres Strait Islanders in the prison system
- The introduction of schemes which criminalise alcoholism in the NT such as Alcohol Protection Orders Scheme is ineffective and is compounding the social and economic disadvantage experienced by Aboriginal and Torres Strait Islander's resulting in more people entering the criminal justice system rather than being linked in with health services
- 9 out of 10 people taken into protective custody by the police in the NT are Aboriginal⁶⁸

- Criminalisation of public drunkenness is contrary to the recommendations of the Royal Commission into Aboriginal Deaths in Custody which stated that imprisonment of Aboriginal people should be an option of last resort⁶⁹
- *Fernando v Groves and Fernando v Kassman* [2015] NTSC 81 graphically illustrates the wrongheaded approach to alcohol that disproportionately impacts Aboriginal people: ‘At 1.15pm on 25 May the appellant was observed seated at the barbecue area at East Point Reserve consuming a red coloured liquid. Two police officers approached the appellant and noticed that he smelt of intoxicating liquor. After they became aware that he was subject of an APO they arrested him and took him to the Darwin watch-house. He submitted to a breath analysis which showed a blood alcohol reading of 0.040% at 2.11 pm. When asked his reason for drinking the appellant said: “I just drank it because sorry business with my family”⁷⁰
- The United Nations committee against torture recently expressed concern that mandatory sentencing continues to disproportionately affect Aboriginal and Torres Strait Islander peoples. It recommended that governments review these laws with a view to abolishing them, giving judges the necessary discretion to determine relevant individual circumstances in the sentencing process⁷¹

APPENDIX 6: MJW 2016 NT election ASK 6 A comprehensive plan to deal with alcohol

Alcohol is a major driving factor behind offending and causes significant harm to our community. The NT needs a comprehensive plan to deal with alcohol – including a review of current laws and policies to identify strengths and shortcomings.

Evidence and examples

1. Tackling alcohol and drug-related harm:

- Aboriginal community-controlled health organisations overseeing individualised alcohol and other drug treatment plans. (NAAJA and Danila Dilba currently working on a trial program)

2. Culturally relevant and accessible alcohol and drug counselling, psychological, residential rehabilitation programs and psychiatric counselling, anger management and family violence counselling services – to address underlying reasons for the harmful use of alcohol;

- CAAPS - Community-based substance misuse services that supports Aboriginal and Torres Strait Islander families who are experiencing AOD issues
- FORWAARD - Provides residential support and AOD treatment
- Tangentyere Men's Behaviour Change Program (MBCP) in Alice Springs
- BushMob residential rehabilitation for youth in Alice Springs

3. Measures (most of which have been discontinued) to restrict the availability of alcohol have been effective in reducing alcohol-related harm.

- Living with Alcohol Program⁷²
- The banning of 4 and 5 litre cask wine across the Territory in 2010⁷³
- The 1990s "Thirsty Thursday" measures in Tennant Creek⁷⁴
- The scheme by which communities could apply to the *Licensing Commission* to be declared "dry"⁷⁵
- The Banned Drinkers Register (BDR) and Point of Sale Interventions (POSIs) (noting that the BDR has been abolished, and that the POSI scheme is currently applied in a racially discriminatory manner. The scheme can and should be adapted to avoid this.)

4. The introduction of schemes which criminalise alcoholism in the NT such as Alcohol Protection Orders Scheme is ineffective and is compounding the social and economic disadvantage experienced by Aboriginal people resulting in more people entering the criminal justice system rather than being linked in with health services.

- 9 out of 10 people taken into protective custody by the police in the NT are Aboriginal⁷⁶
- Criminalisation of public drunkenness is contrary to the recommendations of the Royal Commission into Aboriginal Deaths in Custody which stated that imprisonment of Aboriginal people should be an option of last resort⁷⁷
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Reserve consuming a red coloured liquid. Two police officers approached the appellant and noticed that he smelt of intoxicating liquor. After they became aware that he was subject of an APO they arrested him and took him to the Darwin watch-house. He submitted to a breath analysis which showed a blood alcohol reading of 0.040% at 2.11 pm. When asked his reason for drinking the appellant said: "I just drank it because sorry business with my family"⁷⁸

References

- ¹ At 5/12/2015 there are 14 Rangatahi Courts in New Zealand. It is not a separate Court but a sitting of the Youth Court. Purpose is to monitor a young person's completion of their Family Group Conferencing Plan.
- ² See, for example: P Dudgeon, D. Garvey, and H. Pickett, *Working with Indigenous Australians: A handbook for psychologists* (Perth: Gunada Press, 2000).
- ³ Ibid. 21
- ⁴ http://assets.justice.vic.gov.au/corrections/resources/61a8b7f8-d793-4432-a445-600d83384537/wulgunggodl2015_acc.pdf
- ⁵ Participants found to be 37% less likely to be reconvicted during follow-up period. (Weatherburn, Jones, Snowball & Hua, 'The NSW Drug Court: A re-evaluation of its effectiveness' *Crime and Justice Bulletin no 121, NSW Bureau of Crime and Justice Statistics, (2008)*)
- ⁶ Evaluation showed it generated a 20% reduction in reoffending rates for participants. Report Indicates Cost Savings. *Department of Justice (Victoria), Court Integrated Services Program: Executive Summary Evaluation Report (2010).*
- ⁷ Diversion program that provides offenders who have a drug or alcohol dependency an opportunity to work towards rehabilitation as part of their bail process. Reduced reoffending by 12% over a two-year follow-up period- no comparable decline was noted among those who failed to complete the program. AIHW. 'Diverting Indigenous offenders from the criminal justice system'. <<http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129545614>> 2013 December
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- ¹⁴ Victorian Government Department of Justice, *Evaluating the Neighbourhood Justice Centre in Yarra: 2007-2009*, published February 2010, <http://library.bsl.org.au/jspui/bitstream/1/3713/1/njc_evaluation_main_document.pdf>.
- ¹⁵ Neighbourhood Justice, above n 1.
- ¹⁶ http://assets.justice.vic.gov.au/corrections/resources/61a8b7f8-d793-4432-a445-600d83384537/wulgunggodl2015_acc.pdf
- ¹⁷ (1) Assess offender risk/need levels using actuarial instruments (2) Enhance offender motivation (3) Target interventions (4) Provide skill training for staff and monitor their delivery of services (5)

Increase positive reinforcement (6) Engage support in natural communities, (7) Measure relevant processes/practices (8) Provide measurement feedback.

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²² Troy Allard, Anna Stewart, April Chrzanowski, James Ogilvie, Dan Birks and Simon Little, Police Diversion of Young Offenders and Indigenous Over Representation (March 2010) Australian Institute of Criminology

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²⁴ From these 73 diversion programs; most came from the United States, 6 from Australia, 3 from Canada, and 2 from other countries. The year the studies were produced ranged from 1972 to 2010, with a median year of 1992. Wilson and Hoge (2012)

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³⁴ Participants found to be 37% less likely to be reconvicted during follow-up period. (Weatherburn, Jones, Snowball & Hua, 'The NSW Drug Court: A re-evaluation of its effectiveness' *Crime and Justice Bulletin no 121, NSW Bureau of Crime and Justice Statistics, (2008)*)

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³⁶ Diversion program that provides offenders who have a drug or alcohol dependency an opportunity to work towards rehabilitation as part of their bail process. Reduced reoffending by 12% over a two-year follow-up period- no comparable decline was noted among those who failed to complete the program. AIHW. 'Diverting Indigenous offenders from the criminal justice system'. <<http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129545614>> 2013 December

³⁷ In the 2010-2011 financial year 75% of the programs clients had not reoffended. *National Association of Community Legal Centres. Submission to the Senate Standing Committee on Legal and Constitutional Affairs. Inquiry into the value of a justice reinvestment approach to criminal justice in Australia. 2013, p 12*

³⁸ December 2011 approximately 67% of the clients had not been charged, 95% were not convicted and 85% were not returned to prison within 12 months. *National Association of Community Legal Centres. Submission to the Senate Standing Committee on Legal and Constitutional Affairs. Inquiry into the value of a justice reinvestment approach to criminal justice in Australia. 2013, p 12*

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⁴⁵ At 5/12/2015 there are 14 Rangatahi Courts in New Zealand. It is not a separate Court but a sitting of the Youth Court. Purpose is to monitor a young person's completion of their Family Group Conferencing Plan.

⁴⁶ If at capacity there is generally no other alternative to house the youth. There needs to be a crisis support shelter set up in Palmerston. *Dani McDonald. 'Shelters hit crisis levels' NT News. 9/12/2015*

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⁵¹ Tackles gender inequality, main aims are to improve maternal health and birth outcomes, child health and development and families' economic self-sufficiency

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⁷⁰ In this case, Justice Hiley overturned a prison sentence of 7 days for a breach of an APO. Hiley J did not consider any imprisonment was warranted, due to the absence of any aggravating factors. Whilst this sentence was overturned on appeal, the case demonstrates how easy it is for Aboriginal people to be incarcerated for minor but publicly visible offences.

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