



MAKING JUSTICE WORK: 2018 REPORT CARD

ASK	PROGRESS?
ASK 1: ABORIGINAL JUSTICE AGREEMENT	Yes (but early stages)
ASK 2: SPECIALIST AND THERAPEUTIC COURTS	Some (but not enough)
ASK 3: REHABILITATION AND REINTEGRATION	Some (but not enough)
ASK 4: REDUCE THE NUMBER OF YOUNG PEOPLE BEING LOCKED UP	Some (but not enough)
ASK 5: ABOLISH MANDATORY SENTENCING	None
ASK 6: A COMPREHENSIVE PLAN TO DEAL WITH ALCOHOL	Yes (but not enough)

ASK 1: ABORIGINAL JUSTICE AGREEMENT

PROGRESS? Yes (but early stages)

The Northern Territory Government's commitment to the development of the Agreement and extent of community consultation to date are encouraging, although clear outcomes are yet to emerge. The government has committed to publishing the draft Agreement before the end of 2018 and undertaking further community consultation before the Agreement is finalised in mid-2019.

2018 CALL TO ACTION

That the Northern Territory Government:

- Publish the outcomes of the consultations to date and update the community on the progress of the Agreement.
- Continue its commitment to a community-led process, ensuring adequate time and support for meaningful consultation with communities before the Agreement is finalised in mid-2019.
- Establish and communicate a clear governance framework that articulates how the government will work in partnership with, and be accountable to, Aboriginal communities and representatives to effect change in rates of over-imprisonment and violence.
- Articulate how the development of the Aboriginal Justice Agreement aligns with Local Decision Making and the recently announced Treaty process, as well as youth justice reforms flowing from the Royal Commission.
- Ensure the scope of the Agreement maintains a broad focus so that it can address the systemic issues underlying Aboriginal people's overrepresentation in the justice system. The Agreement should support:
 - a shift of investment towards prevention and early intervention to keep Aboriginal people out of the justice system
 - an expansion of diversion options and therapeutic and restorative responses within the justice system
 - the development of culturally strengthening initiatives within the justice system, for example, the establishment of specialist Aboriginal courts, and
 - ensuring equality before the law, through the consideration of the unique and systemic factors affecting Aboriginal people in sentencing as well as consistency in sentence options, diversion options and access to support programs that are culturally appropriate, as identified by the Australian Law Reform Commission's report *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*.
- The government must ensure that Aboriginal people and organisations have a central role in the design, implementation and evaluation of initiatives that flow from the Agreement.
- Ensure adequate funding to achieve the outcomes that will be set out under the Agreement.
- Use the Agreement as the basis for developing a Northern Territory Justice Strategy that articulates a clear vision for the justice system in the Northern Territory and the policy, program and legislative reforms required to achieve enduring change for Aboriginal people in this jurisdiction.

ASK 2: SPECIALIST AND THERAPEUTIC COURTS

PROGRESS? Some (but not enough)

Planning and refurbishment/capital works are underway for the development of some specialist courts, including a specialist Youth Court and a Domestic and Family Violence Court in Alice Springs. However we are yet to see the necessary commitment to and progress towards the design, workforce development, court procedures and culture that will ensure these courts are truly therapeutic in their operation.

The government is yet to communicate if and how it will deliver on the recommendations of the Riley Report to establish an Alcohol and Other Drugs Court, or commitment to the establishment of a Mental Health Court.

2018 CALL TO ACTION

That the Northern Territory Government:

- Adequately resource the establishment and ongoing operation of specialist courts for youth, alcohol and other drugs, mental health and domestic and family violence that embrace a culture of therapeutic jurisprudence.
- Ensure an appropriate balance of investment towards capital works, and the provision of specialist judiciary, programs and staff required to enable the courts to deliver holistic, trauma-informed, therapeutic, restorative and culturally strengthening responses.
- With respect to specific courts:
 - Ensure the Youth Court is established in an appropriate venue; in Alice Springs, we call for a separate venue for the youth court. The court should be led by specialist youth judge.
 - Ensure sufficient resources for the operation of the Alice Springs Domestic and Family Violence Court, including appropriate resources for evaluation to inform any extension of the pilot across the Territory.
 - Commit to the establishment of an Alcohol and Other Drugs Court, as recommended by the Riley Report.
- Publish the outcomes of the evaluation of the COMMIT program.
- Advocate to COAG to approve and publish the National Statement of Principles relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment.
- Implement the Northern Territory Law Reform Committee Report on reform to the *Mental Health and Related Services Act* to give the Local Court power to impose limited supervision orders on defendants who are mentally impaired or unfit to stand trial.
- Work with the sector to consider the development of therapeutic, dual-jurisdiction Care and Protection/Youth Justice Children's Court, to align with the development of the single Act.
- Ensure that court proceedings involving children and young people outside of Alice Springs and Darwin are held on separate days and times to adult matters or using alternate premises where possible, and that the judges in these courts receive specialist training in working with child and youth matters, as per the Royal Commission recommendations.
- Appoint a President of the Children's Court, potentially modelled on the NSW President of the Children's Court system, as per the Royal Commission recommendation.

ASK 3: REHABILITATION AND REINTEGRATION

PROGRESS: Some (but not enough)

More must be done to put rehabilitation and reintegration as the central objects of our justice system – in legislation, policy and practice.

The Northern Territory continues to imprison its citizens at a rate higher than any other Australian jurisdiction. The ineffectiveness of our system in addressing crime is apparent when we see that 72 per cent of adult prisoners have served a previous term. We can only change this profile with a genuine shift away from prisons and punishment, and towards therapeutic and restorative responses that address the underlying needs of people who offend.

2018 CALL TO ACTION

That the Northern Territory Government:

- Amend the legislation, policy and practice to ensure rehabilitation is a primary goal of the Department of Correctional Services. Any interaction or intervention with a person who has offended should be focused on assisting their rehabilitation and reintegration in the community.
- Consistent with a commitment to rehabilitation as the primary goal of the justice system:
 - Prioritise therapeutic and restorative diversion options and community-based responses that assist in rehabilitation, reduce likelihood of reoffending and decrease involvement in the criminal justice system.
 - Ensure programs have the scope and flexibility to address the specific needs of a person who offends, including cultural needs.
 - Invest in treatment, healing and rehabilitation programs for people currently incarcerated, including those on remand.
- Reduce the number of people on remand by investing in wrap around bail support, parole supervision and throughcare for adults and young people, that includes accommodation support and access to community based rehabilitation and therapeutic services
- Publish progress towards the implementation of recommendations of key reports that have highlighted the need for change within our correctional system, including the:
 - Hamburger Review, which highlighted the need for a culturally-informed justice system, the long term benefits of a rehabilitative focus for the community as well as people who have offended, and the critical role of correctional and detention centre staff.
 - Australian Law Reform Commission's *Pathways to Justice Report*, which are crucial to addressing the disproportionate representation of Aboriginal people in the criminal justice system.
 - Ombudsman NT Investigation Report, *Women in Prison I & II - Alice Springs Women's Correctional Facility*, which highlighted the substandard conditions and lack of opportunity for rehabilitation for women in prison.
- Advocate to COAG to remove exclusions whereby prisoners and young people in detention cannot receive Medicare and PBS subsidies under section 19(2) of the Health Insurance Act 1973 (Cth).

ASK 4: REDUCE THE NUMBER OF YOUNG PEOPLE BEING LOCKED UP

PROGRESS? Some (but not enough)

While the government's investment towards an in-principle commitment to the implementation of the Royal Commission reforms is welcome, we are yet to see any significant improvement in the experience and numbers of young people caught up in the justice system.

Although heading in the right direction, the pace of change across various aspects of the reform agenda is uneven and it is unclear how different areas of reform are working together.

2018 CALL TO ACTION

That the Northern Territory Government:

- Develop a clear framework for Youth Justice that identifies the vision, purpose, principles and building blocks of a reformed system.
- Embrace a culture of therapeutic jurisprudence within our justice system, through a greater focus and increased investment in prevention and early intervention, evidence-based, therapeutic diversion options and expansion of restorative justice approaches.
- More clearly communicate how the various aspects of policy, legislative, program and funding reform are working together.
- Communicate progress towards key reform commitments, including raising the age of criminal responsibility and the development of a single Act across youth justice and child protection.
- Act with urgency to reduce the numbers of children on remand, through the implementation of key recommendations of the Royal Commission in relation to bail, including repealing the offence of breach of bail and ensuring youth-specific pro-bail considerations to protect children from inappropriate, onerous or punitive bail considerations.
- Act with urgency to materially improve the conditions of young people in detention. The Northern Territory Government must act now bring conditions into line with the minimum standards of treatment and care mandated by the Youth Justice Act and Determinations issued by Territory Families.
- Articulate its progress towards the development of a youth justice operating model that is genuinely trauma-informed, therapeutic and culturally strengthening.
- Articulate its strategy to recruit, train and retain a youth justice workforce with the specialist skills and experience required to provide not only a safe and secure youth detention environment, but more importantly, one that is therapeutic, educative and culturally strengthening.
- Reinstating the Elders' Visiting Program to restore links to culture and community for young people in detention.
- Communicate progress towards the Royal Commission recommendations in relation to education in detention.
- Fund specialist youth throughcare in Central Australia, Tennant Creek and Katherine.
- More clearly articulate the role and objectives of the Youth Outreach and Reengagement Team, in particular the interaction between the voluntary and mandatory aspects of the service, how they work with other services supporting young people in contact with the justice system (including child protection, police and education).
- Articulate progress towards, and ensure adequate resourcing of a specialist youth police division, in line with the Royal Commission recommendations.
- Communicate its progress towards improving the collection and analysis of youth justice outcomes, as a basis for monitoring and evaluating system performance and facilitating ongoing improvement.

ASK 5: ABOLISH MANDATORY SENTENCING

PROGRESS? None at this stage.

Mandatory sentencing is the antithesis of just sentencing. It is costly, and has not, does not and will not reduce crime. Mandatory sentencing continues to disproportionately impact Aboriginal and Torres Strait Islander peoples.

The Australian Law Reform Commission has called on Commonwealth, state and territory governments to repeal legislation imposing mandatory or presumptive terms of imprisonment upon conviction of an offender that has a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

2018 CALL TO ACTION

That the Northern Territory Government act now to deliver on its commitment to abolish mandatory sentencing.

ASK 6: A COMPREHENSIVE PLAN TO DEAL WITH ALCOHOL

PROGRESS? Yes (but not enough)

The initiation of the Riley Review and subsequent policy and legislative action on reducing alcohol harm is welcome, in particular the development of a NT FASD Strategy and introduction of the minimum floor price on alcohol.

However by failing to repeal paperless arrests and take action on other key recommendations of the review – including in relation to protective custody powers and the re-establishment of an Alcohol and Other Drugs Court – the government has not embraced the opportunity to take all available measures to reduce our world-leading rates of incarceration of Aboriginal people.

2018 CALL TO ACTION

That the Northern Territory Government:

- Act now to abolish paperless arrest laws by repealing sections 133AA - 133AC of the *Police Administration Act*.
- Amend s128 of the Police Administration Act (protective custody laws) to require police to exhaust other reasonable alternatives for a person's care and protection before detaining a person at a police station, and narrow the circumstances in which police may apprehend a person for protective custody purposes to where the person is likely to cause harm to themselves or others, damage to property, or incapable of protecting themselves from physical harm.
- Implement recommendation 4.5.5 of the Riley Report (through legislation and amendment to internal guidelines and practice) to reign in protective custody powers.
- Act on the recommendations of the Riley Report to re-establish an Alcohol and Other Drugs Court.