

## 2024 Northern Territory election – NAAJA’s key recommendations

The Northern Territory has a justice problem. While the national incarceration rate declined 2 per cent between 2018 and 2023, in the Territory it soared 22 per cent<sup>1</sup>. Almost 9 out of 10 people in prison are Aboriginal.<sup>2</sup>

The upcoming election presents a landmark opportunity to press the reset button on how we, as a society, support individuals out of a cycle of offending and make our communities safer.

This cannot be achieved by simply funding more police and more prisons. Without increased investment in tackling poverty and disadvantage, poor housing and overcrowding, and health problems, Aboriginal people will bear the brunt of law-and-order policies that overlook the root causes of offending.

The North Australian Aboriginal Justice Agency (NAAJA), as the legal aid provider for Aboriginal people across the Territory, has been on the frontline of this challenge for more than 50 years.

Below are our key recommendations for improving the way both children and adults are dealt with in the justice system in the hope elected policymakers will embrace a smarter way forward.

### **Keep the politics away from children**

Despite the image portrayed in segments of the media, youth crime is not increasing.

Youth justice court lodgements Territory-wide have fallen for three years running<sup>3</sup>. Yet, the NT locks up four times as many children as anywhere else in Australia<sup>4</sup>. Approximately 98 per cent of children in detention are Aboriginal.<sup>5</sup> Youth detention is known to cause significant harm to young people’s mental health, contributing to further disadvantage.<sup>6</sup>

At the same time, our child protection system is failing Aboriginal children. Child Protection lodgements jumped 50 per cent in the last 12 months, and only 25 per cent of Aboriginal children in out of home care are placed in a kinship placement<sup>7</sup>.

We must:

#### **Reform bail**

- Reverse the 2021 bail changes that have led to explosion of children in detention.
- Provide more culturally relevant bail accommodation for Aboriginal children; keeping them on country, connected with family, and engaged in school or training.
- Remove the power of arrest for minor bail breaches.

#### **Prioritise and improve access to diversion**

- Target 80 per cent of youth matters diverted in an expedited timeframe appropriate for children.
- Raise the age of criminal responsibility to 14 years.
- Expand options for diversion facilitated by Aboriginal organisations.

#### **Provide specialist courts and intensive rehabilitation for young people most in need**

- Ensure the court process is developmentally and culturally appropriate and takes place in a purpose-built facility. Elders should be involved in the court process.
- Ensure that vulnerable children have access to high-quality, suitably trained, culturally competent, and impartial legal representation in child protection matters.
- Invest in and expand youth-specific drug and alcohol programs and trauma-informed residential rehabilitation programs that work.

#### **Bolster kinship caring**

- Prioritise the role of Aboriginal kinship carers in the child protection system to keep more Aboriginal children with family, aiming for a target of 75 per cent of children to be placed with kinship carers.

# Adults need smarter justice approaches

Strategies to 'Close the Incarceration Gap' have failed Aboriginal people in the NT, with the number of Aboriginal prisoners increasing by 11 per cent over the past 12 months.<sup>8</sup>

Prison does little to contribute to community safety as access to rehabilitation programs and services within prison are limited and constrained due to overcrowding. As a result, the Northern Territory has the highest rate of prisoners who return to prison within two years at 58 per cent, significantly higher than the national rate of 42.5 per cent.<sup>9</sup>

People in contact with the criminal justice system have higher rates of homelessness and unemployment and often come from socioeconomically disadvantaged backgrounds.<sup>10</sup> Prison entrants are around 100 times more likely to be homeless than people in the general community, while almost a half of prison discharges expect to sleep in short-term or emergency accommodation or sleep rough.<sup>11</sup>

According to the 2021 Census, 13,104 people are homeless in the Northern Territory — the highest rate of any jurisdiction in the country – with Indigenous people making up 87 per cent of the Northern Territory's homeless population. Just over half are women, and overcrowded housing remains the biggest driver.<sup>12</sup>

NAAJA calls for:

## **Better laws and improved courts**

- Amendments to bail laws, which have eroded the presumption of innocence, increased remand numbers, and prevented opportunities for intensive bail programs that assist rehabilitation prior to sentence.
- Reforms to the Sentencing Act (NT) to make sure all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.
- Investment in more Community Courts and the ability for Elders to sit with Judges in the Darwin Local Court.

## **More alternatives to reduce reliance on prison and tackle drivers of reoffending**

- Introduction of an adult diversion program.
- Meaningful community work opportunities that provide pathways to training and employment.
- Greater access to court-based alcohol and drug programs and residential or outpatient treatment.
- Increased investment in Domestic and Family Violence interventions.
- Investment in on-country support programs (such as AOD rehabilitation, financial counselling, relationships counselling and parenting support programs) to ensure fair access for remote communities and invest in more throughcare programs, such as the Kunga Stopping Violence Program.
- Aboriginal oversight of the record \$42.8 million in homelessness funding for the NT to ensure it helps to close the housing gap and meets the needs of Aboriginal people.

## **Reforming of the systems that embeds disadvantage and poor justice outcomes**

- Matching record investment in police with investment in courts and legal services, including specialist Aboriginal legal services, to manage increased workload.
- Structured community-specific cultural training for all new police officers delivered by local Aboriginal members to be compulsory.
- The establishment of a new independent police accountability mechanism that is complainant-centred, transparent, and robust with adequate powers and resources to carry out investigations.
- Removal of the barriers to bringing civil claims against the police to improve police accountability to the public.

### References:

<sup>1</sup> [JRI Adult Imprisonment Overview April24.pdf \(nationbuilder.com\)](#)

<sup>2</sup> SCRGSP (Steering Committee for the Review of Government Service Provision) 2024, Report on Government Services 2024, Productivity Commission, Canberra

<sup>3</sup> [Local court and youth justice court criminal courts stats to end march 2024.pdf \(nt.gov.au\)](#)

<sup>4</sup> (Australian Institute of Health and Welfare, Youth Justice in Australia 2022–23, supplementary tables S83b and S84b (2024).

<sup>5</sup> [Youth detention census | Department of Territory Families, Housing and Communities](#)

<sup>6</sup> [The NT's tough-on-crime approach won't reduce youth offending. This is what we know works - Justice Reform Initiative | Jailing Is Failing](#)

<sup>7</sup> [Family-Matters-Report-2023.pdf \(snaicc.org.au\)](#)

<sup>8</sup> Australian Bureau of Statistics, Prisoners in Australia, 2023.

<sup>9</sup> (Australian Productivity Commission, Steering Committee for the Review of Government Service Provision, [Report on Government Services 2023, Part C, Table CA.4](#) (2023).

<sup>10</sup> The health of people in Australia's prisons 2022, Health risk behaviours - Australian Institute of Health and Welfare (aihw.gov.au)

<sup>11</sup> The health of people in Australia's prisons 2022, Health risk behaviours - Australian Institute of Health and Welfare (aihw.gov.au)

<sup>12</sup> [Estimating Homelessness: Census, 2021 | Australian Bureau of Statistics \(abs.gov.au\)](#), Table 1.1