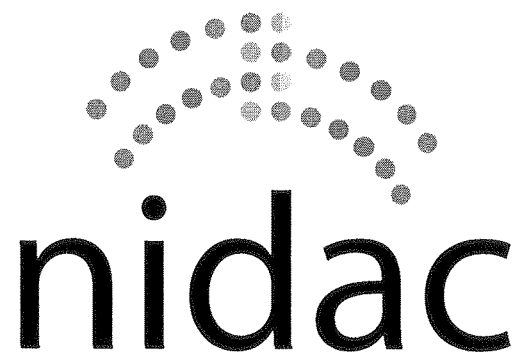


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Bridges and barriers

ADDRESSING INDIGENOUS INCARCERATION AND HEALTH

National Indigenous Drug and Alcohol Committee
The leading voice in Indigenous drug and alcohol policy

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Introduction

Indigenous Australians make up almost one-quarter of Australia's prison population. In the past 20 years, Indigenous Australians have continued to fill our country's prisons at alarmingly disproportionate rates. The issues experienced by Indigenous offenders are significant and complex. The strong links between substance misuse and Indigenous incarceration highlight an urgent need for government to address this disturbing problem.

For Indigenous Australians, the United Nation's impetus for countries to address equal rights for Indigenous people, and the Australian Government's commitment to close the 17-year gap in life expectancy within a generation, provide welcome signs that Indigenous health equality is not only a basic right, but is also officially recognised as being achievable.

The National Indigenous Drug and Alcohol Committee (NIDAC) welcomes the Australian Government's commitment, through the Council of Australian Governments (COAG), to address the social and/or structural determinants of Indigenous health. However, with the disproportionately large number of Indigenous Australians in our correctional systems, the social and health adversity incurred by their incarceration cannot be ignored.

The trauma and suffering that Indigenous people have experienced over generations have contributed to the burden of disease, substance misuse and incarceration. Sadly, many Indigenous Australians in prison are themselves victims of substance abuse or violent crime; as such, they have an indisputable right to access appropriate treatment and rehabilitation to address these underlying issues.

Now more than ever, there is an urgent need to reduce recidivism and the intergenerational effects of Indigenous incarceration by developing a national program that not only uniformly tackles the health inequalities in our correction systems but is also responsive to strengthening the health and cultural wellbeing of Indigenous Australians. It is imperative that these targets be embedded in all State, Territory and Australian Government policies and programs.

Prisoner health is an important priority and NIDAC is keen to see young Indigenous men and women diverted from a life of substance misuse and crime. Hopefully through the recommendations of this paper the future of Indigenous families and their children may be secured within a nutritive and safe environment.

THE TRAUMA AND SUFFERING THAT INDIGENOUS PEOPLE HAVE EXPERIENCED OVER GENERATIONS HAVE CONTRIBUTED TO THE BURDEN OF DISEASE, SUBSTANCE ABUSE AND INCARCERATION

Background

For Indigenous and non-Indigenous prisoners, time spent in prison is fraught with many risks to their health and wellbeing. Offenders have disproportionately higher rates of serious mental illness (Ogloff et al. 2007) and substance use. While in prison, they are at increased risk of blood-borne virus (BBV) transmission, physical violence, sexual assault and isolation. Even upon their release, numerous challenges remain as they sometimes face stigmatisation, social and cultural exclusion and frequently inadequate access to support networks and to health and social services. Evidence also indicates that prisoners have higher mortality rates upon their release relative to the general population (Hobbs et al. 2006).

All of these risks have particular relevance to the grossly over-represented population of Indigenous Australians within the corrections system who are already more likely to face greater health, social and economic challenges. As high levels of Indigenous imprisonment across Australia have continued since the 1991 report of the Royal Commission into Aboriginal Deaths in Custody, it is vital that strategies targeted towards improving the safety and lives of the Indigenous population include the correctional system.

Since health, substance misuse and wellbeing issues are closely linked to Indigenous violence, offending and incarceration, interventions that address alcohol and other drug misuse have the potential to significantly reduce the over-representation of Indigenous Australians in our correctional system. This is especially true for those Indigenous offenders who may more frequently commit more serious alcohol- and other drug-related offences.

Prison-related health risks

Indigenous offenders with an existing substance misuse, mental health or physical health problem often have complex needs. Separation from family and culture, together with a previous history of an undiagnosed or untreated health condition, places an Indigenous offender at great risk while in the correctional system. There is the danger of these issues, if left unattended, exacerbating or manifesting other health problems while an offender is in detention or in prison.

Blood-borne viruses

High-risk behaviours for BBV transmission, such as injecting drug use, tattooing, physical violence, body piercing and unprotected sex, are more prevalent in prisons (Heale et al. 2003). The level of hepatitis C among adult offenders in custody is estimated to be 17 times greater than in the general community (Australian Government National Drug Strategy 2008). In 2004 a National Prison Entrants' Blood-borne Virus Survey was conducted among people entering one of seven reception centres in New South Wales, Queensland, Tasmania and Western Australia. Of the 739 inmates, 63 per cent participated in blood testing and 77 per cent completed a questionnaire. Blood test results revealed that while less than 1 per cent of the sample was HIV positive, 34 per cent had hepatitis C (HCV) (Butler et al. 2005). Rates of HCV were higher among injecting drug users in the sample (56%), particularly among female injecting drug users (83% compared with 54% for male injecting drug users), while the proportion of those with HCV was similar for Indigenous and non-Indigenous persons (37% and 34% respectively) (Heale et al. 2003). These figures are well above those for the general community and place those not infected with HCV at great risk while in prison.

IN ONE AUSTRALIAN JURISDICTION APPROXIMATELY 60 PER CENT OF FEMALES AND 50 PER CENT OF MALES IN CUSTODY WITH A SUBSTANCE USE DISORDER ALSO HAVE A MENTAL HEALTH DISORDER

Comorbidity

Comorbid substance use disorder and mental illness are common among offenders in custody. In one Australian jurisdiction approximately 60 per cent of females and 50 per cent of males in custody with a substance use disorder also have a mental health disorder (Australian Government National Drug Strategy 2008). According to reports by the Human Rights and Equal Opportunity Commission's Joint Standing Committee on Mental Health and Human Rights, people with mental illness are consigned to incarceration, rather than treatment, because of the lack of appropriate mental health and associated services (Calma 2008). Research has also demonstrated that male prisoners are at increased risk of suicide and death from overdose in the period immediately following their release (Kariminia, Law et al. 2007). A study of ex-prisoners from Western Australia reported that Indigenous male ex-prisoners demonstrated higher mortality rates relative to non-Indigenous male ex-prisoners (Hobbs et al. 2006). This evidence highlights that strategies implemented within the prison environment must also be available post-release, particularly for Indigenous prisoners. Undoubtedly strategies of this nature would also help to reduce the likelihood of re-incarceration.

Indigenous prisoners and detainees: trends and characteristics

Despite the fact that Indigenous Australians comprise around 2 per cent of the entire Australian adult population (Australian Bureau of Statistics 2007a), Indigenous adults are 13 times more likely to be imprisoned relative to other Australians (see Figure 1). The age-standardised national Indigenous imprisonment rate at June 2007 was 1787 per 100 000 adult Indigenous population compared with 134 per 100 000 adult non-Indigenous population (Australian Bureau of Statistics 2007b).

The proportion of prisoners who are Indigenous varies across States and Territories. The Indigenous prisoner population in the Northern Territory comprises 84 per cent of the total prisoner population, while Victoria had the lowest proportion of Indigenous prisoners (6%). Notably in Western Australia in 2007, Indigenous Australians were 21 times more likely to be in prison than non-Indigenous Australians (see Figure 2) (Australian Bureau of Statistics 2007b).

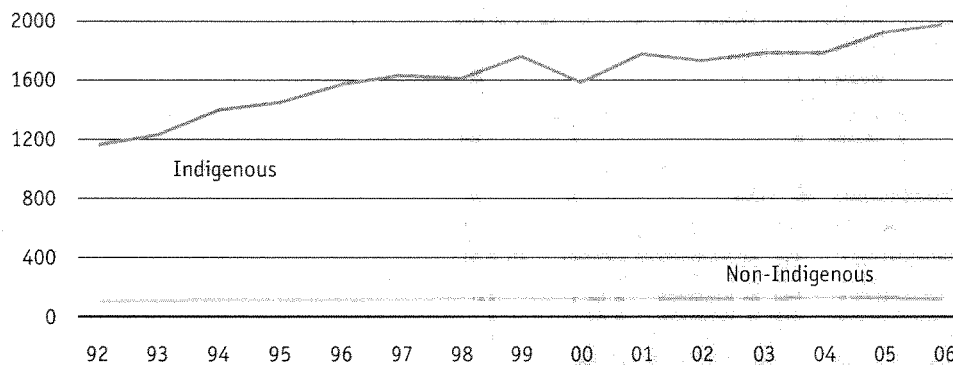
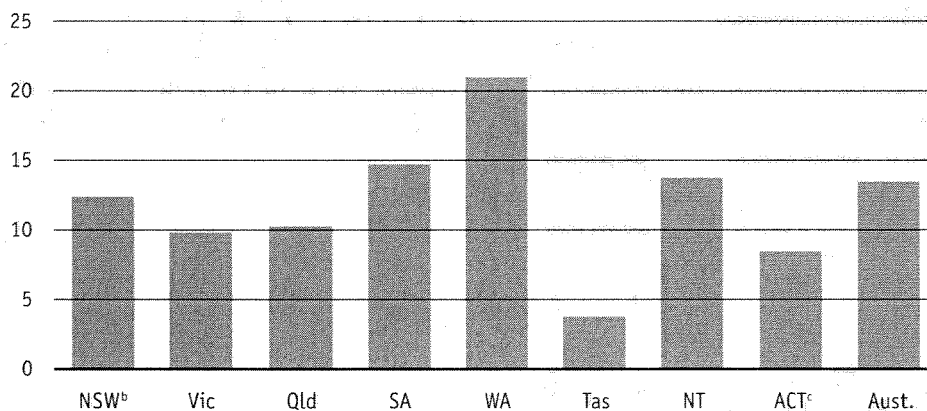


Figure 1: Indigenous and non-Indigenous prisoners, 1992–2006

(rate per 100 000 relevant persons)

Source: Australian Bureau of Statistics, *National Prisoner Census 2007*



^a Rate per 100 000 adult population.

^b Rate for NSW exclude ACT prisoners held in NSW prisons.

^c Data for ACT include ACT prisoners held in NSW prisons.

Figure 2: Ratio of Indigenous to non-Indigenous age-standardised rates of imprisonment^a

Source: Australian Bureau of Statistics, *National Prisoner Census 2007*

Gender

In 2007, the National Prisoner Census recorded that 31 per cent of all adult female prisoners and 24 per cent of all adult male prisoners were Indigenous, indicating that the overall figures are not restricted by gender (Australian Bureau of Statistics 2007b).

It is widely acknowledged that the needs of male and female prisoners are different. For example, female Indigenous prisoners experience greater rates of mental health and more extensive substance use histories than male prisoners, and many enter prison following a history of sexual or physical abuse (Johnson 2004). Also, the number of Indigenous women in prison has increased by 343 per cent (Aboriginal and Torres Strait Islander Social Justice Commissioner, 2005) since the 1991 Royal Commission into Aboriginal Deaths in Custody despite its principle that 'imprisonment should be utilised only as a sanction of last resort'.

Indigenous youth

Unfortunately, the over-representation of Indigenous Australians within the prison system is not confined to adults. Although the Indigenous juvenile imprisonment rate has declined by 33 per cent since 1997, more than half of young people aged 10–17 years in juvenile corrective institutions in 2006 were Indigenous (Australian Institute of Criminology 2008a).

Indigenous offenders are more likely to begin offending regularly at younger ages than non-Indigenous offenders, are more likely to be younger when they commit a property or violent offence, and therefore are significantly more likely to have a history of juvenile detention and incarceration as an adult (Joudo 2008). The rate of reappearance in court by Indigenous offenders was 187 per cent higher than that for non-Indigenous juveniles (Chen et al. 2005).

Between 30 September 1996 and 31 December 2002, rates excluded Tasmania because detainee Indigenous status data for Tasmania are unavailable for this period.

According to the 1990 United Nations Convention on the Rights of the Child, many of the Articles that established the minimum standards of treatment for all children directly relate to children in conflict with the law. The leading principles relevant to juvenile justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (1990) recognise the importance of rehabilitation and restorative justice objectives and the need for early intervention and diversionary options for all children, with particular attention to those vulnerable groups like Indigenous young people with cognitive disabilities or mental health issues. (Human Rights and Equal Opportunity Commission 1993)

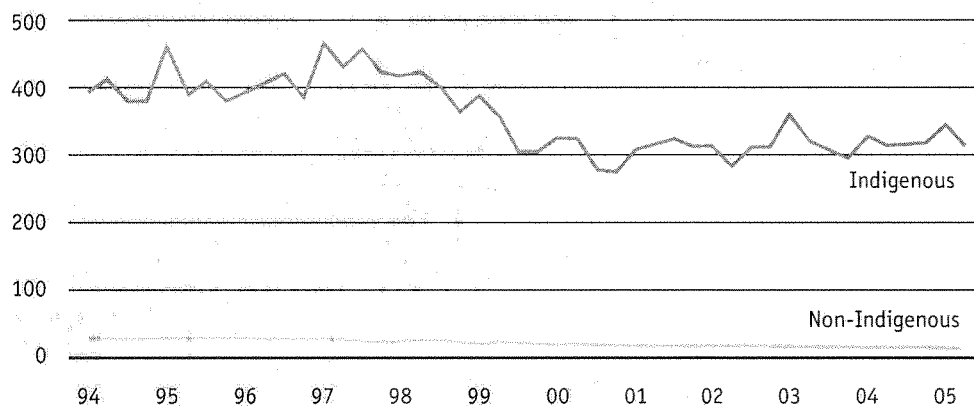


Figure 3: Persons in juvenile corrective institutions by Indigenous status, 31 March 1994 – 30 June 2005

(rate per 100 000 relevant population)*

* Between 30 September 1996 and 31 December 2002, rates excluded Tasmania because detainee Indigenous status data for Tasmania are unavailable for this period.

Source: Taylor, N. (2006) *Statistics on Juvenile Detention in Australia: 1981–2005*

Indigenous substance misuse issues

Even though data and records have documented alcohol and other drug use among prisoner populations, there is only limited research that differentiates between Indigenous and non-Indigenous prisoners.

The Australian Government recognises that Indigenous health status is generally well below that of non-Indigenous Australians, and it is accepted that the health status of prisoners overall is well below that of the general community. Therefore, it is clear that the health status (including alcohol- and substance use-related health disorders) of Indigenous prisoners is likely to be far worse than in the wider community.

Within police custody

Data from the Drug Use Monitoring in Australia project in 2007 reveal that over 68 per cent of Indigenous adult police detainees tested positive to a range of drugs, and 63.8 per cent self-reported they had consumed alcohol within the 48 hours prior to their arrest. In addition, females were more likely to test positive to any drug than males. In the Northern Territory, a significant 81 per cent of Indigenous adult police detainees reported they had used alcohol in the past 48 hours compared to 63.8 per cent nationally (Adam et al. 2007).

For juvenile detainees the figures appear to be higher. At New South Wales sites, almost 90 per cent of Indigenous juvenile detainees compared to 40 per cent of non-Indigenous juvenile detainees tested positive to drugs (Adam et al. 2007).

There is also considerable overlap between harmful drinking and testing positive to illicit drugs. Of all Australians in custody who self-reported drinking at a level that was harmful, 65 per cent tested positive to at least one other drug (Adam et al. 2007).

THE PREVALENCE OF TOBACCO SMOKING AMONG INDIGENOUS PRISONERS IS MORE THAN DOUBLE THAT OF NON-INDIGENOUS AUSTRALIANS AND MALE INDIGENOUS PRISONERS ARE MORE LIKELY TO BE DEPENDENT ON ALCOHOL OR CANNABIS

Within the corrections system

The likely severity of the issues being faced by Indigenous prisoners is highlighted by recent research which demonstrates that approximately 60 per cent of all offenders report drug use on at least one occasion during their current term of imprisonment, while approximately 33 per cent of people who inject drugs continue to inject drugs in prison (Joudo 2008). A smaller percentage also begin using drugs and injecting drugs for the first time when in prison (Joudo 2008). While Indigenous-specific data are not available, there is ample anecdotal evidence that the above figures also reflect Indigenous prisoner behaviour. The risks posed for a range of health disorders cannot be under-estimated for the individual, or for the family and community, when the individual returns after release from prison.

In addition, the prevalence of tobacco smoking among Indigenous prisoners is more than double that of non-Indigenous Australians (Australian Government National Drug Strategy 2008) and male Indigenous prisoners are more likely to be dependent on alcohol or cannabis (Putt et al. 2005).

Reasons for Indigenous over-representation in the corrections system

Socioeconomic factors

Numerous social and economic factors contribute to the over-representation of Indigenous Australians within the prison system. Indigenous Australians have suffered a long history of social disadvantage, cultural displacement, trauma and grief, and poor health and living conditions. While some social and economic indicators point to improvement in their conditions (Productivity Commission, Steering Committee for the Review of Government Service Provision 2007), it is apparent that Indigenous Australians remain seriously disadvantaged compared with other Australians. Indigenous Australians still suffer more ill-health, die at much younger ages, have lower levels of educational attainment and income, higher rates of unemployment and poorer housing conditions (Australian Institute of Health and Welfare 2007).

Social disadvantage and a history of upheaval culminating in trauma and grief clearly contribute to the high level of imprisonment among Indigenous Australians. Data from the 2002 National Aboriginal and Torres Strait Islander Social Survey (NATSISS) indicate that respondents to the survey were more likely to have been imprisoned if they had not completed Year 12 education, were unemployed, experienced financial stress, lived in crowded conditions, were a member or had a relative who was a member of the stolen generation, lived in more remote areas or abused drugs or alcohol (Weatherburn et al. 2006).

ALCOHOL IS WELL KNOWN AS A COMMON PRECURSOR TO OFFENDING AMONG INDIGENOUS AUSTRALIANS, WITH INDICATIONS THAT IT COULD BE A FACTOR IN UP TO 90 PER CENT OF ALL INDIGENOUS CONTACTS WITH THE JUSTICE SYSTEM

Alcohol and other drug misuse

Importantly one of the major issues confronting the criminal justice system is the strong link that alcohol consumption and drug misuse have with the risk of imprisonment (Weatherburn et al. 2006). Alcohol is well known as a common precursor to offending among Indigenous Australians, with indications that it could be a factor in up to 90 per cent of all Indigenous contacts with the justice system (Hazelhurst (1987), as cited in Forensic and Applied Psychology Research Group 2005). Additionally, Indigenous offenders are more likely to report being under the influence of alcohol at the time of the offence or arrest (Joudo 2008), and Indigenous male offenders are more likely to be dependent on alcohol than non-Indigenous male offenders (Putt et al. 2005).

These findings highlight the importance of implementing strategies to address alcohol and substance misuse as a means of diverting Indigenous offenders away from the criminal justice system and into education and treatment. Such a policy would also help to reduce the disproportionately higher re-offending and re-incarceration rates among Indigenous people, estimated to be close to three-quarters of Indigenous prisoners with a previous prison sentence, compared with just over half of non-Indigenous prisoners (Australian Institute of Criminology 2008).

Diversion barriers

Since its implementation in 1999, the Council of Australian Governments' Illicit Drug Diversion Initiative (IDDI) has developed into a large and complex response to drug use — spanning the health, police and justice sectors and the alcohol and other drug networks. Although the initial IDDI framework focused on police diversion, it was later adapted to include court diversion.

Accounting for nearly one-quarter of all diversions in rural and remote Australia in 2005–06, court diversion has emerged as a major component of the IDDI in practice. Consistent with Australian studies of drug diversion, there is evidence that Indigenous people are particularly disadvantaged in terms of accessing and completing diversion programs.

For Indigenous adults

The exclusion under the IDDI framework of offenders who have alcohol as a primary drug of concern or who have any history of violent offences is widely viewed as having a disproportionately negative impact on Indigenous offenders. A number of Indigenous-specific court diversion programs are in place to address this issue, together with initiatives to identify a range of other barriers to Indigenous participation. However, the availability of suitable treatment options for Indigenous offenders remains a major obstacle (Australian Institute of Health and Welfare 2008).

The criterion excluding offenders from diversion programs if they have a previous offence of violence is significant for many Indigenous people. Research estimates that 41–70 per cent of violent crimes are committed under the influence of alcohol (Joudo 2008) and reveals that over half the incidents of violent and serious assaults involve alcohol. This finding has significant repercussions for those Indigenous Australians most in need of diversion into alcohol and other drug treatment programs. The other criterion resulting in the exclusion of many Indigenous people from diversion programs is the requirement to admit to the offence — Indigenous people may be reluctant to talk to police or are advised to plead not guilty so as not to incur a criminal record.

For Indigenous youth

As Indigenous young people are over-represented in the juvenile justice system, are they as likely to be diverted as non-Indigenous young people? In South Australia, Western Australia and New South Wales, Indigenous young people are more likely than non-Indigenous young people to be arrested rather than cautioned, and tend to acquire a more extensive criminal record at a young age. The possession of a longer criminal record then increases their risk of detention or imprisonment when they reappear in the criminal justice system (Taylor 2006).

In South Australia, Indigenous young offenders are more likely to be sent to court and less likely to receive a formal caution (Wundersitz & Hunter 2005).

A SAMPLE OF 914 PRISONERS FOUND THAT 39 PER CENT OF FEMALE PRISONERS AND 45 PER CENT OF MALE PRISONERS HAD SUSTAINED AT LEAST ONE HEAD INJURY IN THE PAST

Similarly, in Western Australia, Indigenous young people are five times more likely to have had formal contact with the police and 29 times more likely to have been arrested (in the 10–14 year age group) (Loh & Ferrante 2003). In New South Wales, Indigenous young people are more likely than non-Indigenous young people to be taken to court (64% compared with 48%) and less likely to be cautioned by police (14% compared with 28%) (Chan et al. 2004).

Fetal alcohol spectrum disorders and acquired brain injury

The term ‘fetal alcohol spectrum disorders’ (FASD) is not in itself a clinical diagnosis but describes the full range of disabilities that may result from prenatal alcohol exposure. Acquired brain injury (ABI) can occur as a result of damage to the brain through prolonged alcohol, substance or inhalant abuse following birth.

Unfortunately, the incidence of FASD and ABI and the proportion of people in contact with the correctional system that have FASD or ABI are not known, but it is widely acknowledged that children with fetal alcohol syndrome (and those with ABI) may have social and behavioural problems (among others) that increase their propensity to contact with the correctional system. Notably, the Victorian Government acknowledges that people with ABI are over-represented in the criminal justice system and, in New South Wales, a sample of 914 prisoners found that 39 per cent of female prisoners and 45 per cent of male prisoners had sustained at least one head injury in the past (Famularo-Doyle 2005).

Intervention opportunities within the criminal justice system

Given the strong links between alcohol and other drug misuse problems among Australian prisoners and the proportionately higher pattern of substance misuse of Indigenous adult detainees, particularly among juveniles (Adam et al. 2007), the treatment of alcohol and other drug misuse problems among Indigenous offenders is an opportunity that could be of great benefit to the individual, their family and society. Since the Indigenous population profile is generally younger than the non-Indigenous population, diversionary success at an early stage could help to prevent an escalating increase in the numbers of Indigenous offenders (Victoria Department of Justice 2006). There are also enhanced benefits of providing a continuum of care as well as a comprehensive and holistic approach that addresses the complexities of Indigenous offenders' alcohol and other drugs misuse.

With imprisonment as the ultimate deterrent for offenders, the criminal justice system's crime prevention ability is limited. Although there are few Indigenous-specific programs available for police to divert Indigenous offenders away from the criminal justice system (Joudo 2008), opportunities to address alcohol and substance misuse problems exist at different levels of the criminal justice system, as outlined below.

Pre-arrest and pre-trial

Offenders may be diverted away from the criminal justice system at the pre-arrest stage and avoid any ongoing contact with the criminal justice system; for example, through receipt of a police caution. At the pre-trial stage it is possible for offenders to be diverted away from the criminal justice system and into education and treatment by police and court officials. This may include diversion into treatment for a substance misuse problem as a condition of bail (Pritchard et al. 2007).

Pre-sentence

Pre-sentence diversion opportunities also exist within the court. Primarily these are for first-time or early offenders and enable participants to avoid a criminal record. Yet, even after conviction, a court can still grant diversion as part of the sentence; for example, into alcohol or other drug treatment.

Within prisons and detention centres

Many opportunities exist for interventions to improve the health of the offender, once incarcerated. In New South Wales, Indigenous inmates are reportedly more likely to have contact with health professionals in prison than in the community (Kariminia, Butler & Levy 2007), which has important implications for the ongoing continuum of health care. Health intervention in prison clearly has significant potential to reduce the impact of chronic disease and mental health issues associated with alcohol and other drug misuse.

Compulsory treatment can also provide access to a range of drug and alcohol treatments in prisons and detention centres across Australia. Although compulsory treatment is implemented in a variety of ways, with differing methods or models of legal coercion, the ideal is for a balance between personal autonomy, with the individual taking responsibility, and coercive intervention by the State or Territory (Pritchard et al. 2007).

Since alcohol and other drug misuse can sometimes be a family or intergenerational problem for Indigenous prisoners or detainees, programs and/or treatment need to have the flexibility to be inclusive of family.

Current strategies to manage these complexities are often limited in scope and treatment, impacted by under-resourcing, restrictions on access, and the often intimidating and violent environment of prisons.

Post-release

The manner of release of a prisoner back into the community can represent one of the most critical factors for re-offending and community corrections services have a key role to play in reducing re-offending. Indigenous prisoners are nearly twice as likely to be readmitted to prison within two years and more than twice as likely to return to prison for assault (Willis 2008). In the case of those with a history of substance misuse, it is a time of great risk for substance misuse and overdose. One of the problems that Indigenous inmates also face is the loss of cultural identity and disconnection from their family. Therefore, connecting prisoners with their family and community after release may be greatly beneficial in reducing the likelihood of re-offending.

Although there are a number of reasons for re-offending, a key theme that emerged from many NIDAC stakeholder consultations was the need to improve support during transition back into the community, and the provision of increased capacity to undertake a continuum of care, especially in remote settings.

Issues for consideration

Diversion access

While there are numerous possibilities for addressing problematic use of alcohol and other substances at various stages of the criminal justice system, the participation rate of Indigenous Australians in diversion programs is low (Pritchard et al. 2007). This is also true for Indigenous young offenders, who appear to be much less likely to be diverted into treatment than their non-Indigenous counterparts.

Research has demonstrated that Indigenous offenders are more likely to face numerous barriers to diversion programs, contributing to their low participation rate. These barriers stem from, but are not limited to, Indigenous offenders being more likely to have multiple charges, previous criminal convictions, substance misuse problems, which are not within the scope of most diversion programs (such as alcohol use problems¹) and co-existing mental illness, coupled with the eligibility requirement of an admission of guilt. Furthermore, Indigenous offenders are more likely to have been convicted of a serious violent offence (Snowball & Weatherburn 2007). Unfortunately, one of these issues can often exclude offenders from most diversion programs due to their strict eligibility criteria.

A change in the eligibility criteria to enable greater Indigenous participation rates in diversion programs would provide an effective way to address the overrepresentation of Indigenous Australians in prison. Such a change would also be likely to have a positive impact on the health of communities, recidivism rates and the social and economic disadvantages that are prevalent among Indigenous people (and compounded by time spent in prison).

Other barriers to diversion opportunities for Indigenous offenders include the lack of such opportunities in remote areas and a mistrust of the police and legal system (Joudo 2008). The mistrust apparent among many Indigenous offenders may reflect past experiences and needs to be addressed over the long term.

Health access

Indigenous Australians already receiving medical care or treatment prior to incarceration or detention require ongoing access to their medical service or practitioner, as these services can offer a valuable insight into the clients' health care and continuum of care on release. On release and in community-based diversionary programs Indigenous offenders should be able to continue working with their health service. However, such access is limited in some jurisdictions, which can be detrimental to any improvement in a client's health.

The provision of 'one health service fits all', as in the case for many correction systems, creates a disjointed and unsuitable approach to addressing the complex issues of alcohol and other drug misuse among Indigenous offenders. Limited access currently exists for offenders to engage with Indigenous-specific alcohol and drug programs. In areas where there are Aboriginal community-controlled health services or Aboriginal alcohol and drug services, there are opportunities to involve these services in the health care of offenders and in their ongoing care post-release.

It is equally important that treatment programs include a holistic range of treatment options that are well suited to, and responsive in, treating Indigenous offenders (and their families) with alcohol- and other drug-related problems. In many instances, Aboriginal community-controlled health services, Aboriginal alcohol and drug services and others that are best placed to address Indigenous health and wellbeing can provide continuity in the type of holistic care required for Indigenous offenders.

In Australia there are over 25 residential rehabilitation programs funded by the Australian Government as well as other Indigenous alcohol and drug residential programs that are primarily State-funded. Many of these programs are in rural as well as in urban areas and target Indigenous people with alcohol and/or other drug problems (Brady 2002).

Such Indigenous-specific services should be utilised under a contract or partnership agreement to work in prisons and detention centres, especially where there is a significant population of Indigenous offenders.

¹ There are exceptions, such as the Queensland Indigenous Alcohol Diversion Program which commenced in July 2007 and the Alcohol Court in the Northern Territory (see Joudo 2008).

Burden of costs

Despite the recommendations of the Royal Commission and the substantial money invested in improving the corrections system, no headway has been made in reducing Indigenous over-representation in prison; indeed, the proportion has increased. It has been argued that the reason for this lack of progress is the failure to recognise that the leading cause of Indigenous over-representation in prison is Indigenous drug and alcohol misuse. Indigenous drug and alcohol misuse is seen as a far more direct cause of Indigenous incarceration than economic and social disadvantage. Far from being a symptom of Indigenous disadvantage, drug and alcohol misuse is its principal cause (Pearson 2001).

Strategies to address substance misuse are urgently needed to break the cycle of physical and social harm and the rate of incarceration. Given the increasing over-representation of Indigenous offenders, the financial and social costs of incarceration should be recognised, along with urgent consideration of alternative and more effective ways of reducing alcohol and drug misuse-related offences.

The total cost per prisoner in 2007–08 averaged \$269 per day or \$98,000 per year for each prisoner (Productivity Commission 2009). By comparison, the cost of residential rehabilitation was estimated to be \$98 per day (Moore et al. 2007).

Treatment is far more cost-effective compared to imprisonment costs, the social and family costs associated with offending, and the health complications that often accompany alcohol and drug misuse. Treatment provides an opportunity for recovery for the individual, with a resultant reduction in re-offending, a better environment for children, and improved safety for Indigenous communities. Rarely is such a compelling argument for reducing the over-representation of Indigenous people in the corrections system presented than in the provision of alcohol and drug misuse treatment and relevant support services.

Sector costs

With the introduction of alcohol and other drug diversion programs, a significant shift of responsibility occurs — from the justice and corrective service systems to the health system. However, this change is not always accompanied by a commensurate transfer of resources, particularly to alcohol and drug treatment services. The provision of offender rehabilitation also raises important issues requiring additional policy and funding consideration as well as adaptation for alcohol and drug services.

Furthermore, many Indigenous offenders have complex problems, in addition to alcohol and other drug misuse, which demand greater resources and an investment in staff training if those problems are to be adequately addressed.

Suitability of programs and services

Programs and mainstream services that are inclusive of family, pregnant women and women with children are also important for Indigenous offenders. These need to embrace Indigenous cultural specificity and ways to re-integrate into families and communities upon release from prison.

States and Territories have implemented various programs that specifically attempt to reduce Indigenous incarceration, the most common being Koori Courts in Victoria and the Alcohol Court in the Northern Territory, as well as models of restorative justice or circle sentencing. While these programs have contributed to addressing disproportional Indigenous incarceration, a consistent and national approach must be implemented.

Necessary short-term and long-term changes are outlined in the recommendations to follow.

Recommendations

These recommendations have been developed to apply specifically to Indigenous offenders within the community and the corrections system in order to reduce their unacceptably high level of incarceration and to improve the health, wellbeing and re-integration of Indigenous prisoners and juvenile detainees.

Short-term recommendations

Community-based

1. Provide every Indigenous young person with an individual education support fund to assist and promote their participation and retention within the education system.
2. Amend the eligibility criteria of current diversion programs to provide a greater incentive for the justice system and Indigenous people to participate by accepting Indigenous people (including those who have received advice to plead not guilty to avert a criminal record) into diversion programs with:
 - a prior conviction that is alcohol- or drug-related
 - selective multiple charges
 - any alcohol and/or other drug misuse problem
 - co-existing mental illness or health problem
 - a violent alcohol- or drug-related offence conviction.
3. Require each State and Territory receiving funding from the Council of Australian Governments' Illicit Drug Diversion Initiative to introduce and fund an increased number of Indigenous-specific diversion programs, with the stipulation that these services establish appropriate links with existing Aboriginal community-controlled health services in their region.
4. Provide federal funding for each State and Territory to develop and implement appropriate Indigenous-specific programs to assist family members in the return and re-integration of Indigenous offenders into their community and to reduce intergenerational offending and incarceration.
5. Ensure there is provision for performance indicators and the collection of data in community-based drug and alcohol services on the health care provided for Indigenous offenders.

Corrections system (juvenile and adult)

6. Improve the level of health services available to all Indigenous prisoners and juvenile detainees by:
 - providing comprehensive health screening on reception
 - encouraging the take up of treatment recommended after health screening
 - providing a continuum of health care and referral both within and beyond the corrections system by allowing Indigenous health and medical services access to prisoners and detainees
 - ensuring access to a full range of effective drug and alcohol treatments, as well as mental health services, which are well suited to treating Indigenous offenders (and their families), as are available to the wider community.
7. Conduct national research into the health needs of, and provision of appropriate and effective health services to, Indigenous offenders.
8. Institute a national leadership forum to monitor and evaluate strategies introduced to reduce the level of Indigenous incarceration.
9. Contract or develop partnerships with Indigenous services such as Aboriginal community-controlled health services and Aboriginal drug and alcohol services to work in correctional centres, especially where there is a significant population of Indigenous offenders.

Long-term recommendations

Prevention

1. Fund a network of community-based Indigenous youth wellbeing and activity centres with links to education and health services.
2. Develop a national alcohol and other drugs campaign for Indigenous Australians which aims to reduce demand and supply, as well as decrease the incidence of fetal alcohol spectrum disorder.
3. Ensure all alcohol and other drug misuse community management plans and community law and justice initiatives are developed collaboratively.
4. Identify and support current Indigenous-specific programs and best practices that are effective in reducing offending and re-offending.
5. Develop and encourage working partnerships between community-based patrols, law enforcement and drug and alcohol treatment services.

Intervention

6. Redirect funding from the construction and operation of any further correctional system centres to establish a 'break the cycle' network of Indigenous-specific residential rehabilitation centres as well as ambulatory rehabilitation services supported by Aboriginal community-controlled health services for courts to utilise as a real and viable alternative to incarceration.
7. Further develop consistent nationwide access to Alcohol Courts, Drug Courts and other diversionary operations.
8. Develop a national employment strategy for Indigenous Australians that enables them to train and establish a specialist Indigenous workforce of psychologists, doctors and nurses which can provide substance misuse, mental health and general health services, as well as coordination of care to assist in the re-integration and reconnection of prisoners and detainees into their communities.

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