Public Health Association of Australia:
Policy-at-a-glance – Incarceration of Aboriginal and Torres Strait Islander Peoples Policy

This policy is underpinned by the United Nations Declaration on the rights of Indigenous Peoples and the United Nations 1990 General Assembly Resolution on the Basic Principles for the Treatment of Prisoners.

Key message:
1. There needs to be a greater focus, in collaboration with Aboriginal and Torres Strait Islander organisations, on the underlying social issues which lead to higher level of incarceration of Aboriginal and Torres Strait Islander youth and adults.
2. There is no national or uniform approach to assess or meet the health care needs of the Aboriginal and Torres Strait Islander prisoner population. Custodial requirements presently take precedence over health care and community contact needs of Aboriginal and Torres Strait Islander prisoners.
3. Investment in interventions to prevent offending and subsequent imprisonment could provide significant social and economic benefits.
4. There needs to be a national focus on the over incarceration of Aboriginal and Torres Strait Islander people and support the call for a Closing the Gap Justice target.

Summary: This policy seeks to outline a series of principles and tangible actions designed to address the issues above and ultimately achieve improvements in the health status of Indigenous Australians at risk of incarceration.

Audience: Federal, State and Territory Governments, policy makers and program managers.

Responsibility: PHAA’s Justice Health and Aboriginal and Torres Strait Islander Special Interest Groups (SIG).

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Incarceration of Aboriginal and Torres Strait Islander People Policy Statement

This Policy Statement should be read in conjunction with the Public Health Association of Australia’s Aboriginal and Torres Strait Islander health policies.

The Public Health Association of Australia recognises that:

1. Prisoners have greater health needs than the general Australian population.¹

2. The high rates of Aboriginal and Torres Strait Islander incarceration is caused by many historical, political, economic and social factors and solutions must take a social determinants approach.²

3. Due to a range of historical, political and social issues such as colonisation, racism, lower levels of education and socio-economic status, Aboriginal and Torres Strait Islander prisoners’ health outcomes are worse than those of other Australians. Low levels of education levels and low socio-economic status are risk factors for substance abuse, risky alcohol consumption, and poor mental health which in turn are contributing factors for contact with the justice system.³

4. The forced removal of Aboriginal and Torres Strait Islander young people from their families and communities can cause dislocation from culture and has an impact on their health and wellbeing.⁴

5. An Aboriginal or Torres Strait Islander youth is 25 times more likely than a non-Aboriginal and Torres Strait Islander youth to be detained in a juvenile facility.⁵

6. Contact with the juvenile justice system is a strong predictor of incarceration as an adult. 86% of Aboriginal and Torres Strait Islander juvenile offenders enter the adult correctional system, compared with 75% of non-Aboriginal and Torres Strait Islander juvenile offenders, with 65% serving prison terms compared with 41% of non-Aboriginal and Torres Strait Islander juveniles. Further, 91% of juvenile offenders who had been subject to care and protection orders progressed to the adult prison system.⁶

7. Aboriginal and Torres Strait Islander persons comprise 3%⁷ of the Australian population, but make up 27% of the Australian Prisoner population. Aboriginal and Torres Strait Islander people are thirteen times more likely to be incarcerated than other Australians.⁸

8. 74% of Aboriginal and Torres Strait Islander people in prison have been to prison previously,⁹ compared with 48% of non-Aboriginal prisoners.¹⁰

9. About 34% of all women in prison in Australia are Aboriginal and Torres Strait Islanders. The rate of incarceration of Aboriginal and Torres Strait Islander women increased by 70% between 2002 and 2012.¹¹
The Public Health Association of Australia notes that:

10. Around half of Aboriginal and Torres Strait Islander prison entrants link their offending to alcohol and/or substance misuse.  

11. High incarceration rates of Aboriginal and Torres Strait Islander people is a symptomatic of wider social issues in the community.

12. There is no national or uniform approach to assess or meet the health care needs of the Aboriginal and Torres Strait Islander prisoner population.

13. The cost of incarceration is approximately $230 per day to house an adult prisoner. This would suggest that investment in interventions to prevent imprisonment could provide significant financial and economic benefits. Investment in treatment and alternatives to custody is consistent with the community’s views on the treatment of offenders.

14. The Implementation Plan for the Aboriginal and Torres Strait Islander Health Plan outlines that: The Australian health system is free of racism and inequality and all Aboriginal and Torres Strait Islander people have access to health services that are effective, high quality, appropriate and affordable. Together with strategies to address social inequalities and determinants of health, this provides the necessary platform to realise health equality by 2031.

The Public Health Association of Australia makes the following recommendations:

15. Justice Targets are added to the Closing the Gap targets.

16. For non-violent and non-sexual crimes, the PHAA calls on all jurisdictions to make imprisonment the punishment of last resort for Aboriginal and Torres Strait Islander people.

17. A Custody Notification Service is established in every State and Territory to reduce deaths in custody.

18. The Royal Commission into Aboriginal Deaths in Custody recommendations be implemented.

19. The PHAA calls for an increase in community health measures and funding of Aboriginal Community Controlled Health Services to address primary health, mental health and substance dependence problems in the community ensuring that those with mental health and/or substance dependence problems are offered effective treatment options including residential treatment, as a preventative measure and an alternative to incarceration.

20. The PHAA calls on all jurisdictions including the Australian Government to adopt practices consistent with the United Nations 1990 General Assembly Resolution on the Basic Principles for the Treatment of Prisoners. Article 9 states: “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”
21. The PHAA calls for those in custody to have access to selected items available through Medicare and the Pharmaceutical Benefits Scheme to improve health outcomes. Prisoners should also have access to national schemes available in the general community.

22. When incarceration is mandated, Aboriginal and Torres Strait Islander prisoners should be housed as close to their family/community of residence as possible.


24. The current rate of Aboriginal and Torres Strait Islander incarceration is deplorable and the PHAA believes that the underlying social determinants, which contribute to this situation, must be addressed as a matter of urgency. The PHAA calls on all jurisdictions to develop:
   a. Early intervention programs, which identify and address social and health behaviours likely to lead to contact with the criminal justice system; this is particularly important in the areas of mental health, substance use and dependence, and violence;
   b. Evidence-based education and vocational programs targeting disaffected youth; and
   c. Culturally appropriate and effective alternatives to incarceration such as court diversion programs, Circle Sentencing, youth and adult drug courts and magistrates’ referrals into treatment, to be implemented.

25. Aboriginal and Torres Strait Islander prisoners should be given the option of accessing Aboriginal Community Controlled Aboriginal Health Services while in custody. This is important for the smooth transition of health care from within prisons to external health care services (and if the individual returns to custody).

26. The PHAA calls on all jurisdictions to examine the concept of Justice Reinvestment as a concept for reducing incarceration rates, including Indigenous incarceration.

27. The PHAA calls for greater investment in screening programs for cognitive disabilities (e.g. Fetal Alcohol Spectrum Disorder, dementia) to ensure individual needs are being met.

The Public Health Association of Australia resolves to:

28. Work in partnership with the relevant Aboriginal and Torres Strait Islander organisations on advocating for prevention and reduced incarceration of Aboriginal and Torres Strait Islander peoples as well as improved health outcomes.
ADOPTED 2008, REVISED AND RE-ENDORSED IN 2016

First adopted at the 2008 Annual General Meeting of the Public Health Association of Australia. The latest revision has been undertaken as part of the 2016 policy review process.

References


12. NIDAC (2012), An economic analysis for Aboriginal and Torres Strait Islander offenders – prison vs residential treatment. ANCD, Canberra.


15. Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan 2013-2023


18. Plueckhahn, T.M., Kinner, S.A., Sutherland, G., & Butler, T.G Are some more equal than others? Challenging the basis for prisoners’ exclusion from Medicare