

Prison Health in Queensland

This statement outlines the Queensland Aboriginal and Islander Health Council's (QAIHC) position on prison health for Aboriginal and Torres Strait Islander people(s). It argues the need for increasing participation of Aboriginal and Torres Strait Islander community-controlled health organisations (ACCHOs) in the delivery of culturally safe and holistic health care for First Nations people in custodial settings.

This statement outlines the following considerations:

- **The context of Aboriginal and/or Torres Strait Islander people in custody**
- **Health and wellbeing of First Nations offenders**
- **Barriers to prison health care delivery**
- **The role of ACCHOs in prison health care**
- **Delivering better prison health care for Aboriginal and Torres Strait Islander peoples**
- **Recommendations for improving prison health care for First Nations peoples.**

Context

There is a long history of over-representation of Aboriginal and Torres Strait Islander people in the prison population, a population which is already one of the most stigmatised and socially excluded groups in Australia.¹ Aboriginal and Torres Strait Islander people represent 33% of the total prison population,

while only making up 3.8% of the total Australian population.² There are significantly more First Nations men being incarcerated (91% of all First Nations offenders), however First Nations women are incarcerated at 19 times the rate of non-Indigenous women.²

Explanations for Aboriginal and Torres Strait Islander over-incarceration are well documented.^{3,4} Historical injustices and intergenerational marginalisation commit many Aboriginal and Torres Strait Islander people to underprivileged circumstances and an oppressive relationship with the justice system.

It is also important to note that a large proportion of prison stays are temporary, with a median time to serve of 1.4 years for a First Nations offender.² With people constantly entering and being released from prison, the health of First Nations people in prison is part of public health.

Queensland had the largest numerical increase in total number of prisoners from 30 June 2022 to 30 June 2023 for any of the state and territories.⁴ The proportion of these offenders who identified as having an Aboriginal and/or Torres Strait Islander background also increased by 11% during that time.⁴

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1. Queensland Health and Queensland Corrective Services. *Reducing barriers to health and wellbeing: The Queensland Prisoner Health and Wellbeing Strategy 2020–2025*. 2020.
 2. Australian Institute of Health and Welfare. *The health and wellbeing of First Nations people in Australia's prisons 2022*. AIHW, 2024.
 3. Pettit, Simon et al. "Holistic primary health care for Aboriginal and Torres Strait Islander prisoners: exploring the role of Aboriginal Community Controlled Health Organisations." *Australian and New Zealand journal of public health* vol. 43,6 (2019): 538-543. doi:10.1111/1753-6405.12941
 4. Shepherd, Stephane M et al. "Closing the (incarceration) gap: assessing the socio-economic and clinical indicators of indigenous males by lifetime incarceration status." *BMC public health* vol. 20,1 710. 18 May. 2020, doi:10.1186/s12889-020-08794-3

In addition, 2022 data demonstrates Aboriginal and Torres Strait Islander children make up 62% of the state's youth in detention, with 80% of those children in detention awaiting trial or sentencing.⁵

Health care in prisons

States and territories have operational responsibility for the provision of all health services, including primary care, in places of detention. State legislation, as well as the medical ethical principle of justice, affirm the right of offenders to access the same level of care as the wider community.^{6,7}

QAIHC is the peak body for ACCHOs in Queensland. QAIHC believes that all Aboriginal and Torres Strait Islander people, including those in custodial settings, should have the same opportunity to be healthy and well as other Australians and deserve equitable access to the health system.

QAIHC and its Member services advocate for the provision of services in Queensland prisons to be, at the very least, equivalent in quantity and quality to those available in the wider community. These services should not only focus on healthcare but also on facilitating the individual's reintegration into society.

Health and wellbeing of First Nations offenders

Almost half (49%) of Aboriginal and Torres Strait Islander prison entrants reported a history of a chronic physical condition, with 38% experiencing one of these conditions currently. These conditions include asthma, arthritis, back problems, cancer, cardiovascular disease, chronic kidney disease, diabetes, osteoporosis and/or pulmonary disease.²

There is also an over-representation of Aboriginal and Torres Strait Islander people with a disability in the criminal justice system, with almost one in four First Nations young people in detention living with an intellectual disability compared with one in 12 non-Indigenous young people.⁸

Nearly one-third (32%) of First Nations prison entrants reported a long-term health condition or disability that impacted on their education, employment and/or everyday activities, and 43% reported being diagnosed with a mental health or behavioural condition (including alcohol and other drug use disorders).² Foetal Alcohol Spectrum Disorder (FASD), in particular, was one of the most consistently reported issues for young people in detention.⁹

Many people entering prison may be unaware of existing health conditions due to not accessing health services previously. Three quarters (75%) of Aboriginal and Torres Strait Islander people in custody reported seeing a health professional in prison compared to only 63% seeing a health professional in the community in the year prior.²

5. First Peoples Disability Network, National Aboriginal and Torres Strait Islander Legal Services, Aboriginal and Torres Strait Islander Legal Services, SNAICC. 2024. *Condemning the state sanctioned abuse and mass incarceration of First Nations children with disability*, media release, 25 July, viewed 20 August 2024.
6. Corrective Services Act 2006 (QLD) [Internet]. 30 May 2017 [cited 2024 July 31]. Available from: <https://www.legislation.qld.gov.au/view/pdf/inforce/2017-05-30/act-2006-029>
7. The Office of the High Commissioner for Human Rights. *Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. 1982.
8. Justice Health and Forensic Mental Health Network and Juvenile Justice NSW, 2015 Young people in custody health survey, Report, November 2017, p 84.^s
9. RA Pedruzzi, et al., Navigating complexity to support justice-involved youth with FASD and other neurodevelopmental disabilities: needs and challenges of a regional workforce, *Health Justice*, 2021, 9(8).

Moreover, a quarter of First Nations people exiting prison were diagnosed with a health condition for the first time while in prison.²

The complex health and wellbeing needs of Aboriginal and Torres Strait Islander offenders have to be considered within the context of the social determinants of health (including employment, education and housing). Additional considerations for First Nations people including cultural identity, family and kinship, caring for Country and participation in cultural activities, and access to traditional lands act in conjunction with these social determinants of health to influence health and wellbeing. These can have a larger influence on health inequities than other factors like lifestyle choices.¹⁰

A place of detention can be the first time health services are accessed and conditions treated for Aboriginal and Torres Strait Islander people in custody. These health services need to be fit-for-purpose and culturally appropriate.

Barriers to prison health care delivery

Funding model

Prison health care services in Australia are delivered by either state or territory bodies or by private corporations and are not a Commonwealth responsibility. The Medicare Benefits Scheme (MBS), however, is funded by the Commonwealth government. Unless there is specific state government funding for the delivery of health care, private healthcare providers cannot deliver health services in custodial health settings as they are unable to bulk bill Medicare for the services delivered.

The Pharmaceutical Benefits Scheme (PBS) is also funded by the Australian Government. Funding for medications dispensed to people in prison must also be covered by state and territory bodies, except for medications that fall under Schedule 100 of the PBS, known as the Highly Specialised Drugs Program.

Preventive, reactive and acute health care

There is no nationally uniform approach to assessing or meeting the health care needs of the Aboriginal prison population. In addition, the provision and funding arrangements of prison health services differs between each state and territory jurisdiction. In the absence of systematic approaches to delivering comprehensive preventive health care to those in custody, people in prison miss opportunities for holistic health assessments, and ongoing continuity of their care upon release from prison.

The current prison healthcare model is largely reactive to individual requests that must go through custodial staff who do not have the relevant health or cultural training and are not obligated to act in the best interest of the individual. The power and reliance of other people to support access to health is a unique barrier to First Nations people in custody.¹¹

In addition, the custodial mainstream medical model of care is based on acute health care and prevents people in prison from accessing holistic, long-term, preventative care. It does not reflect the First Nations understanding of health relating to social and emotional wellbeing, guided by connections to community, culture, Country, kin and self (mind and body).¹¹

In Victoria, prison health services are contracted out to health service providers. The Healthcare Services Quality Framework for Victorian Prisons 2023 (Quality Framework) articulates the standard of care expected to be delivered by health service providers in prisons and the unique requirements of delivering care in a prison system.¹² This Framework states that: Health service providers must ensure that: “all Aboriginal people are offered an annual Aboriginal health check that is equivalent to the Medicare item number 715 and considers the physical health and social and emotional wellbeing needs of the individual” and that “the Aboriginal health check informs the Integrated Care Plan” and “the the health check is conducted by an Aboriginal Health Practitioner or Aboriginal Health Worker”.

10. Grace J et al. Review of Indigenous offender health. Australian Indigenous HealthInfoNet. 2011.

11. Nous Group. *National Review of First Nations Health Care in Prisons*. 2024.

12. Healthcare Services Quality Framework for Victorian Prisons 2023.

The Queensland Prisoner Health and WellBeing Strategy (2020-2025)¹³ does not reference quality standards for preventive health assessments.

Lack of cultural awareness and trauma-informed training of custodial staff

A high number of people who are in custody or are in contact with the criminal justice system have a history of adverse childhood experiences. It is also common for this group to have had multiple life experiences of trauma and violence, including physical and sexual abuse. Aboriginal and Torres Strait Islander prisoners with this history may have a distrust of institutional care and do not always have access to prison health care staff who have had cultural awareness and trauma-informed training.⁸ Misunderstandings of certain behaviours (e.g. oppositional behaviours seen as defiant as opposed to a symptom of trauma) feed into the systemic racism common in custodial facilities and is a barrier to accessing appropriate care and healing.¹¹

In Queensland prison facilities, there are Aboriginal Health Workers (AHW) and First Nations mental health worker positions employed through state government departments.¹¹ Aboriginal Health Workers (AHW) and First Nations mental health worker positions employed through state government departments are challenging to fill and retain with this staff facing high levels of risk, stress, racism and heavy cultural load.¹⁴

Multiple information record systems

All people who enter places of detention undertake an initial health assessment process to advise on which services are provided to the individual during their sentence. These assessments vary greatly between facilities and the questions generally reflect the limited range of services available rather than proactively identifying chronic health and wellbeing issues that may require a more complex response. Aboriginal and Torres Strait Islander peoples may have access to a separate assessment similar to the Aboriginal and Torres Strait Islander Peoples Health Assessment (MBS Item 715) which is available in the community, however this may not be made clear to those entering the custodial setting.¹¹

In addition, many places of detention use paper-based medical record systems and rely on individuals' health literacy to understand and report their health conditions and medications to the facility, rather than connecting with clinicians and health systems in the community.¹¹

Using multiple information record systems to support inmate care is time-consuming, inefficient and a barrier to delivering quality, preventative health care. The lack of communication and transferring of clinical information between prison health care and external health providers can impact on the continuity of care and the level of care that can be provided upon release.

Compared to other Australians, people in prison are more likely to have poor health and be in need of comprehensive, effective and culturally safe healthcare – but are less likely to have access. This is an example of the phenomenon understood as the 'inverse care law'.¹⁵

Broader policy guidance

In 2020, Queensland Corrective Services, in collaboration with Queensland Health, released the *Reducing Barriers to Health and Wellbeing: The Queensland Prisoner Health and Wellbeing Strategy 2020-2025*.¹ This strategy aimed to provide prisoners with healthcare equivalent to that available in the Queensland community. Acknowledging the severe overrepresentation of the Aboriginal and Torres Strait Islander population in the justice system, the strategy emphasised the need for increased and tailored healthcare for these individuals but provided no specific targets, actions, or strategies to support this action. Despite Priority Reform One in the National Agreement on Closing the Gap ("formal partnership and shared decision making (with Aboriginal and Torres Strait Islander peoples and organisations)", the strategy did not mention ACCHOs as partners to provide healthcare for prisoners or assist in the transition back into the community.

13. Reducing barriers to health and well-being: The Queensland Prisoner Health and Well-being Strategy 2020-2025. State of Queensland (Queensland Health). 2020.

14. Cartwright T et al. *Cultural Review of the Adult Custodial Corrections System*. Dec 2022.

15. Tudor Hart J. The Inverse Care Law. *Lancet* 1971; 297: 405-12.

The Department of Health and Aged Care recently published the National Review of First Nations Health Care in Prison and outlined six recommendations on opportunities for systemic reform to improve health care delivery for First Nations people in places of detention.¹¹ These recommendations were:

1. Health and justice ministers agree to a set of **national reform principles** to drive action.
2. Health and justice ministers investigate evidence provided to the review and take steps to **cease any practices that violate prisoners' rights**.
3. Establish a **National Partnership Agreement** to govern the reform of First Nations health services in places of detention.
4. Implement a **national program of work** for First Nations health care in places of detention, led by the National Partnership Agreement.
5. Facilitate the **leadership of the Aboriginal community-controlled health sector** in the policy, design and delivery of health services in partnership.
6. Health and justice ministers **pilot alternative, therapeutic models of custody** for First Nations people, prioritizing mothers and young people.

Recommendation 4 of the *National Review* proactively addresses many of the barriers listed above to develop a national First Nations model of care that is fit-for-purpose and can be tailored to reflect the cultural nuance of local communities. The recommendation requested:

- An agreed set of health outcome indicators, national minimum data set as well as national quality standards for culturally safe healthcare for First Nations people in places of detention
- Focus on continuity of care for people moving through the custodial system
- Transparent funding agreements based on a needs-based health care model including:
 - Limited activation of MBS in places of detention through a Section 19(2) exemption with conditions
 - Tailored MBS items that 'mirror' general MBS items e.g. Item 715, 10987, 81300-81360, 735-738, 701-707.
 - Exploring options for state and territories to access the reduced purchase prices of medications that the Australian Government can achieve through the PBS.

- A national prison health workforce strategy to improve and maintain recruitment of First Nations people into custodial settings, as well as developing culturally responsive education and training co-designed with the ACCHO sector to tailor to the specific needs of staff working in custodial health.

Recommendation 5 of the *National Review* mandates formal partnerships between state governments and NACCHO Affiliates through state-wide governance committees. NACCHO Affiliates, like QAIHC, can provide leadership to ensure culturally safe care is provided across custodial health settings while ensuring local ACCHOs are invited, but not forced, to co-design tailored models of healthcare to support First Nations people in places of detention local to them.

The ACCHO sector's role in prison health care

ACCHOs are primary healthcare services initiated and operated by local Aboriginal and Torres Strait Islander communities to deliver holistic, comprehensive and culturally appropriate health care to their community.¹⁶ They currently service approximately 46% of Aboriginal and Torres Strait Islander people in Australia² but only 26% of First Nations people exiting prison reported receiving treatment or consultation from an ACCHO.²

The majority of ACCHOs in Australia do not receive funding to deliver primary healthcare and support to prisons, with 76% of prisons never receiving a visit from ACCHOs, as described in a 2022 Australian Institute of Health and Welfare report.² While nearly two-thirds of the surveyed 200 Aboriginal and Torres Strait Islander people leaving prison reported receiving culturally appropriate health care while inside, less than 10 of those people surveyed were from Queensland.

The alarming prevalence of chronic conditions among Aboriginal and Torres Strait Islander individuals in prison underscores the need for a comprehensive approach in shaping and providing healthcare and wellbeing care services within the correctional system. This approach should prioritise well-coordinated, integrated and uninterrupted healthcare, starting from an individual's initial interaction with the legal system and extending through their reintegration into the community and beyond.

16. NACCHO. *Aboriginal Community Controlled Health Organisations (ACCHOs)* [Internet]. 30 May 2017 [cited 2024 August 6]. Available from: <https://www.naccho.org.au/acchos/>

ACCHOs understand the unique needs, challenges, and solutions Aboriginal and Torres Strait Islander communities require. Involving ACCHOs in prison care will help meet Targets 10 and 11 of the National Agreement on Closing the Gap, which is to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30% by 2031. It also supports Priority reforms 1, 2 and 3 of the National Agreement.

QAIHC has identified a strong case for the Federal and Queensland governments to review how Australia's ACCHO sector can be better integrated with the criminal justice system to support the delivery of culturally safe, effective, and relevant healthcare and support to Aboriginal and Torres Strait Islander people in custody nationally.

Case study

The Winnunga Alexander Maconochie Centre Health and Wellbeing Service (AMCHWS) is the first prison health service operated by an ACCHO in Australia.¹⁷ In January 2019, it began offering standalone comprehensive health and wellbeing services to First Nations offenders, and their families, at an adult detention centre. Of the approximately 400 adults imprisoned at this facility, 24% identified as Aboriginal or Torres Strait Islander. The Winnunga holistic care model has three parts:

1. Incarceration — provide holistic care during incarceration and planning for release
2. Release from prison — provide post-release health service coordination, and family and community reintegration strategies
3. Manage the cycle of incarceration — provide early family, and other intervention strategies.

A survey in 2020 found the service to be highly satisfactory, timely, respectful and culturally safe to their patients.¹⁸ All 16 respondents reported their concerns were listened to, and their beliefs were respected by the staff.

ACCHOs provide:

- Non-judgmental, culturally safe care
- Continuity of care
- Another link to reintegration into the community
- A cultural touchpoint for inmates who are only experiencing a westernised institutional existence.

Delivering better prison health care for Aboriginal and Torres Strait Islander peoples

Prioritising the physical, mental, social, emotional, neurodevelopmental, and spiritual health and wellbeing of First Nations people in prison is crucial for narrowing the health gap and reducing over-representation in the justice system. This will necessitate a system-wide shift to a largely therapeutic model of operations in custodial settings.

A crucial piece of this is more active involvement of ACCHOs, who are best placed to provide culturally centred holistic care to Aboriginal and Torres Strait Islander peoples. Funding must be urgently directed to the sector to facilitate partnerships in this area.

17. Winnunga Nimmitjyah Aboriginal Health Service. *Winnunga Prison Health Report 2007*. Jun 2007.

18. Arthur L et al. "Evaluating Patient Experience at a Novel Health Service for Aboriginal and Torres Strait Islander Prisoners: A Pilot Study." *Australian Indigenous HealthInfoNet* vol 3,1 4. 2022, doi:10.14221/aihjournal.v3n1.4.

“Closing the Gap targets cannot be met without addressing the health of the First Nations prison population.”¹¹

Recommendations

Recommendation 1:

Queensland Corrective Services support a partnership with QAIHC and ACCHOs, in relevant regions, to allow for appropriate and effective healthcare focused on holistic health and safe transition back to the community for Aboriginal and Torres Strait Islander offenders.

Recommendation 2:

Queensland Corrective Services co-develop with QAIHC a policy framework which encompasses actions to ensure that all offenders have access to quality, comprehensive, culturally safe and holistic primary healthcare provision whilst in custody, an optimised program of cultural education for prison staff; effective data sharing to optimise transitions of care; and performance measures including vital statistics on prison health.

Recommendation 3:

Queensland Corrective Services co-develop a program to support the safe transition of care from prison health services to local community-based primary healthcare services for all prisoners.

Recommendation 4:

The Queensland Government fund ACCHOs to provide culturally safe primary healthcare and rehabilitation programs within the justice system to Aboriginal and Torres Strait Islander inmates. This includes programs that allow increased access to allied health services and improved referral pathways from primary care to specialist services.

Recommendation 5:

The Queensland Government fund evidence-based support programs outside and within the justice system that can assist prisoners and people at risk of committing crime to enhance their social, emotional and physical health and wellbeing.

Recommendation 6:

The Commonwealth and Queensland governments negotiate the retention of prisoners' entitlements to the Medicare Benefits Scheme (MBS) and the Pharmaceutical Benefits Scheme (PBS) throughout all stages of the custodial cycle, or permits custodial services exemptions to Section 19(2) of the National Health Insurance Act (1973)¹⁹ to ensure consistent access to essential healthcare and treatment for individuals in custodial settings.

Recommendation 7:

Queensland Corrective Services establish tailored MBS items that 'mirror' those available in the community, particularly Item 715 (Aboriginal and Torres Strait Islander Peoples Health Assessment), emphasising preventive care and targeted interventions to address prevalent health issues (e.g. smoking), and ensuring the well-being of individuals in custody.

Recommendation 8:

Queensland Corrective Services and Queensland Health to support an integrated health information electronic record system for those in custody that integrates with public and private medical records systems to ensure continuity of healthcare.

Recommendation 9:

Queensland Corrective Services and Queensland Health to support the implementation of effective screening and supports for First Nations children with disability.

19. Section 19 of the Health Insurance Act 1973 provides that Medicare benefits are not payable for certain professional services (such as those provided in hospitals, multi-purpose services and community clinics) where other government funding is already provided for that service. An exemption permits these benefits to be payable.