



# A place to call home

## CRIMINAL LAWYERS ASSOCIATION OF THE NORTHERN TERRITORY (CLANT)

The link between the criminal justice system and chronic pervasive health issues including substance abuse and mental health disorders, is palpable. Homelessness, overcrowding and a lack of available public housing are, similarly, factors that when combined with these underlying health issues, give rise to antisocial and offending behaviour, often in the public sphere.

'Justice reinvestment' is a term that has seemingly lost favour with consecutive NT Governments, which have determined instead to focus upon tough-on-crime rhetoric, mandatory sentencing and investment in high-tech prison facilities, mobile CCTV stations and the BDR. These are strategies that neither prevent nor deter crime, particularly in instances involving offenders who suffer from chronic health issues.

The Darwin Correctional Centre currently functions at over 125 per cent of its designated operational capacity. Many of its prisoners are individuals who have been found not guilty of criminal charges by reason of their mental health, yet remain incarcerated simply because there are no practicable housing options in the community for individuals with such mental health issues. Most of the individuals who make up the remaining prison population have entrenched drug and alcohol abuse issues and/or come from a background of exposure to substance abuse and domestic violence.

There has been an increase of 350 per cent from 2013 to 2017 in the number of forensic mental health reports ordered by NT Courts. A large number of these reports are sought in relation to Part IIA matters in the Supreme Court, while others relate to matters being heard in the recently implemented 'Mental Health List' of the Darwin

Local Court.<sup>1</sup> It is understood that the government plans to introduce legislation to extend the jurisdiction of the Local Court, adding provisions akin to Part IIA that would empower the Court to deal with unfit and mentally impaired persons and in turn, place such persons on supervision orders—presumably both custodial and non-custodial in nature.

Whilst this may be an attractive policy move, absent a holistic, inter-departmental approach between Corrections, Health, Housing and the Attorney-General and Justice; such an approach will simply create a further wave of homelessness in the form of a sub-species of prisoner—namely, the unfit and the mentally impaired—who will remain warehoused in our prisons.

In a recent matter heard in the Supreme Court, an individual was found not guilty of committing an offence by reason of the fact that he was suffering a mental impairment at the time of the offending. In the course of the proceedings, evidence was presented to the Court that only two private, 24-hour supported secure care facilities—with a combined total of thirteen beds—operate within the NT. Both facilities are run by NGOs and are at capacity, with current waiting periods of up to two years. To make matters worse, residential rehabilitation programs in the NT are extremely limited, with less than 200 beds available in the entire NT. The vast majority of these programs are not supported by government funding.

A recently released report by the *Australian Institute of Health and Welfare Family, domestic and sexual violence in Australia 2018* reveals truly shocking statistics. Of all persons who pleaded guilty or were found guilty of domestic violence offences in the NT during the period



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2015 to 2016<sup>2</sup>, 87 per cent were sentenced to actual imprisonment. By contrast, in all of the other jurisdictions sampled by the ABS during the same period, only 20 to 36 per cent of domestic violence offenders were sentenced to actual imprisonment. The remaining offenders were placed on intensive non-custodial orders which generally included therapeutic and rehabilitative components.

Justice re-investment is an essential measure to lower both offending rates and the alarming level of incarceration in our jurisdiction. The current Government must invest in major projects that will necessarily create an increase in employment and infrastructure in both remote and regional centres. In practical terms, this means providing funding for the immediate implementation for the following projects:

- The abolition of all mandatory sentencing legislation in the NT;
- Large capacity, secure care 24 hour supported facilities in Darwin and larger regional townships, including Alice Springs, Tennant Creek, Katherine and Nhulunbuy;
- Large capacity drug and alcohol residential rehabilitation centres—with a particular focus on education and therapeutic support—in Darwin and larger regional townships, including Alice Springs, Tennant Creek, Katherine and Nhulunbuy;
- Permanent forensic mental health staff in remote community medical centres;
- Permanent AOD health professionals based in remote community medical centres; and

- Individualised rehabilitation programs that accommodate both one-on-one and group counselling, facilitated in Indigenous languages at both the Darwin and Alice Springs Correctional Centres.

Absent these measures, the intended policy changes are ineffective and further marginalise sick and vulnerable members of our community. We need safe environments within our community to treat and rehabilitate people with legitimate health issues. Locking such individuals away is not the answer at any level – indeed, from a purely fiscal perspective, the costs associated with incarceration at both present and forecast rates are nothing short of astronomical.

The time for true inter-generational change is upon us. We must immediately create infrastructure to prevent a new generation of individuals with mental health and chronic addiction issues from entering the criminal justice system, whilst also providing a place in the community for those who have unfortunately already fallen through the gaps. ‘Justice reinvestment’ needs to be reimaged and appropriately treated by the current Government as a safe place for both these individuals and in turn the community as a whole; a place to call home.

1 Having been implemented in 2016.

2 The ABS statistics reflected that nine out of ten domestic and family violence offenders within the NT that pleaded guilty, or were found guilty, identified as Indigenous.