

## Throughcare for Indigenous Peoples Leaving Prison

*Hilde Tubex*<sup>1</sup>

*The concept of throughcare for Indigenous peoples leaving prison has attracted a lot of attention in Australia over the last couple of years. The reason for this is the ongoing overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system and, more particularly, in prison. Recent approaches to address this overrepresentation are focusing on the back end of the criminal justice process, investigating reintegration needs after release to prevent reoffending. This is particularly the case for Indigenous peoples as we know that high recidivism rates are one of the main drivers for overrepresentation in prison. In this contribution, I want to provide an overview of recent throughcare related government reports, academic research and publications, as a guide to new information now available. In the discussion, I am looking for convergences and divergences and recommendations for the way forward.*

The overrepresentation of Aboriginal and Torres Strait Islander peoples in Australian prisons is longstanding and well documented. The Australian Bureau of Statistics provides yearly snapshots of characteristics of the prison population on the 30<sup>th</sup> of June. In 2020, 29% of the prison population identified as Aboriginal and/or Torres Strait Islander, while accounting for about 3% of Australian people. Indigenous peoples are 13 times more likely to find themselves in prison than non-Indigenous people. Within the prison population, Indigenous women are the fastest-growing subgroup; they represent 36% of the female prison population and are 21 times more likely than non-Indigenous women to find themselves in prison. High recidivism rates contribute significantly to Indigenous overrepresentation in prison; 79% of the Indigenous peoples had been in prison before, against 51% of the non-Indigenous people (ABS, 2020). Recent approaches to address this overrepresentation focus on preventing reoffending in supporting the

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<sup>1</sup> University of Western Australia Law School, Crawley, Western Australia



transition from prison to community and after release. This is where the concept of ‘throughcare’ comes in, which is defined as:

*Prisoner through care projects provide comprehensive case management for a prisoner in the lead up to their release from prison and throughout their transition to life outside. Projects aim to make sure prisoners receive the services they need for successful rehabilitation into the community during the course of their transition from inside to out. (COAG, 2016, p. 62)*

Over the last years, several government reports, academic research and publications were dedicated to this topic. Each of these reports and projects has its own focus and objectives; national or state-based, global or focused on employment, accommodation or (mental) health issues. However, together they bring a wealth of information and advice on how to develop effective throughcare for Indigenous peoples leaving prison. The aim of this commentary is twofold; to provide a short overview of what information is available and how it was collected, and to discuss convergences and divergences in the findings and provide recommendations for the way forward. I have divided the sources into government (funded) research and academic research and publications.

### **Government (funded) reports**

In December 2016, the Council of Australian Governments (COAG) published the *Prison to Work* report (COAG, 2016). This report followed from a statement by the Prime Minister in his 2016 Closing the Gap<sup>1</sup> address to Parliament in which he referred to employment as a circuit breaker in the cycle of prison, recidivism, and return to prison. COAG engaged with stakeholders in every Australian jurisdiction, including government, academics, service providers, prison staff, and prisoners in 20 prisons across the country (stakeholder list provided in the appendix to the report). While focusing on employment to prevent recidivism, consultations drew attention to a wider range of issues Indigenous peoples face while in prison, during transition, and after release, including the need for throughcare. One of the nine main findings of the report is that there is insufficient transitional support and throughcare. According to the consulted stakeholders, getting support is mainly a matter of luck and depending on the intervention of particularly driven and supportive caseworkers who provide assistance after hours and beyond what they are paid for. Service providers emphasise the

importance of trust and familiarity in providing throughcare, and therefore the need for continuity and formalised collaboration in service provision, also between pre and post-release services. The report suggests possible actions that could be undertaken at a Commonwealth level and joint actions between the Commonwealth and State and Territory corrections agencies. It further provides an overview of (employment) services available at the Commonwealth level and in each jurisdiction. This overview illustrates the patchwork of throughcare initiatives delivered inside the prison, during transition and on the outside.

In March 2018, the Australian Law Reform Commission (ALRC) tabled a lengthy report on *Pathways to Justice. An Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* (ALRC, 2017). The inquiry was an initiative of the federal Attorney General for the ALRC to investigate – on a national and jurisdictional level – laws and legal frameworks as well as other factors that were taken into consideration during the decision-making; and data, research, and reports related to the incarceration of Aboriginal and Torres Strait Islander peoples. The ALRC held wide consultations with 149 stakeholders and received 127 submissions to an earlier released discussion paper. As the scope of this report is much broader, throughcare does not receive a lot of emphasis. However, without making any specific recommendations for the implementation of throughcare, the report states that:

*The ALRC supports the Aboriginal and Torres Strait Islander led development and delivery of throughcare to Aboriginal and Torres Strait Islander prisoners exiting the prison system as a means of lowering the likelihood of repeat offending within the community.* (ALRC, 2017, p. 317)

In October 2019, an *Adult Through-Care Model for Aboriginal and Torres Strait Islander Peoples* was published by Abt Associates Australia, funded by the Australian Government (Abt Associates Australia, 2019). This report is a response to one of the COAG (2016) recommendations, the first-mentioned report. The aim is to provide “a recommended approach and operational guidance to deliver Adult Through-Care (ATC) for Aboriginal and Torres Strait Islanders” (Abt Associates Australia, 2019, p. 12). This model is guiding the approach and reporting of throughcare services funded by the National Indigenous Australians Agency. It is stated that the report/model is based on consultation and engagement with stakeholders, extensive



literature review and co-design process. From an academic point of view, this report might raise some eyebrows; there is no number or list of stakeholders that were consulted<sup>2</sup>; there are no references for the ‘extensive literature review’ (other than for web-based definitions I counted two academic sources, both from the UK); and there is no description of the methodology used to develop the model. Further, there is no mention of consultation following the initial development of the model. According to the report, the ATC model is only meant for those with complex and high needs, at risk of reoffending, and who are motivated to stop reoffending. ATC staff need to identify and prioritise these clients. Using their professional judgement and all available supporting evidence, they need to check for areas of need (domestic and family violence issues; alcohol and/or drug addiction; homelessness or housing issues; mental or physical health; no connection to family or community support), and it is the number of areas of need (‘complexity level’) that guides the intensity and frequency of the support<sup>3</sup>. The intensity and frequency can be increased in case of elevated risk factors. The subsequent parts of the report set out service delivery standards for ATC service providers for each stage of the process (initial, pre-release and post-release); a workforce strategy on the requirements for recruiting, training, developing and supporting an effective and sustainable workforce; and a data management strategy.

### **Academic research and publications**

In August 2019, the Indigenous Clearing House published a Research Brief *Towards effective throughcare approaches for Indigenous people leaving prison in Australia and New Zealand* (Day et al., 2019). The brief aims to consider the current status of throughcare programmes in both countries and to identify some key issues going forward. A first point made is that different terms are used to cover the concept of throughcare, with, as a consequence, no setting of common performance indicators against which programme success can be measured. Due to short-term funding cycles, formal documentation in Australia is limited, which hampers the measurement of the effectiveness of outcomes. In New Zealand, the published work is even more limited leading the authors to the conclusion that, using a narrow definition of throughcare, “it is probably the case that there are currently no throughcare programs in New Zealand” (Day et al., 2019). A second point is that there is a lack of publicly available and methodologically robust evaluations of the effectiveness of throughcare

programmes when it comes to reducing reoffending (as in return to custody). Participants reported they felt they benefitted from attending throughcare programmes, but there is a lack of data on the impact of these programmes on recidivism. The authors state that the existing literature does, however, provide guidelines for potentially effective practice; it is important that programmes are co-designed with local communities and stakeholders, and the involvement of family in throughcare support is critical. Moving forward, it is important to develop a uniform terminology, and there is “a need to support the further development of throughcare programs in both Australia and New Zealand such that robust evaluations can occur” (Day et al., 2019).

In 2015, John Rynne, Harry Blagg and I received funding from the Australian Institute of Criminology via their Criminology Research Grant scheme to conduct qualitative research into *Building Effective Throughcare Strategies for Indigenous Offenders in Western Australia and the Northern Territory* (CRG 23/15-16). The research was conducted during 2016 and 2017 in the Kimberley region of Western Australia, and in the Northern Territory (Darwin, Alice Springs and one of the Tiwi Islands) and the reporting was released after a lengthy peer review and publication process (Tubex et al., 2020a, 2020b). The research was community-based, acknowledging the importance of communities, and included the views of people with lived experience, their family and other community members, as well as service providers. During 18 days of field trips spread over the project, we conducted 38 interviews and focus groups, involving 59 people. We used yarning as a data-gathering tool and NVivo for the analysis of our data. A consultation paper was sent to as many participants as possible to check the accuracy of our interpretations and their comments were incorporated in the final report. In presenting the results, we used numerous quotes to ensure our findings were led by the voices of the people we talked to. Our leading argument from what was shared with us was that for Indigenous peoples, experiences with the criminal justice system and with imprisonment, in particular, are different, and therefore require a different approach. This is related to the uniqueness of Indigenous cultures, particularly in the regional communities where we conducted our research. The importance of country, traditions, and cultural obligations towards extended family and the broader community, the specific roles of Elders, respected people, and women, as well as the community lifestyle and sharing culture, all impact on how throughcare needs are to be addressed. Of further importance in organising effective throughcare is an acknowledgement that



colonisation imposed a Western criminal justice system that overruled traditional conflict resolution, albeit that the traditional methods are still valued and in practice; that invasion and dispossession created negative experiences towards criminal justice officers; and that intergenerational trauma and grief are salient underlying factors in criminalisation.

Most recently, there is a report from the University of New South Wales (Schwartz et al., 2020), based on a roundtable held as part of the Australian Research Council *Rethinking Community Sanctions* project (ARC DP 1701000893). The roundtable was held in 2018 with five of the key community sector organisations providing post-release support to people leaving prison in New South Wales (both Indigenous and non-Indigenous). It reports on the common barriers community organisations face in delivering effective transitional support. The report focuses on four broad areas emerging from the consultation and a review of the literature. These are concerns relating to service referrals and exiting custody practices; the health needs of people leaving prison; housing instability and homelessness; and the need for long-term funding stability and strong evaluation frameworks. For each of these areas, the report provides recommendations for reform.

## **Discussion**

After this overview of research, consultation and information, what can we conclude when it comes to throughcare needs for Indigenous peoples and how to address them? From my readings, there are two over-arching learnings:

The first is that *structural transitional support for Indigenous peoples leaving prison is lacking*: we are looking at a landscape of very fragmented and scattered services, working under different names related to throughcare, with different approaches, based on unstable funding and without much evidence of their effectiveness. This carries risks of both overlaps and gaps in service delivery and a more structured approach is needed. However, it is also acknowledged that trust and familiarity are important in working with Indigenous communities, which is better provided by local services with a background in and strong relationships with the communities. Further, as developing effective throughcare services for Indigenous peoples leaving prison is a very place-based endeavour, it will not be possible to establish a one-size-fits-all model. Therefore, the main issue to be addressed is stable funding for local agencies, which allows for

coordination and collaboration (the New South Wales research suggests five years minimum). Further, specific attention is needed for particularly vulnerable groups, such as Indigenous women and those with (mental) health problems.

The second is that there is *a lack of evaluation frameworks*, which might be linked to ensuring stable funding. An independent evaluation funded by corrective services is suggested in the New South Wales research. I agree with them that outcome measures need to be holistic and go beyond recidivism, as we know that preventing reoffending is the ultimate goal, but that desistance is a process in several stages.

The ATC model we discussed above (Abt Associates 2019), was developed in an attempt to achieve uniformity and give direction, as well as to improve data collection for evaluation, as recommended by the COAG (2016). However, in my view and based on the other readings, it does not provide a sound basis for guiding the development of throughcare strategies. A first point is that the report fails to recognise the distinction between risk management and throughcare. The first is a resource-intensive attempt at public protection where it is felt that there is an identifiable risk the person might commit further offences once released. The second is an enabling process whose aim is to support individuals in their reintegration and heal communities. The report seems to lean towards the first because the eligibility for the programme relates to the assessment of need complexity and risk of reoffending. Priority must be given to people with more than two of the identified areas of need. The sad reality is that most Indigenous peoples in prison will not have great difficulty meeting this criterion, and for that matter, probably the same is true for most non-Indigenous people.

Further, the jargon and approach of the report are very managerial, the principles and guidelines at the same time very detailed and very generic, and some seem to miss real-world connections. Just as an example, the intensity and frequency of support as suggested in the ATC model might not be realistic given the vast distances in regional communities. Moreover, just because of the 'complexity of needs', the almost mathematical approach contrasts with the grassroots, hands-on, and very flexible approach of the services we met during our fieldwork. Maybe most concerning is that, regardless of the reference to co-design and consultation, I miss a strong Indigenous voice in the model, reference to self-determination and investment in communities to develop their strengths and work effectively with their members returning from prison.



### Where to from here?

If the proposed ATC model does not address our concerns in providing effective throughcare strategies for Indigenous peoples leaving prison, what are then the takeaway messages from the literature and empirical research discussed above?

- There is an agreement in the evidence that programmes and support need to be developed in *co-design* with local communities, but even more importantly, by and with the involvement of Indigenous peoples, based on their knowledges and strengths. This is needed to ensure practices are culturally appropriate and that all involved learn about Aboriginal culture. It is also emphasised that an individualistic approach is not appropriate when it comes to Indigenous peoples and that the involvement of extended family members is crucial.
- A further point of agreement is that *employment* can play a valuable part in resettlement. However, vocational training needs to be adjusted to the situation the person is going to after release. Employment opportunities in most communities are slim, while needs are high. Therefore, it is important that training is tailored according to local realities and not an off-the-shelf product that risks leaving people frustrated. Another area of need is for government to increase employment opportunities in the communities.
- The other widely reported priority is a focus on *accommodation and homelessness*. From a throughcare perspective, there is a need for transitional supported housing after release. This support needs to be holistic, providing not only accommodation but also support in the administration and maintenance of a house, how to budget, and how to deal with humbugging<sup>4</sup>.
- Further comments are that throughcare needs to be a *process*, which starts well before the release date, and, in an ideal situation, throughcare trajectories get started from the first point of contact with correctional services, to prevent anomalies that later need to be addressed. Throughcare support is crucial at the moment of release, and simple considerations, such as the time of release and the availability of transport to get to a safe home, can make the difference between a successful start and another revolving door.
- Our own research drew attention to the need for effective interventions to recognize the depth of the conflict between the dominant *Western*



*individualistic lifestyle* that forms the framework of our housing and employment regulations and *traditional Indigenous values*. It is clear that initiatives based on assumptions of the superiority of one set of values over the other will fail. Sharing accommodation with family can lead to overcrowding to the risk of losing the house, cultural obligations such as attending funerals can cause absence at work and job loss. Therefore, we argued, if the fact of Indigenous peoples being torn between two worlds is not addressed in suitable and flexible arrangements and support, we are possibly setting people up to fail. Employment and access to a safe place are basic needs for any throughcare to be successful, as poverty, boredom and living in unhealthy environments are all stepping stones to reoffending.

### **Concluding**

To achieve all the above, throughcare requires a holistic approach, a governmental collaboration between justice, community and welfare services, housing, and health. This is an obvious, straightforward, but very challenging demand. Personally, I would plead for a bottom-up approach; making sure local organisations can develop good practice based on stable funding, which allows for a coordinated approach, with each other and Indigenous communities, including an evaluation planning which looks at all aspects of a desistance process.

As said, the aims of each of the discussed reports and projects are slightly different, but there is considerable agreement on which way to go. Therefore, we conclude that there is no need to wait for another audit or commission, it is now time for action!

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<sup>1</sup> Closing the Gap is a government strategy that aims to reduce disadvantage among Aboriginal and Torres Strait Islander peoples by achieving (initially) six targets.

<sup>2</sup> There is reference to “Aboriginal and Torres Strait Islander end-users, existing Commonwealth adult through-care service providers that support Aboriginal and Torres Strait Islander adults, community groups, non-government organisations, state and territory governments (justice and corrections agencies), and key experts.” (Abt Associates Australia, 2019, p. 2).

<sup>3</sup> This ranges from low (post-release: weekly in first 2 weeks; fortnightly to monthly thereafter), medium (post-release: 2-3 times a week in first 4 weeks) to high (post release: daily in first week; 2-3 times a week in first 4 weeks; weekly to monthly thereafter as required).

<sup>4</sup> Described as ‘unreasonable or excessive demands from family’.