

Young Indigenous imprisonment in NT: 'You wouldn't believe it in a modern-day society'

Riots, escapes, allegations of mistreatment: what's behind the crisis in youth detention in Northern Territory? A special investigation by **Helen Davidson**



Inside B Block at the Don Dale juvenile detention centre. Detainees were moved to the former adult prison in December 2014 after a riot, despite the corrections commissioner saying it was 'only fit for a bulldozer'. Photograph: Helen Davidson for the Guardian

By Helen Davidson

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Matthew was a “yellow shirt” inside the Don Dale detention centre, given work rights and freedom to leave the centre because of his good behaviour. Green and blue shirts also have lower security but the three groups rarely mix with the maximum-security red shirts.

“We know about them because we always get locked down when they do something bad,” he says. “It happens like every day, you’ll get locked down for half a day because someone is running amok. Then you’ll get let out and then someone else will do something and you’ll be locked down for another hour or couple of hours.”

Matthew is at the sharp end of the failings in the Northern Territory's youth detention centres, which have lurched from one crisis to another in the past 18 months. In this period the territory has experienced a dozen custodial escapes, several disturbances in detention and serious allegations of detainee mistreatment by authorities.

John Lawrence SC, a Darwin lawyer formerly in charge of Aboriginal legal aid, says: "The stories I'm getting you wouldn't believe in a modern-day society, the way they're treating these kids."

The system, he says, has "never been as chaotic and shambolic".

In August 2014 staff at Don Dale used teargas on juveniles who had barricaded themselves in after lengthy and allegedly unlawful stints in solitary confinement.

In response, the ailing facility was closed and in December all detainees were moved to the former adult prison in Berrimah, which the corrections commissioner, Ken Middlebrook, had previously labelled fit only for a bulldozer. While Berrimah was hastily refurbished for \$1.2m and renamed (as the "new" Don Dale), detainees were held at the half-billion-dollar new adult prison. They caused disturbances at all three facilities.

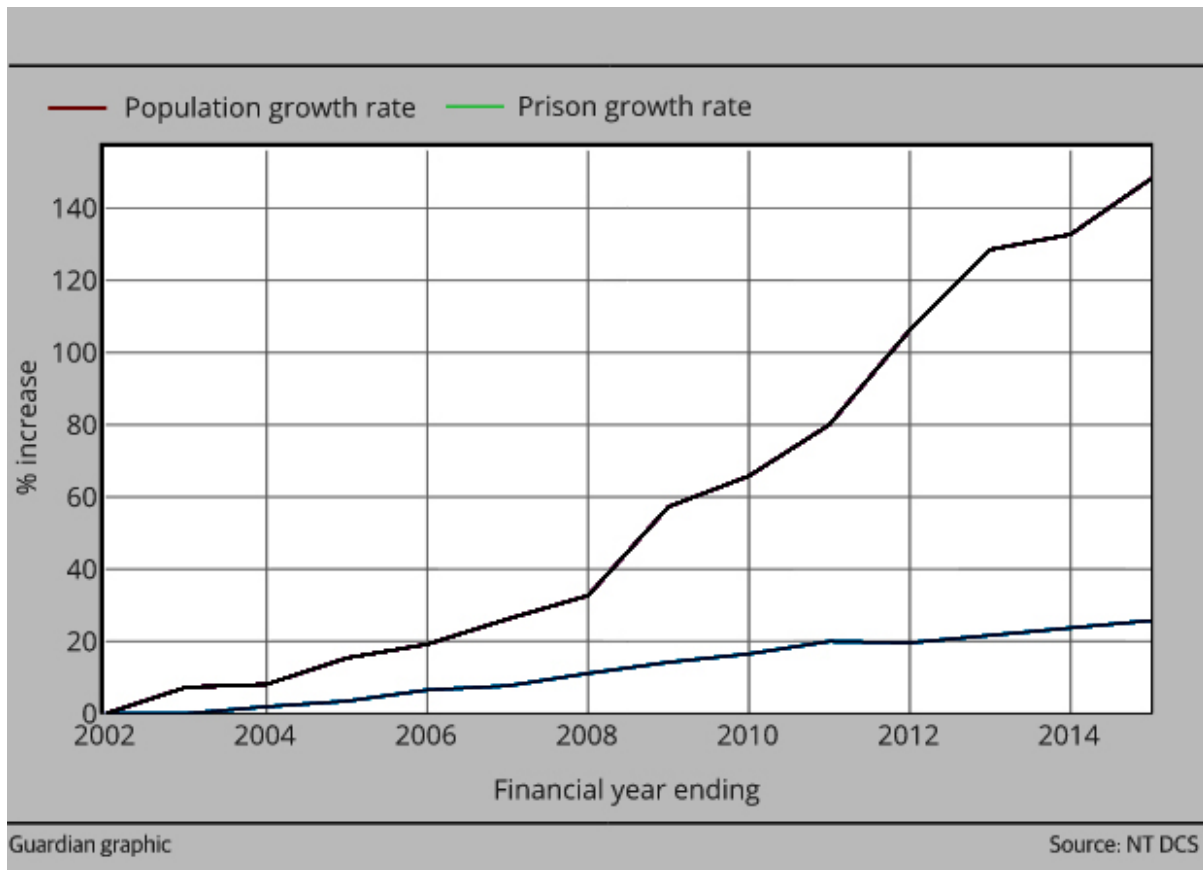
Matthew is a veteran of all three. "The old Don Dale I reckon was the best out of all the places because everything was organised," he says. "Everything was just normal, like a normal detention centre.

"They had programs, alcohol and drug programs, sport programs. Once every week or something they'll have a program."

The new place at Berrimah was different. "They weren't really tough but things weren't in place," he says. "Because they just moved there they weren't settled in yet. They still had stuff to do, like building and renovating. They needed more case workers."

Of the 249 detainees who passed through a youth detention centre in 2013-14, 32% were under 15. Jail and youth detention statistics in Australia paint a wearily familiar picture of Indigenous disadvantage but in the territory they are catastrophic.

Its imprisonment rate is massively disproportionate to the rest of the country – 838.3 for every 100,000 compared with 187.3 nationally in 2013-14. The over-representation of Indigenous juveniles nationally – 24 times the rate of the general population – is magnified in the territory, where about 96% of the incarcerated population is Indigenous.



Indigenous NT youths are more likely to commit their first offence at a younger age, are more likely to face multiple charges and are being detained for more serious offences. Mick Gooda, the Aboriginal and Torres Island social justice commissioner for the Human Rights Commission, says Australia is better at keeping black kids in jail than in school.

A government-commissioned review into youth detention said the system existed in a “climate of daily crisis”. What began as an embarrassment to the NT government in general and the corrections department in particular has become the subject of repeated complaints by legal and human rights bodies.

The problem is twofold. An increasing number of youths are entering the “revolving door” of incarceration and the conditions they encounter there

reveal a system increasingly incapable of offering realistic hopes of rehabilitation.

The result, critics say, is a system which has failed and lost the confidence of the community.

‘A climate of daily crisis’

After the disturbances, two investigations were launched. One by Michael Vita, the former boss of New South Wales’ Long Bay jail and Villawood detention centre, examined the state of the territory’s juvenile detention, with terms of reference set by the government. Vita listed 33 incidents, including several alleged assaults on detainees by staff at both Don Dale and Alice Springs, in the four years before the 2014 disturbance.

The other investigation, by the then NT children’s commissioner, Dr Howard Bath, investigated the August unrest and events leading up to it.

Vita’s review, released in February, found a system in “a climate of daily crisis” with a lack of adequate training among the largely casual staff, “nonexistent, outdated and inadequate” detention practices, and little consistency.

In September the government released the children’s commissioner report. The commissioner – now Colleen Gwynne – found the youths were subject to “inhumane” solitary confinement, inappropriate use of restraints and spithoods, and unlawful transfers to the adult prison.

Two youth justice officers told investigators they believed solitary detention had led to the disturbance. “The kids kept asking if they could get out and management never had any answers for them and the detainees went off and I don’t blame them, I would have too,” one said.

The report’s findings sparked outrage among legal and advocacy groups, who warned of an “imminent risk of human rights violations”. The UN was urged to intervene.

“A nation is judged by how it treats its most vulnerable and these findings say we should be judged harshly,” said the director of the Australian Law Council, Arthur Moses SC.

Middlebrook labelled the report inaccurate and accused Gwynne of cherry-picking.

In June a group of youths spent 30 minutes trashing a wing of the new Don Dale while it was understaffed, before escaping through the roof, only to return two days later by driving a stolen car through the front gate.

Guardian Australia was among media to walk through the facility to see the smashed walls and TVs, splattered paint and broken furniture. “B Block boys running a muck” was scrawled across walls and tables. The cells were empty. The escapees were still at large and those remaining had been moved to C block, an unrefurbished section of the prison that Middlebrook conceded was inappropriate for juvenile custody.

John Elferink, the NT attorney general and the minister for corrections, justice, and children and families, blamed a “historically soft” approach to youth justice for making the escape possible. “[The offenders] see themselves clearly as some hardcore little group of thugs and they have behaved in accordance with that self image,” he said.

“We’re not talking about children any more. We’re talking about young men essentially. These guys are 16, 17 years of age.”

Elferink and Middlebrook – who said a core group of detainees were responsible for most of the recent incidents – responded with a mix of increased training for staff, harsher rules inside the centre and tough amendments to legislation.

NT police have been investigating further claims relating to Don Dale for about six months. There were several other escapes, allegations of solitary confinement and stripping of clothes, and in September a justice forum in Darwin heard claims that juveniles were encouraged to eat bird faeces and fight each other in return for junk food.

Middlebrook said there was no evidence to support the claims. Elferink said they were taken seriously, but noted they occurred at the “old” Don Dale, now closed.

‘They’re either mad or they have a legitimate grievance’



Inside the damaged Don Dale detention facility. Photograph: Helen Davidson for the Guardian

Jared Sharp, of the North Australian Aboriginal Justice Agency (Naaja), said corrections favoured punitive methods and young people had been “caged up like animals”.

The NT system was taking young inmates and making them “more angry and more defiant”, he told the ABC.

“Young people are sent to courts on the understanding that they’ll still be on a pathway to rehabilitation,” he said. “If you want kids to come out of detention and be productive members of our community [we] have to build them up and strengthen them.”

Matthew, the former Don Dale inmate, began getting in trouble when he was about 13, after his older brother died.

“I was just drinking, roaming the streets, driving in stolen cars and that,” he says. “At the time you don’t think about getting locked up or getting caught. You just don’t think. I never really thought about getting caught.”

Asked what he thinks of the escapees, Matthew shakes his head. “Stupid. I don’t know what they were thinking. I don’t know why they would do that, if they’re just going to get more time. If they wanted to get out they should have just stayed in there.”

Lawrence, the Darwin lawyer, tells Guardian Australia serious questions should be asked about why the Don Dale kids have been escaping.

“They’re either mad or they have a legitimate grievance,” he suggests. “From what I gather, and I’m representing one at the moment, the reason they’re escaping is because they’ve got a real grievance at the way they’re being treated physically and mentally.”

Lawrence does not dispute the huge number of offences some youths are racking up, but says: “Arrest them, charge them, prosecute them, find them guilty and sentence them. But do it in a proper way consistent with western, civilised judicial method.”

In the NT the number of youths held in custody – at a cost of \$698.40 a day – is increasing year on year, as is the proportion compared with those in community supervision. Using Western Australia as a model, the Vita review found diversionary measures could reduce costs by more than 10%, not including benefits to the community through behavioural changes.

About 60% of NT juvenile detainees are on remand. A 2011 government review found that was largely because there was nowhere else for them to go.

Recidivism rates are also high. The data is not publicly available but Middlebrook estimates a large majority of youth detainees in Darwin and Alice Springs are repeat offenders.

The corrections department annual report, covering youth and adult justice, has “reduce recidivism” as the first item on a list of goals for the next year, but its 2015-16 budget predicts an increase in the daily average youth detention population.

Adam Giles, the NT chief minister, said last week the repeat offenders at the centre of the disturbances had “given up their opportunity at a second chance at life”.

But Bernie Wilson, a Throughcare caseworker for Naaja, says it’s not so simple.

“It’s unrealistic for us to define success as a young person not going to reoffend,” Wilson says. “They’re in youth detention – that’s where they’ve grown up and it’s what they understand. Success is when they achieve a goal they’ve set themselves, or said no to getting in a car, even if it’s just once. That’s a chance to have a conversation about that person’s decision and learning.”

Matthew is looking for work now, to stay out of trouble while he serves a suspended sentence for trespassing and being in a stolen car. He says it was a wakeup call, and he now he wants to become a good influence on his siblings and nieces and nephews. Maybe to work with other children, too. He has plenty of advice for them.

“There’s always other things you can do than stealing and that and running around with the same people,” he says. “It’s never too late to change.”

Dion Fuamatu, a Mission Australia post-release caseworker, says even those on an upward trajectory will often “stuff up” by reoffending. “But it doesn’t mean they give up ... it’s important we don’t wipe our hands of them.”

Fuamatu focuses on helping detainees find jobs after they are released. “With the young ones I’ve noticed – because there’s no history with the majority of them of employment in the family – they don’t see it and there’s not much structure,” he says.

“It’s hard to expect they’ll come out of juvie or prison and understand the way things are supposed to be – to get up on time, what you and me would do.”

‘He’s a good kid. He’s done some dumb things’

It’s a Sunday morning at the Alice Springs correctional centre and visitors trail through an empty yard and a series of heavy metal doors.

Inside a room with a few low tables bolted to the ground, a guard station and a vending machine, sit four inmates. One is Jonathan, a tall, muscled and polite 19-year-old Indigenous man on remand for assault.

When Jonathan was 10, his siblings were taken into foster care, his parents were drinking and fighting and Jonathan started acting out. Until then he'd been good in school, he says.

"But I was angry. I was just filled with anger," he says. "I started running amok."

Jonathan started on break and enters. He ended up in Don Dale a few times, his longest stretch for assault. At one point a younger brother showed up and Jonathan says he was devastated to see his sibling on the same wrong path.

After one sentence Jonathan completed a course with Norforce, the predominantly Indigenous north Australian military regiment. He liked the discipline and the medic training most of all. But he got into trouble again in both Alice and Darwin, and spent a few months in Darwin's adult lockup.

Once free, he had a second chance with Norforce, with his sights set on joining the ADF proper. He went for an interview with Norforce on a Thursday and was told to start the following Tuesday. But on the Saturday he was arrested and charged with assault over an old incident.

Jonathan says the two assaults were defending, respectively, his mate and himself. "He is a good kid," Fuamatu says. "He's done some dumb things.

"From my opinion, and what I see, it all starts at home. What you see at home is what you're going to think is OK."

Fuamatu had accompanied Jonathan to the Norforce interview and learned of his arrest the following Monday.

"His biggest concern was letting us down," he says. "It was all about just encouraging him to keep going, and putting the onus on him that if he had done things in the past it's just the way it is – he has to deal with it."

Jonathan awaits his court date, hoping his demonstrated commitment to Norforce will help his case.

Antoinette Carroll, who chairs the Central Australian Youth Justice Committee, says the system lacks funding and a clear plan to prevent reoffending.

“Once you hit that detention centre you can safely say you’ll be back there at some point,” she tells Guardian Australia. “There is no reintegration plan because there are no reintegration offices. We’ve lost our funding to do that.”

Carroll scoffs when asked about the state of juvenile justice as a whole. “There is no juvenile justice system in the NT,” she says.

Despite numerous territory and national enquiries into youth justice there have been “zero improvements”, she says.



*John Elferink, the NT attorney general, has complained of a ‘historically soft’ approach to youth justice.
Photograph: ABC*

Frontline workers also identify government cuts to youth programs – particularly in Alice Springs – as a huge driver of youth crime and antisocial behaviour. “There used to be night programs but they’ve taken a lot of it away,” Fuamatu says. “It got worse real quick.

“You ask, ‘Can you tell me why you broke into those people’s houses while they were all asleep? What made you do that?’” he says.

“At first I was like, what a bullshit answer, but every single one will say they’re really bored. They say the same thing. We just get really bored.”

Acknowledging a lack of adequate staff and training, the government committed to the 16 Vita recommendations and, after sustained pressure, to the seven offered by the children's commissioner. A multi-agency taskforce is overseeing the Vita implementations.

As evidence of rehabilitation efforts, Elferink points to compulsory schooling, \$2m spent on intervention boot camps and family responsibility programs, as well as the development of a youth justice framework.

Increased training for guards at Don Dale has begun but the government and corrections maintain there is no money to build the new detention centre justice agencies say is necessary. A former minister said it was a choice between that and a hospital.

Numerous justice bodies and experts, including Vita, have called for a more holistic rehabilitative approach with greater levels of intervention and case management for offenders from dysfunctional and traumatic backgrounds, both before they contact the system and while they are in it.

The children's commissioner, Gwynne, says many of those in youth justice system have already been in the child protection system. Indigenous children are nationally 10 times more likely than non-Indigenous to be placed in out-of-home care.

Elferink has blamed parents and "passive welfare" for increasing juvenile detention. "Generally speaking it's an absence of discipline that sees kids find themselves in the criminal justice system," he told media in June.

Both corrections and the government dismiss suggestions the system is overly punitive, but advocates such as Ruth Barson, a lawyer at the Human Rights Law Centre, disagree.

"Young people are ... more vulnerable, less psychologically developed and have great prospects for rehabilitation," she says. "Rather than touting misguided and heavy handed responses, the Northern Territory should be targeting resources at reducing youth over-imprisonment by addressing the reasons why young people get into trouble in the first place."

Naaja's Wilson says punishment alone is futile. "It's really important when a young person connects with the justice system that they can also connect

with opportunities – whether it’s arts, football, basketball or an alternative schooling model.

“It offers them unquestionable support and it’s constantly there ... They can muck them up – but if the opportunities aren’t on offer then they can’t take it.”

In the meantime the disproportionate rates of offending and imprisonment in the NT continue. Naaja’s principal lawyer, Jonathan Hunyor, last year called it “a culture of mass incarceration”.

“One of the things we know is that prison is criminogenic – it causes crime,” he said. “And so the more people go to jail and the more often they are the subject of punitive regimes, the worse that problem is going to get.”