Aboriginal Health and Medical Research Council of NSW

NSW Audit Office - Access to health services in custody

The AH&MRC Acknowledges the Traditional Owners of the lands on which the AH&MRC stands, the lands of the Bidjigal and Gadigal people of the Eora Nation. The AH&MRC pays respect to Elders past, present and emerging.

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Background

The Audit Office of NSW was established under the Public Finance and Audit Act 1983 to conduct financial and performance audits. The audits conducted by the Audit Office of NSW aim to understand the effectiveness and efficiency of program and service delivery in NSW and to determine whether public funding is being spent in ways that promote economic benefits and lawful conduct.

The Audit Office of NSW is currently undertaking an audit into the Justice Health & Forensic Mental Health Network (JHFMHN) the entity responsible for the provision of health services to individuals in the custodial setting and focuses on three key priority areas:

1. the timeliness of access to health care and pathways for service access
2. the continuity of health care as patients are moved across the system (including between correctional centres, and between custody and the community)
3. the monitoring and reporting of health access outcomes to system managers.

Aboriginal and Torres Strait Islander people within NSW experience a higher rate of incarceration than their non-Indigenous counterparts. Compounding this, Aboriginal and Torres Strait Islander people experience a higher rate of recidivism. Across Australia between 30 June 2019 to 30 June 2020, total prisoners decreased by 5%, but in the same period Aboriginal and Torres Strait Islander prisoners in NSW increased by 7%[1]. Aboriginal and Torres Strait Islander people moving from the custodial setting into community are transitioning from one health centre to another and sometimes back into custody. In 2018, the percentage of prisoners in NSW who identified as Aboriginal and committed a subsequent offence within 12 months of release from custody was 42.2%[2]. Despite this, and the known importance of ensuring the patient journey is smooth and all health service providers are informed about the patients' health service requirements, Aboriginal and Torres Strait Islander patients are getting lost in the disjointed system. Our patients are leaving the custodial setting with no connection to their Aboriginal Community Controlled Health Organisation (ACCHO) which our Member Services are reporting has led to patients living without their required medications, health conditions remaining untreated in the community and exacerbation of poor health outcomes. The AH&MRC has developed the following response to the NSW Audit Office to highlight the lack of efficiency, effectiveness and economic value of the current system of continuity of care as patients are moved between custodial settings and the community.

Summary

Aboriginal and Torres Strait Islander people are entering the custodial setting at an alarming rate in NSW. According to the Bureau of Crime Statistics and Research in NSW Aboriginal and Torres Strait Islander people are currently experiencing an imprisonment rate 10 times that of their non-Indigenous counterparts[3]. Often, these people are entering with complex health needs which without efficient and effective health service access will and is leading to poorer health outcomes.

It is the position of the AH&MRC and its 47 Member Services that the JH&FMHN have a responsibility to improve the health service delivery for Aboriginal and Torres Strait Islander people currently residing in and transitioning out of custodial settings. Information sharing across the JH&FMHN and community settings is not occurring, Aboriginal and Torres Strait Islander patients are not able to access culturally appropriate health services. The lack of engagement with the ACCHO sector is removing any opportunity for Aboriginal and Torres Strait Islander

[1] Prisoners in Australia, 2020 | Australian Bureau of Statistics (abs.gov.au)
[2] Re-offending (nsw.gov.au)
[3] Aboriginal over-representation (nsw.gov.au)

patients to access continuity of care as they move through the system. For the following response, the AH&MRC has determined to focus on the following sections of the NSW Audit Office review:

1. the timeliness of access to health care and pathways for service access
2. the continuity of health care as patients are moved across the system (including between correctional centres, and between custody and the community)

The JH&FMHN need to engage the ACCHO sector by resourcing our Member Services to provide early intervention and case management of Aboriginal and Torres Strait Islander patients. This should by supported by case conferencing with community health service providers in advance of release from the custodial setting. Records must be provided in advance of case conferencing and Justice Health will need to adequately resource the ACCHO sector to participate in this case conferencing.

About the AH&MRC

The AH&MRC, formerly the Aboriginal Health Resource Co-op (AHRC) was established in 1985 following a recommendation of the Brereton Report by the NSW Aboriginal Task Force on Aboriginal Health in 1982-83.

The AH&MRC assists the ACCHO Sector across NSW to ensure they have access to an adequately resourced and skilled workforce to provide high-quality health care services for Aboriginal communities.

As the Peak Body for Aboriginal Health in NSW the AH&MRC represents the rights and interests of 47 Member Services. The AH&MRC is committed to the delivery of four key priorities. These are:

- Aboriginal Community Control and Innovation
- Education and Workforce
- Research and Data
- Governance and Finance

The AH&MRC works collaboratively with the ACCHO Sector across NSW to ensure accessibility, sustainability and adequate resourcing of a skilled workforce providing comprehensive primary health care services for Aboriginal communities.

Opportunity to contribute to NSW Audit Office – Access to Health Services in Custody

The AH&MRC would like to thank the NSW Audit Office for the opportunity to provide a submission to this important review. To inform this review, the AH&MRC has consulted the AH&MRC Policy Advisory Group made up of Chief Executive Officers of our 47 Member Services, the General Practitioner Advisory Group which includes General Practitioners from the 47 Member Services and internal staff with expertise in this area.

AH&MRC response – the system is inadequate and failing Aboriginal and Torres Strait Islander people

The National Agreement on Closing the Gap (2020) sets out a new way of working between all levels of Government in Australia and the Aboriginal Community Controlled Sector. Signed by the NSW Government, the agreement outlines a commitment under Priority Reform One which

includes formal partnerships and joint decision making. The agreement notes that parties to the agreement acknowledge funding will be required to support partnerships and joint decision making and further Section 38 (a) of that agreement notes that Justice is a priority area for this engagement. Despite this, very few of our Member Services are currently engaged in partnerships with Justice Health and in the instances where these partnerships exist, they are not adequately resourced to create change.

The processes by which the JH&FMHN manages its operations in line with their vision and strategic plan are not fit for purpose. Within the JH&FMHN Strategic Plan Section 1.1(d) outlines the need to "deliver culturally responsible care to improve the health status of Aboriginal patients". It is well known that ACCHOs are best placed to provide culturally appropriate health services to Aboriginal and Torres Strait Islander people. The ACCHO sector in NSW has long advocated to be reinstated and resourced to provide culturally appropriate, comprehensive primary health care within the prison setting. Resourcing has been provided to a number of ACCHOs to provide early intervention and pre-release support, through these programs are underfunded compared to the need and do not include provisions for clinical care. Section 2.1(c) aims to "Engage effectively with communities who are disproportionately represented in custodial settings and forensic mental health settings" despite this our Member Services report regularly spending hours of administrative staff time in following up records and seeking opportunities to engage with health service providers within the custodial setting.

The AH&MRC acknowledges a two-way relationship is required between the JH&FMHN and the AH&MRC. The AH&MRC recognises the commitment of the current Chief Executive Officer of JH&FMHN to achieve an effective partnership with the AH&MRC and we mirror this commitment. This submission aims to highlight the barriers experienced by the ACCHO Sector with an overarching aim to work in partnership with the JH&FMHN to alleviate the current barriers that Aboriginal and Torres Strait Islander people experience by advocating for wider systemic change and health service delivery reform in NSW.

1. the timeliness of access to health care and pathways for service access

The AH&MRC is concerned that the health and wellbeing of Aboriginal and Torres Strait Islander people, who are moving through the custodial system and require health care, is being compromised. This is due to the inadequacies of timeliness of care and case transfer that is significantly impacting continuity of care. Several of our member services have reported that Aboriginal and Torres Strait Islander people are being systemically failed when transiting through the custodial setting. A lack of case transfer and clear handover have left patients with either limited or no medical records. This has created enormous barriers in providing appropriate care and treatment to an already vulnerable group of people. In many instances, ACCHOs have been unable to identify medications that patients were receiving in custody for existing conditions, have no knowledge of any diagnosis made whilst in custody and in addition to incomplete records this has left patients at severe health risk. Not only does this compromise patient health but compounds strain on an already under resourced sector. Poor case transfer and records has ultimately led to Aboriginal and Torres Strait Islander people being left untreated for existing health conditions when they return to community.

Where our members would like to bring continuity of care by providing health opportunities in custodial settings, they are unable to bill Medicare. When left unfunded by the JH&FMHN, it is yet another instance where our member services must bear the cost of inadequate service delivery. It is essential that Aboriginal and Torres Strait Islander people in custody have access to ongoing preventative health services. This includes regular and timely Aboriginal and Torres Strait Islander Health Checks (MBS #715). The AH&MRC has received reports of custodial officers withholding medications and insufficient clinical management of health conditions. Given the overrepresentation of Aboriginal and Torres Strait Islander people in custody, this systemic failure compounds on pre-existing health inequity and exacerbates poor health outcomes.

2. the continuity of health care as patients are moved across the system (including between correctional centres, and between custody and the community)

Under the current system of transition from custody to community health Aboriginal and Torres Strait Islander people are experiencing disjointed care meaning these patients do not have access to continuity of health care. Ensuring patients provide a nominated primary health care service to provide records to in advance of their discharge will increase the ability of primary health care professionals to adequately address patient needs when they appear at the primary health care setting for treatment. Further, ACCHOs that are notified of a patients impending discharge are likely to note the requirement for follow up and seek out that patient. Follow up could be made easier by the use of the Individual Health Identifier (IHI) number, whereby the JH&FMHN could continue to use the IHI and where possible ensure records are uploaded onto My Health Record. ACCHOs service communities with strong networks and have systems in place to understand the movements of community members.

ACCHOs have a unique ability to provide culturally appropriate, responsive primary health care in a holistic way. ACCHOs work to provide a range of services on very limited funding that address the needs of patients in line with the social determinants of health. This positions ACCHOs to be best placed to provide early intervention services. The NSW government recognised this when they funded Waminda, an ACCHO based in Nowra to provide early intervention services to women at risk of entering the custodial environment as well as pre-release planning and post release support and in reach services for women at Emu Plains, Dilwynnia, and Mallawa correctional facilities. The program is funded $97,000 per annum and the minimal resourcing associated with this program prevent the true potential outcomes from being achieved. At any one time the Aboriginal Health Worker is supporting between 36- 45 women through in-reach; 10-15 women in community on the south coast; and supporting case management; intensive family support and youth teams with early intervention work for women (young and adult) at risk of entering the correctional system. Despite this program far exceeding the expectations of what could be provided with $97,000 per annum, there have been repeated missed opportunities to increase the funding associated with this program and to pilot this program in other areas.

The health service providers at many of our Member Services report an inability to obtain patient records from JH&FMHN, Prior to discharge case conferencing can provide much needed coordination and support to provide complete patient records.[4] Case conferencing engages internal and external agencies responsible for care in the community to discuss the transition of care. This not only can establish partnerships but also reduce barriers in accessing health services. Case conferencing can inform service providers to coordinate and integrate required care across the health system. This can reduce duplication of services and support both holistic and intersectoral care across health, welfare, and education. The provision of medical records is paramount and JH&FMHN should consider resourcing the primary health care sector to engage in the handover of patients.

Improving the patient journey through the continuum of care and establishing a clear point of contact for patients will support overall wellbeing. This is vital to engage positively with high-needs or challenging patients, often whom have transitioned through the custodial setting. Custodial health must be prioritised to support the reduction of recidivism and community wellbeing. The clear points of contact for patients must recognise the broad approach required to improve health and reduce recidivism, which includes improved ways of working with the ACCHO sector as well as the Aboriginal Legal Service NSW.

The JH&FMHN has a duty of care to the community as a health service provider. As such, there is an obligation to act in the best interest of clients and mitigate potential risk or harm that can be

[4] https://www.racgp.org.au/FSDEDEV/media/documents/Faculties/SI/Custodial-health-in-Australia.pdf

reasonably foreseen. Article 24.2 of the UN Declaration of Rights for Indigenous People states that governments are responsible for delivering necessary steps that supports the highest attainable standard of physical and mental health. [5] Under this, Justice Health as a government health body has a duty of care to Aboriginal and Torres Strait Islander people in the custodial setting. In addition, NSW Health policy directive for all NSW health service providers must ensure equal access to health care regardless of location.[6] This duty of care extends to ensuring patient transfer is being adequately actioned and the continuity of care is prioritised to ensure the health safety of patients.

Recommendations

The AH&MRC proposes the following recommendations.

1 **The JH&FMHN should expand the Justice Health Program** to include adequate resourcing to support the number of staff required in real terms to improve the health and wellbeing of Aboriginal and Torres Strait Islander people at risk of entering the custodial setting and transition from the custodial setting to the community. The Justice Health Program should be piloted across ACCHOs in close proximity to custodial settings across New South Wales.

2 **The JH&FMHN should implement case conferencing** for custodial patients transitioning to the community and work with AH&MRC and localised ACCHO's to support patient care.

3 **The JH&FMHN should fulfil a commitment by way of a Health Accord with AH&MRC** to improve the health outcomes of Aboriginal and Torres Strait Islander people pre and post release and in the Justice Precincts to improve the Health Outcomes of Aboriginal and Torres Strait Islander people and for each party to improve accountability and maximise the use of strengths of each service provider.

4 **The JH&FMHN should review its information sharing and records transfer processes**, ensuring that there are requirements for records to be transferred in advance of a person's transition out of the custodial setting, Records must be complete and include medical history, a current list of medications, incidences of hospitalisation during time in custody and copies of assessments made by health specialists during custodial sentence.

The AH&MRC looks forward to reform in the access to health services for Aboriginal and Torres Strait Islander people in the custodial setting.

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[5] https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf
[6] https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2011_022.pdf