



Special Commission of Inquiry into Healthcare Funding

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Justice Health NSW Submission

Special Commission of Inquiry into Healthcare Funding

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Justice Health and
Forensic Mental Health Network



Statement of commitment to Aboriginal health

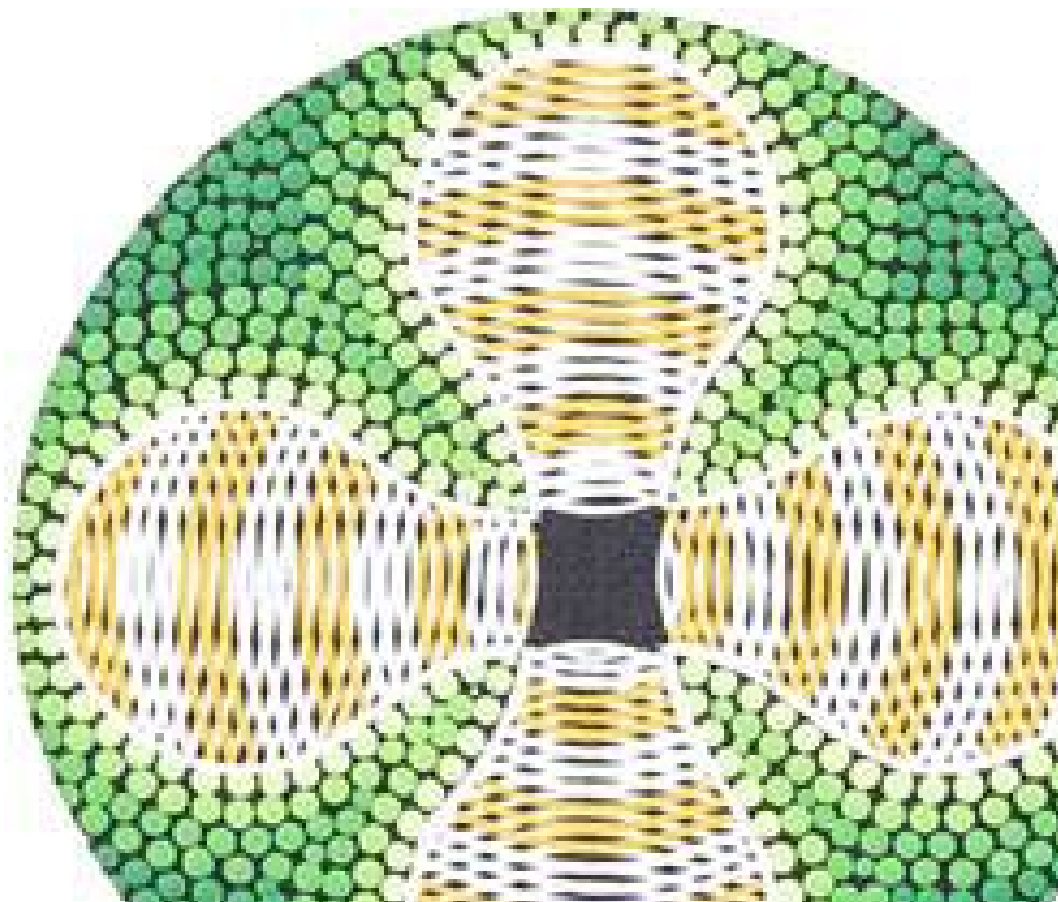
Justice Health and Forensic Mental Health Network (Justice Health NSW) acknowledge the traditional custodians of this land and pay our respects to Elders past, present and future. Our services are located on the lands of many Aboriginal nations across NSW, and we pay our respects to all traditional custodians of these areas.

Justice Health NSW is deeply committed to improving health and wellbeing outcomes for our Aboriginal patients, in line with our vision to transform lives through excellence in patient-centred care across community, inpatient, and custodial settings.

We are dedicated to growing our dynamic workforce, supporting and developing our Aboriginal staff in a culturally responsive and safe workplace.

The over-representation of Aboriginal people in the custodial and forensic mental health environments highlights for us all the need to focus our collective efforts on improving health outcomes for our Aboriginal patients. Our commitment to building respect and relationships is an important foundation toward meaningful gains in addressing the disparity between Aboriginal and non-Aboriginal health outcomes.

This is an exciting time for Justice Health NSW to show leadership, exceed targets by breaking down boundaries; and set new benchmarks. We look forward to you joining us on our journey as we strive to closing the gap on health outcomes between Aboriginal and non-Aboriginal people.



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1. Introduction

1.1 About us

Justice Health and Forensic Mental Health Network (Justice Health NSW) provides health care to adults and young people in contact with the forensic mental health and criminal justice systems in NSW. As a statewide service operating in more than 100 locations (see figure 1), Justice Health NSW cares for around 13,000 patients at any given time across custodial, inpatient, and community settings. These are unique and complex healthcare environments, including police cells, correctional centres, youth justice centres, courts, and high-secure hospitals.

Justice Health NSW forms a vital part of the NSW public health system through its support of highly vulnerable patient populations. Its multidisciplinary workforce includes primary care, drug and alcohol, mental health, population health, women's and midwifery care, oral health, Aboriginal health, youth health, and a range of allied health services.

Justice Health NSW services are grounded in five principles of care:

- Holistic and person-centred
- Evidence in safety and quality
- Culturally responsive
- Efficient and effective.
- Connected and coordinated

Justice Health NSW works closely with local health districts and other community and justice-based care providers to coordinate delivery and transfer of care. The agency also plays a key role in diverting people from custody through a range of early intervention, diversion, and transitional support programs.

Justice Health NSW is a specialty network-governed statutory health corporation, constituted under the *Health Services Act 1997* (NSW).

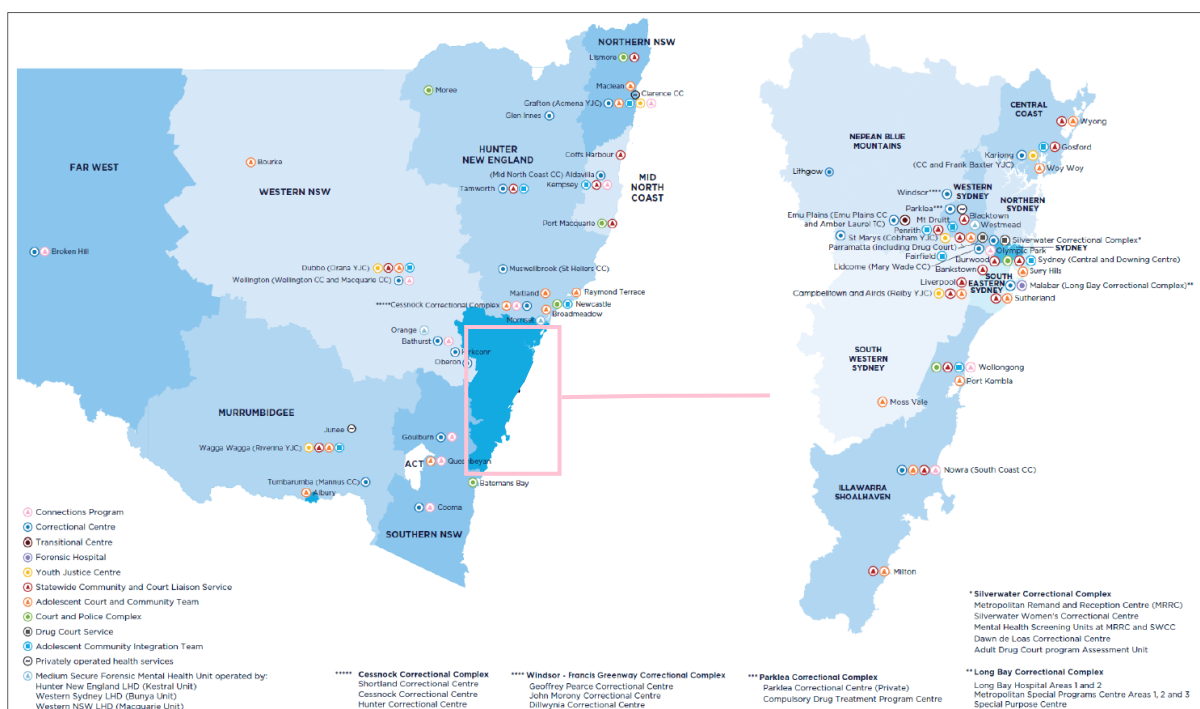


Figure 1: Justice Health NSW healthcare locations in rural, regional and metropolitan NSW.

1.2 Submission outline

This submission is split into two further sections to delineate the core patient cohorts managed by Justice Health NSW – adults and young people in custody, and forensic mental health patients. This submission outlines:

- Service overview and how this varies to community health services
- Patient profile of health and social determinants
- Funding model and governance
- Economic, health and social impacts
- Efforts to reduce costs and waste
- Privatisation
- Featured case studies and initiatives.

2. Custodial health services

2.1 Service overview

The rights of people in custody to free health care, equivalent to that available in the community, irrespective of their legal status, is enshrined in the United Nation's Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).¹

In line with World Health Organisation and United Nations recommendations, the NSW Government places custodial health services under the Health cluster to:

- support care continuity for people moving between custodial and community settings
- enable clinical independence from correctional authorities
- maintain a clear distinction between health and correctional functions to support patient engagement and trust in health services.²

2.1.1 Adult custodial health services

Most Justice Health NSW service provision to adults in contact with the justice system occurs in non-acute ambulatory settings, including selected 24hr police cells, courts, publicly-managed correctional centres, and in the community. Justice Health NSW also delivers inpatient care in custody at Long Bay Hospital, which includes a medical sub-acute unit, aged care and rehabilitation unit, mental health unit and outpatient department. An overview of these services is included in Appendix 1.

Section 236A of the *Crimes (Administration of Sentences) Act 1900* (NSW) outlines Justice Health NSW's overarching responsibility for healthcare monitoring and delivery to incarcerated adults in NSW.³ Unlike other care settings, clinicians rely on custodial officers to facilitate patient escorts to onsite health centres in each facility. The window of access to patients across adult correctional centres ranges from 3.5 to 7 hours per day, with clinicians at one third of sites having less than 4.5 hours patient access daily.

Justice Health NSW's clinical structure comprises core onsite primary care nursing staff, supported by statewide specialty stream services and administration support. Specialist services operate a 'hub and spoke' model to provide services to each health centre, which drives economies of scale and enables service responsiveness to changes in demand across all sites.

All people entering custody undergo health screening and assessment to identify care needs and referrals for specialist review and treatment. Any arising or chronic care needs, as well as routine screening and vaccinations, are addressed in custody by patient self-referral or clinician referral to the relevant specialty service. Justice Health NSW also provides release planning, care coordination and transitional support for target cohorts.

The vast majority of care to adults in custody is provided within correctional settings. In the 2022-23 financial year, Justice Health NSW delivered care through 740,738 booked, direct, and walk-in appointments in adult correctional facilities.

Instances where inmates need care in local hospitals range from unplanned emergency care through to specialist, diagnostic or inpatient care. Under NSW Health policy, custodial patients can receive treatment in any NSW public hospital. Custodial patients are never given priority treatment beyond what is appropriate for their clinical needs. There were 4554 adults in custody transferred to local hospitals for unplanned care in 2022-23, representing 0.15 per cent of the state's total hospital emergency department presentations in that period. More than one quarter of those patients required treatment for trauma related injuries such as bone fractures and assaults, with the other most common reasons being cardiovascular issues, gastrointestinal problems and infections.

2.1.2 Adolescent custodial health services

Most Justice Health NSW service provision to young people in contact with the criminal justice system occurs in non-acute ambulatory settings, including youth justice centres, courts, and in the community. An overview of services is included in Appendix 1.

Justice Health NSW delivers health services to all of the state's youth justice centres. The clinical structure comprises core onsite primary care nursing staff, supported by statewide specialty stream services and administration support. Over half of young people in custody are in custody for less than 24 hours. The provision of care to young people in custody is enshrined in the *Children (Detention Centres) Act 1987* (NSW).

All young people entering custody undergo health screening and assessment to identify care needs and referrals for specialist review and treatment. Any arising or chronic care needs, as well as routine screening and vaccinations, are addressed in custody by patient self-referral or clinician referral to the relevant specialty service. Justice Health NSW also provides release planning, care coordination and transitional support for target cohorts.

Specialist Justice Health NSW forensic mental health services to young people in custody, court and community-based settings are outlined in section 3 of this submission – forensic mental health services.

2.2 Patient profile

2.2.1 Adults

Consistent with global data, people in custody in Australia experience higher rates of physical and mental ill health and disability than the general community,⁴ and their health status is often set against a backdrop of entrenched disadvantage,⁵ (see also figure 2). NSW manages 30 per cent of Australia's adult prison population.⁶

A 2022 Justice Health NSW study on the health status of adults entering custody in NSW,⁷ found more than half (54%) reported using drugs in the four weeks prior to entering custody (of these, methamphetamine use was most prevalent, at 30 per cent). In addition, 47 per cent reported past treatment for a mental health condition and 21 per cent were identified as having severe distress on reception. Compared to men in custody, women had higher rates of physical and mental health conditions, and incidences of suicide and self-harm.

First Nations people are disproportionately represented among those in custody, accounting for 30 per cent (M 29%; F 39%),⁸ of the state’s adult correctional population despite comprising only 3 per cent of the wider NSW community. When compared with non-Indigenous adults in custody in NSW, Aboriginal people have poorer health and come from more socially disadvantaged backgrounds.⁹ This is exemplified by the 2022 Justice Health NSW study,⁷ which found Aboriginal men and women entering custody reported higher rates of self-harm and suicide attempts, asthma, hepatitis C, and substance use than non-Aboriginal people. An Australian Institute of Health and Welfare study also showed Aboriginal people in prison reported poorer health outcomes than non-Indigenous people in prison.⁴

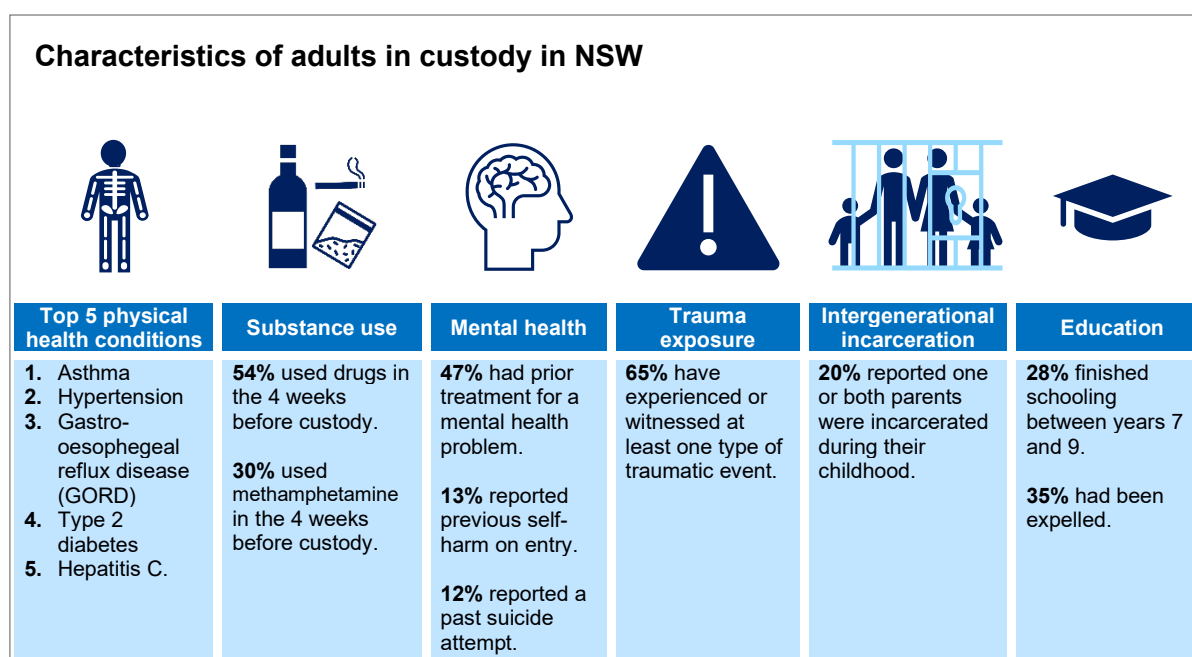


Figure 2: Health and social determinant characteristics of adults in custody in NSW.

2.2.2 Young people

Adolescence marks a period of significant physical, emotional, social, psychological, and cognitive change. Executive functioning skills in young people are under-developed, which can impact impulse control, planning, problem solving, reasoning and emotion regulation.

Similar to adults in custody, young people in contact with the justice system have complex physical, behavioural and psychosocial needs, marked by high rates of social disadvantage,^{10,11} cognitive impairment, and comorbid diagnoses.¹² Young people in custody commonly engage in risky sexual behaviour,¹¹ and report a history of alcohol and illicit drug use and dependence,¹⁰ as evidenced in figure 3.

A joint study of young people in custody by Justice Health NSW and Youth Justice NSW¹⁰ found more than two thirds (68%) had experienced abuse or neglect in childhood, and more than half (54%) had experienced intergenerational incarceration, where one or both parents had been in prison. The study also showed that four of five (83%) young people in custody had a psychological disorder in the year before entering custody.

First Nations people are even more disproportionately represented among young people in custody than adults, accounting for 59 per cent (M 60%; F 33%),⁸ of the state’s adult correctional population despite comprising only five per cent of young people in NSW. When compared with non-Indigenous young people in custody in NSW, Aboriginal people have poorer health and come from more socially disadvantaged backgrounds.¹³

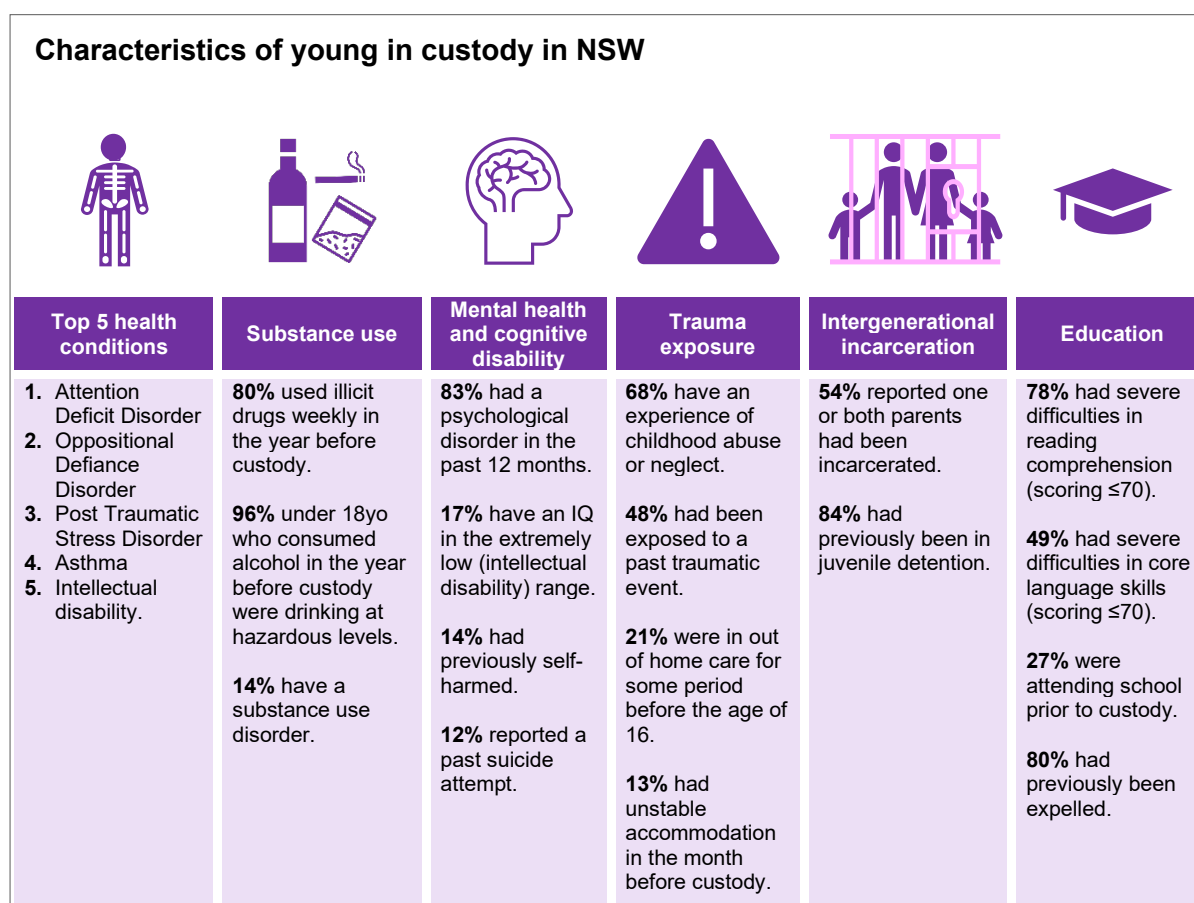


Figure 3: Health and social determinant characteristics of young people in custody in NSW.

2.3 Funding model and governance

In Australia, states and territories bear the cost and responsibility for health care provision to those in custody. Under Commonwealth legislation, prisoners are excluded from receiving Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS) subsidies, because they are deemed to be under the care of the State Government.

With an operating expense budget of \$278 million for 2023-24 (including forensic mental health services in section 3), Justice Health NSW’s funding represents less than one per

cent of the state's total health budget. Unlike local health district services that operate under Activity Based Management (ABM) and secure funding through national weighted activity unit (NWAU) data, Justice Health NSW receives block funding from the State, informed by historical funding levels. A disconnect between historical funding models and actual service costs observed in a review of Queensland prisoner health services,¹⁴ is consistent with the NSW experience.

Annual growth funding for consumer price indexation and new initiatives is consistent with local health districts, however the latter is driven by Government priorities that do not always align with local priorities. The gap between identified need and annual budget allocations is met through internally derived efficiencies and unfunded initiatives do not proceed. Justice Health NSW considers that a needs-based analysis approach to determine resourcing at state and local levels could better inform funding allocation and targets, help identify gaps and future priorities, and deliver improved care outcomes.

State and Commonwealth funding processes for new and targeted initiatives are inconsistent and could be better coordinated to support more rigorous and evidence-informed submissions. Applications coordinated through the Ministry of Health are requested from varied lead branches, and often have short timelines for submission. Justice Health NSW processes to identify and assess new initiatives are rigorous and provide a strong and ready source when alternative funding opportunities arise. Feedback on unsuccessful submissions would enhance transparency of these processes and provide an opportunity to strengthen future applications.

Short-term and incremental allocation of funding for some initiatives adversely impacts workforce recruitment and retention, which jeopardises service and patient care continuity. It is not uncommon to receive confirmation of funding extensions in the final weeks or days prior to the end of existing funding once staff on temporary contracts have already secured alternative employment. Specific examples can be provided as necessary.

The Commonwealth does subsidise prisoner access to highly specialised drugs under section 100 of the *National Health Act 1953* (Cwlth). These medications are used in the treatment of complex medical conditions requiring ongoing specialised medical supervision such as Direct Acting Antiviral medications for the treatment of hepatitis C. Justice Health NSW strongly supports opportunities to improve health outcomes for people in custody through expanded access to MBS items for target cohorts that not usually captured in the State and Commonwealth's Medicare agreements. Examples include in-custody access to MBS item 715 health checks for Aboriginal patients and creation of MBS item numbers for people released from custody to improve care continuity community-based clinicians taking over care of, in recognition of their often complex and chronic care needs.

2.3.1 Centralised and devolved decision-making

Justice Health NSW supports opportunities for a continuing mix of centralised and devolved delegations and decision-making. Statewide procurement contracts for services and goods common to a majority of service providers, such as agency nurses, could provide greater system savings where statewide buying power results in more competitive rates.

2.3.2 Reducing costs and waste

Justice Health NSW employs a range of strategies to drive efficiencies, reduce low-value activity, and minimise avoidable and adverse environmental, financial and social impacts. Expanding virtual care is one way Justice Health NSW has enhanced service delivery, particularly in regional and rural locations. The technology has transformed the agency's small physiotherapy team, enabling them to prioritise and deliver care according to statewide patient acuity (rather than by centre), and has reduced costs and resourcing associated with clinician travel across NSW and patient transfers to Sydney for in-person appointments. The continued expansion of virtual care is highlighted in the included profile on Justice Health NSW's establishment of a virtual cardiology clinic, in partnership with Prince of Wales Hospital and Hunter New England Local Health District.

2.4 Economic, health and social impacts

Investment in, and delivery of, efficient and high-quality health services to people in contact with the justice system has far reaching benefits beyond the individual patient or service. Some key examples are outlined below. Given people in custody are an at-risk population who mostly return to the community, there is a moral, economic, and public health responsibility to address the health needs of this population.^{5,15}

2.4.1 Reduced costs for the Justice system

Australian data shows adolescents commit over 20 per cent of offences, with the cost of youth crime in Australia conservatively over \$2 billion annually.¹⁶ There are significant health and economic benefits in intervening early to address the health needs of people at risk of contact with the justice system. Justice Health NSW community-based mental health services, such as the Teen Got It! program profiled later in this section, play an important role in early intervention and primary prevention, to stop vulnerable people coming into custody. Justice Health NSW also supports diversion of eligible adults from custody through the NSW Drug Court and Compulsory Drug Treatment Program.

For those that do enter custody, effective care management and delivery within correctional and youth justice facilities wherever possible reduces the need for patient transfers and care in hospital. The economic benefit to Corrective Services NSW and Youth Justice NSW from avoided patient transfers varies according to each patient's assessed risk and supervision requirements. At a minimum, two custodial officers remain with the patient throughout their hospital visit or admission.

Key cost avoidance benefits to the Justice cluster include:

- Diversion of individuals with histories of complex drug use from custody
- Resource costs for patient transportation to external health services, such as escorting officer wages, including overtime; vehicle supply, wear and maintenance
- Time and resource savings from negated risk assessments, form completion, and other administrative functions associated with coordinating patient transfers
- Less disruption to correctional centre routines, especially associated with differing security classifications
- Nil diversion of officer resources from usual centre functions, including facilitation of patient access to the facility's health centre
- Reduced incident and complaint management related to healthcare wait times.

Profile: Virtual Cardiology Clinics

In partnership with Prince of Wales Hospital and Hunter New England Local Health District, Justice Health NSW's virtual care cardiology clinic has led to improved service efficiency and experiences that benefit patients and multiple agencies.

From May 2021 to June 2023, 91 per cent* of all custodial outpatient cardiology appointments were delivered virtually, eliminating the need for lengthy and costly transfers to hospital. Clinic utilisation has increased by 48 per cent, last minute appointment cancellations have decreased by 38 per cent, and patient reported satisfaction is over 90 per cent.

Patients receiving care virtually are triaged by a cardiologist and provided with a confirmed appointment date aligned with their clinical priority within 10 business days. Patients do not need to reschedule their virtual care appointments if moved to a different prison and remain with the same treating clinician - avoiding delays and disruptions to care.

Every publicly operated prison across NSW can now facilitate virtual appointments, and Justice Health NSW is exploring similar partnerships with other districts to facilitate equitable, timely and efficient provision of care to Justice Health NSW patients.

*Excludes appointments for procedures not available in Justice Health NSW care setting.

John's story

John* was in a regional correctional centre when he experienced breathlessness that he thought may be an asthma attack. He was quickly booked into a virtual appointment with a clinician from Prince of Wales Hospital in Sydney, which revealed he'd had a mild heart attack. This required further appointments with a specialist and eventual hospitalisation for surgery so a stent could be put in his heart.

John said virtual care helped him get quality care sooner. "I feel telehealth saved a lot of time for me. The experience was good, quick, whereas in the past I could have been waiting for weeks to see a doctor 'cause I was so far away," John said. "You can be in a centre anywhere and not have to travel long distances to see a specialist once you're settled somewhere. Sometimes I wouldn't come to Sydney to see a doctor 'cause of that."



Image: Virtual cardiology clinic in custody.

Virtual care benefits

- + Timely and equitable patient access to specialist care.
- + Reduced facility transfers – less cost and resource impost on health and correctional services.
- + Less disruption to custodial and hospital routines.
- + Continuity of care in a familiar environment - enhancing management of care needs.
- + Enabling Aboriginal patients to remain on Country and closer to support networks.

* Name changed to maintain privacy.

2.4.2 Reduced recidivism

Analysis of 2019-20 data showed NSW had the third highest recidivism rate in Australia with 49 per cent of people returning to prison within two years.¹⁷ Social issues such as lack of housing, family support, and employment are key drivers; as well as substance use and behavioural health issues.¹⁸ Effective treatment of physical and mental health issues that impact a person's offending behaviour reduce risks for reoffending and are enablers for sustained positive family relationships and employment.¹⁹

2.4.3 Health system benefits

As a statewide service, Justice Health NSW has a fully integrated and specialised workforce to manage the complex health needs of these patients and support a seamless and continuous custodial care pathway. As part of NSW Health, this integration is further

People in custody often report access barriers to healthcare in the community that can result in more significant and regular care.^{4,5} The post-release period in particular is a time of heightened risk for emergency care, hospitalisation, and death.²⁰ Addressing their health needs in the correctional setting, and connecting them to care on release, reduces the burden of disease on the individual, community and public health system.

Benefits to the health system include:

- Reduction in avoidable admissions and related time and resourcing costs that can be redirected to meet wider service demand
- Less disruption to hospital operations, especially associated with managing risk to support staff, patient and community safety.

Greater investment in transitional support and community-based outreach services to meet the needs of people leaving custody, particularly those with problematic drug use, would enhance these health gains given existing capacity issues in community services,²¹ and known benefits for health and recidivism outcomes from continued healthcare engagement on release.

2.4.4 Improved public health

Given those in custody are a high-risk population, Justice Health NSW is uniquely positioned to improve broader public health through its screening, treatment, control and prevention of blood-borne and other communicable diseases.

In collaboration with health and justice agencies, Justice Health NSW' strong management of COVID-19 in custodial and forensic mental health settings ensured a vastly different experience to many international jurisdictions which experienced substantial infection and deaths of patients and staff. From the first reported case in Australia in January 2020, COVID-19 did not enter the NSW custodial setting until the first reported case in 2021. In contrast, the rate of COVID-19 in US prisons in 2020 was estimated to be about 3251 per 100,000 prisoners - around 5.5 times the rate of the general US population.²² There has also been a high take up of vaccination among adults and young people in custody.

A further strong example of the agency's positive impact on public health is its role in eliminating hepatitis C among those in custody, which has been featured below.

Profile: Breaking free from hepatitis C

Hepatitis C is a virus that spreads by blood-to-blood contact and can cause serious damage to the liver. The most common way people become infected is the sharing of injecting equipment. People in custody have 20 to 30 times higher rates of hepatitis C than the general community.

In the past, hepatitis C treatments took a long time and made patients feel quite sick. In 2016, new treatments became available that were much faster and had fewer side effects.

With the new highly effective direct acting antiviral treatment, Justice Health NSW embarked on a mass education, testing, and treatment program to 12 targeted facilities. By the end of 2018, 25 per cent of people initiated on hepatitis C treatment in NSW did so in prison.

Through that program, NSW was the first jurisdiction in Australia to achieve virtual elimination of hepatitis C in a correctional setting.²³

Statewide, Justice Health NSW initiated 17,621 adults on hepatitis C treatment between 2015-16 and 2022-23, of whom 37 per cent were Aboriginal; representing \$52 million in avoided healthcare costs.²⁴

These combined initiatives have resulted in decreased average hepatitis prevalence (active infection) in NSW prisons from 17 per cent to 7 per cent, leading to reduced burden of disease on health services and the community.

Insufficient management or funding of custodial health services has the potential for prolonged and widespread harm. For example, people in custody are more likely to be re-infected as needle syringe programs are not permitted in custody and needle sharing is common.



2.4.5 Community health and wellbeing benefits

Mitigating external transfers for healthcare benefits patients through less disruption to custodial placements, rehabilitation programs, education, and employment; as well as social support networks. It also addresses related patient avoidance of, or declined, healthcare to prevent transfers.

In addition to reducing pressure and cost on the justice system, effective custodial healthcare that supports reduced reoffending leads to greater community safety and fewer victims.²⁵ Securing patient engagement with health services in custody and on release also has potential to reduce health access and outcome disparities and inequalities in high-risk groups, such as First Nations Australians.^{20,26}

Justice Health NSW strongly supports raising the minimum age of criminal responsibility in Australia to 14 years, in line with recommendations of the United Nations.²⁷ As demonstrated by the health status and characteristics of young people in custody in section 2.2.2, and wider published research evidence, children under 14 years of age are not sufficiently neurologically and psychologically developed to be considered criminally responsible. The overrepresentation of Indigenous young people in the justice system is seen at its most extreme in the 10 to 14 years age group, and contact at this age is strongly associated with re-offending. Raising the minimum age of criminal responsibility would result in 500-600 Indigenous children, and their health needs, being managed outside the criminal justice system each year.²⁸ This has been proven to decrease overall rates of youth offending, which is sustained into adulthood, and reduce the over-representation of Indigenous people at all points of contact with the justice system in childhood and over their lifetime.

2.5 Privatisation

Prison health service models and providers differ across Australian jurisdictions, including a mix of public and private correctional and health operators.²⁹ In NSW, health services to one quarter of the state's adult prison population are delivered in managed correctional facilities, with the remaining delivered by the public health service, through Justice Health NSW.³ A financial benefit of this structure is that Justice Health NSW has access to the network of integrated services and systems, as well as broader statewide health support and infrastructure that is accessible at no additional cost to individual correctional centres.

Proponents of the mixed market model suggest privately managed prisons are more cost effective and better performing than public facilities and drive system-wide efficiencies.³⁰ However, as observed by the Victorian Auditor-General, cost comparisons between public and privately operated facilities are difficult due to differences in classification, function, and patient profiles.³¹ Of note, Victoria observed an increase in operational costs per prisoner since its opening of private prisons.³¹ As a result of service outcomes and incidents, some jurisdictions such as Victoria, the United Kingdom and the United States of America have adjusted their mixed model to increase, or fully return to, a public health-led delivery of custodial health services.^{32,33}

The NSW Government announced on 2 November 2023 that it would return the privately managed Junee Correctional Centre to the public sector when the existing contract with GEO Group ends in 2025. A decision on Parklea Correctional Centre (contract expiring 2026) and Clarence Correctional Centre (early into a 20-year contract), is yet to be made.

Profile: Teen Got It!

Justice Health NSW staff first met 14 year old Adam* and his mother Angela* at Parramatta Children's Court, where Adam was appearing for an apprehended violence order and Angela was having difficulties supporting him with his aggressive behaviour.

They were a perfect fit for the Teen Got It! program, an early intervention group program for young people with disruptive behaviour disorders and their families.

The Teen Got It! team work with the young person and their parent/carer to strengthen protective factors and improve skills to reduce their risk of entering the criminal justice system.

Through the program, Adam developed a greater understanding of his emotions and was able to identify early warning signs, such as being 'shut down, arms crossed, not talking'. He expressed to his mother that this was the best time to intervene, before he becomes distressed and dysregulated. Adam worked through real life situations where he had difficulty managing his emotions and used problem solving strategies to change his behaviour.

Adam and Angela found the program to be really positive, describing the staff as personable and supportive during a difficult period.

"[Teen Got It!] helped our relationship as we were able to work together and trust each other with our feelings," Angela explained. "I feel more confident in being firm and consistent while still providing positive praise. The resources were easy to understand and relate to."

"I feel more confident in being firm and consistent while still providing positive praise."



Image: Teen Got It! clinician with program participants

After completing the program, Angela can clearly see the changes in Adam's behaviour. "Adam walks away from situations more often now. He is happier, I'm happier. We cuddle, and he is so much more affectionate," she said.

At the end of the program, the Teen Got It! team provided a thorough handover to his community mental health team so Adam could continue developing the skills he'd learned.

* Names changed to maintain privacy.

3. Forensic Mental Health Patients

3.1 Service overview

Forensic mental health is a specialist area of the health system related to the intersection of mental health services with the criminal justice system; addressing a person’s mental health needs and vulnerabilities for (re)offending, including social determinants. Justice Health NSW is the principle service provider and overseeing agency for the NSW forensic mental health system.

Justice Health NSW provides forensic mental health care across secure inpatient, custodial, court and community settings, and works closely with local health districts and other community and justice-based care providers to coordinate delivery and transfer of care. Key programs are outlined in table 1 below, and an overview of these services is included in Appendix 2. In contrast to other jurisdictions, clinical and legislated processes in NSW enable voluntary and involuntary mental health treatment in the custodial setting.

Justice Health NSW forensic mental health services and programs, by care setting
<p>Custody</p> <ul style="list-style-type: none"> • Adolescent Mental Health Service • Custodial Mental Health Service (adults) • Primary Care mental health services (adults and young people) • Perinatal and Infant Mental Health Service • Specialist Mental Health Service for Older Persons • Towards Zero Suicides Program • Mental Health Helpline • School-Link • 24hr Remote After-hours Medical Service (all care settings)
<p>Inpatient</p> <ul style="list-style-type: none"> • 40-bed mental health unit in Long Bay Hospital for assertive and involuntary mental health care of adults in custody • 135-bed Forensic Hospital at Malabar – the state’s only high-secure mental health inpatient facility, providing care to adult and adolescent correctional patients, forensic patients, and high-risk civil patients.
<p>Community (including courts)</p> <ul style="list-style-type: none"> • Adolescent Court and Community Team • Statewide Community and Court Liaison Service • Community Forensic Mental Health Service (CFMHS) • Community Transition Team • Community Integration Team • Teen Got It! • Clinical Risk Assessment and Management (CRAM) Training • CRAM for Carers Training • Specialist Supervision Program • Court Report Coordination Unit (court and custody)

Table 1: Justice Health NSW adult and adolescent forensic mental health services and programs, by care setting

Adolescent mental health services place strong emphasis on prevention and early intervention to address existing and emerging mental health needs and vulnerabilities. They are distinct from adult mental health services as they must factor in the young person’s developmental status.³⁴

Mental health interventions to adults and young people in custody are also provided by primary health clinicians, including mental health screening and assessment, medication administration, metabolic monitoring, and discharge planning.

In line with all public mental health services, Justice Health NSW forensic mental health services prioritise care for individuals who are, or have been, clinically assessed as mentally ill or disordered, as defined in the *Mental Health Act 2007* (NSW).

3.2 Patient profile

Adults and young people engaged in Justice Health NSW forensic mental health services include those with mental illness or cognitive impairment in the community and custody, as well as correctional inpatients, forensic patients, and high-risk civil patients. A description of Justice Health NSW forensic mental health patient groups is outlined in figure 4.

Community patient	Adults and young people with mental illness or cognitive impairment in the community in contact, or risk of contact, with the justice or forensic mental health system, including early intervention, diversion and post-release transitional support services.
Custodial patient	Adults and young people accessing assertive, voluntary, or involuntary (adults only) forensic mental health care in custodial settings.
Correctional inpatient	Adult or young in custody assessed as mentally ill or disordered, as defined in the <i>Mental Health Act 2007</i> (NSW) and subject to treatment in custody under the <i>Mental Health and Cognitive Impairment Forensic Provision Act (MHCIFPA) 2020</i> (NSW).
Forensic patient	Those found by the Court ‘unfit to enter a plea or be tried’ due to mental illness or cognitive impairment, or found ‘act proven, not criminally responsible’ under the MHCIFPA. All forensic patients have been charged with strictly indictable matters.
High-risk civil patient	People with mental illness in the community clinically assessed as posing a high risk to others, requiring specialised care and treatment. These patients present with similar needs to forensic patients. Often, high-risk civil patients are subject to treatment under the <i>Mental Health Act 2007</i> (NSW).

Figure 4: Forensic mental health patient cohorts managed by Justice Health NSW.

3.2.1 Adults

While people in contact with the justice system often experience more chronic and complex health needs than the general community, these environments place additional strain on their health and wellbeing. Co-occurring mental health and substance misuse, alongside personality vulnerabilities, cognitive and physical health co-morbidities, lead to complex presentations requiring multidisciplinary care.

A study of characteristics in NSW forensic mental health patients³⁵ showed most (84%) had suffered a primary psychotic illness, 52 per cent had index offences of murder or attempted murder, 42 per cent had a history of violent offending. However, as data in figure 5 shows, forensic mental health patients are a vulnerable group with multiple co-morbidities that makes them more prone to being victims of crime, rather than perpetrators.³⁶

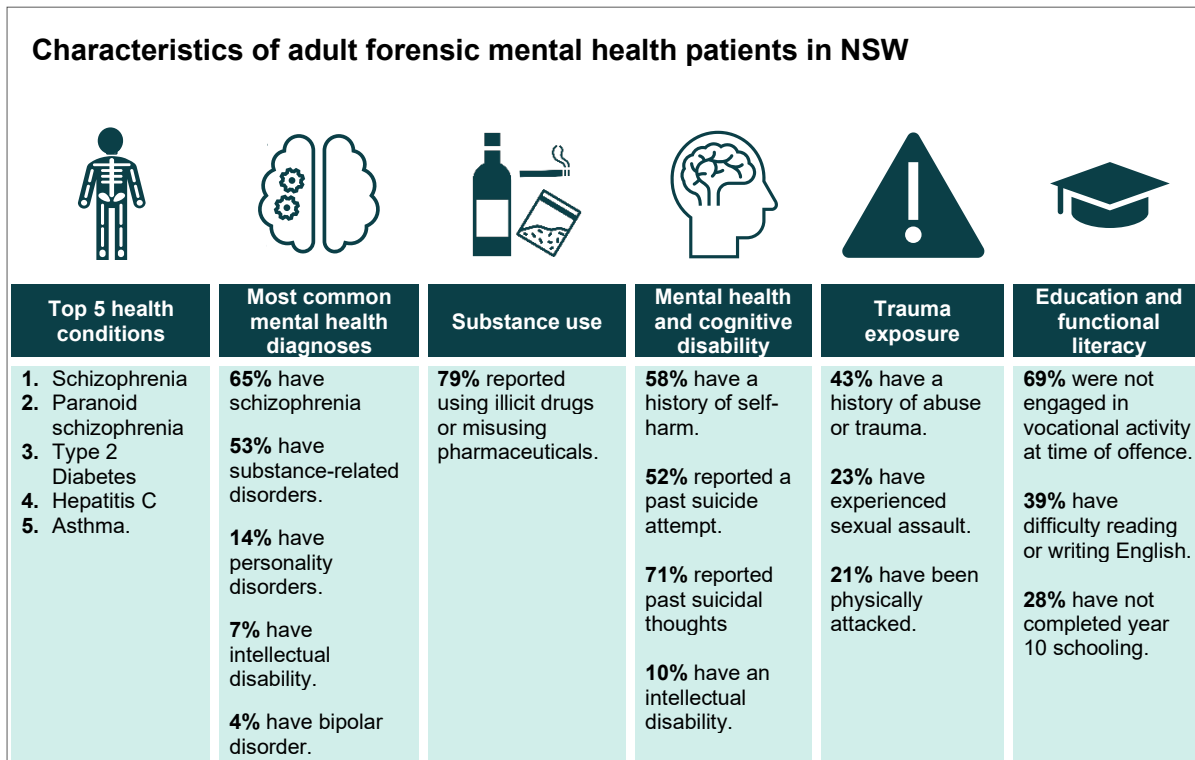


Figure 5: Health and social determinant characteristics of adult forensic mental health patients in NSW.

3.2.2 Young people

Children and young people in contact with the justice system commonly present with a range of vulnerabilities for offending, including high rates of mental health, neurodevelopmental, and drug and alcohol issues, impulsivity and risk-taking in the context of ongoing brain development, and adverse childhood events.

In NSW, 83 per cent of young people in custody have a mental illness.¹⁰ The onset of major mental illness occurs around mid to late adolescence, with often changing mental health presentations. Incarceration increases the risk of young people developing serious and chronic mental illness,³⁷ and significantly increases their likelihood of further incarceration. On this basis, Justice Health NSW strongly supports raising the minimum age of criminal responsibility from 10 to 14 years, to minimise the incarceration of individuals in childhood and over their lifetime.

Young people in the justice system also often have intellectual impairment, poor oral language skills and struggle to develop literacy skills, leading to disengagement from formal education. A NSW study found almost half (46%) of young people in detention had 'borderline' or lower intellectual functioning, indicating significant impairment; and one quarter (25%) had left school before the age of 14.³⁸ Building protective factors around young people and families includes responsive identification and action on any child protection concerns and ensuring young people have their basic needs met.

3.3 Funding model and governance

Justice Health NSW receives block funding from the State for its forensic mental health services, informed by historical funding levels. It has an operating expense budget of \$96 million for forensic mental health services and programs in 2023-24. Unlike adults and young people in custody who become Medicare ineligible; forensic and high-risk civil patients in the Forensic Hospital retain access to Medicare.

Due to the complex and long-term care needs of this patient cohort, there is no existing defined funding model suitable for, or tested in, forensic mental health settings. A national resourcing model for general mental health services, based on estimated service demand, has been developed in Australia though does not include forensic mental health settings at this stage. As mentioned in section 2.3 of this submission, Justice Health NSW considers that a needs-based analysis approach to determine resourcing at state and local levels could better inform funding allocation and targets, help identify gaps and future priorities, and deliver improved care outcomes as highlighted in this submission.

Challenges with the current funding model are demonstrated by the increasing funding gap between service need and capacity. Investment in custodial forensic mental health services has not increased in line with the growth in service demand. A 2020 review of prison mental health services in Australia found NSW was the least funded service nationally, with 0.83 full-time equivalent (FTE) mental health clinicians funded per 550 prisoners, compared to a mean of 4.77 FTE clinicians across all states and territories.³⁹ Similarly, analysis of Justice Health NSW Custodial Mental Health Service clinical caseloads showed allocations of 100 patients per full time mental health nurse and over 300 patients per psychiatrist. The high demand for mental health care in custody is also acknowledged by independent external oversight bodies and inquiries.^{3,40}

Refer also to comments on funding models and governance in section 2.3 of this submission.

3.4 Economic, health and social impacts

Evidence-informed and effective forensic mental health services achieve high-value gains for patients, health and justice systems, and community safety and wellbeing. Key examples of the impact of Justice Health NSW forensic mental health services are outlined below.

3.4.1 Reduced costs for the Justice system

The Justice Health NSW Statewide Community and Court Liaison Service (SCCLS) is operational in 23 locations across NSW. The agency also operates an additional diversion service in custody. In total, Justice Health NSW supported the diversion of 2588 adults with mental illness into community-based treatment in 2022-23. A cost-benefit analysis conducted by Ernst and Young in 2021 indicated every \$1 spent on the SCCLS delivered a cost saving of \$4.30, primarily within the justice system. The NSW Government has invested an additional \$13.5 million funding to 2026-27 to expand SCCLS to a further 36 sites.

Similarly, Justice Health NSW's equivalent diversion service for young people, the Adolescent Court and Community Team, recommended 1212 young people with mental illness for diversion to community-based treatment.

Profile: Custodial diversion service

James* was born in Tanzania and lived in the UK until he moved to Australia in 2008.

When he was admitted to a psychiatric unit in 2019, James had no prior history of mental health illness and was diagnosed with depression. Two years later, he was also diagnosed with bipolar affective disorder and a chronic neurological disease.

In early March 2022, James was referred by Legal Aid to the Justice Health NSW Statewide Community and Court Liaison Service (SCCLS) for non-indictable offences.

During assessments, the service found James was homeless, receiving Centrelink support, and estranged from his family in Tanzania. This was far from the life James once lived, where he had been employed

in the financial field until recent years. He had also been a lecturer in banking and finance at a university.

Through collaborative efforts, SCCLS confirmed his personal and medical background, and obtained supporting clinical documentation. In consultation with James' care coordinator, the SCCLS clinician developed a treatment plan, which was included in the court report to the Magistrate. With this information, the Magistrate diverted James from custody under a section 14 (court ordered Community Treatment Order).

Since his diversion, James has reported well and remained engaged with his treatment team. He has secured stable accommodation and is awaiting approval for Disability Support Pension. James has not re-offended since his court diversion.

*Name changed to maintain patient privacy.



3.4.2 Reduced recidivism

Health-led diversions are shown to improve outcomes for young people with mental health and cognitive issues impacting their offending behaviour, including reducing reoffending.⁴¹ Similarly, analysis of adult mental health diversion found significant return on investment, including reduced reoffending and a threefold reduction in reoffending risk when treatment engagement was maintained post diversion.⁴²

Studies also show health-led treatment and recovery pathways for forensic patients are associated with very low rates of violent re-offending following release, at 1.5 per cent in the first year³⁵ and 3.1 per cent over 8 years.⁴³ These results are significantly less than the 39 per cent recidivism rate among violent offenders in the NSW correctional population.⁴⁴ The Australian Institute of Criminology estimates the total cost per homicide incident at \$1.9 million.⁴⁵ Given most forensic patient index offences involve serious violent acts, such as homicide, this represents significant cost savings.

A 2023 study of mental health service use among people with psychosis who received a non-custodial sentence in NSW found those that did not connect to care had five times greater risk of reoffending compared to those with the highest number of contacts.⁴⁶

3.4.3 Health system benefits

There are clear signs of treatment efficacy for those who access care, including those in custody. A Justice Health NSW study of adults entering custody in 2020⁷ found the majority (71%) who received treatment for their mental illness reported a response to treatment.

Dedicated, community-based, health-operated forensic mental health services that engender primary prevention and early intervention would improve community safety and reduce the growing demand for mental health care in hospitals and in the criminal justice system.

3.4.3 Community health and wellbeing benefits

Studies show treatment and rehabilitation of forensic patients in NSW is effective in protecting the community from further offending by these patients.^{43,47}

Evaluation to date on Teen Got It! Has shown it improves parents' capacity to maintain family relationships, increases young people's skills to cope and regulate emotions, and increases the young person's engagement in education.

Profile: Community Transitions Team

People in custody with serious and enduring mental illness are a high-risk cohort, so it's critically important they are supported in their transition to the community.

The Justice Health NSW Community Transition Team (CTT) addresses the needs of these patients by providing assertive care in the pre- and post-release phase.

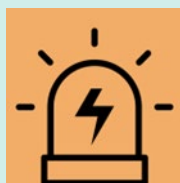
Working in collaboration with program participants, local health district mental health clinicians, community-based GPs and non-government care providers, CTT clinicians:

- Develop joint care processes and treatment plans
- Arrange referrals to mental health services
- Identify stable accommodation
- Coordinate other health and community supports, such as NDIS providers
- Support care continuity through comprehensive clinical handovers.

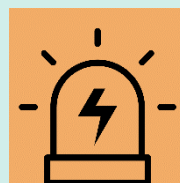
The CTT has been demonstrated to achieve care continuity rates as high as 85 per cent at six weeks follow-up, in line with research showing the effectiveness of similar service models in care continuity.⁴⁸

Unfortunately demand for CTT exceeds capacity, so the team prioritises those who are most vulnerable or at risk of reoffending. Referrals to the service are waitlisted or declined if it is operating at capacity, which compromises access for patients, such as those in custody on remand, who are known to present with increased acuity of mental illness.

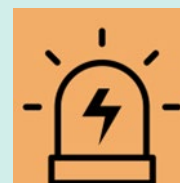
Key health risks: people in custody with serious mental illness



13 to 15 times higher rate of suicide on release from custody than community.⁴⁹



Increased risk of drug-related death⁵⁰ and treatment disengagement from poor transitional support.⁵¹



Three-fold increased risk of reoffending for people diagnosed with a psychotic illness if disengaged from treatment.⁵²

Jacinta's story

Jacinta* had been in and out of custody over a period of 20 years, and had been isolated from her family and friends due to her chronic drug use. When CTT began working closely with Jacinta, she had given up hope of being able to achieve anything.

With the support of CTT, Jacinta found accommodation and enrolled in a TAFE course as a community support worker to help others in a similar situation. Even after contact with the CTT ended, Jacinta has continued to get her life back on track

CTT Senior Occupational Therapist, Shanyn, praised Jacinta's engagement with the service. "For Jacinta, her motivation from day one has remained strong," Shanyn said.

* Name changed to maintain privacy.

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5. Appendix

5.1 Justice Health NSW Custodial Health Services

Service	Description	Care setting
Adult patients		
Aboriginal Chronic Care Program	Supports detection, treatment and care coordination for Aboriginal adults in custody with chronic conditions, and referral to post-release health and social support services.	Custody
Aboriginal Family Health Worker Program	works with Aboriginal women in custody and those returning to the community on the South Coast of NSW.	Custody
Cancer Care	The Cancer Care Nurse Coordinator facilitates care continuity for adults in custody diagnosed with cancer. The role is a primary point of contact for patients and staff, and works collaboratively with custody and hospital-based treating clinicians to arrange treatment, provide advice and non-clinical interventions, and support discharge planning and referrals pathways.	Custody
Primary care service	The Primary Care service provides health screening, assessment, treatment and monitoring to adults in public correctional centres, selected 24hr police and court cells, and Long Bay Hospital. Clinical areas include primary care (nurses, GPs), gender specific services including Women's Health nurse practitioners, oral health, optometry, dermatology, radiology, physiotherapy, occupational therapy, social work and speech pathology. The primary care service also initiates care pathways for acute and chronic conditions, referrals to specialist services, and delivers health education and promotion.	Custody
Population and preventive health service	The Population Health unit is responsible for screening, prevention, treatment and control of communicable diseases such as influenza, hepatitis, sexually transmissible infections, and HIV. The team also provides health promotion and harm minimisation services, immunisations, environmental health monitoring and advice, and management of patients who report sexual assault.	Custody
Drug and alcohol (D&A) service	The D&A team provides risk assessment and management of drug and/or alcohol intoxication and withdrawal, pharmacotherapy treatment options including opioid agonist treatment (OAT), brief interventions such as 'take home naloxone', release planning, and expert D&A advice for target cohorts and multidisciplinary care planning.	Custody
Connections Program	A pre- and post-release support program to improve the integration of care for recidivist adults in custody who have D&A problems. It is a linkage model program that aims to assertively link patients with community-based health and welfare service providers.	Community
NSW Drug Court Program	This specialist court diversion service provides an alternative to prison for eligible participants with drug dependencies that have committed certain crimes, in collaboration with community-based D&A services and the justice system.	Community
Compulsory Drug Treatment Program	The CDTP is a custody-based intensive D&A residential rehabilitation program jointly administered with CSNSW. The D&A team assess participant eligibility for the program and provides health care to them in custody. There three stages of program are: (1) a custodial component based on a therapeutic model of care; (2) phased day release; (3) community based.	Custody, community

Stimulant Treatment Service	This targeted program for adults in custody with methamphetamine use disorder provides treatment and support to reduce the harms associated with substance use. The service includes dedicated Aboriginal Health positions to improve the cultural care needs of First nations patients.	Custody
Substance Use in Pregnancy Service	provides expert drug and alcohol advice, clinical care, and multidisciplinary case management, and release planning for pregnant women in custody with current substance use issues.	Custody, community
Integrated Care Service	The Integrated Care Service facilitates care coordination for adults in custody with chronic conditions, and referral to post-release health and social support services. They work closely with custodial, hospital and community healthcare providers.	Custody, community
Long Bay Hospital (LBH)	LBH includes an 85-bed non-acute inpatient facility and outpatient service (Area 2) within the Long Bay Correctional Complex. The hospital includes a 30-bed medical sub-acute unit, a 15-bed aged care and rehabilitation unit, and 40-bed mental health unit.	Custody
Palliative Care	The statewide Palliative Care Team, based at LBH, provide comfort, care and dignity to adults and young people in custody with a life limiting illness. Care includes symptom management, mental health and spiritual support for patients and their carers and family.	Custody
Adolescent patients		
Custodial primary care service	The Primary Care service provides health screening, assessment, treatment and monitoring to young people in the state's six youth justice centres. Clinical areas include primary care (nurses, GPs), sexual health, gender specific services, and oral health. The service also initiates care pathways for acute and chronic conditions, referrals to specialist services, and delivers health education and promotion.	
Adolescent Custodial Mental Health and Drug and Alcohol	Dual Diagnosis nurses and psychiatrists manage the mental health and D&A needs of young people in custody, including comprehensive assessment, triaging, diagnostic clarification and treatment. The service works closely with the Justice cluster, education, disability, and other social service providers to support discharge planning and care continuity. Justice Health NSW has an embedded culturally sensitive practice for Aboriginal young people in custody.	

5.2 Justice Health NSW Forensic Mental Health Services

Service	Description	Care setting
Forensic Hospital	The Forensic Hospital provides high-secure forensic mental health care across six accommodation units; three admission units for more acutely unwell patients and three sub-acute and rehabilitation units. The Forensic hospital provides only involuntary inpatient care, given its highly restrictive environment. The Forensic Hospital also supports capacity building by way of training offered to LHDs.	Policing, court, custody, community
Adult patients		
Community Forensic Mental Health Service (CFMHS)	Consultation and support to LHD inpatient and community mental health services to better manage the risk of violent offending or re-offending among people with a serious mental illness.	Community, pre-court and policing
CFMHS Community Transition Team (CTT)	A small team providing prison in-reach and community services to adults in custody with severe and enduring mental illness in Silverwater and Long Bay correctional complexes, offering assertive transition supports to improve continuity of care and reduce the likelihood of mortality and reoffending on release. The CTT also provides court-based and transitional support to <i>Walama List</i> participants with serious and enduring mental illness (a specialist District Court program for Aboriginal offenders)	Custody, court, community
CFMHS Treatment Services	Time limited psycho-social interventions are provided to forensic and high risk civil patients in the community who present with a high risk of violence and complex needs. These interventions look to specifically address the risk of violent offending.	Community
Clinical Risk Assessment and Management (CRAM) Training	Assisting clinicians to intervene early and manage the risk of violence among those with serious mental illness.	Community
CRAM for Carers Training	Training aimed at preventing violence against families and carers by those with serious and enduring mental illness.	Community
Specialist Supervision Program	The program mentor LHD clinicians to better assess and problem solve clinical care needs, when the risk of violence or offending is identified.	Community , court, pre-court, policing
Statewide Community and Court Liaison Service (SCCLS)	SCCLS screen, identify, and assess mentally ill defendants before the local courts to support their diversion, away from the CJS by advising magistrates of alternative community-based care options and facilitating care commencement or continuity.	Court and custody
Custodial Mental Health (CMH) Services	A hub-and-spoke service facilitating clinical treatment of presenting illness and related offending risk by psychiatrists and specialist mental health nurses, including release planning. The team also provides a custodial diversion service at the MRRC for eligible remand patients.	Custody
Perinatal and Infant Mental Health Service	Working closely with the Network's midwifery, mental health and drug and alcohol services, as well as local health district social work services, and Department of Community and Justice (DCJ) workers in the community, this service coordinates the mental health care of pregnant women in custody with a particular emphasis on the parent-infant relationship.	Custody
Specialist Mental Health Service for Older Persons	Specialist older persons services are provided statewide including to older persons forensic patients. Transition services to community based nursing homes are also provided by this service.	Custody

CMH - Towards Zero Suicides Program	A NSW Health-wide initiative, this service (1FTE) works with health and custodial staff to: <ul style="list-style-type: none"> reduce suicides in custody and on release build Justice Health NSW and CSNSW capability to reduce unexpected deaths in custody. 	Custody
Primary Care Mental Health	Statewide service providing mental health assessment and care coordination and treatment for patients to address care needs in custody and on-release. The service also delivers mental health education, Mental Health First Aid training, and other capacity building initiatives.	Custody
Mental health helpline	A statewide mental health telephone service providing a central point of contact for mental health enquiries and support for people in contact with the CJS.	Custody
Primary Health Nursing Service	Health and mental health screening of adults entering custody, welfare checks, clinical assessments and observations, Risk Intervention Team (RIT) assessment and monitoring, medication administration for MHI and other health needs.	Policing, custody
Court Report Coordination Unit	A statewide service providing psychiatric clinical reports as requested by a court or external agencies to assist in understanding a patients mental health and risk assessment and management.	Court and custody
Remote Off-site After Hours Medical Services	A statewide service providing psychiatry leadership and support on patient care, administrative and operational matters,	Custody, court, community and Inpatient
Young people		
Teen Got It!	An early intervention program for young people with disruptive behaviour disorder and their families, providing improved coping strategies and problem solving skills. Young people can access the service at the point of early offending or prior to offending, including when presenting with externalising behaviours at school, leading to suspensions or risk of school disengagement, or those engaging in domestic and family violence.	Community
Adolescent Court and Community Team (ACCT)	Clinicians assess and identify mental health concerns and comorbidities in referred YP at any stage of their court process. They provide a report to the court to advise the Magistrate on alternative non-custodial care pathways (diversion) or to assist Magistrates to make determinations at sentencing. The clinician then arranges referrals to proposed care and treatment providers in the community.	Court
Adolescent Custodial Mental Health and Drug and Alcohol	Dual Diagnosis nurses and psychiatrists manage the mental health and D&A needs of young people in custody, including comprehensive MH assessment, triaging, diagnostic clarification and treatment. The service works closely with the Justice cluster, education, disability, and other social service providers to support discharge planning and care continuity. Justice Health NSW has an embedded culturally sensitive practice for Aboriginal young people in custody.	Custody
Aboriginal MH Clinical Lead (1FTE)	State-wide role providing clinical consultation and assessment to support culturally safe care delivery and coordination.	Court, custody, community
School-Link	Facilitates early and improved access to health care and education, assisting YP with complex mental health needs to re-engage with their schooling. Consultation can be provided to schools regarding YP with early offending or conduct problems including when presenting with difficulties at school leading to suspensions or risk of school disengagement, or those engaging in domestic and family violence.	Custody, Community

Forensic Risk Assessment and Management Advice Service (FRAMAS)	And in kind consultation and assessment service for YP referred by local health district community Child and Adolescent or Youth Mental Health Services (CAMHS).	Community
Community Integration Team (CIT)	Working with YP and their families in the critical period, post release from custody for 3 months. CIT clinicians provide community based assertive wraparound support to meet health, educational and psychosocial needs. The service works closely with a range of agencies and community-based service providers.	Community
Austinmer Adolescent Unit, Forensic Hospital	A six-bed secure, adolescent inpatient unit situated within the grounds of the Forensic Hospital in Malabar, Sydney.	Custody, Community (inpatient)
A Place to Go	Multi-agency program of Justice Health NSW, DCJ, Youth Justice NSW and Mackillop Family services. Servicing the Penrith area. Aim is to intervene early to divert young people away from the CJS. Justice Health NSW provide health input through a CIT clinician and access to a psychiatry clinic for mental health assessment, and referral and access to mental health care pathways	Community, court
Broadmeadow Children's Court Pilot	The ACCT and CIT clinician work collaboratively with DCJ, Education and Non-government organisations (NGOs). The aim of the project is to improve outcomes in health, social issues and education for YP at that location. Health services for this initiative are provided in kind with no additional resources.	Court