



# Patterns of alleged offending amongst Aboriginal and non-Aboriginal young people in the Northern Territory of Australia, 1997–2019

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## Funding information

Northern Territory Government through the Reform Management Office

## Abstract

In Australia, Aboriginal and Torres Strait Islander peoples are much more likely to be arrested, charged with criminal offences and imprisoned than other Australians. Aboriginal and Torres Strait Islanders comprise 49% of young people in detention but only 5.8% of the Australian population aged 10–17. This study investigated changes between 1997 and 2019 in the interaction of Aboriginal and non-Aboriginal young people with the justice system in the Northern Territory (NT) of Australia. The prevalence of young people being charged with an alleged offence decreased by more than 60% between 1999 and 2001, co-incident with the introduction of the Juvenile Diversion Scheme in August 2000. Thereafter, for non-Aboriginal young people there was a small and temporary increase, but for Aboriginal young people prevalence increased almost back to pre-2000 levels by 2015 before starting to decrease. Aboriginal young people comprised 57% of those charged with any offence in 1997, rising to 88% in 2019. Further investigation is needed to understand the reasons for divergent trends in the prevalence of alleged offending for Aboriginal and non-Aboriginal young people, which may include the role of diversion, differences in the nature of offences and systemic bias and racism.

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**KEYWORDS**

Australia, Northern Territory, time trend, youth detention, youth justice

## 1 | BACKGROUND

In Australia, Aboriginal and Torres Strait Islander peoples (hereafter respectfully referred to as Aboriginal people in accordance with the preference of Aboriginal people in the Northern Territory) are much more likely to be arrested, charged with criminal offences and imprisoned than other Australians (Australian Law Reform Commission, 2017). Proposed explanations for this over-representation include the following: systemic racial bias in the criminal justice system; differential police treatment; and greater exposure to individual, familial, social and contextual factors that increase the risk for justice system contact (Cunneen, 2020; Homel et al., 1999). For Aboriginal Australians, historical context underlies their over-representation in the justice system (Cunneen, 2014); they have suffered severe social and economic exclusion since the British colonisation of Australia in 1788. The *Bringing Them Home* report (Wilkie, 1997) highlighted the intergenerational impacts caused by historical policies of forced assimilation and the removal of children that today “...make a parent more susceptible to difficulties in raising their own children and increase the likelihood of further intervention by welfare and juvenile justice departments” (Cunneen & Libesman, 2000, p. 103).

Aboriginal young people comprise 49% of the youth detention population across Australia but only 5.8% of the population aged 10–17 (Australian Institute of Health and Welfare, 2022). The problem of over-representation of Aboriginal young people in the justice system is particularly apparent in the Northern Territory (NT), a large area of northern and central Australia with remote and sparsely populated areas. Aboriginal young people comprise 42% of the 10–17-year-old population but 96% of those in detention (Australian Institute of Health and Welfare, 2022). Legislative changes have variously been restorative, such as the repeal of mandatory sentencing in 2001 (Toyne, 2001) and provisions “in favour of diversion” and which are “sensitive to cultural differences” in the Youth Justice Act (Toyne, 2001); or punitive, including the amendments to the Youth Justice Act in 2008 to restrict the availability of repeated diversion (Burns, 2008) or the changes in 2011 to make breach of bail a criminal offence (Northern Territory Government, 2011b). More recent changes, in 2021, made it easier for police to use electronic monitoring and restrict access for young people to diversionary programmes (Youth Justice Legislation Amendment Bill, 2021 (NT)) and restricted the availability of bail (Northern Territory Government, 2021). A Juvenile Diversion Scheme (JDS) has been available continuously since 2000, and multiple therapeutic programmes have been trialled including youth boot camps from 2014, community custody orders (2012) and high-intensity community-based supervision (Williams, 2021).

In 2007, the Australian Government legislated (without consulting Aboriginal people) the NT Emergency Response that included: suspension of the Racial Discrimination Act; compulsory acquisition of, and suspension of Aboriginal control over access to, Aboriginal communities; “quarantining” of welfare benefits; restrictions on alcohol and *kava* use; removal of customary law and cultural practice considerations from bail and sentencing decisions; and funding for additional police and community services (Australian Government Department of Families Housing Community Services and Indigenous Affairs, 2011; Gray, 2020). The Emergency Response had far ranging impacts on the autonomy of NT Aboriginal communities including through the introduction of local police services in 18 remote communities with the potential to increase the number of young people charged with an alleged offence.

After public exposure of mistreatment of young people in detention (Australian Broadcasting Commission, 2016) in 2016, a recent Royal Commission found systematic deficiencies in the NT youth justice system that had persisted despite repeated inquiries and investigations (Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, 2017a). Several of the Royal Commission's recommendations echoed those of a 2011 inquiry into the youth justice system, which stated that “[Although] successive governments have introduced youth strategies, action plans and programs, there has been little or no evaluation of their success [and thus it is] difficult to assess what, if any, real or imagined policy framework underpinned the various announcements, initiatives, youth strategies and action plans” (Northern Territory Government, 2011a, p. 4).

Thirty years after the Royal Commission into Aboriginal Deaths in Custody (Johnston, 1991), 20 years after the JDS commenced in 2000 (Wilczynski et al., 2004), and 10 years after the Review of the Northern Territory Youth Justice System (Northern Territory Government, 2011a), there remains a paucity of research into patterns of contact with the justice system and how this has changed over time. This work is foundational for the planning and development of effective prevention and intervention strategies by identifying the number and characteristics of young people who come into contact with the justice system, and whether this has changed over time. This study used administrative data from the NT government's Integrated Justice Information System (IJIS) to investigate the contact patterns of Aboriginal and non-Aboriginal young people with the NT justice system between 1997 and 2019. It examines whether there has been change over time, for NT Aboriginal and non-Aboriginal young people, in: (1) the prevalence of young people charged with criminal offences; (2) the incidence of alleged offending episodes; and (3) the number of alleged offending episodes per individual.

## 2 | MATERIALS AND METHODS

We analysed data for all criminal charges of NT residents aged 10–17 years at the time of alleged offences that occurred between 1997 and 2019. Records for each eligible charge were extracted from IJIS, which is operated by the Department of the Attorney-General and Justice and used by several other NT government departments (including Police) involved in the administration of youth justice. The years 1997 and 2019 are the first and last years in which complete information was available at the time of data release in August 2020.

Police are usually the first point of contact with the criminal justice system. Police record all criminal charges in IJIS, regardless of whether they proceed to court. This study was unable to include youth diversion because details of youth diversion (including police warnings) are recorded in the NT police information system (PROMIS) and not in IJIS. Therefore, we are only able to examine police-recorded charges in this study.

The type of alleged offence was classified according to the Australian and New Zealand Standard Offence Classification (ANZSOC) (Australian Bureau of Statistics, 2011). Most charges relate to the original incident and are referred to as “substantive” offences. Some charges are laid during the court process, the most common being “breach of bail” and “failure to appear in court”; these are referred to as “administrative” offences (Division 15 of the ANZSOC). Administrative offences were analysed separately. Breach of bail was a criminal offence for young people in the NT from 16 May 2011 to 2 March 2020. Prior to May 2011, a breach of bail conditions did not result in a criminal charge but was recorded in IJIS to inform the courts that it had occurred.

Initial analysis focussed on the total number of charges, analysing changes over time in: the prevalence of alleged offending (i.e. the proportion, expressed as a percentage, of the population aged 10–17 years charged with any offence in each calendar year); the incidence rate of

criminal charges per 1000 persons per year (“charge incidence”); and the proportion of charges by type of offence. The prevalence of alleged offending is also known as the “offender rate” and often expressed per 100,000 population (rather than per cent) in international statistical reporting (Australian Bureau of Statistics, 2021).

One crime incident can involve one or more persons who may each be charged with one or more offences. Integrated Justice Information System does not identify discrete incidents but does contain a unique client identifier that is assigned to a person at their first contact with the NT justice system. We grouped charges for the same person on the same day into a single “episode,” as has been done previously (Carrington et al., 2005). Episodes are not an exact replacement for incidents but are a closer approximation than the number of charges.

Analysis of episodes was restricted to substantive offences (i.e. excluding administrative offences) focussing on: (1) the prevalence of young people charged with criminal offences (“prevalence”); (2) the incidence of alleged offending episodes per 1000 persons per year (“episode incidence”); and (3) the average number of alleged offending episodes per individual per year (“episodes per individual”). Prevalence and episode incidence were calculated for each year between 1997 and 2019, using NT resident population estimates produced by the NT Department of Health based on Australian Bureau of Statistics published Estimated Resident Population statistics by age, sex, Indigenous status, region and year as the population denominator (Department of Health, 2020). Analyses were stratified by: Indigenous status, classified as Aboriginal (including Torres Strait Islander) and non-Aboriginal; sex; age group (10–13 and 14–17 years) at time of offence; and region of residence, classified as Top End urban (Darwin, Palmerston, Katherine and Nhulunbuy), Top End remote (the balance of the area north of Elliot, including Lajamanu), Central Australia urban (Alice Springs and Tennant Creek) and Central Australia remote (the balance of the area south of, and including, Elliot).

Joinpoint analysis (Joinpoint program version 4.8.0.1) was used to analyse time trends (National Cancer Institute, 2020). Joinpoint analysis estimates the average percentage change per year and inflection years in which there is strong statistical evidence that the time trend changed in magnitude or direction. A log-linear model was used that log-transformed the dependent variable to account for potential skewed distribution and to enhance interpretability. All other analyses were conducted using Stata version 15 (StataCorp, 2017).

The study was approved by the Human Research Ethics Committee of the NT Department of Health and the Menzies School of Health Research (HREC-2016-2708). The research team consists of researchers, from both university and government sectors, with extensive experience in health and justice research involving Aboriginal people. Two members of the team are Aboriginal lawyers, one of whom leads the implementation of the Northern Territory Aboriginal Justice Agreement which aims to redress the over-representation of Aboriginal people in the NT justice system. The project is supported by a First Nations Advisory Group who has reviewed the design and results of the study.

### 3 | RESULTS

#### 3.1 | All charges (i.e. for both substantive and administrative offences)

The prevalence of alleged offending decreased by more than 60% for both Aboriginal and non-Aboriginal young people between 1999 and 2001 (Figure 1). Charge incidence decreased to a similar degree. Most of this decrease occurred between June and September 2000; the number of Aboriginal young people charged decreased from between 82 and 149 per month between January 1999 and June 2000 to 37–58 per month between September 2000 and December 2001, and for non-Aboriginal young people decreased from 48–89 to 17–30 per

month. Thereafter, prevalence increased steadily for Aboriginal young people to be almost back to pre-2000 levels by 2015, but then commenced to decrease again; charge incidence increased to ~30% higher than pre-2000 levels (indicating an increase in the number of charges per individual per year) before starting to decrease. For non-Aboriginal young people, prevalence and charge incidence increased by a small amount to 2011 or 2012 and then decreased further to their lowest levels in 2019.

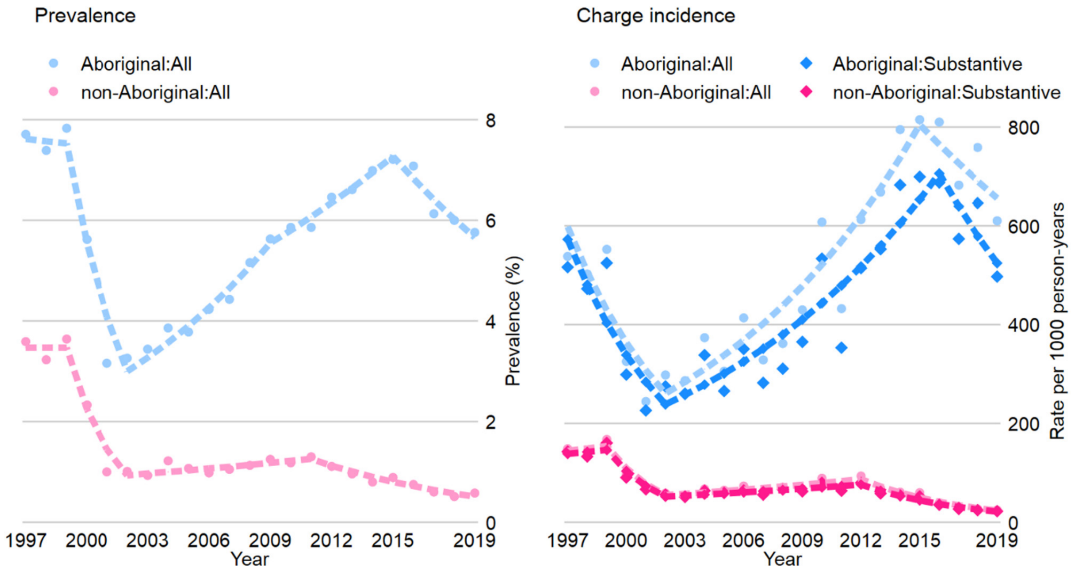


FIGURE 1 Prevalence<sup>1</sup> of alleged offending and charge incidence<sup>2</sup>, by Indigenous status and year, Northern Territory (NT) 10–17-year-olds in 1997–2019. <sup>1</sup>Proportion of NT population aged 10–17 years charged with any offence (including administrative offences) in each year. <sup>2</sup>Incidence rate of all charges for any offence and of charges for substantive offences only (i.e. excluding administrative offences).

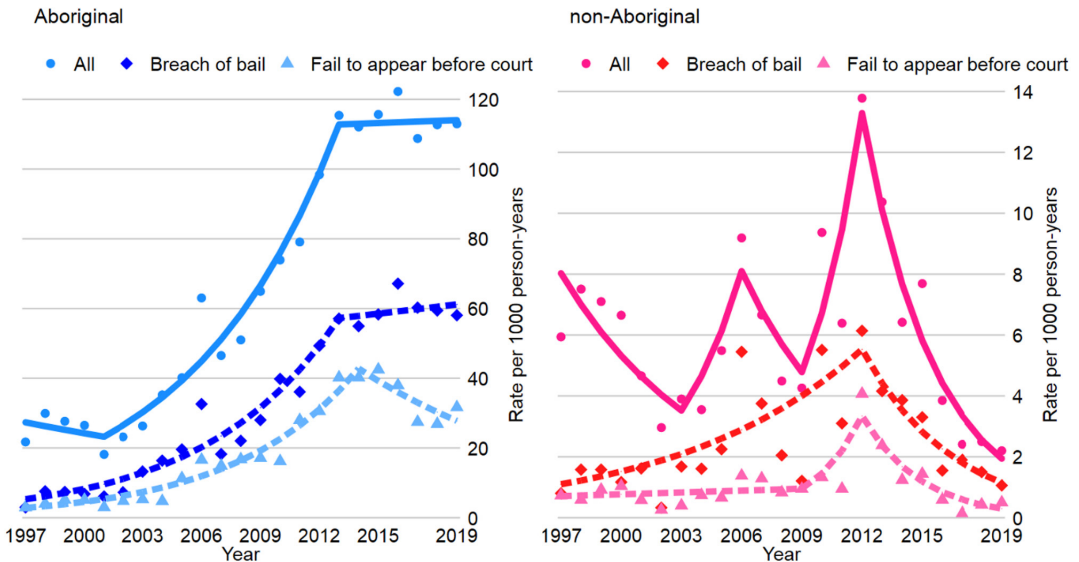


FIGURE 2 Administrative offences, charge incidence by Indigenous status and year, Northern Territory (NT) 10–17-year-olds in 1997–2019.

The proportion of administrative offences increased over time, more for Aboriginal (increasing from 8.2% of charges 2001–2003 to 16.3% in 2017–2019) than non-Aboriginal (6.2% to 8.8%) young people. The majority of charges for administrative offences were for “breach of bail conditions,” which in 2017–2019 accounted for 8.7% of charges for Aboriginal young people but only 3.2% for non-Aboriginal young people. Between 2001 and 2013, the incidence of breach of bail events/charges increased more than ninefold for Aboriginal young people and more than doubled for non-Aboriginal young people (Figure 2).

### 3.2 | Substantive offences

Further analysis was restricted to episodes (rather than individual charges) of alleged substantive offences (i.e. excluding administrative offences), to focus on the primary incidents rather than all charges including those that arose during the youth justice administrative process. For both Aboriginal and non-Aboriginal young people, the majority of those charged with a

TABLE 1 Demographic characteristics of the 10–17-year-old population and those charged with a substantive offence<sup>a</sup>, Northern Territory (NT) 1997 and 2019.

	1997		2019	
	Population %	Individuals charged %	Population %	Individuals charged %
<b>Aboriginal</b>	<i>n</i> = 9388	<i>n</i> = 698	<i>n</i> = 11,710	<i>n</i> = 642
Sex				
Male	51.6	82.2	52.1	76.3
Female	48.4	17.8	47.9	23.7
Age group				
Age 10–13	52.5	18.5	52.8	18.7
Age 14–17	47.5	81.5	47.2	81.3
Region				
Top End urban	23.0	41.0	25.7	33.5
Top End remote	45.8	23.4	48.5	29.9
Central Australia urban	10.7	25.0	10.4	31.7
Central Australia remote	20.5	10.6	15.4	4.9
<b>Non-Aboriginal</b>	<i>n</i> = 14,977	<i>n</i> = 522	<i>n</i> = 14,085	<i>n</i> = 80
Sex				
Male	51.6	75.3	51.3	73.8
Female	48.4	24.7	48.7	26.2
Age group				
Age 10–13	50.5	14.4	52.7	10.0
Age 14–17	49.5	85.6	47.3	90.0
Region				
Top End urban	65.1	75.6	70.9	72.8
Top End remote	15.5	8.8	15.7	11.0
Central Australia urban	18.0	14.7	12.5	16.3
Central Australia remote	1.4	1.0	0.8	0.0

<sup>a</sup>NT residents aged 10–17 years charged with any substantive offence in 1997 and 2019.

substantive offence were male, aged 14–17 years and resided in urban regions (Table 1). Time trends for episodes of alleged substantive offending were similar to those for all charges: prevalence of alleged offending and episode incidence for substantive offences decreased by more than 70% for non-Aboriginal young people and by almost 60% for Aboriginal young people between 1999 and 2002, with further decrease (after a small increase) for non-Aboriginal young people but a large increase until about 2014 before the start of a decline for Aboriginal young people (Figure 3; Table S1). In 1997, 57% of young people charged with a substantive offence were Aboriginal; this increased to 88% in 2019.

The average number of episodes per individual was stable (at just under two) for non-Aboriginal young people throughout the study period but higher for Aboriginal young people and, after initially decreasing to about two in 2008–2010, increased to almost three in 2017–2019 (Figure 4). For Aboriginal young people, average episodes was higher for male, younger and urban young people.

For both Aboriginal and non-Aboriginal young people, the most common type of offence is related to property (theft, unlawful entry and property damage) and traffic/motor vehicles, with traffic/vehicle offences constituting a higher proportion of charges for non-Aboriginal than Aboriginal young people (Table 2). The proportion of charges involving acts intended to cause injury increased over time, more so for non-Aboriginal than Aboriginal young people, while theft decreased for non-Aboriginal young people and traffic offences decreased for Aboriginal young people.

Further analysis of time trends was restricted to the period 2002 to 2019 (i.e. after the large decrease in charges between 1999 and 2001). For non-Aboriginal young people, all measures of alleged offending decreased after about 2011 (Figure 5); charge incidence decreased more than episode incidence and prevalence because the average number of charges per episode and the average number of episodes per individual both decreased. For Aboriginal young people, all measures increased until between 2013 and 2015; thereafter, prevalence decreased by 6.2% per year but episodes per individual continued to increase (by 4.0% per year) so episode incidence decreased by only 2.5% per year. The average number of charges per episode

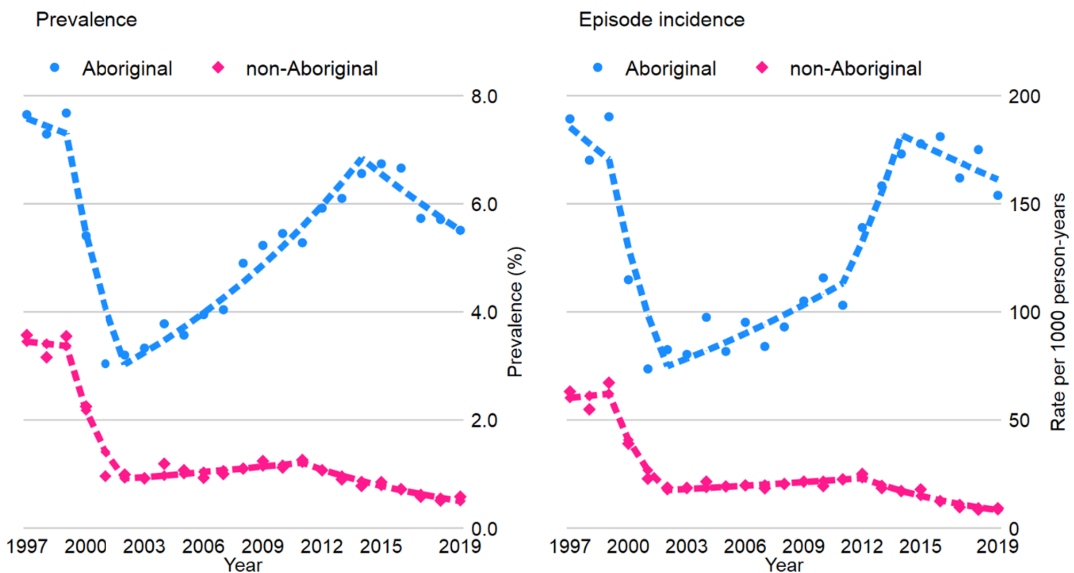
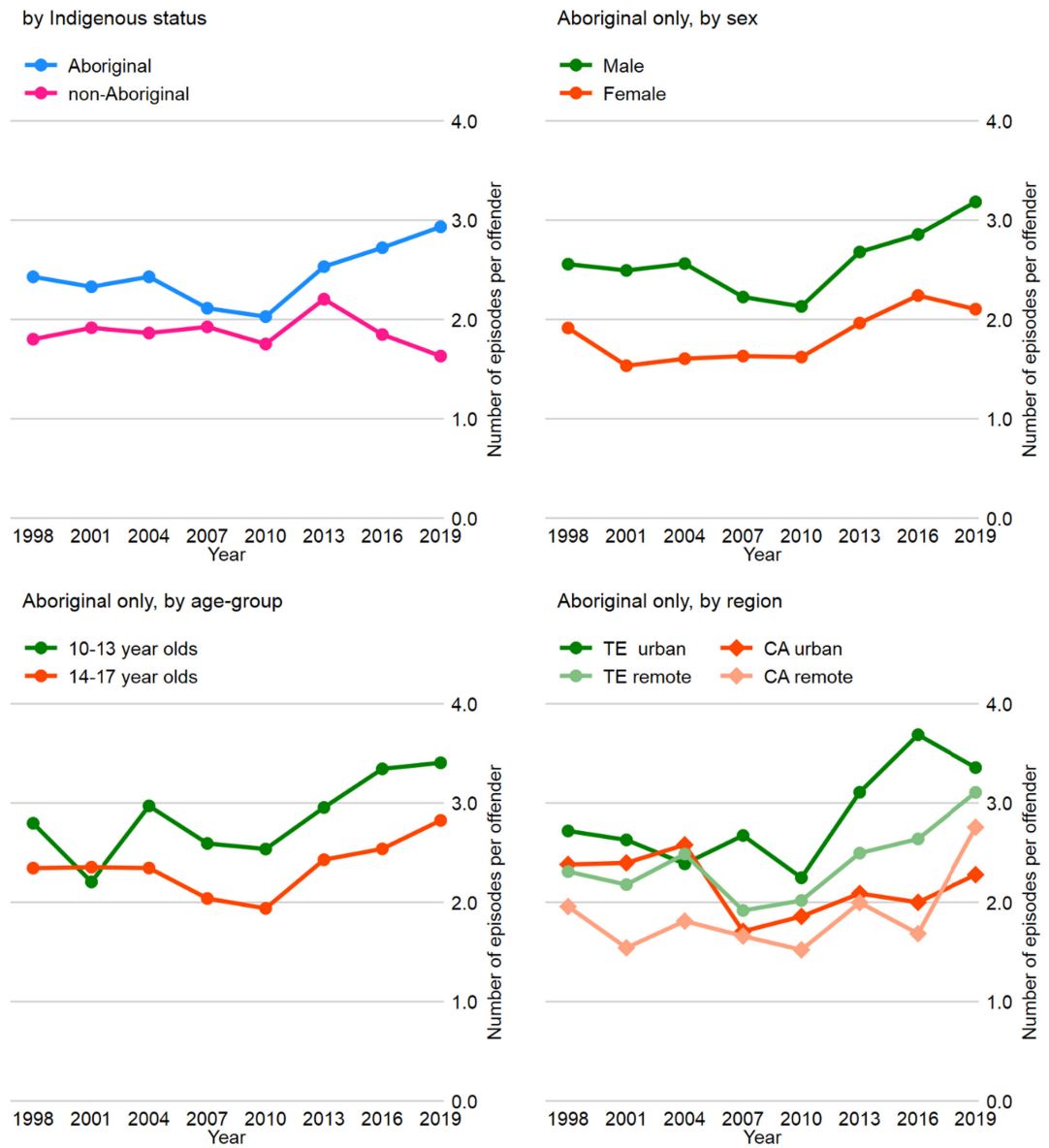


FIGURE 3 Prevalence of being charged with a substantive offence<sup>1</sup> and episode incidence<sup>2</sup> by year and Indigenous status, NT 10–17 year-olds in 1997–2019. <sup>1</sup>Prevalence (%) of any charge (excluding administrative offences) during each year. <sup>2</sup>Incidence rate per 1000 persons per year.



**FIGURE 4** Average number of episodes per individual per year<sup>1</sup>, Northern Territory (NT) 10–17-year-olds in 1997–2019. <sup>1</sup>Combined three-year periods (except 2018–2019), from 1997–1999, 2015–2017, to 2018–2019. CA, Central Australia; TE, Top End.

was relatively stable over the study period, initially increasing and then decreasing for both Aboriginal and non-Aboriginal young people (Figure 5). Amongst Aboriginal young people, the analysis stratified by region indicated changes in prevalence were similar to the overall analysis (except for the different turning points ranging from 2011 to 2016 in different regions) (Figure S1). A similar pattern was observed for episode incidence, except for Top End remote.

Changes in the “volume” of alleged offending (as indicated by episode incidence) were driven predominantly by changes in the number of individuals charged rather than changes in the number of episodes that each individual was involved in each year (Figure 3; Table S1).

TABLE 2 Type<sup>a</sup> of alleged offence<sup>b</sup> (%) in three time periods<sup>c</sup>, Northern Territory (NT) 10–17-year-olds.

ANZSOC division	Aboriginal			Non-Aboriginal		
	1997–1999	2001–2003	2017–2019	1997–1999	2001–2003	2017–2019
Type of offence	<i>n</i> = 14,457	<i>n</i> = 8053	<i>n</i> = 20,119	<i>n</i> = 6526	<i>n</i> = 2638	<i>n</i> = 1025
Offences against the Person						
Homicide and related offences	0.1	0.1	0	0	0.1	0.1
Acts intended to cause injury	5.0	8.2	7.7	4.3	6.9	13.9
Sexual assault and related offences	0.5	0.9	0.3	0.6	2.8	1.3
Dangerous or negligent acts endangering persons	1.2	2.4	2	2.9	6.3	3.5
Abduction, harassment and other offences against the person	0.3	0.9	0.4	0.8	0.5	1.5
Robbery, extortion and related offences	0.3	0.8	0.9	1	0.8	1.1
Offences against property						
Unlawful entry with intent/burglary, break and enter	19.5	19.5	19.5	13.2	14.1	10
Theft and related offences	30.4	28.2	29.1	28.5	26.2	15.8
Fraud, deception and related offences	0.3	0.8	0.9	0.9	0.4	0.8
Property damage and environmental pollution	20.1	16.1	22.2	12.8	15.2	13.6
Other offences						
Illicit drug offences	0.7	0.8	0.5	4.2	1	8.1
Prohibited and regulated weapons and explosives offences	0.9	2.3	2.2	1.7	1.4	4.5
Public order offences	9.0	8.5	7.9	7.1	7.2	4.9
Traffic and vehicle regulatory offences	11.3	10.4	6.3	21.8	16.9	20.7
Miscellaneous offences	0.2	0.1	0	0.2	0.2	0.5

<sup>a</sup>Charges classified by ANZSOC category.

<sup>b</sup>Substantive offences only (i.e. excluding administrative offences).

<sup>c</sup>Before (1997–1999) and immediately after (2001–2003) the large decrease between 1999 and 2001, and most recent (2017–2019).

Further analysis therefore focussed on the proportion of young people charged with any of offence each year (i.e. prevalence of alleged offending).

### 3.2.1 | Aboriginal young people

Prevalence of alleged offending was much higher for Aboriginal than non-Aboriginal young people, for all age–sex groups, and the increase after 2002 continued for several years longer for Aboriginal (until about 2015) than non-Aboriginal young people (about 2011) (Figure 6, Figure S2). Amongst Aboriginal young people, prevalence was much higher for boys than girls and for the older than younger age group (Figure 6). Prevalence increased for all groups until

Indicators	TP*	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	
<b>Aboriginal</b>																				
Prevalence	2015	+6.1%* ↑										-6.2%* ↓								
Episode incidence	2014	+3.6%* ↑						+18.1% ↑				-2.5% ↓								
Charge incidence	2016	+8.0%* ↑										-9.3% ↓								
Episodes per alleged offender	2008	-4.8%* ↓						+4.0%* ↑												
Charges per episode	2015	+1.3% ↑										-3.8% ↓								
<b>non-Aboriginal</b>																				
Prevalence	2011	+2.1% ↑						-10.1%* ↓												
Episode incidence	2012	+2.1%* ↑						-13.3%* ↓												
Charge incidence	2012	+3.4%* ↑						-16.3%* ↓												
Episodes per alleged offender	2013	-0.1%						+8.6% ↑				-6.2%* ↓								
Charges per episode	2010	+2.3%* ↑						-2.9%* ↓												

**FIGURE 5** Annual percentage change (APC) per year in: prevalence of alleged offending; episode incidence<sup>1</sup>; charge incidence<sup>1</sup>; average number of episodes per individual; and average number of charges per episode; by Indigenous status, Northern Territory (NT) 10–17-year-olds in 2002–2019. <sup>1</sup>Incidence rate per 1000 persons per year for Substantive offences only (i.e. excluding administrative offences). TP, Turning point. \* $p < .05$ ; green denotes decrease in rate (i.e. negative APC).

about 2015 and decreased thereafter; the relative increase (from 2002 to peak) and subsequent decrease was greater for the younger age group, both girls and boys. However, the relative increase from 2002 to 2019 was greater for girls than for boys and for the younger than older age group (Table S2). Prevalence was much higher in urban than in remote regions and higher in the urban areas in Central Australia than in the Top End (Figure 5; Table S2). These relativities changed little between 1997–1999 and 2016–2019 (Table 3), with the exceptions of urban areas, where prevalence was 1.4 times higher in Central Australia than the Top End in 1997–1999 but 2.3 times higher in 2019. The average number of episodes per individual was lower for girls than boys, higher for the younger than older age group and higher in Top End urban than other areas.

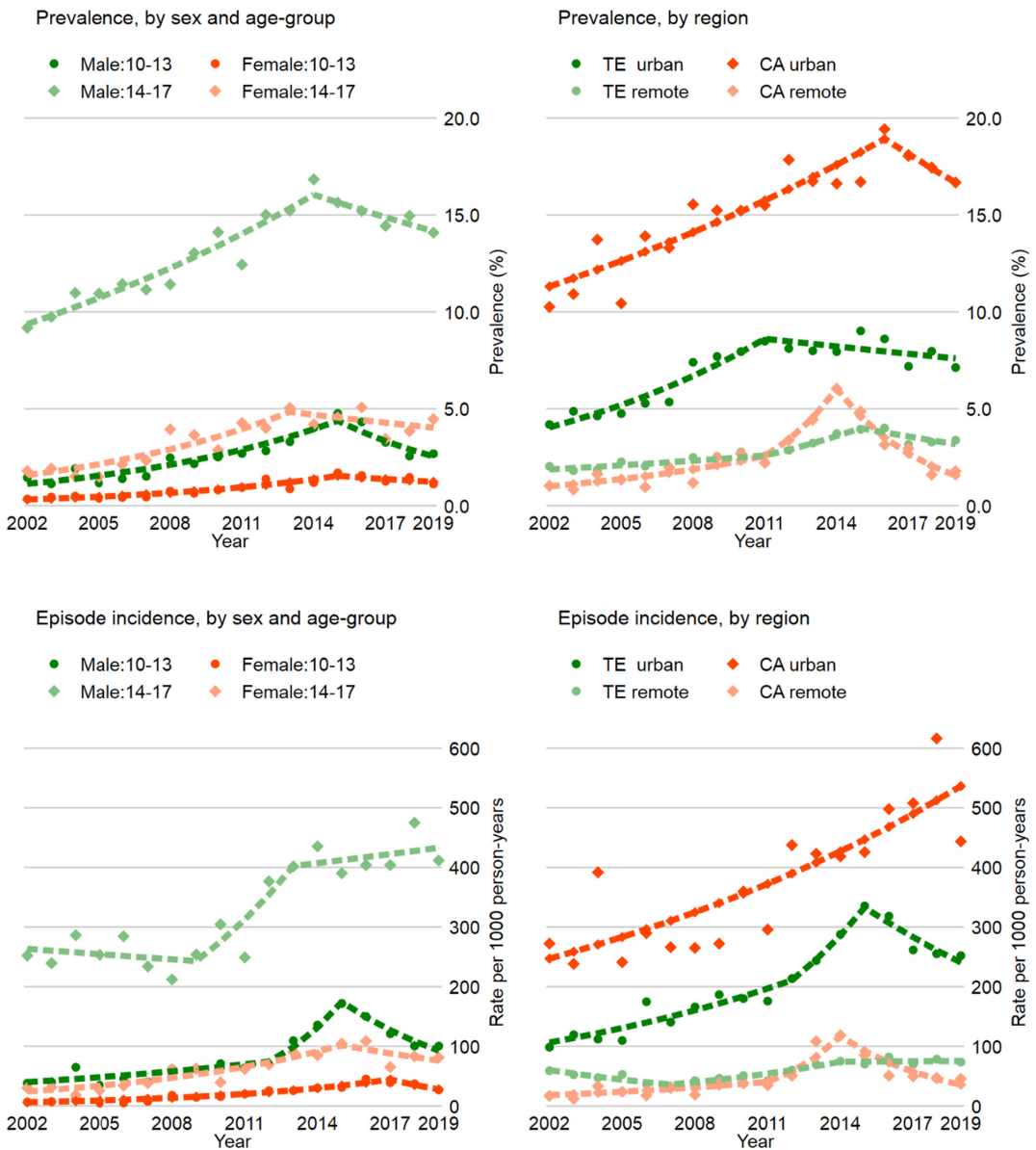
Focussing on the most recent 5 years, the relative decrease in prevalence and episode incidence from 2015 to 2019 was greater for younger than older age groups for all regions except Central Australia remote (Table 4). In the Top End, prevalence and episode incidence decreased more (in relative terms) for younger than older age groups (Table 4). In Central Australia, there were different changes over time in urban than remote areas; in urban areas, prevalence and episode incidence decreased for the younger but increased for the older age group, while in remote areas, prevalence and incidence decreased for both age groups (except offending prevalence in the 10–13 age group).

### 3.2.2 | Non-Aboriginal young people

Similar to Aboriginal young people, prevalence of alleged offending for non-Aboriginal young people was much higher for boys than girls and for the older than younger age group; time trends were similar for boys/girls and younger/older age groups (Figure S2). The decrease in prevalence after about 2011 was mostly attributable to a large decrease for older boys. Prevalence was moderately higher in Central Australia urban than Top End urban or remote, with similar time trends in each region; there were too few charges laid in Central Australia remote to analyse trends.

## 4 | DISCUSSION

Aboriginal young people in the NT have much greater interaction with the criminal justice system than non-Aboriginal young people, and the extent of this disparity has increased



**FIGURE 6** Prevalence<sup>1</sup> of alleged offending and episode incidence per year, by sex/age group and by region, Northern Territory (NT) Aboriginal 10–17-year-olds in 2002–2019<sup>2</sup>. <sup>1</sup>Proportion (%) of population in each category charged with one or more offences in each year. <sup>2</sup>Substantive offences only.

over time. The prevalence of being charged with a criminal offence has been much higher for Aboriginal than non-Aboriginal young people in the NT as elsewhere in Australia since data first became available (in 2007) (Australian Bureau of Statistics, 2022). After a large decrease for both groups, coinciding with the introduction of diversion in 2000, prevalence increased considerably for Aboriginal young people only.

There are many possible proximal factors that may have contributed to Aboriginal young people's higher prevalence of being charged with a criminal offence, including: a higher proportion of Aboriginal young people were involved in criminal behaviour; police interacted with more, or differently with, Aboriginal than non-Aboriginal young people; police were less

**TABLE 3** Prevalence of alleged offending, episode incidence and average episodes per individual by sex, age group and region, Northern Territory (NT) Aboriginal 10–17-year-olds in 1997–1999 and 2017–2019.

	1997–1999		2017–2019	
<b>Prevalence of alleged offending</b>	%	Ratio <sup>a</sup>	%	Ratio
<b>Sex</b>				
Male	11.7			8.4
Female	3.1	0.26 (0.24–0.29)	2.6	0.30 (0.27–0.34)
<b>Age group</b>				
14–17 years	12.8			9.5
10–13 years	2.7	0.21 (0.19–0.24)	2.1	0.22 (0.20–0.25)
<b>Region</b>				
Top End urban	12.4	2.96 (2.67–3.29)	7.4	2.27 (2.04–2.53)
Top End remote	4.2			3.3
Central Australia urban	16.8	4.01 (3.58–4.49)	17.4	5.31 (4.77–5.91)
Central Australia remote	4.0	0.97 (0.83–1.12)	2.1	0.64 (0.53–0.79)
<b>Episode incidence</b>				
	<b>Rate</b>	<b>Ratio</b>	<b>Rate</b>	<b>Ratio</b>
<b>Sex</b>				
Male	300			262
Female	59	0.20 (0.18–0.21)	55	0.21 (0.19–0.22)
<b>Age group</b>				
14–17 years	301			261
10–13 years	76	0.25 (0.24–0.27)	73	0.28 (0.26–0.30)
<b>Region</b>				
Top End urban	337	3.38 (3.16–3.62)	256	3.47 (3.24–3.72)
Top End remote	99			74
Central Australia urban	387	3.89 (3.60–4.21)	523	7.08 (6.59–7.60)
Central Australia remote	79	0.79 (0.72–0.88)	47	0.64 (0.56–0.73)
<b>Episodes per individual</b>				
	<b>Average</b>	<b>Ratio</b>	<b>Average</b>	<b>Ratio</b>
<b>Sex</b>				
Male	2.6			3.1
Female	1.9	0.75 (0.70–0.81)	2.1	0.69 (0.64–0.74)
<b>Age group</b>				
14–17 years	2.3			2.8
10–13 years	2.8	1.19 (1.12–1.27)	3.5	1.25 (1.18–1.33)
<b>Region</b>				
Top End urban	2.7	1.14 (1.07–1.22)	3.5	1.53 (1.43–1.64)
Top End remote	2.4			2.3
Central Australia urban	2.3	0.97 (0.90–1.05)	3.0	1.33 (1.24–1.43)
Central Australia remote	2.0	0.82 (0.74–0.91)	2.3	1.00 (0.87–1.14)

<sup>a</sup>Female compared with male; younger compared with older; each region compared with Top End remote.

likely to caution or divert Aboriginal young people; appropriate diversion programmes were not available for Aboriginal young people; and rehabilitation programmes were less available or suitable for Aboriginal young people to help them avoid repeat offending. During

**TABLE 4** Relative percentage change<sup>a</sup> (RPC) per year between 2015 and 2019 in prevalence of alleged offending<sup>b,c</sup> and episode incidence<sup>b,d</sup> by age group and regions<sup>d</sup>, Northern Territory (NT) Aboriginal young people<sup>e</sup>.

	Age 10–13			Age 14–17		
	2015	2019	RPC <sup>f</sup>	2015	2019	RPC
Prevalence of alleged offending (%)						
Top End urban	5.1	3.4	-33.6 (-42.2 to -23.6)	13.5	11.7	-13.1 (-15.0 to -11.2)
Top End remote	1.4	0.8	-46.1 (-46.1 to -46.0)	6.6	6.2	-4.0 (-14.0 to 7.1)
Central Australia urban	9.2	5.4	-41.1 (-50.1 to -30.4)	24.8	29.4	18.6 (8.5 to 29.6)
Central Australia remote	2.2	0.8	-60.9 (-79.1 to -26.9)	7.7	2.8	-63.3 (-78.8 to -36.6)
Episode incidence (per 1000 person-year)						
Top End urban	216	131	-39.2 (-41.9 to -36.4)	470	397	-15.0 (-24.7 to -4.1)
Top End remote	27	12	-54.3 (-54.4 to -54.1)	115	140	23.3 (18.9 to 27.8)
Central Australia urban	290	187	-28.4 (-56.7 to 18.2)	570	734	28.8 (20.9 to 37.3)
Central Australia remote	35	36	5.0 (-26.7 to 50.4)	137	56	-76.1 (-99.7 to 1881.0)

<sup>a</sup>Percentage change from 2015 to 2019 (with 95% confidence interval).

<sup>b</sup>Substantive offences only (i.e. excluding administrative offences).

<sup>c</sup>Prevalence per 100 persons.

<sup>d</sup>Incidence rate per 1000 persons per year.

<sup>e</sup>There were too few charges per year for non-Aboriginal young people to examine short-term time trends by region and age group.

<sup>f</sup>Relative percentage change.

extensive consultation with 160 Aboriginal communities while developing the recently signed NT Aboriginal Justice Agreement, Aboriginal people raised these (and many other) issues that adversely affected them in relation to crime and the criminal justice system (Department of Attorney-General and Justice, 2021).

The proximal reasons for this large and increasing disparity, and how to reduce it, need to be considered in the context of the colonisation, dispossession and suppression that caused intergenerational and ongoing damage to Aboriginal people, families and communities and the resultant economic, social and institutional disadvantage in which many Aboriginal people, and Aboriginal society as a whole, remains (Atkinson, 2002; McCallum, 2022).

#### 4.1 | Level of criminal behaviour

The higher number of Aboriginal than non-Aboriginal young people charged with alleged offences does not directly measure the relative level of criminal behaviour in the two groups; many other factors (as above) may make it more likely that Aboriginal young people interact with police and are charged. There is evidence from other minority and disadvantaged populations about disproportionate levels of interaction with police and discriminatory behaviour and decisions by police (Cunneen, 2020), but little published evidence about this

for Aboriginal young people in the NT. The relative contribution of a high proportion of Aboriginal young people engaging in offending behaviour compared with differential policing levels and practices to the higher prevalence of being charged with an alleged offence in the NT is unknown.

There is evidence that a high proportion of Aboriginal young people live in circumstances that increase their likelihood of criminal behaviour, such as low socioeconomic circumstances; family disruption; high levels of school nonattendance and low educational attainment; parental and youth unemployment; high levels of psychological stressors and mental health conditions; and unstable housing including homelessness and overcrowding (Australian Institute of Health and Welfare, 2018; Department of Attorney-General and Justice, 2021). Some of these factors have received considerable attention in the NT in recent years (e.g. child maltreatment), but others remain neglected.

Child maltreatment is much more common for Aboriginal than non-Aboriginal children in the NT (as elsewhere in Australia) (Australian Institute of Health and Welfare, 2021). There is strong evidence from both international and Australian studies that children who experience abuse and neglect, and those who have had contact with the child protection system, are at greater risk of criminal justice involvement than nonmaltreated groups (Malvaso et al., 2016). The Royal Commission into the Protection and Detention of Children in the NT in 2017 drew national attention to the need to better understand factors that contribute specifically to the “crossover” of children between the child protection and youth justice systems. Child maltreatment does not occur in isolation and often coincides with other adversities, such as poverty, domestic violence, substance abuse, mental illness and intergenerational trauma.

Alcohol consumption during pregnancy, particularly prolonged, high-level consumption, can cause physical and neurological damage to the developing fetus (termed fetal alcohol spectrum disorder, FASD) that includes difficulties with attention and memory, hyperactive behaviour and delayed development of speech and language. In its 2011 inquiry into Indigenous young people in the Australian criminal justice system, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs commented: “It would appear that a significant number of Indigenous people who end up in detention centres and prisons are there partly as a result of the failure of governments to identify FASD as an issue underpinning their offending behaviour. As a result, punitive rather than remedial responses have prevailed” (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, 2011). In 2016, a multidisciplinary assessment of 16 children who had been in detention in the NT found 56% met diagnostic criteria for FASD (Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, 2017b). However the prevalence of FASD in the NT, either in the general population or amongst young people in contact with the justice system, remains unknown because diagnosis requires multidisciplinary assessment by specially trained and experienced clinicians that are rare in the NT. The consequence is that most Aboriginal children with risk factors for or behavioural problems suggestive of FASD have not been assessed, and FASD has remained largely ignored in the NT in both policy and clinical care (Department of Health, 2018).

## 4.2 | Police cautions and diversion

Increased emphasis is being placed on diverting young people from the formal justice system where possible and to increase opportunities for young people to follow more prosocial pathways (Commission for Children and Young People, 2021; Royal Commission and Board

of Inquiry into the Protection and Detention of Children in the Northern Territory, 2017a, 2017b). However, there is no publicly available information about the proportion of young people who are issued informal cautions by police without being apprehended. The proportion of young people who, after being apprehended by police, were diverted rather than charged has been lower for Aboriginal than other young people throughout Australia for at least the past 10 years (Productivity Commission, 2020). The NT JDS commenced in August 2000 and was evaluated in 2004 (Wilczynski et al., 2004). The evaluation found that: there was widespread support for the concept of diversion; the majority of young people apprehended by police were offered diversion rather than being charged; almost all those who accepted diversion completed the programme's requirements; but the JDS was less effective for Aboriginal than non-Aboriginal young people. The report's authors suggested that potential barriers to the effectiveness of diversion amongst Aboriginal young people might include: greater likelihood of coming from complex environments without the family support required to participate successfully in the diversion programme's victim-offender or family conference process; or the "...growing tendency for police to use their discretion to deny juveniles the option of diversion" that might be applied differently for Aboriginal than non-Aboriginal young people (Wilczynski et al., 2004).

In 2017, the Royal Commission into the Protection and Detention of Children in the Northern Territory found continuing widespread support for diversion and evidence of its effectiveness when available and utilised, but major problems with the operation of diversion in practice over the previous decade including: reduction in staffing and lack of resources for the police's Youth Diversion Unit; lack of diversion programmes; failure of police to comply with legislative requirements to consider young people for diversion; and lack of essential complementary services such as mental health and substance abuse services.

Data about diversion were not available from the NT Police information system for this study, so we were unable to investigate the extent to which changes in the diversion process influenced time trends in young people being charged, particularly whether diversion operated differently and/or was less effective for Aboriginal than non-Aboriginal young people (as found by the evaluation in 2004) (Wilczynski et al., 2004).

### 4.3 | Urban and remote areas

Compared with non-Aboriginal young people (for whom there was relatively little variation between remote and urban areas), prevalence of being charged was high for Aboriginal young people in remote areas, higher again in urban areas and within urban areas higher in Central Australia than the Top End. The JDS evaluation reported that diversion was offered less often in Central Australia than the Top End, and the difference was primarily explained by more serious offence profile (Wilczynski et al., 2004). There is little other evidence about why prevalence was higher for urban than remote Aboriginal young people. Aboriginal people in remote communities value an interactive and respectful police presence to deal with offending behaviour (Pilkington, 2009), but there is little evidence about whether antisocial or offending behaviour are dealt with differently by remote communities, with minimal, or informal, police involvement. Until 2007, many smaller, and some larger, NT remote communities had no permanent police presence (Department of Families Housing Community Services and Indigenous Affairs, 2011), and the nature of policing is different in remote communities than urban areas (Allen Consulting Group, 2010); how this translates into young people being charged with offences is unknown. There may be fewer opportunities for some types of offending behaviour in remote than urban areas; however, there was little

difference in the distribution by type of offence between urban and remote areas (data not shown). Perhaps offending behaviour and/or interaction with police is more common for urban Aboriginal young people. Many Aboriginal people in urban areas live on the fringe of wealthy urbanised Australian society, with low levels of educational attainment, employment and economic resources. There is evidence from Australia and other countries that prevalence of alleged offending is higher for young people in lower than higher socioeconomic areas (McCarthy, 2021).

One study in the remote NT community of Wadeye provided important information about many of these issues, and in particular gave voice to the young people of that community. Important findings included the following: the influence of many of the social and economic factors mentioned above in the antisocial behaviour of some young people; the importance of culture and respect for parents and elders; the importance of culturally appropriate rehabilitation programmes; the role of sensationalist media attention in sustaining youth gang culture; the role of sport as an important motivating and remediating activity; and the way that the antisocial behaviour of a minority distracted attention from the majority of young who did not engage in antisocial behaviour (Senior et al., 2012). The generalisability of these findings to other remote communities and to urban communities is not known.

#### 4.4 | Relatively greater increase for Aboriginal girls than boys and younger than older age group

For Aboriginal young people, prevalence increased relatively more for girls than boys and for the younger than older age group after 2002 (Table S2). The JDS evaluation reported that a higher proportion of girls (84%) than boys (56%) were offered diversion in the first 3 years of the JDS (Wilczynski et al., 2004), but little else is known about factors that might explain these changes. Possibilities include (but are not limited to): girls and 10- to 13-year-olds interacted more frequently with police for reasons other than antisocial behaviour such as in relation to family violence or other child welfare issues; more girls and 10- to 13-year-olds became involved in antisocial behaviour and/or at a higher frequency; and girls and 10- to 13-year-olds became more likely to be charged rather than warned or diverted because of changes in police attitudes and practices.

Similar trends are being observed in other Australian jurisdictions. For example, population-level research of children in South Australia born from 1991 to 1998 and followed until age 18 indicates that despite a year-on-year decrease in the absolute number of children in contact with the youth justice system, the proportion of children coming into contact with the system at younger ages has increased (Malvaso et al., 2020). Moreover, those who had their first youth justice supervision between the ages of 10 and 13 were more likely to experience more punitive types of supervision, such as time spent in custody, than those who had their first supervision at an older age. The factors driving these changes are not clear and may be related to fewer diversion options or more serious offending behaviour in this age bracket. It is notable that in July 2020, the Meeting of Attorneys-General, consisting of representatives from the Australian Government and from each state and territory, reviewed Australia's minimum age of criminal responsibility and in November 2021, supported the development of a proposal to raise it from 10 to 12 years (Australian Institute of Health and Welfare, 2022). Informed by the recommendations of the NT Royal Commission (Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, 2017a), in November 2022, the NT government became the first Australian jurisdiction to legislate to raise the minimum age to 12 years.

## 4.5 | Offences arising from non-compliance with the justice system procedures

Higher levels of breach of bail conditions and failure to attend court hearings contributed to the higher level of charges for Aboriginal young people. Northern Territory Aboriginal justice organisations have reported lack of understanding of the justice system is a major problem for Aboriginal people in the NT and initiated the Community Legal Education Program to increase their understanding of their legal rights and how to respond in interactions with the justice system (North Australian Aboriginal Justice Agency, 2021). There is a clear need for further research that can provide deeper insight into the reasons for the increased prevalence of administrative offences recorded against Aboriginal young people.

## 5 | CONCLUSION

This study summarises the level of, and time trends in, alleged offending for Aboriginal and non-Aboriginal young people but provides an incomplete and imperfect view of young people's behaviour, the frequency, nature and outcomes of interactions of young people with the justice system, or why and how the justice system interacts with them. In 2011, a government review of the NT youth justice system was able to find only limited evidence about police and court interactions with young people and no evidence about the factors that increased the risk of NT Aboriginal young people being charged with criminal behaviour (Northern Territory Government, 2011a). In the 10 years since that inquiry, there has been little improvement in the evidence available about these matters nor about the implementation and effectiveness of policies and programmes intended to address family capacity and function, child development and safety, educational attainment, adolescent behaviour and achievement, or the factors that predispose Aboriginal young people to antisocial behaviour and criminal offending. The role of Aboriginal-led initiatives in mediating and reducing the interaction of Aboriginal young people with the justice system is a particularly important issue that was beyond the scope of the current study; this is a high priority for future research.

For Aboriginal young people in the NT, the need for such evidence is urgent and requires strong Aboriginal-led partnerships between researchers and Aboriginal communities to ensure that we are asking the right questions, interpreting data appropriately and working together to design effective, culturally responsive prevention initiatives.

### AUTHOR CONTRIBUTIONS

**Vincent Yaofeng He:** Conceptualization; investigation; writing – original draft; methodology; validation; visualization; writing – review and editing; software; formal analysis; project administration; data curation; funding acquisition; supervision; resources. **John R. Condon:** Conceptualization; investigation; funding acquisition; writing – original draft; methodology; validation; project administration; resources; supervision; data curation; writing – review and editing; visualization; formal analysis; software. **Catia G. Malvaso:** Conceptualization; writing – review and editing; supervision. **Tamika Williams:** Writing – review and editing; supervision; investigation; writing – original draft. **Leanne Liddle:** Supervision; writing – review and editing. **Harry Blagg:** Writing – review and editing. **Steven Guthridge:** Conceptualization; investigation; funding acquisition; resources; supervision; data curation; writing – review and editing.

### ACKNOWLEDGEMENTS

The authors acknowledge the contribution of staff of the NT government agencies, particularly the data custodian and manager from the NT Department of Attorney-General

and Justice (Mr Joe Yick) who prepared the research dataset and provided advice on its analysis and interpretation. The views expressed in this publication are those of the authors and are not necessarily those of the government departments who have supported the study. Open access publishing facilitated by Charles Darwin University, as part of the Wiley - Charles Darwin University agreement via the Council of Australian University Librarians.

## FUNDING INFORMATION

This project was funded by a grant from the Reform Management Office of the NT Government in partial response to a recommendation of the Royal Commission into the Protection and Detention of Children in the Northern Territory. CM was supported by an Australian Research Council Discovery Early Career Research Award (DE200100679).

## DATA AVAILABILITY STATEMENT

The study datasets contain sensitive personal information and are held on a secure cloud-based server with restricted access. Access requires the approval of the ethics committee and data custodians. For applications for data access, please contact the Menzies Data-linkage Program Leader at [steve.guthridge@menzies.edu.au](mailto:steve.guthridge@menzies.edu.au). We have ethics approval for this project (HREC-2016-2708) as previously stated.

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**John R. Condon** is a Public Health Physician and epidemiologist who has worked in the Northern Territory as a clinician, manager and researcher since 1980. He was previously the Director of the NT Department of Health's Epidemiology Branch and led the development of clinical and population health monitoring systems in the NT. He has undertaken extensive research and development in the area of Indigenous demography, focussing on long-term demographic trends in the NT Indigenous population. His current research focusses on health system performance and outcomes, cancer epidemiology and child development, safety and welfare.

**Catia G. Malvaso's** research is informed by cross-disciplinary knowledge, including developmental psychology, developmental and life course criminology, and epidemiology. Her primary area of expertise is the link between childhood maltreatment and subsequent offending behaviour in adolescence and adulthood. Her current programme of research focusses on identifying opportunities for prevention in maltreatment-offending pathways. Evidence from her research is used to inform prevention strategies that can alter pathways from maltreatment to offending by identifying when to intervene, which factors to target, and for whom.

**Tamika Williams** is an Iwajja/Larrakia woman from North West Arnhem Land/Darwin. She has a Legal background, having practised for over 15 years including as a Senior Lawyer with the Department of Attorney-General and Justice (NT). Tamika has provided advice with respect to the interpretation and application of legislation including with respect to the Youth Justice Act (NT) and Criminal Code (NT). Tamika is currently employed with the Menzies School of Health Research as a Legal Advisor and Research Officer (Health/Law).

**Leanne Liddle** is an Arrernte woman born and raised in Alice Springs. Leanne has academic qualifications in environmental science, law and management, but she believes her most important knowledge has come from her grandmother and great-grandmother who taught her about traditional land management skills, particularly with the use of fire. Leanne has served other senior public service roles, including as the manager of food security for Aboriginal communities in South Australia, and the manager of the APY and West Coast regions of South Australia both within the Department for Premier and Cabinet. She was also the first Aboriginal policewoman in South Australia where she worked for 11 years as a senior constable in remote and Adelaide police stations. Leanne has also worked on the international circuit; for the United Nations with stints in Geneva, New York and Paris with UNESCO, and as the director for Bush Heritage Australia. She has published scientific papers on the critical importance of integrating Aboriginal science into landscapes. Since returning to Darwin, Leanne has worked as the Senior Policy Advisor for the Northern Land Council and the Principal Legal Policy Officer in the Department of the Attorney-General and Justice, where currently is now, as the Director of the Justice Unit Director where her small team is responsible for delivering the NT Aboriginal Justice Agreement. Leanne was the 2022 NT Australian of the Year recipient.

**Harry Blagg** is a Professor of criminology and the Director of the Centre for Indigenous Peoples and Community Justice at the Law School, University of Western Australia. He specialises in Indigenous people and criminal justice, young people and crime, family and domestic violence, crime prevention, diversionary strategies, policing and restorative justice. He has years of experience in conducting high-level research with Aboriginal people across Australia (including urban, rural and remote locations). He has increasingly argued for a “decolonising” approach that builds partnerships between Indigenous communities and mainstream structures.

**Steven Guthridge** is a public health physician and medical epidemiologist with a diverse background in clinical services, health service management and research. Until recently, he was the director of a research and analysis branch, within the NT Department of Health, with responsibility for specialised projects in epidemiology and health economics to inform health policy and services. His research publications have covered areas of specific relevance to the Northern Territory including burden of disease and injury, health workforce, chronic disease prevalence and child development. He commenced with Menzies in early 2018 where he will continue his interests in population health and health services research, including a responsibility for the continued development of research involving linked data.

## SUPPORTING INFORMATION

Additional supporting information can be found online in the Supporting Information section at the end of this article.

**How to cite this article:** He, V.Y., Condon, J.R., Malvaso, C.G., Williams, T., Liddle, L., Blagg, H. et al. (2024) Patterns of alleged offending amongst Aboriginal and non-Aboriginal young people in the Northern Territory of Australia, 1997–2019. *Australian Journal of Social Issues*, 59, 206–226. Available from: <https://doi.org/10.1002/ajs4.275>