



Royal Commission and Board of Inquiry into protection and detention systems of the Northern Territory has revealed systemic and shocking failures

Fundamental reform is needed to end approaches that continue to fail children, families and the community

The closure of the current Don Dale Youth Detention Centre, a new Children's Court, implementation of an early intervention family support program and a Commission for Children and Young People are key elements of a comprehensive reform program aimed at restoring the failed detention and child protection systems in the Northern Territory.

Increasing the age of criminal responsibility to 12, closing the High Security Unit at Don Dale, improving the youth justice system including the approach to bail, only allowing children under 14 to be detained for serious offences and new models of secure detention are also proposed.

The Royal Commission and Board of Inquiry has found shocking and systemic failures occurred over many years and were known and ignored at the highest levels.

Children and young people were subjected to regular, repeated and distressing mistreatment in detention and there was a failure to follow the procedures and requirements of the law in many instances.

The detention system failed to comply with basic binding human rights standards in the treatment of children and young people and the Commission has found that children were denied basic needs, such as water, and that isolation continues to be used punitively and inconsistently with the Youth Justice Act (NT).

The child protection system has failed to provide the support needed to some children in care to assist them to avoid pathways likely to lead into the youth justice system, and the Northern Territory Government has failed to comply with the statutory requirements that all children in out of home care have timely care plans.

"The Northern Territory and Commonwealth Governments were right to commission this Inquiry and what we have found vindicates their decision," said Commissioner Margaret White AO and Commissioner Mick Gooda.

"These things happened on our watch, in our country, to our children.

"The time for tinkering around the edges and ignoring the conclusions of the myriad of inquiries that have already been conducted must come to an end.



Royal Commission into the Protection and Detention of Children in the Northern Territory

“Only fundamental change and decisive action will break the seemingly inevitable cycle we have found of many children in care continuing to progress into the youth justice system and detention.

”Perpetuating a failed system that hardens young people, does not reduce reoffending and fails to rehabilitate young lives and set them on a new course, is a step backwards.

“The failures we have identified have cost children and families greatly, they have not made communities safer and they are shocking.”

In detention, the Commission has found that:

- youth detention centres were not fit for accommodating, let alone rehabilitating, children and young people
- children were subject to verbal abuse, physical control and humiliation, including being denied access to basic human needs such as water, food and the use of toilets
- children were dared or bribed to carry out degrading and humiliating acts, or to commit acts of violence on each other
- youth justice officers restrained children using force to their head and neck areas, ground stabilised children by throwing them forcefully onto the ground, and applied pressure or body weight to their ‘window of safety’, being their torso area, and
- isolation has continued to be used inappropriately, punitively and inconsistently with the Youth Justice Act (NT) which has caused suffering to many children and young people and, very likely in some cases, lasting psychological damage.

In child protection, the Commission has found that:

- the Northern Territory Government has failed to comply with the statutory requirements that all children in out of home care have timely care plans
- there is a major shortage of available foster and kinship care placements
- Territory Families and its predecessors failed to provide the support needed to some children in care to assist them to avoid pathways likely to lead into the youth justice system, and
- the Office of the Children’s Commissioner is under-resourced to perform its full range of statutory functions in relation to the care and protection of vulnerable children in the Northern Territory.

To address the failed child protection, youth justice and detention systems, the Royal Commission and Board of Inquiry have recommended wide ranging reforms including:

1. Closing the current Don Dale Youth Detention Centre and High Security Unit.
2. Raising the age of criminal responsibility to 12 and only allowing children under 14 years to be detained for serious crimes.



Royal Commission into the Protection and Detention of Children in the Northern Territory

3. Developing a 10 year Generational Strategy for Families and Children to address child protection and prevention of harm to children.
4. Establishing a network of Family Support Centres to provide place-based services to families across the Northern Territory.
5. A paradigm shift in youth justice to increase diversion and therapeutic approaches.
6. Developing a new model of bail and secure detention accommodation.
7. Increasing engagement with and involvement of Aboriginal Organisations in child protection, youth justice and detention

“Our recommendations are based on best practice and the proven experience of other jurisdictions that have experienced the same problems. They have taken bold steps and delivered paradigm change that has improved outcomes for children, families and communities.

“We recognise some of what we are proposing marks a profound shift from past practice in the NT. But it is necessary as what has been relied upon to date has and continues to simply fail the entire community.

“Increasing the age of criminal responsibility to 12, making greater use of diversion, ending detention for children under 14 unless there are exceptional circumstances and changing the model of secure detention are the bold but essential actions that must be taken if communities are to be safer and children protected.

“If no action is taken the financial cost to the Northern Territory will remain unsustainable in the short term, with detention costs rising from \$37.3 million in 2016-17 to \$113.4 million in 2026-27, according to Deloitte Access Economics.

“Conversely, changing the current approach to youth justice and detention as we recommend is estimated conservatively to deliver savings of \$335.5 million by 2027.

“Human costs dwarf financial considerations and if no action is taken these will continue to escalate beyond the already unacceptable levels that are seen in the Northern Territory.

“The tragic conclusion we have drawn is that not only have the systems failed to address challenges faced by children and young people, that have in some cases made the problems worse.

“We now hope that both governments commit to a new course for child protection and detention based on our recommendations and the evidence that supports them,” said Commissioner White and Commissioner Gooda.



Royal Commission into the Protection and Detention of Children in the Northern Territory

1. Key Detention recommendations in summary

The Northern Territory Government close the current Don Dale Youth Detention Centre and within three months report on the program for that closure.

- Immediately close the High Security Unit at the current Don Dale Youth Detention Centre.
- Prohibit the use of tear gas, and continue to prohibit the use of spithoods and the restraint chair.
- Prohibit force or restraint being used for the purposes of maintaining the 'good order' of a youth detention centre or to 'discipline' a detainee.
- Prohibit isolation for the purposes of behaviour management or punishment, and that isolation be permitted only in certain circumstances, such as to protect the safety of another person or restore order but only after all reasonable behavioural or therapeutic options have been attempted.
- Prohibit extendable periods in isolation beyond 24 hours.
- Investigate alternatives to strip searches, such as body scanners, pat down searches or metal detectors.
- Retain CCTV footage for at least 12 months.
- Introduce video and sound recording, in the form of body-worn video cameras, in youth detention centres.
- No child under the age of 14 years be ordered to serve detention unless they have been convicted of a serious and violent crime against a person, present a serious risk to the community, and the sentence is approved by the President of the proposed Children's Court.
- The powers of the Commission for Children and Young People to be expanded to allow free and unfettered access to detention facilities, children and young people in detention, people who work with them and documents and records in the possession of the department.
- Ensure that an initial health risk assessment of any young person in detention take place within 24 hours of admission.
- Implement monthly medical checks for those in secure detention and provide specialist drug and alcohol treatment to detainees after release if needed.
- The Commonwealth enable the payment of Medicare benefits for medical services provided to children and young people in detention in the Northern Territory, and ensure that supply of pharmaceuticals to children and young people in detention in the Northern Territory is provided under the Pharmaceutical Benefits Scheme
- Design, develop and construct a new model of secure accommodation.
- Ensure that the selection criteria for a youth justice officer include demonstrated experience working with vulnerable young people, that youth justice officers be required to obtain a Certificate IV in Youth Justice in the first 12 months of their employment, and they be required to participate in induction training before commencing work in youth detention centres.



Royal Commission into the Protection and Detention of Children in the Northern Territory

- Develop an integrated, evidence-based throughcare service to deliver adequate planning for release of young people from detention.
- Appoint a female youth justice officer in each youth detention centre as a 'Girl's Officer', who is responsible for monitoring female detainees' access to education, training, recreation, health and facilities.
- Ensure that staff members working in education in youth detention are appropriately qualified to conduct special education.
- Tutors proficient in major Aboriginal languages deliver at least once a week a literacy program in Aboriginal language.
- Transfers over long distances to or between detention centres should be conducted by air transport. If transfers occur by road, sufficient breaks (including toilet breaks) should be given and drinking water must always be available to the detainee.
- Only transfer detainees to an adult facility with the approval of a Judge.

2: Key Child Protection recommendations in summary

- The Northern Territory Government:
 - commit to a public health approach to child protection and the prevention of harm to children
 - establish consultation procedures with the sector, organisations and communities
 - carry out prevalence, needs, service mapping and service referral studies (the studies) to gather information about the needs of children, families and subpopulations, and what services are currently available to meet those needs
 - create and maintain a Services Register containing information about the services available in communities
 - establish an early support research unit, which would implement a research agenda relating to risk factors, service needs and evaluated outcomes, and
 - develop and implement an outcomes and evaluation framework.
- Develop a 10-year Generational Strategy for Children and Families.
- Establish a network of no fewer than 20 Family Support Centres, their location to be based on information gathered in the studies and specified in the Generational Strategy for Children and Families, to:
 - provide services to and support families and children
 - help families understand the child protection system
 - act as Recognised Entities, and
 - act as an entry point in a dual pathway model.
- Amend legislation to enable organisations that are qualified and meet relevant criteria to participate and advise in child protection matters and be heard relation to a proceeding about a child.
- Only use residential care as a therapeutic placement option for children with complex behavioural needs or disabilities, in accordance with therapeutic care criteria.



Royal Commission into the Protection and Detention of Children in the Northern Territory

- Phase out the current model of purchased home-based care over a 24 month period.
- Develop a strategy to address the current backlog of overdue investigations.
- Develop and implement a campaign in conjunction with Foster Carers Association NT, current carers and other relevant organisations to recognise the contribution of existing foster and kinship carers, draw attention to the current shortage of carers and encourage people in the Northern Territory, particularly in remote areas, to apply to become carers
- Review the financial support provided to carers in the Northern Territory.
- Work with Aboriginal organisations to implement a joint program dedicated to increasing the number of Aboriginal foster and kinship carers, using community awareness and individualised community engagement.
- Ensure that quality respite care is available to foster and kinship carers.
- Improve access for children and young people in out of home care to effective rehabilitation and counselling services including the prevention and treatment of substance abuse.
- Ensure that all young people between aged 15 and 18 have leaving care plans in compliance with the relevant legislation.
- Develop a new accommodation service model which meets the specific needs of young people leaving out of home care to live independently. The service should be responsible for finding and securing acceptable accommodation for all young people who have left care and be available to those young people until they are 25 years old.
- Undertake further research in the Northern Territory to understand the characteristics and needs of children and young people who have been in both out of home care and detention.
- Ensure that child protection caseworkers
 - have regular face-to-face contact with any child in detention who is also under care and protection orders
 - monitor the wellbeing of children in detention and ensure that their needs are being met, and
 - be involved in transition planning for a child in detention from the time of their entry into detention, in consultation with detention staff, key stakeholders and the child.
- Establish a Crossover Unit employing specialised case managers employing with training in supporting children in child protection and youth detention contexts, who are to provide flexible and dynamic support personalised to children in the crossover group who experience both out of home care and detention.
- Establish a Commission for Children and Young People, with jurisdiction for all children and young people in the Northern Territory.

3. Key youth justice recommendations in summary

- Raise the age of criminal responsibility from 10 to 12 years.
- Within the police, establish a specialist, highly trained Youth Division similar to New Zealand Police Youth Aid.



Royal Commission into the Protection and Detention of Children in the Northern Territory

- Expand the role of Aboriginal Community Police Officer to include the position of Youth Diversion Officer.
- Ensure all police officers involved in youth diversion or youth engagement be encouraged to hold or gain specialist qualifications in youth justice and receive ongoing professional development in youth justice.
- Amend the law so that a child or young person must not be interviewed by police until they have sought and obtained legal advice and assistance, or after exercising their right to silence.
- Amend legislation to remove the restriction on police consideration of diversion.
- Ensure that all police cells are made suitable for detaining children.
- Ensure that appropriate facilities are available in Alice Springs for girls or young women who need to be held on remand.
- Introduce a custody notification scheme requiring police to notify a lawyer from an appropriate legal service as soon as a child or young person is brought into custody.
- Amend the bail legislation so that a child or young person is not denied bail unless:
 - (a) charged with a serious offence and a sentence of detention is probable if convicted
 - (b) they present a serious risk to public safety
 - (c) there is a serious risk of the youth committing a serious offence while on bail, or
 - (d) they have previously failed to appear without a reasonable excuse.
- Provide bail support services for children and young people in Darwin, Alice Springs, Tennant Creek, Katherine and Nhulunbuy, together with other such locations as are appropriate, which include the following features:
 - accommodation services in small homelike residences, and
 - bail support plans developed with a specialist youth worker, covering education, employment, recreation and sporting goals.
- Establish a separate court venue in Alice Springs for proceedings under the Youth Justice Act (NT) and Care and Protection of Children Act (NT) as a matter of urgency.
- Establish a Children's Court, which is independent of the Local Court, to hear and determine matters currently within the jurisdiction of the Youth Justice Court and the Family Matters Division of the Local Court.
- The new Children's court will have a President appointed by the Executive Council and who has extra judicial powers and functions modelled on those conferred on the President of the Children's Court in NSW.
- Ensure that all legal practitioners appearing in a youth court be accredited as specialist youth justice lawyers after training in youth justice which includes child and adolescent development, trauma, adolescent mental health, cognitive and communication deficits and Aboriginal cultural competence.