

First Peoples Disability Network – Final Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory



Recommendations on Disability Issues

The First Peoples Disability Network (**FPDN**) refers to its previous contributions to the Royal Commission into the Protection and Detention of Children in the Northern Territory (**Royal Commission**):

- The Preliminary Submission of the FPDN dated 30 September 2016;
- The Statement of Scott Christopher Avery, Director, Research and Policy, FPDN, dated 12 October 2016; and
- The oral evidence of Mr Avery at the hearing of the Royal Commission on 13 October 2016.

Key message

A key message to this Royal Commission is that a significant number of young people in detention in the Northern Territory are likely to have some form of disability.¹ In many cases young people experience a significant degree of co-occurring disability or disadvantage (for example; cognitive impairment *and* hearing impairment *and* exposure to trauma), which has not been identified and addressed over the course of their life. Whilst specific data on the impact of disability in child protection and juvenile justice is not readily available in the public domain, and is hence, in effect, a hidden determinant of justice outcomes, FPDN's assessment, based on our research, indicates that in excess of fifty percent of Aboriginal people coming into contact with the justice system have a disability. In reality, this figure is likely to be closer to seventy or eighty percent.²

Through our research, it is increasingly evident that systemic barriers and an absence of support for young people with disability is placing them on a pathway into imprisonment instead of learning and education. In light of this, any recommendations for addressing the rate at which Aboriginal young people come into contact with the criminal justice system and for improving youth detention must acknowledge this reality and incorporate means for identifying and supporting the needs of young people with a disability at all stages of the child's development.

We suggest that these detailed recommendations on disability are read in context with a comprehensive response to child protection and juvenile detention. We refer the Commissioners to the submission from the Aboriginal Peak Organisations Northern Territory (**APONT**) for a comprehensive review of the issues.

Recommendations

Prevention and timely intervention

That an overarching protection and prevention strategy is developed, which is based upon:

¹ Scott Avery, *Statement to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 12 October 2014, p. 29.

² As above, p. 30.

1. Increased awareness of the impact of disability upon child development, education and justice outcomes within education, policing and justice systems.
2. Timely assessments to diagnose disabilities at the point at which risks or vulnerabilities to young people emerge.
3. Provision of individualised support services to address complex needs of young people with disability.

In respect to these recommendations, we also refer to and support the detailed recommendations from '*A Predictable and Preventable Path: Aboriginal people with mental and cognitive disabilities in the criminal justice system*' from the Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System Project (UNSW, October 2015).

Youth justice

The Northern Territory Government should adopt a model of justice based on wellness and healing that identifies and addresses the needs of the young person and supports them towards a path of growth and education.

Our specific recommendations include:

4. Aboriginal young people placed in any form of institutional care (ie. youth detention or out of home care) must be assessed for disability and provided with a long-term disability support plan.
5. Aboriginal young people brought before the Court and charged with criminal offences must be screened and assessed for disability.
6. Courts must have sufficient options to direct diversion of young people away from the criminal justice system and into appropriate disability and mental health settings in the community.
7. Magistrates, lawyers, client support offices, probation and parole officers, police officers and others working with Aboriginal young people in contact with the criminal justice system should receive training on identifying disability.
8. Consideration should be given to the introduction of Disability Advocates to work with Aboriginal young people before the Courts alongside their lawyers, to identify needs, supports and options for diversion.
9. Case management of Aboriginal young people in detention should be disability-led, trauma informed and culturally appropriate, involving access to individualised treatment and services, education and ongoing needs assessment.
10. Behaviour management policies and procedures in youth detention should be disability informed. Specific strategies for managing challenging behaviours that manifest as a result of disability must be positive and therapeutic (rather than punitive and disciplinary).

11. Education and schooling within youth detention must address and include the needs of young people with a disability.
12. Staff in youth detention must receive training in disability and mental health including awareness of behaviours that result from disability and mental illness and strategies for addressing challenging behaviour in a positive and therapeutic manner.

Community

Any response aimed at preventing contact with the criminal justice system and the 'matriculation pathway into prison' experienced by many Aboriginal people with a disability must include the support of people with a disability and their families from an early age.

Our specific recommendations include:

13. Maternal, infant health and early childhood services in the community to encourage the early diagnosis of disability.
14. Information and discussion about disability communicated in a culturally appropriate and accessible manner with young people and their families. This should include an awareness of:
 - the generally low understanding of disability (as defined and diagnosed by western medicine) amongst many Aboriginal people;
 - the fact that many Aboriginal people with a disability fear discrimination and may be reluctant to seek help; and
 - the distrust many Aboriginal people feel towards non-Aboriginal health service providers given the past practices of institutionalisation of children with a disability and past child removal practices.³
15. Regular screening for disability in schools and the education system in order to identify and properly support the needs of children with a disability.

Government and policy

At a policy level, understanding the issues affecting Aboriginal people with a disability requires a multi-disciplinary approach. As noted in the Statement of Mr Avery to the Royal Commission, we recommend:

16. The creation of a Policy Translation Group to guide the development of a Northern Territory Disability Justice Strategy to address the rights and circumstances of Aboriginal people in contact with the criminal justice system, including young people and to advise government on a co-ordinated approach to disability policy and government action plans.⁴

³ Scott Avery, *Statement to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 12 October 2014, p. 24.

⁴ As above, p. 36.