

COMMONWEALTH OF AUSTRALIA

*Royal Commissions Act 1902*

COMMISSION OF INQUIRY INTO  
THE CHILD PROTECTION AND YOUTH DETENTION SYSTEMS OF THE  
NORTHERN TERRITORY

SUBMISSION OF THE NORTHERN TERRITORY ON CONTEXT RELEVANT TO  
THE TERMS OF REFERENCE

1. The purpose of this submission is to provide some preliminary context which is relevant to understanding the issues to be considered by the Royal Commission. They draw upon current statistical information and also direct attention to relevant change over the course of the “relevant period”. While more can (and will in due course) be said, the submissions are intended to provide an overview.
2. The information referred to is contained in the statements of Mr Mark Payne dated 11 October 2016 and Mr Joe Yick dated 15 October 2016. The information is also contained in the Annual Report 2015-16 of the Department of Children and Families.
3. The Northern Territory invites Senior Counsel Assisting the Commission to tender those statements and their annexures. It requests, in the case of Mr Payne, that this occur once the annual report has been tabled in the Legislative Assembly.

**Youth justice<sup>1</sup>**

4. Around 94% of the Northern Territory’s youth detention population is Aboriginal. 28% of that population is aged 15 years or under. This provides a cultural overlay that is impossible to ignore when addressing the Territory’s youth detention system.
5. The number of youths (distinct individuals) apprehended in a year has grown by half (2006: 556; 2016: 754), and Aboriginal males represent the greatest share of that growth (2006: 352; 2016: 518). The youths apprehended have become younger, with a growing number between 10-14 years old (2006: 100; 2016: 268). There is also a growing number of females (2006: 84; 2016: 177). The number of times, on average, a youth has been apprehended has grown (2006: 1.6 times; 2016: 2.65 times).<sup>2</sup>
6. There has been substantial growth in the number of times bail is breached across both males and females, and across all age groups. A particularly substantial increase is apparent since 2011.<sup>3</sup>
7. The number of orders for actual detention have increased in absolute terms over the relevant period (2006/7: 108; 2015/16: 246), but the number of court finalisations has also grown (2006/7: 656; 2015/16: 1136). The ratio of outcomes involving an order for

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<sup>1</sup> These statistics have come from the annexures to the *Statement of Mr Joe Yick dated 15 October 2016* and from the Annual Report of the former Department for Correctional Services 2015/16 appended to the *Statement of Commissioner Mark Payne dated 11 October 2016*.

<sup>2</sup> Annexure 1b. Distinct youths apprehended. Tables 1, 3 and 5.

<sup>3</sup> Annexure 1e. Breach of bail offences. Tables 1, 2 and 3.

detention is now about one in six, the same as at the start of the relevant period. It did, however, fall in 2009/10 to one in ten. A significant number of detention orders are made following a breach of bail (2012/3: 66; 2015/16: 94).<sup>4</sup>

8. The number of youth admissions into detention (individual youths) annually has doubled over the relevant period (2006/7: 120; 2015/16: 254) and while Aboriginal males represent the greatest proportion of those admitted (2015/16: 193), the number of Aboriginal females has grown substantially (2006/7: 5; 2015/16: 48).<sup>5</sup>
9. The yearly average population in detention has grown over the relevant period (2006/07: 29; 2015/16: 49). The substantial increase occurred after 2010/11 and that increase has been sustained since then (although there has been a significant decrease in 2016). In 2015/16, the average number of detainees in detention in the Alice Springs Youth Detention Centre was 11 and in the Don Dale Youth Detention Centre was 38.<sup>6</sup>
10. Just more than two thirds of those in detention in 2015/16 were on remand. The population in detention has been, almost entirely over the relevant period, more than 80% male (2015/16: about 90%), and has been almost entirely, or entirely, Indigenous youth.<sup>7</sup>
11. The most common types of offences for which youths were admitted into detention (either on remand or following a finding of guilt) over the relevant period are acts intending to cause injury (2006/7: 89; 2014/15: 167) and unlawful entry with intent, burglary, break and enter (2006/7: 92; 2014/15: 125). The next most significant categories are breach of a justice order (2015/16: 33) and robbery, extortion and related offences (2015/16: 29). There were no admissions to detention in most years for various classes of traffic or vehicle regulatory offences (for example, for the latest year available 2014/15: Driving licence: 0; Prescribed Concentration of Alcohol: 2).<sup>8</sup>
12. The most significant trends are the increased number of admissions of youths to detention related to offences of violence (2006/7: 89; 2014/15: 167), and to a small but growing number for sexual offences (2006/7: 2; 2014/15: 16).<sup>9</sup>
13. In each year since 2012/13, the most common types of offences which gave rise to an order being imposed for detention on a finding of guilt were: unlawful entry with intent, break and enter and burglary (2015/16: 28), breach of justice order (2015/16: 13) and acts intended to cause injury (2015/16: 11). The average period of the order of detention for those offences was: unlawful entry with intent, break and enter and burglary (2015/16: 230 days); breach of justice order (2015/16: 48 days) and acts intended to cause injury (2015/16: 250 days).<sup>10</sup>

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<sup>4</sup> Annexure 1f. Youth before the Court. Outcomes for Breach of Bail offences. Table 1f\_1.

<sup>5</sup> Annexure 3b. Youths in Correctional Services - Youth receptions. Distinct youth received by financial year.

<sup>6</sup> Annexure 3a.

<sup>7</sup> Annexure 3a and 3b. Monthly and yearly average number of youths by gender, Indigenous status, detention centre and legal status.

<sup>8</sup> Annexure 3e. Youth offender receptions in detention by offence type.

<sup>9</sup> As above.

<sup>10</sup> Annexure 3d. Youth sentenced episode commencements by offence type.

14. There were no detention orders in any year for traffic and vehicle regulatory offences (though a small number for the more serious offences of dangerous or negligent driving or DUI (2015/16: 3)).<sup>11</sup>
15. Consistent with the increases experienced in detention, the numbers of youths commencing supervision under a community corrections order has increased over the relevant period (2009/10, 179; 2015/16, 320).<sup>12</sup>
16. In 2015/16, Youth Diversion Programs were available in 60 communities, 182 young people were assisted through the register of Appropriate Support Persons and the number of young people that completed formal diversion programs was 531. 89 young people completed an Early Intervention Youth Boot Camp.<sup>13</sup>

### **Child protection<sup>14</sup>**

17. In the last five years, the number of reports about children received under the *Care and Protection of Children Act (NT)* has more than doubled (2011/12: 7,979; 2015/16: 20,465). In 2015/16, these related to just over 10,000 children. The greatest proportions of those reports were made by Police (39%), schools (16%), hospitals and health centres (16%) and the community (16%). Over that period, the number of investigations commenced into reports has almost doubled (2011/12: 4,006; 2015/16: 7,862), but without any significant increase in the corresponding number of substantiated cases (2011/12: 1,705; 2015/16: 1,907).<sup>15</sup>
18. Of substantiated cases in 2015/16, in all age groups: neglect was the primary type of harm substantiated; emotional abuse was the next most common in all age groups save for 14 years and older; females were slightly more likely than males to have been found harmed or at risk of harm; and 42% of matters concerned children under five years of age, making this the largest age group represented in substantiated cases.<sup>16</sup>
19. Aboriginal children are significantly over-represented in the child protection system in the Territory, with 85% of substantiated cases in 2015/16 relating to Aboriginal families.<sup>17</sup>
20. In the last four years, there has been a steady increase in the number of both short term and long term protection orders made by the Court (2012/2013: short term: 219; long term: 454; 2015/16: short term: 314; long term: 624). The number of children in out of home care has increased by just less than half (2011/12: 700; 2015/16: 1,020), with between 300-400 children coming into out of home care each year (2011/12: 399; 2015/16: 16,315).<sup>18</sup>
21. Of children in out of home care, the number of non-Aboriginal children has not changed over the past five years. In 2015/16 there were slightly more boys than girls in out of

<sup>11</sup> As above.

<sup>12</sup> Annual Report, DCS, 2015/16, p52.

<sup>13</sup> Annual Report, DCS, 2015/16, p53, 55.

<sup>14</sup> The following statistics come from the Annual Report of the Department of Children and Families 2015/16.

<sup>15</sup> Annual Report, DCF, 2015/16, p18-20.

<sup>16</sup> Annual Report, DCF, 2015/16, p22.

<sup>17</sup> Annual Report, DCF, 2015/16, p23.

<sup>18</sup> Annual Report, DCF, 2015/16, p24, 26.

home care and the greatest numbers were children aged 6-9 (279), then 10-13 (253) then older than 14 (224). The number of children in foster and kinship care has increased (2011/12: 370; 2015/16: 491), as have the numbers in purchased home based care (2013/14: 257; 2015/16: 324). There has been steady growth in the number of foster and kinship households (2011/12: 340; 2015/16: 454), with a greater number of new households entering than leaving the system.<sup>19</sup>

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<sup>19</sup> Annual Report, DCF, 2015/16, p26, 30-32.