

**Submission
No 101**

**INQUIRY INTO HIGH LEVEL OF FIRST NATIONS
PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF
DEATHS IN CUSTODY**

Organisation: First People with Disability Network (Australia)

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FIRST PEOPLE DISABILITY NETWORK (AUSTRALIA)

New South Wales Legislative Council Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody

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About First Peoples Disability Network (Australia)

First Peoples Disability Network (Australia) is a national representative body for Aboriginal and Torres Strait Islander people, family and communities with lived experience of disability.

The Australian Bureau of Statistics estimates that 50 percent of Aboriginal or Torres Strait Islander Peoples have some form of disability or long-term health condition. Despite its high prevalence, disability remains an untold story not solely in justice, but in all other areas that determine social outcomes for Aboriginal and Torres Strait Islander people such as education, employment and housing.

Aboriginal and Torres Strait Islander people with disability and their families are amongst the most seriously disadvantaged and disempowered members of the Australian community. They are nonetheless the experts in the often hidden impact of social policy upon the lives of peoples with disability. As the only national organisation in Australia that is governed by and for Aboriginal and Torres Strait Islander people with disability, we give voice to their needs and concerns from lived experience.

Introduction

We welcome this inquiry from the NSW Select Committee, at a time when much needed attention is being brought to the decades of discrimination faced by Australia's First People in contact with the criminal justice system. Multiple, high profile and comprehensive inquiries have come before, and we echo and endorse their recommendations for reform¹. We hope that the time has finally come for political commitment and momentum for change.

As the national representative body for Aboriginal and Torres Strait Islander people with disability, their families and carers, we strongly urge the Committee to pay specific attention to the disproportionate impact on our community.

Given the complexity of this area we have made recommendations in this submission for structural initiatives that have the potential to lead to better justice outcomes for First People with Disability.

In addition, We also refer the Committee (and include as an attachment) the submission by the First Peoples Disability Justice Consortium² to the 2016 Senate Inquiry on the Indefinite Detention of People with Cognitive and Psychiatric Impairment³. This submission includes rich research, and recommendations in relation to the experiences of Aboriginal and Torres Strait Islander people with disability and the criminal justice system.

¹ Notably: Australian Law Reform Commission 'Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (2018) https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf; Australian Human Rights Commission 'Equal Before the Law - Towards Disability Justice Strategies (2014) <https://humanrights.gov.au/our-work/disability-rights/equal-law-towards-disability-justice-strategies>; The Law Council of Australia, The Justice Project Final Report –Part 1' (2018) <https://www.lawcouncil.asn.au/justice-project/final-report>; and Melbourne Social Equity Institute, 'Unfitness to Plead and Indefinite Detention of Persons with Cognitive Disabilities' (2017) https://socialequity.unimelb.edu.au/data/assets/pdf_file/0009/2598507/Unfitness-to-Plead.pdf

² The First Peoples Disability Justice Consortium represents an alliance of Aboriginal and Torres Strait Islander community organisations, disability, justice and legal researchers, Universities and Research Institutes.

³ The Submission to the Senate Inquiry on the Indefinite Detention of People with Cognitive and Psychiatric Impairment can also be accessed here: <https://fpdn.org.au/criminalising-disability-federal-leadership-required-to-end-the-indefinite-detention-of-people-with-cognitive-and-psychiatric-impairment/>

Recommendations

- 1) The NSW Government, in consultation with people with disability and their representative organisations, develop a cross government Disability Justice Strategy which:
 - takes a human-rights, social model approach to disability
 - has a specific focus on Aboriginal and Torres Strait Islander People with disability
 - identifies and establishes systems of coordinated response across Government, and intervention by the National Disability Insurance Scheme (NDIS) at critical points of contact with the criminal justice system.
- 2) The NSW Government proactively work with other Australian jurisdictions, and the NDIS Quality and Safeguards Commission to establish monitoring and oversight functions in line with the UN Optional Protocol to the Convention against Torture and other Cruel, Degrading Treatment and Punishment (OPCAT), and confirm these functions in legislation.
- 3) The NSW Government commitment dedicate resources to Aboriginal community-controlled organisations to provide specialised and culturally appropriate support to Aboriginal and Torres Strait Islander people with cognitive and psychiatric impairments in detention.
- 4) The NSW Government commit increased, and long-term strategic investment in, and promotion of, Aboriginal community led justice reinvestment programs
- 5) As a matter of urgency, the NSW Government raise the age of criminal responsibility to 14, and the age of imprisonment to 16
- 6) The Committee make reference to the recommendations of the 2016 Senate Inquiry Report into the *Indefinite detention of people with cognitive and psychiatric impairment in Australia*⁴, and assess progress by the NSW Government to address indefinite detention of unconvicted people with disability, with a specific focus on First Peoples.
- 7) The Committee refer to the work of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission). The Committee conduct a follow up inquiry soon after the release of the final Disability Royal Commission Report (April 2022) to audit NSW against recommended steps to address the violence, abuse and neglect of people with disability, including in the criminal justice system, and with a specific focus on Indigenous Australians.

⁴ Senate Standing Committee Inquiry into Indefinite detention of people with cognitive and psychiatric impairment in Australia report. Can be accessed here:

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetention45/Report

The criminalisation and incarceration of First People with Disability

First People with disability are the most marginalised people in Australian society. As such, the criminalisation and incarceration of First People with disability must be understood within the broader intersecting dynamics of colonialism, racism and ableism. To address the over incarceration of First People with disability, these underlying structural issues, and the trajectory that leads to interactions the criminal justice system, must be acknowledged and understood, and community led solutions identified and implemented through a strategic approach⁵ based on the principles of ‘self-determination; person centred care; holistic and flexible approach; integrated services; and Culture, Disability and Gender-informed practice’.

‘By the time an Aboriginal or Torres Strait Islander person with disability first comes into contact with the criminal justice system, they will most likely have had a life of unmanaged disability. Coupled with discrimination, based on their Aboriginality and disability, they will have faced barriers from the time they are born, of poverty, early exposure to life in institutions through the child protection system, struggles at school, lack of appropriate health care and an inability to secure employment. Coming into contact with the police, courts, juvenile detention and prisons is normalized in their life trajectory...[t]he justice system does little to address these factors and outcomes and in fact often makes them worse. People acquire the label of a prisoner who must be punished, not a person with disability who needs support. When released from prison, the personal, social and systemic circumstances that propelled them into detention or prison will not have changed. Thus, many face a cycle of recurrent detention that goes on indefinitely’.⁶

LIFE-STAGE ASPECT	Peri-Natal	Early childhood	Schooling years	Young people	Justice	Health	Ageing
Aboriginal and Torres Strait Islander	Low awareness of disability Environmental factors, increased likelihood of low birth-weight	Low awareness of disability Exposure to trauma increased likelihood of OOHHC – off country, unsta-ble home setting	Low awareness of disability "Bad black kid syndrome" – pu-nitive schooling over supported disability	Less likely to secure employment In-creased likelihood of police contact	Denial of rights – over incarceration	Subconscious bias – institutional racism	Reduced life ex-pectancy Disability happens earlier in life and with more co-morbidities.
Disability	Low birth weight and environmental factors in develop-mental disability	Disability assess-ments aren't carried out to the extent that they need to be	Undiagnosed and unsupported disability	Less likely to secure employment Com-munication impair-ments, reduced capacity to negotiate conflict	Denial of rights – indefinite detention and fitness to plea for people with cog-nitive and psychiatric disability	Subconscious bias – diagnostic over shadowing	Inadequate public infrastructure especially in remote communities.

Avery S. (2016) ‘The life trajectory for an Aboriginal and Aboriginal or Torres Strait Persons with disability’.

It is estimated that 45% of Aboriginal and Torres Strait Islander people have disability or a long-term health condition, with First People more than twice as likely to have disability than the rest of the Australian population⁷. A high proportion of First People who interact with the criminal justice system will have had unrecognised and unsupported disability for much of their life.

Whilst there is no nationally consistent disaggregated data on the number of people with disability in the criminal justice system, Human Rights Watch report that almost 50 per cent of

⁵ This strategic approach was laid out in First Peoples Disability Justice Consortium submission to the 2016 Senate Inquiry on the Indefinite Detention of People with Cognitive and Psychiatric Impairment (as an attachment to this submission)

⁶ Ibid P.5

⁷ 2014–15 National Aboriginal and Torres Strait Islander Social Survey (NATSISS)

prisoners in Australia have cognitive or psychosocial disability⁸. There is no data to report the number of First Nations people with disability that have died in custody⁹.

Denial of legal capacity and diversionary procedures

The detention of First People with disability in Australia occurs within a legislative framework that routinely denies individual legal capacity, under financial management, mental health and guardianship provisions. This is despite numerous calls from domestic and international bodies for reform¹⁰. The *NSW Mental Health (Criminal Procedure) Act* can divert people accused of a crime away from legal proceedings where they can be found ‘unfit’ to stand trial or not guilty by reason of ‘mental impairment’. These diversionary provisions deny people procedural fairness of the court, and can often lead to people with First People with disability being detained indefinitely in forensic services without conviction, often for periods longer than the maximum custodial sentence for the offence, and where the use of restrictive practices are widespread¹¹.

In fact, court diversion can ‘use a person’s disability to effectively circumvent the right to equality before the law¹²’. Many First People with disability are subject to violence, abuse and neglect within the criminal justice system, however diversionary processes, where a person is moved from the court system to specialised services for ‘treatment and support’, provides for an environment where restrictive practices are routinely used, and just continues ‘disability oppression and the process of control and punishment of people with disability who are not sentenced and might not even be convicted of any criminal offence¹³’. For First People with Disability this further severs ties with their community, including connections and support critical for a pathway out of detention.

The trap of the criminal justice system for First People with disability

The impact of dual discrimination for First People with disability is often misunderstood and absent from both Aboriginal justice and disability justice dialogue, and too often lost within siloed Government policy and funding. This leads to poorly designed initiatives, that are either disability or culturally inaccessible – most likely both. For example, the National Disability Strategy 2010-2020¹⁴ and the subsequent NSW Disability Inclusion Plan¹⁵ did not prioritise justice, and were notably absent in initiatives to respond to First People with disability. The 16 new Close the Gap targets do not mention disability, despite its centrality to progress across all areas, including education, health and justice¹⁶.

⁸ Human Rights Watch ‘I needed help, instead I was punished’ Abuse and Neglect of Prisoners with Disabilities in Australia (2018) <https://www.hrw.org/report/2018/02/06/i-needed-help-instead-i-was-punished/abuse-and-neglect-prisoners-disabilities>

⁹ The Royal Commission into Violence, abuse, Neglect and Exploitation of People with Disability has published a factsheet that notes ‘The Australian Institute of Criminology monitors the extent of deaths in prison as part of the National Deaths in Custody program, but not by disability status’. The Guardian Deaths Inside website flags mental health issues and cognitive disability where identified <https://www.theguardian.com/australia-news/ng-interactive/2018/aug/28/deaths-inside-indigenous-australian-deaths-in-custody>

¹⁰ See the Committee on the Rights of Persons with Disabilities (2019) *Concluding observations on the combined second and third reports of Australia*, CRPD/C/AUS/CO/2-3, September 2019, 8, adopted by the Committee at its twenty-second session (26 August – 20 September 2019) ; see also Australian Law Reform Commission’s *Equality, Capacity and Disability in Commonwealth Laws* <https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/>

¹¹ Rather the detention becomes an arbitrary period or determined by reference to the individual’s perceived treatment and support needs. See Steele. L (2020) *Disability, Criminal Justice and Law – Reconsidering Court Diversion*, published by Routledge

¹² Ibid

¹³ Ibid

¹⁴ The National Disability Strategy 2010-2020 can be accessed here:

https://www.dss.gov.au/sites/default/files/documents/05_2012/national_disability_strategy_2010_2020.pdf. The new strategy is currently being developed.

¹⁵ The NSW Disability Inclusion Plan can be accessed here: <https://www.facs.nsw.gov.au/inclusion/disability/overview>. There are no indications what structure NSW may put in place to deliver on the new National Disability Strategy.

¹⁶ See RN Breakfast interview with Damian Griffis, CEO FPDN <https://fpdn.org.au/disability-not-included-in-the-16-new-closing-the-gap-targets/>

A lack of early identification of disability and therefore provision of appropriate support for Aboriginal young people, begins a trajectory towards interaction with the criminal justice system. Baldry et al identified 'a severe and widespread lack of appropriate early diagnosis and positive, culturally responsive support for Indigenous children and young people with cognitive impairment. This is connected to schools and police viewing certain kinds of behaviour through a prism of institutional racism rather than disability, as well as Indigenous community reluctance to have children assessed using particular criteria that are perceived as stigmatising and leading to negative intervention in Aboriginal families¹⁷.

The age of criminal responsibility in NSW, as in other Australian jurisdictions, is 10. Despite consistent calls for this to be raised to 14, and that children under the age of 16 should not be imprisoned¹⁸, the ACT is the only jurisdiction that has committed to changing legislation to this effect. It is estimated that 59% of young people in detention nationwide are Aboriginal, and that 2/3 of those young people in juvenile detention have disability¹⁹. Data from NSW demonstrates that prevalence of complex disability and multi-faceted disadvantage is higher amongst First Nations young people compared to other young people in juvenile detention²⁰. Indigenous children are excluded from school at 3 times the rate of non-Indigenous children²¹, in large part due to unrecognised and unsupported disability. These young people are criminalised due to the interaction of their aboriginality and disability – failed by every stage of the service system.

The National Disability Insurance Scheme (NDIS), with its client, market driven model is poorly equipped to respond to the needs of First People, and remains inaccessible and inappropriate to many First People with Disability, including from a young age (for example, there are considerable barriers to accessing NDIA funding for Foetal Alcohol Spectrum Disorder²²). The NDIA does not have an established structure to consult with First People with Disability about the functioning of the scheme, with major issues with initial access and utilisation of plans.

The Joint Standing Committee on The National Disability Insurance Scheme 2017 report into 'The Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition', raised fundamental issues with the interaction between the NDIS and jurisdictional criminal justice system²³. The NDIS is not a crisis service, and does not have in place the market to respond to complexity.

NSW has one of the fastest growing prison populations, presenting significant challenges within the justice system (from arrest, to imprisonment) in responding proactively to the disability support needs of First People with disability. There is no clear human rights based framework for integration, and delineated responsibility between the NDIA and the NSW justice system. There remains no Disability Justice Strategy in NSW, despite the government undertaking consultation

¹⁷ Eileen Baldry, Ruth McCausland, Leanne Dowse & Elizabeth McEntyre, A Predictable and Preventable Path: Aboriginal people with mental and cognitive disability in the criminal system (October 2015) www.indigenousjustice.gov.au

¹⁸ See recent ABC media <https://www.abc.net.au/news/2020-07-27/raise-the-age-of-child-criminal-responsibility-in-australia/12483178>

¹⁹ 2015 Young People in Custody Health Survey Justice Health & Forensic Mental Health Network and Juvenile Justice NSW <https://www.justicehealth.nsw.gov.au/publications/2015YPICHSReportwebreadyversion.PDF>

²⁰ Avery, S. (2018) 'Culture is Inclusion: A Narrative of Aboriginal and Torres Strait Islander People with Disability'

²¹ See Department of Prime Minister and Cabinet, Closing the Gap Education report <https://www.pmc.gov.au/sites/default/files/reports/closing-the-gap-2018/education.html>

²² The Senate Standing Committee on Community Affairs inquiry into 'Preventative Approaches to prevention, diagnosis, and support for Foetal Alcohol Spectrum Disorder is due to report December 2020. See the Australian Human Rights Commission submission to the inquiry (sub 17) https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/FetalAlcoholSpectrumDi/Submissions

²³ The Joint Standing Committee on The National Disability Insurance Scheme 2017 report into 'The Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition report can be accessed here: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/MentalHealth/Report

in 2017. A lack of overarching strategy leads to gaps including early identification of, and early assessment of disability support requirements, and sharing information (for example, where specialist reports and assessments may be undertaken for court hearings, but not make their way to the NDIA as a referral). There is the need for much earlier reintegration planning and disability support assessments, involving appropriately skilled Indigenous NDIA staff. Through incarceration we strip away the autonomy of individuals (including their personal decision making) and their links with community. This needs to be considered and supported with a view to the skills and connections First People with disability need in place for release.

Lack of data

As is evidenced by the lack of data around First People with disability in the justice system, there remains no well validated tool for data collection. This lack of data, and disjointed policy framework results in gaps and a lack of system responsiveness to meet the required needs of First People with disability. In addition, adequate and accurate data-gathering can help 'identify trends across detention facilities, improve oversight and ensure that investigations are effective and perpetrators are held accountable'. Data plays a critical role in 'facilitating the determination of root causes and the design of strategies to prevent and reduce the occurrence of violence and ill-treatment in places of imprisonment'²⁴.

Oversight mechanisms

The 2019 UN Commissioner for Human Rights report 'Human Rights in the administration of Justice' emphasised that;

'issue of violence, death and serious injury was identified by the Secretary-General as one of the most important challenges pertaining to the protection of persons deprived of their liberty.²⁵ By depriving persons of their liberty, States assume the responsibility to protect the life and bodily integrity of such persons. States are thus obligated to prevent the ill-treatment of, and violence against, such persons and to ensure that the conditions of a dignified life are met'.

The Australian OPCAT Network noted recently that many of Australia's prisons;

'are significantly overcrowded; they also face serious challenges in managing the increasingly complex needs of people being sentenced to imprisonment. They are often unable to properly provide appropriate care and accommodation for particular cohorts of people, including those with complex health issues, those living with physical and/or mental health disability (particularly psychosocial disability), people experiencing complex grief and trauma issues, Indigenous peoples, LGBT people, women, young people, children and other vulnerable groups'²⁶.

The use of restrictive practices is widespread in all detention facilities, in response to a lack of appropriately tailored disability support, including physical restraint and seclusion/isolation. We are aware of increases in these practices since the COVID pandemic began²⁷. These practices cause significant breaches of human rights, and can constitute torture, cruel inhuman or

²⁴ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General 'Human rights in the administration of justice' Human Rights Council Forty-second session 9–27 September 2019 (A/HRC/42/20)

²⁵ Ibid

²⁶ Australian OPCAT Network (2020) report 'The Implementation of OPCAT in Australia' can be accessed here: https://www.kaldorcentre.unsw.edu.au/sites/default/files/Implementation_of_OPCAT_in_Australia.pdf

²⁷ This was identified in the most recent evidence given to the Disability Royal Commission in the public hearings on COVID19, accessed here <https://disability.royalcommission.gov.au/public-hearings/public-hearing-5>

degrading treatment or punishment.²⁸ In its most recent Concluding Observations to Australia (September 2019) the UN Committee on the Rights of Persons with Disabilities calls for the:

‘... establishment of a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from psychotropic medication, physical restraint and seclusion under the guise of ‘behaviour modification’ and the elimination of restrictive practices, including domestic discipline/corporal punishment, in all settings²⁹.’

Following Australia’s 2017 ratification of the UN Optional Protocol to the Convention Against Torture (OPCAT), the Commonwealth Ombudsman is leading the establishment of National Preventative Mechanism comprising of existing or new bodies to provide oversight and monitor places of detention. Recent media has indicated that states, including NSW, are concerned about the cost, and other implications of implementing OPCAT³⁰.

It is critical that federal-state negotiations are moved forward, safeguarded through Federal and jurisdictional NPM legislation which guarantees full compliance with OPCAT and the NPM Guidelines, and establish independent, accessible mechanisms for complaint and redress³¹. This legislation should establish structures at all levels of government to engage proactively with civil society, and establish operational processes for interaction and joint initiatives across existing oversight bodies, including the NDIS Quality and Safeguards Commission³². The independent monitoring and oversight function of the NPM must ensure unfettered access for independent investigators into all places of detention³³, in terms of criminal justice that includes prisons and juvenile detention facilities, but also monitoring of police holding cells, transport and detention facilities, and all forensic and community based detention facilities.

Conclusion

We make recommendations in this submission for areas of structural change, but also acknowledge and endorse recommendations made through the previous, high profile inquiries³⁴. We strongly urge the Committee to interrogate the level of implementation at a NSW level of those recommendations and the initiatives in place to include First People with Disability in both the design, and implementation of all initiatives designed to respond to the criminalisation and overincarceration of our community.

²⁸ Nowak M. *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* (2008) A/63/175. New York: United Nations General Assembly

²⁹ Committee on the Rights of Persons with Disabilities (2019) *Concluding observations on the combined second and third reports of Australia*, CRPD/C/AUS/CO/2-3, September 2019, 8, adopted by the Committee at its twenty-second session (26 August – 20 September 2019)

³⁰ See recent media report in The Australian <https://www.theaustralian.com.au/nation/politics/states-fight-malcolm-turnbulls-un-torture-deal/news-story/9592ce939accbb6fcca80bf7e0dc0842>

³¹ The Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General 21 August 2019 (A/HRC/42/20) noted ‘In order to be effective, complaints mechanisms must be independent, effective, confidential and accessible to victims of torture, including persons deprived of their liberty.’³¹ They must have the capacity to deal freely with any complaint, provide effective follow-up for the purpose of remedial action and ensure that those who file complaints do not face reprisals.³¹ Persons deprived of their liberty must be aware of and have confidence in these mechanisms’
https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/session42/Documents/A_HRC_42_20.docx

³² Australian OPCAT Network (2020) report ‘The Implementation of OPCAT in Australia’ can be accessed here:
https://www.kaldorcentre.unsw.edu.au/sites/default/files/Implementation_of_OPCAT_in_Australia.pdf

³³ Ibid

³⁴ As noted previously in our submission, notably: Australian Law Reform Commission ‘Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (2018) https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf; Australian Human Rights Commission ‘Equal Before the Law - Towards Disability Justice Strategies (2014) <https://humanrights.gov.au/our-work/disability-rights/equal-law-towards-disability-justice-strategies>; The Law Council of Australia, The Justice Project Final Report –Part 1’ (2018) <https://www.lawcouncil.asn.au/justice-project/final-report>; and Melbourne Social Equity Institute, ‘Unfitness to Plead and Indefinite Detention of Persons with Cognitive Disabilities’ (2017) https://socialequity.unimelb.edu.au/data/assets/pdf_file/0009/2598507/Unfitness-to-Plead.pdf

There is evidence of successful interventions, and Indigenous community led justice reinvestment programs that are shifting the trajectory for First People, including those with disability. For example, the Maranguka Justice Reinvestment project³⁵ which has led to a significant reduction in crime and reoffending in the Bourke area. Further, investment in initiatives such as Aboriginal community led Health Justice Partnerships, which embed legal health in health care settings, can support First People with disability to address social issues that may be a contributing factor to interactions with police, for example, insecure housing, issues with credit and debt and domestic and family violence³⁶. We support calls³⁷ for the continuation of the successful Cognitive Impairment Diversion Program, run by the Intellectual Disability Rights Service³⁸. Over two thirds of CIDP participants were successful in obtaining diversionary orders for support in the community, rather than being convicted of offences, 26% of these participants being Aboriginal and Torres strait Islanders. Funding for this program is due to be cut in 2020.

We note that the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) and its drawing must needed attention to the settings and practices where people with disability are deprived of their human rights, including within the criminal justice system³⁹. A specific hearing looking at this issue is currently scheduled for November 2020.⁴⁰ The Commission is due to provide an interim report no later than 30 October 2020, and a final report by 29 April 2022. We urge the committee to actively refer to, and track the progress of the Disability Royal Commission, and conduct a follow up inquiry in response to the final report to audit NSW against recommended steps to address the violence, abuse and neglect of people with disability, including in the criminal justice system and with a specific focus on Indigenous Australians.

³⁵More information on the justice reinvestment programs can be found here: <https://theconversation.com/as-indigenous-incarceration-rates-keep-rising-justice-reinvestment-offers-a-solution-107610>

³⁶ Refer to Health Justice Australia (Centre for Excellence for Health Justice Partnership) Submission 'Integrated services; partnering with community' to the National consultation on Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 accessed here: <https://healthjustice.org.au/wp-content/uploads/2017/04/HJA-submission-Indigenous-Implementation-Plan-Health-consultation-2017-1.pdf>

³⁷ A letter in support of the program has been sent to the NSW Attorney General <https://cid.org.au/our-stories/eminant-australians-call-for-vital-court-diversion-program-to-be-saved/>

³⁸Further details on the Cognitive Impairment Diversion Program can be found here: <https://ids.org.au/what-we-do/cipd/#:~:text=The%20Cognitive%20Impairment%20Diversion%20Program,Program%20commenced%20in%20October%202017.>

³⁹ The Issues Papers for the Disability Royal Commission can be accessed here: <https://disability.royalcommission.gov.au/publications/criminal-justice-system>

⁴⁰ The Schedule for Disability Royal Commission hearings can be accessed here: <https://disability.royalcommission.gov.au/about-royal-commission/our-schedule>