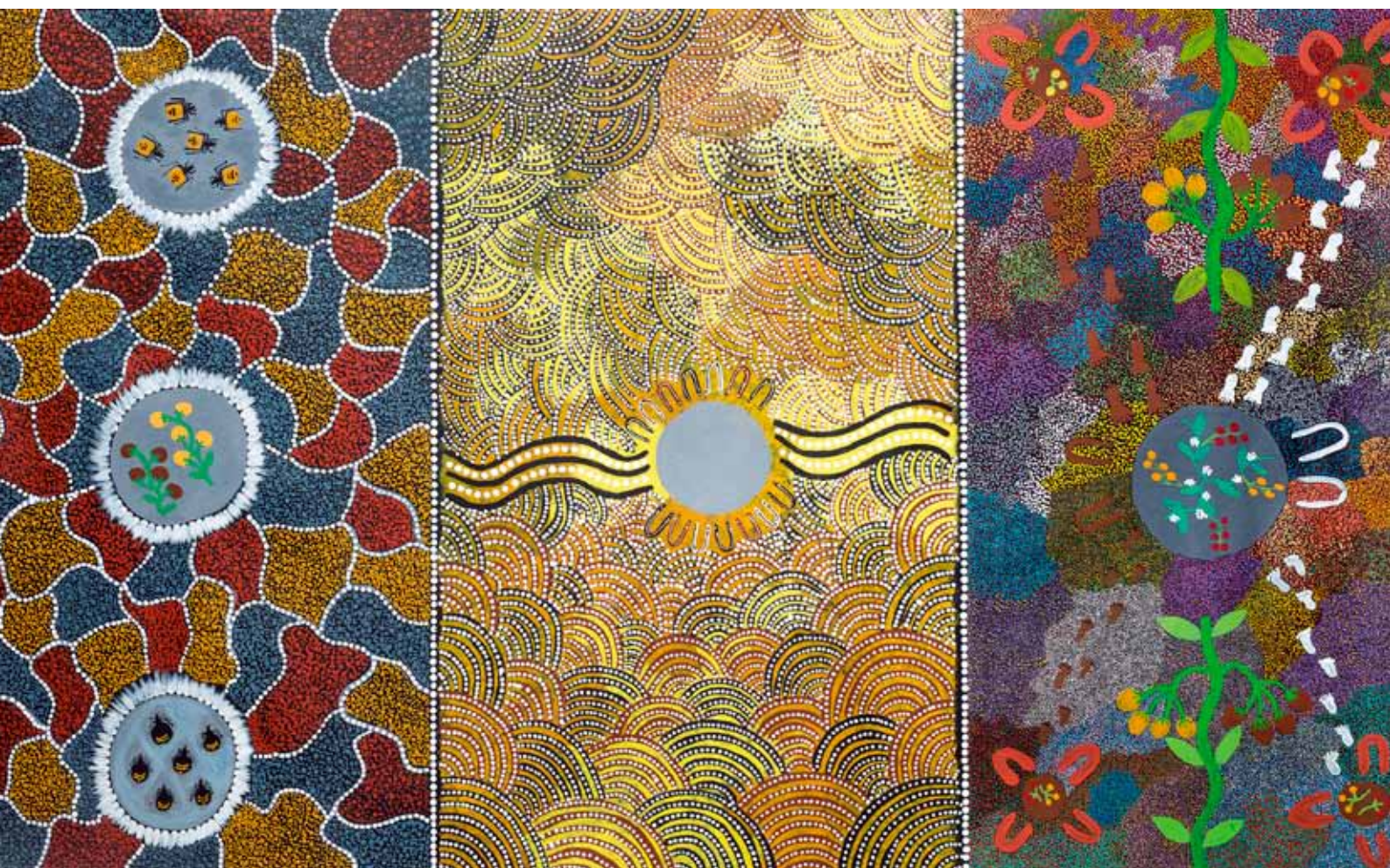




Royal Commission
into the Protection and
Detention of Children
in the Northern Territory



INTERIM REPORT

31 MARCH 2017

ISBN: 978-1-920838-04-1

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INTERIM REPORT

ROYAL COMMISSION
INTO THE PROTECTION AND
DETENTION OF CHILDREN IN
THE NORTHERN TERRITORY



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

30 March 2017

His Excellency General the Honourable Sir Peter Cosgrove AK MC (Retd)
Governor-General of the Commonwealth of Australia
Government House
CANBERRA ACT 2600

Your Excellency

In accordance with the Letters Patent issued on 1 August 2016, as amended by Letters Patent dated 9 February 2017, we have the honour to present to you the Interim Report of the Royal Commission into the Protection and Detention of Children in the Northern Territory.

We are also submitting this report to the Hon Michael Gunner MLA, Chief Minister of the Northern Territory.

Yours sincerely

Margaret White AO

Mick Gooda



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FOREWORD

There is a strong perception that the system of detention in the Northern Territory is failing.

It is failing our young people, it is failing those who work in the system and it is also failing the people of the Northern Territory who are entitled to live in safer communities.

This has been made clear to the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory since it was announced on 26 July 2016.

This Interim Report provides a summary of work to date. We are currently holding public hearings and will conduct further hearings over the coming months.

Royal Commissions often look to the past in their investigations. We are inquiring not only into the past, but also into systems that are in operation today – we are hearing evidence from people who are currently detained or working in these systems.

Despite the significance of much of the evidence received already, we will not be making specific findings or recommendations at this stage.

It is too early in our work, while hearings are ongoing, to be able to draw any final conclusions. The Commission is yet to hear evidence on many issues, including evidence from senior management and political leaders in charge of youth detention who provide a perspective that is necessary to inform the work of the Commission.

The Commission is also still to hold hearings on the child protection system which is a critical part of our work.

The youth justice and child protection systems in the Northern Territory are inextricably linked. Evidence before the Commission reveals that children and young people in out-of-home care are more likely to enter the youth detention system.

In the remaining period, the Commission's attention will focus on child protection, including its link to detention.

Only then will the Commission be in a position to make well-considered, fair and meaningful recommendations to bring long-lasting change.

We can, however, make some observations about what we have heard and seen to date.

The evidence presented to the Commission so far reveals a youth detention system that is likely to leave many children and young people more damaged than when they entered.

We have heard that the detention facilities are not fit for accommodating children and young people, and not fit for the purpose of rehabilitation. They are also unsuitable workplaces for youth justice officers and other staff.

They are harsh, bleak and not in keeping with modern standards. They are punitive, not rehabilitative.

Evidence received by the Commission to date overwhelmingly demonstrates that community safety and the well-being of all who live within the community – children and adults – is best achieved by a comprehensive, multifaceted approach based on:

- crime prevention
- early intervention where there is a risk of offending by children and young people
- diversion of children and young people away from the courts, and
- community engagement and involvement at all levels.

Children and young people who have committed serious crimes must accept responsibility for the harm done. However, while in detention they must be given every chance to get their lives on track and not leave more likely to re-offend.

We have seen a commitment to rehabilitation in various forms in many jurisdictions within Australia and around the world. Reduced youth crime statistics convincingly show the positive value – human, social and economic – of rehabilitating children and young people.

It is a stark fact that the Northern Territory has the highest rate of children and young people in detention in this country and the highest rate of engagement with child protection services, by a considerable margin.

A total of 94 per cent of children and young people in detention and 89 per cent of children and young people in out-of-home care in the Northern Territory are Aboriginal. The extent of this over-representation of Aboriginal children and young people, compared with all other children and young people, including Torres Strait Islanders, compels specific consideration of their position.

For this reason – because the children and young people in detention and care in the Northern Territory are overwhelmingly from Aboriginal communities – this report generally refers to Aboriginal youth and communities, rather than to Aboriginal and Torres Strait Islanders.

FOREWORD BY THE COMMISSIONERS

To understand the complexities of why there is such an over-representation of Aboriginal children and young people in the child protection and youth detention systems, we have considered the broader context of issues affecting Aboriginal communities.

A major focus of our work has been close engagement with Aboriginal people, who have told us repeatedly how they feel disengaged and powerless to influence decisions that directly affect their children, families and communities.

Clearly any solutions and a way forward must be the result of genuine engagement with, and empowerment of, Aboriginal people.

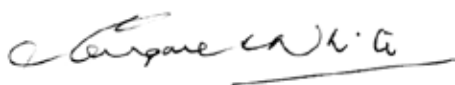
The Commission is aware of the initial steps taken by the Northern Territory Government and their commitment to significant reforms in both youth detention and child protection.

The Commission takes this opportunity to express its appreciation to the Northern Territory Government for its past and ongoing cooperation with the Commission and for its willingness to engage with us in relation to aspects of its reform agenda in youth justice and child protection.

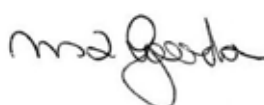
We have received information and evidence from a wide range of people and organisations over the course of the inquiry and we thank them for their valuable input.

Based on firsthand experiences of alternative programs operating successfully elsewhere, within Australia and in New Zealand, we believe that more can, and should, be done in the Northern Territory.

There are programs that work. There are solutions to the issues the Northern Territory faces.



Margaret White AO



Mick Gooda



WHY WE ARE HERE 01

WHY WE ARE HERE

On 25 July 2016, the Australian Broadcasting Corporation's *Four Corners* television program aired shocking images of children and young people in detention in the Northern Territory.

On 1 August 2016, the Administrator of the Government of the Commonwealth of Australia signed the Letters Patent on behalf of the Governor-General, which set out the Terms of Reference for a Royal Commission.¹

On 3 August 2016, the Northern Territory Government established a Board of Inquiry with almost identical terms of reference.²

The Hon Margaret White AO and Mr Mick Gooda were appointed as the Commissioners.

On 9 February 2017, by Amending Letters Patent, the Commission was granted an amended reporting date of 1 August 2017 by the Governor-General. The Commission must deliver its Final Report by 1 August 2017.

The Terms of Reference charge the Commission with inquiring into:

- failings in the child protection and youth detention systems in the Northern Territory since 1 August 2006
- the treatment of children and young people detained at youth detention facilities administered by the Government of the Northern Territory, including the Don Dale Youth Detention Centre in Darwin
- whether such treatment breached the law, or any legal duty owed to a detainee, or any applicable rule, policy, procedure, standard or management practice, or was inconsistent with a human right or freedom embodied in law or recognised or declared by an international instrument
- what oversight mechanisms and safeguards were in place, whether they failed, and if so why
- whether there were deficiencies in the organisational culture, structure or management in, any or all of the relevant facilities
- whether more should have been done by the Government of the Northern Territory to take appropriate measures to prevent the recurrence of inappropriate treatment of children and young people detained at the relevant facilities and, in particular, to act on the recommendations of past reports and reviews
- what measures should be adopted by the Government of the Northern Territory, or enacted by the Legislative Assembly of the Northern Territory, to prevent inappropriate treatment of children and young people detained at the relevant facilities
- what improvements could be made to the child protection system of the Northern Territory, and
- the access, during the relevant period, by children and young people detained at the relevant facilities, to appropriate medical care, including psychiatric care.

The Terms of Reference for the Commission extend well beyond the specific events at the Don Dale Youth Detention Centre that were the catalyst for establishing the Commission. The Commission has been tasked with exposing any systemic failures and with making recommendations to improve laws, policies and practices that will result in a safer future for children and young people in the Northern Territory. The scope of the Commission's task is extensive, spanning both the child protection and youth detention systems over a 10-year period.

AN INQUIRY MENTALITY

There have been up to 50 earlier reports and inquiries on the issues covered by the Commission's Terms of Reference. Despite these efforts, the situation of children and young people in the child protection and youth detention systems in the Northern Territory appear to have deteriorated.

As Senior Counsel Assisting the Commission Peter Callaghan SC said in his opening remarks on the first sitting day of public hearings on 11 October 2016:

“

THERE IS A NEED TO CONFRONT SOME SORT OF 'INQUIRY MENTALITY', IN WHICH INVESTIGATION IS ALLOWED AS A SUBSTITUTION FOR ACTION, AND REPORTING IS ACCEPTED AS A REPLACEMENT FOR RESULTS.³

”

In this context, it is not surprising there is community concern that this Commission's recommendations and report will, like those before it, be shelved without leading to action and change. This must not happen.

It is encouraging that the Northern Territory Government is already taking steps to improve the systems the Commission is investigating. It is imperative, both for the safety and well-being of the Northern Territory community as well as the children and young people, that change occurs.

02 SOME STARK FACTS

SOME STARK FACTS

The Northern Territory has a total population of 245,700.⁴

DETENTION TODAY

ABOUT
30%
OF THE
NORTHERN
TERRITORY
POPULATION
ARE
ABORIGINAL.⁵



THE NORTHERN TERRITORY
HAS THE HIGHEST RATE OF
CHILDREN AND YOUNG
PEOPLE⁶ IN DETENTION IN
AUSTRALIA.⁷

In 2015-16 the nightly average of children and young people being held in detention was 49 – 11 in the Alice Springs Youth Detention Centre and 38 in the Don Dale Youth Detention Centre in Darwin.⁸

- About 70% of those children and young people were being held on remand.⁹

94%



of the children
and young
people in
detention in
the Northern
Territory are
Aboriginal.¹⁰

28%
ARE AGED

15
years or
under.¹¹



**OVER
80%
ARE
MALE.**¹²

CHILD PROTECTION TODAY

1,020

children and young people across the Northern Territory were in out-of-home care as at 30 June 2016.¹³

89%

of those children and young people in out-of-home care were Aboriginal.¹⁴

IN 2015-16, 78% OF THE 20,465 NOTIFICATIONS RECEIVED BY TERRITORY FAMILIES RELATED TO ABORIGINAL CHILDREN AND YOUNG PEOPLE.¹⁵

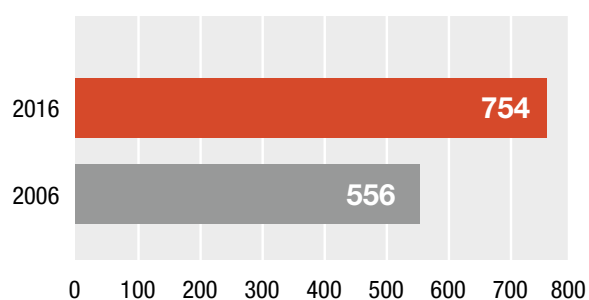
- Aboriginal children and young people in the Northern Territory are 5.6 times more likely to receive child protection services as non-Aboriginal children and young people.¹⁶
- The proportion of substantiations for neglect is 42.4% compared with 25.9% nationally.¹⁸
- Of substantiated cases in 2015-16, 85% related to Aboriginal families.¹⁹
- In that year 1,625 cases relating to Aboriginal children and young people were substantiated, giving a rate of 60.8 per 1,000 Aboriginal children and young people.²⁰
- In 2015-16, Northern Territory courts made 314 short-term protection orders and 624 long-term protection orders.²¹

The Northern Territory has the highest rate of children and young people receiving child protection services – 91.5 per 1,000, compared with 28.6 per 1,000 nationally.¹⁷

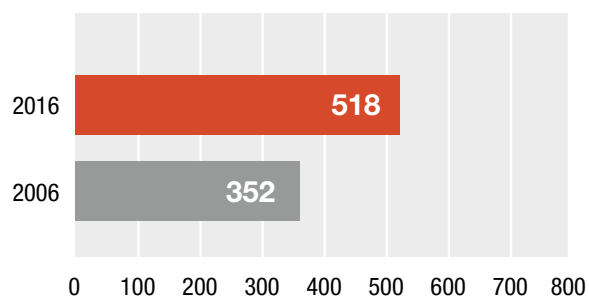
TRENDS IN YOUTH DETENTION

APPREHENSIONS

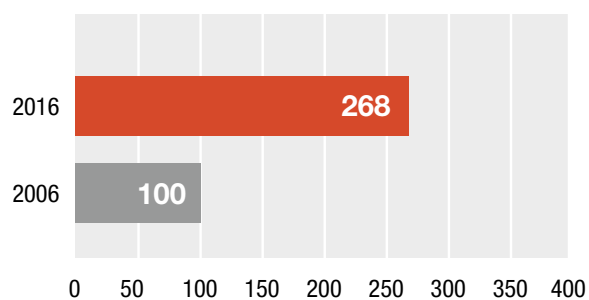
The number of children and young people in the Northern Territory apprehended annually has grown.²²



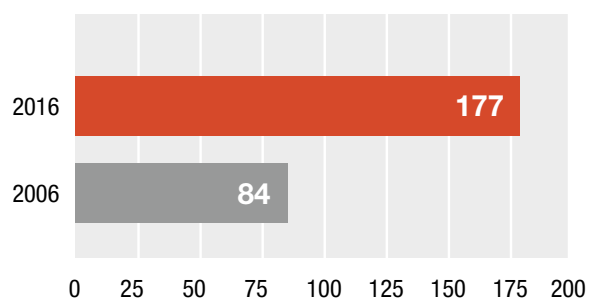
Aboriginal males comprise the greatest share of that growth.²³



People are being apprehended younger, with an increase in the number of 10-14 year olds.²⁴



More females are being apprehended.²⁵



BREACH OF BAIL

Since the introduction of the offence in 2011, there has been substantial growth in breaches of bail across males, females and all age groups.²⁶

	2012-13	2015-16
Detention orders made following a breach of bail ²⁷	66	94

ORDERS FOR DETENTION

	2006-07	2015-16
The number of orders for detention	108	246
Court finalisations ²⁸	656	1,136

- About one in five court outcomes now involve an order for detention.²⁹

DETENTION

193 young Aboriginal males entered detention in 2015-16.³⁰

	2006-07	2015-16
The number of children and young people entering detention has more than doubled over ten years ³¹	120	254
The number of young Aboriginal females entering detention ³²	5	48
The average population in youth detention is growing ³³	29	49

A substantial increase in the number of children and young people in detention annually occurred in 2010-11. That was sustained through to June 2016, after which there has been a significant decrease.³⁴

TRENDS IN CHILD PROTECTION

The Northern Territory has had a substantial increase in the rate of children and young people receiving child protection services, **rising from 61.3 per 1,000 in 2012-13 to 91.5 per 1,000 in 2014-15.** Nationally the rate **increased from 26.0 to 28.6 per 1,000.**³⁵

OUT-OF-HOME CARE

The number of children and young people in out-of-home care in the Northern Territory increased from 700 in 2011-12 to 1020 in 2015-16.³⁶

In 2015-16, a total of 315 children and young people entered the system, which is a decrease of 6 per cent from 2014-15 and is the lowest number of children and young people to enter out-of-home care in five years.³⁷

The number of Aboriginal children and young people in out-of-home care has increased each year over the past five years, with an overall increase of 56 per cent since 30 June 2012.³⁸

SHORT-TERM AND LONG-TERM PROTECTION ORDERS

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.³⁹

	2012-13	2015-16
Short-term protection orders	219	314
Long-term protection orders ⁴⁰	454	624

NOTIFICATIONS

The number of notifications received by Territory Families in 2015-16 has **increased by 20%** since 2014-15.⁴¹



157%

For the last five years, Territory Families has experienced yearly high growth of notifications of potential harm to children and young people. Since 2011-12 notifications have increased by 157%.⁴²

Children aged 0-4 years have the highest number of notifications. However, in 2015-16 the older age groups, 5-9 years (19%), 10-14 years (24%) and 15-17 years (26%), experienced larger year-to-year increases than the youngest age group 0-4 years (15%).⁴³

In 2015-16, notifications for Aboriginal children and young people increased by 22 per cent compared with non-Aboriginal children and young people, which increased by 17 per cent.⁴⁴

Since 2011-12, notifications involving Aboriginal children and young people have increased by 168 per cent while notifications involving non-Aboriginal children and young people have increased by 128 per cent.⁴⁵

SUBSTANTIATIONS

Although Territory Families has seen an increase in notifications, there has been a 12 per cent decrease in substantiations since 2014-15.⁴⁶



INFORMATION GATHERING 03

INFORMATION GATHERING

The Commission has collected information relating to the protection and detention of children and young people through submissions, community and stakeholder meetings, community engagement, public hearings, closed hearings, site visits and meetings in the Northern Territory and other jurisdictions, roundtables and other targeted meetings, research and policy work.

INQUIRY OVERVIEW

To date the Commission has:

- received more than 230 written submissions from individuals, government, private and non-government organisations
- hosted 13 public community meetings
- visited 25 communities (visits conducted by the Commission's Community Engagement Officers)
- held three sets of formal public hearings
- received more than 200 witness statements
- heard evidence from more than 60 witnesses
- issued more than 250 notices to produce for documents
- conducted 40 site visits and meetings in 7 other jurisdictions, and
- attended 6 roundtables and targeted meetings.

SUBMISSIONS

The Commission has received more than 230 submissions and they continue to be provided. The submissions cover all areas of the Commission's Terms of Reference.

A wide range of individuals and organisations have made submissions. This includes current and former child protection and youth justice staff, service providers, non-government organisations, health professionals, academics, researchers and international experts.

The submissions have provided the Commission with extensive information on the issues it is considering. The submissions also assist the Commission to plan its work and develop lines of inquiry.

The Commission will continue to accept submissions – which can come in any form, from dot points or a brief email to a more formal submission – until 15 June 2017.

COMMUNITY AND STAKEHOLDER MEETINGS

Listening to the views of all people in the Northern Territory, including those who live in remote communities, is essential to enable the Commission to develop sustainable and appropriate recommendations.

In its first two weeks, the Commission met with the Aboriginal Peak Organisations Northern Territory (APO NT), non-government organisations, Northern Territory Government representatives, members of some of the relevant unions and individuals.

The Commission hosted a series of community meetings across the Northern Territory to hear directly from people affected by the child protection and youth detention systems. The Commission attended meetings in:

- Darwin
- the Tiwi Islands
- Alice Springs
- Santa Teresa
- Maningrida
- Tennant Creek
- Katherine
- Yirrkala
- Groote Eylandt
- Yuendumu, and
- Mutitjulu.



COMMISSIONER MARGARET WHITE AO SPEAKING TO GAYILI MARIKA AND EUNICE MARIKA AT THE YIRRKALA COMMUNITY MEETING.

More than 1 000 people attended the community meetings – including families, individuals, children and young people, local leaders, service providers and community organisations. The Commission heard from a wide range of people including: carers, principals and teachers, current and former detention centre workers, health professionals and police. Those involved in the delivery of services and programs (currently operating and disbanded) to children and young people described their experiences to the Commission.

Key themes that emerged from the meetings included the need for early intervention, community involvement, community-based programs and cultural connectivity.

The Commission held youth forums in Darwin and Alice Springs to hear directly from children and young people who had spent time in the out-of-home care and detention systems in the Northern Territory. The children and young people bravely shared their experiences and their suggestions for improvements with the Commission.

The Commission attended the following meetings:

- Kalkarindji – joint meeting of the Northern and Central Land Councils
- Ross River – meeting of the Central Land Council, and
- Timber Creek – meeting of the Northern Land Council.

COMMUNITY ENGAGEMENT

The over-representation of Aboriginal children and young people in out-of-home care and in detention⁴⁷ means it is particularly important for the Commission to engage with Aboriginal communities and organisations in the Northern Territory. To be effective and sustainable, policies, legislation and programs should have those affected by them involved in their development and implementation.

The Commission has Community Engagement Officers in Alice Springs and Darwin, dedicated to providing an avenue through which the views of individuals and communities can be brought forward to the Commission. The Community Engagement Officers have worked closely with a range of local organisations as part of this process.

They have travelled to communities, to explain the existence and processes of the Commission, and to hear the communities' stories and concerns about the child protection and youth detention systems. To date, the Commission's Community Engagement Officers have met with communities including:

- | | | |
|----------------------|-------------------------|---------------------------------|
| • Abbott's Town Camp | • Jabiru | • Palmers Town Camp |
| • Amoonguna | • Kalano | • Palmerston |
| • Ampilatwatja | • Kalkarindji | • Santa Teresa |
| • Areyonga | • Karnte Town Camp | • Tennant Creek |
| • Daguragu | • Katherine | • Titjikala |
| • Elliott | • Lajamanu | • Trucking Yards Town Camp, and |
| • Finke | • Maningrida | • Utopia. |
| • Hermannsburg | • Morris Soak Town Camp | |
| • Imanpa | • Mt Liebig | |



THE COMMISSION ATTENDING THE WARLPIRI YOUTH DEVELOPMENT ABORIGINAL CORPORATION BOARD OF DIRECTORS MEETING IN YUENDUMU.

HEARINGS AND EVIDENCE

The Commission held:

- a preliminary directions hearing on 6 September 2016
- public hearings from 11–13 October 2016
- public hearings from 5–14 December 2016
- a directions hearing on 10 March 2017
- public hearings from 13–17 March 2017 in Alice Springs, and
- public hearings from 20–31 March 2017 in Darwin.

At the October 2016 hearings, the Commission heard evidence from experts and the authors of past reports and inquiries to provide the background for the Commission's work.

At hearings in December 2016, the Commission heard from Northern Territory Government officials, medical professionals, the Northern Territory Legal Aid Commission, the Central Australian Aboriginal Legal Aid Service and young people who had been detained in youth detention facilities in the Northern Territory.

At the time of finalising this Interim Report, the Commission had commenced the March 2017 hearings on issues relating to youth detention in both Alice Springs and Darwin. These hearings will continue in April.



COMMISSIONERS MICK GOODA AND MARGARET WHITE AO AT THE OPENING OF THE ALICE SPRINGS PUBLIC HEARINGS IN MARCH 2017.

During these hearings the Commission heard evidence from children and young people who have been detained in the Alice Springs and Darwin youth detention facilities. Importantly, in these hearings, the Commission is also hearing from current and former youth justice officers, superintendents and managers of the detention centres, those responsible for overseeing the detention centres, professionals providing services to those in detention such as case workers and lawyers and from a former Minister with responsibility for youth detention.

A list of the witnesses who gave evidence to the Commission at the October and December 2016 hearings, and a list of those who have given or are scheduled to give evidence at the hearings in March 2017 are at **Appendix B**.

The Commission has sought and received extensive formal evidence through witness statements and notices to produce. At the time of finalising this Interim Report, the Commission has received more than 200 statements from witnesses or potential witnesses. Statements have been received from a wide range of individuals, including Northern Territory Government officials, youth justice officers, current and former youth detainees, service providers, researchers and academics.

The Commission has issued more than 250 notices to produce, seeking case files and records, copies of investigation reports, CCTV footage, complaint files, incident reports, information on policies and procedures, emails, briefing material, correspondence, statements and statistical information.

Vulnerable witnesses

The Commission faces a particular challenge given its need to collect evidence from children and young people who are, or were, in out-of-home care or detention. Practice guidelines and directions have been developed to manage the risk of further harm to vulnerable witnesses. Vulnerable witnesses include children and young people up to the age of 21, and anyone who is currently, or has been, in out-of-home care or detention, and anyone with cognitive disability or mental illness.

Taking evidence from vulnerable people raises particular sensitivities. The Commission has adopted many of the methods developed by the courts over time to hear evidence from children and other vulnerable people in a manner that reduces harm to the witness without adversely affecting the reliability of the witness's evidence. That is not to say that the Commission will accept the evidence of vulnerable witnesses uncritically. Their evidence will be considered having regard to other material before the Commission and the manner in which their evidence was given and tested.

To ensure the stories of children and young people can be heard, the Commission has developed a policy that addresses the complexities of dealing with vulnerable witnesses. The policy sets out the ways in which people can provide information to the Commission and be appropriately protected. Specific protocols must be followed in relation to children and young people, and other vulnerable witnesses, to attempt to ensure they are not adversely affected by their engagement with the Commission.

Before any vulnerable witness gives evidence, the Commission arranges for the witness to be assessed by a qualified person or service to ensure the witness has consented to giving their evidence freely and knowingly, and to identify any support needed to give that evidence. Each vulnerable witness has the support of a lawyer.



The Commission has made, and will continue to make, confidentiality directions it considers appropriate. Special arrangements are available for vulnerable witnesses to give evidence, including closing the hearing, the use of video streaming from a separate location to the hearing room and limiting the form of cross-examination.

The Commission acknowledges the assistance provided by the government-funded support services available to people who may be affected by the Commission's work, including counsellors, therapeutic support and health professionals, and the free legal advisory service for people engaging with the Commission, via the Children in Care and Youth Detention Advice Service (CICAYDAS).

SITE VISITS AND MEETINGS

The Commission has conducted a number of site visits of current and former detention facilities in the Northern Territory.

The Commission has also visited youth detention facilities elsewhere in Australia, and in New Zealand.

Northern Territory

Don Dale Youth Detention Centre and Darwin Watch House

On 7 December 2016 the Commission visited the:

- current Don Dale Youth Detention Centre
- former Don Dale Youth Detention Centre, and
- Darwin City Police Watch House.

The current Don Dale Youth Detention Centre was formerly the Berrimah Women's Prison. This site visit included the main part of the facility, the cell blocks and High Security Unit, the medical centre, the Tivendale School and the recreation facilities.

The Commission spoke with current staff and youth justice officers about the day-to-day operations of the centre.

The Commission also visited the former Don Dale Youth Detention Centre which was decommissioned in September 2014. This visit included the reception and intake areas, the cells, the outdoor areas and the Behavioural Management Unit, where the tear gassing incident highlighted in the *Four Corners* program occurred.

The Commission also visited the Darwin City Watch House, inspecting the cells where children and young people are held by police in Darwin.

Alice Springs Youth Detention Centre

On 27 September 2016, the Commission visited Alice Springs Youth Detention Centre which is located within the Alice Springs Correctional Precinct.

The centre is currently operating as a medium to maximum security detention centre for young males and females.



COMMISSIONERS MICK GOODA AND MARGARET WHITE AO VISITING THE OLD DON DALE YOUTH DETENTION CENTRE TO SEE THE FACILITIES FIRSTHAND. PHOTO CREDIT: NT NEWS

Aranda House

On 18 August 2016, the Commission visited Aranda House in Alice Springs.

Aranda House operated from 1989 until early 2011, as a holding facility for detainees awaiting relocation to a youth detention facility in Darwin. Some high security risk detainees were held there after it officially closed.

Other jurisdictions

The Commission has also examined approaches to child protection and youth detention in various parts of Australia and New Zealand. In each jurisdiction the Commission held targeted meetings with people engaged in some aspect of child protection or youth justice.

At the time of finalising the Interim Report, the Commission has visited individuals and organisations in New Zealand, South Australia, Victoria, Australian Capital Territory, Western Australia, Queensland and New South Wales. Further visits will occur as the Commission continues.

Australian Capital Territory

In the Australian Capital Territory the Commission visited or met with:

- Bimberi Youth Justice Centre
- ACT Policing, and
- the ACT Government Justice and Community Safety Directorate and Restorative Justice Unit.

The Bimberi Youth Justice Centre, the only youth detention facility in the Australian Capital Territory, houses children and young people aged 10–21 years.⁴⁸ The centre operates on a model of rehabilitation and reintegration, preparing children and young people for release back into the community as soon as they start their period of detention.

The Commission was told the average number of detainees dropped from 24 to nine between 2014 and 2017.⁴⁹ Families and support networks are involved in the rehabilitation of children and young people, and detainees are engaged in education or training during their time at the centre. The Australian Capital Territory also operates a suburban house for young Aboriginal males on bail.

New South Wales

In New South Wales the Commission visited:

- Parramatta Children's Court
- Youth Koori Court
- Cobham Juvenile Justice Centre
- Reiby Juvenile Justice Centre, and
- Clean Slate Without Prejudice, Redfern.

The Parramatta Children's Court is a dedicated youth court with specialist magistrates.⁵⁰ A Youth Koori Court pilot started in the Parramatta Children's Court in 2015, operating one day a week.⁵¹

The Cobham Juvenile Justice Centre⁵² predominately holds young men over the age of 15 years who are on remand. Around 40 per cent of them are Aboriginal. The Commissioners heard about steps taken by the centre to accommodate Aboriginal cultural needs, including the appointment of Aboriginal Engagement Officers, and the current construction of a learning circle where young people can discuss issues, speak with Elders and learn about their culture.

The Reiby Juvenile Justice Centre⁵³ holds male children under 15 years. It also holds all female children and young people since the 2016 closure of the Juniperina Juvenile Justice Centre. It has medical facilities, recreation areas, a chapel and a yarning circle. The Reiby Centre also opened a specialised annex in 2010, the Waratah Pre-Release Unit, which can prepare up to nine detainees for transition back into the community.

The Commission attended a 'Clean Slate Without Prejudice' boxing session at the National Centre for Indigenous Excellence in Redfern, a boxing program in Redfern. This program works in conjunction with the 'Never Going Back' program, which provides training and mentoring to inmates in the Long Bay Correctional Complex. The Commission met with police officers from the Redfern Local Area Command, the Governor of Long Bay Correctional Complex, and participants in the program. This program and the relationship between Redfern police and the local Aboriginal community is credited with a significant decrease in crime in that community.



Western Australia

Many of the challenges confronting the Northern Territory are also faced by Western Australia. This includes the over-representation of Aboriginal children and young people in detention and engaging with remote communities.

In Western Australia the Commission visited or met with:

- Banksia Hill Detention Centre
- the Children's Court
- the Commissioner for Children and Young People
- the Corrective Services Academy
- Hope Community Services Youth Bail Options Program
- Office of the Inspector of Custodial Services, and
- the Special Operations Group in the Department of Corrective Services.

The Banksia Hill Detention Centre⁵⁴ is the only youth detention facility in Western Australia. It holds children and young people aged 10–17 years.

The Corrective Services Academy is where youth justice officers undergo training and assessment. During their visit, the Commission observed some of the assessments and spoke with trainees about their experiences. The Academy provides an extensive level of training specific to working

with children and young people including eight weeks of 'off the job' training covering topics such as how to manage conflict through negotiation, with scenario-based exercises. This is then followed by 44 weeks of 'on the job' training.

The Commission also visited the Special Operations Group, a part of the Operational Services of the Department of Corrective Services.

Victoria

In Victoria the Commission visited or met with:

- Magistrates and Judges
- the Koori Court
- Marram-Ngala Ganbu program, and
- Jesuit Social Services.

Victoria has diversionary programs and a range of orders available for youth offenders. Youth Justice Conferencing, based on restorative justice principles, is also used to provide the Children's Court with alternative pre-sentencing options. Judicial officers in Melbourne told the Commission that the number of youth appearing before the courts in Victoria has decreased in recent years.

The Commission also went to the Victorian Children's Koori Court, and heard about its approach to dealing with cases involving Koori children and young people, and how families are engaged in the judicial process. The Commission also met with the judicial officer charged with setting up the Marram-Ngala Ganbu program at the Broadmeadows Children's Court. The program involves family hearing days, and has Koori support officers working with the child or young person's family to support them and encourage them to come to court.

Jesuit Social Services met with the Commission and outlined their work in relation to youth diversion and other youth justice programs.

South Australia

In South Australia the Commission visited:

- the Cavan Youth Training Centre
- the Youth Justice Court, and
- the Australian Centre for Child Protection.

The Commission met with the Senior Judge of South Australia's dedicated Youth Court⁵⁵ which hears matters for children and young people aged from 10–17 years. Youth Court hearings are closed to the public.

South Australia also has a Conferencing Unit that conducts family conferences for minor offences. These conferences are intended to divert children and young people away from the court system and involve families in the decision-making process. Conferences are also available for child protection matters.

The Commission visited the Cavan Youth Training Centre⁵⁶ which comprises two campuses, Goldsborough Road and Jonal Drive. The newer facility for males aged 15–21 years is on a large well-landscaped area with two small six-bed home style units in a number of buildings placed around the grounds. The Commission was told that the Centre focuses on the rehabilitation of children and young people, and that efforts to ensure their successful reintegration into the community begin as soon as they arrive at the centre. There are Aboriginal culture programs with two dedicated Aboriginal staff.

Queensland

The Commission has had some initial meetings in Queensland with the:

- President of the Children's Court of Queensland
- Director General of the Department of Justice and Attorney-General, and
- Deputy Director General of the Department of Justice and Attorney-General, who has responsibility for youth justice and detention.

New Zealand

The Commission visited New Zealand to examine alternative models of child protection and youth justice. A Northern Territory Government official also attended some of the meetings. The meetings and visits covered a range of government departments, courts and residential facilities for children and young people, including:

- the Chief Executive, Ministry of Social Development
- the Chief Executive, Ministry for Vulnerable Children, Oranga Tamariki
- the Principal Youth Court Judge
- the Jury/Youth and Rangatahi Court Judge
- the Youth/Family and Pasifika Court Judge
- the New Zealand Children's Commissioner
- the New Zealand Police, Youth Aid Officers
- Family Group Conference Coordinators in Wellington and Auckland
- Korowai Manaaki Youth Justice Residence
- Whakatakapokai Care and Protection Residence, and
- Eponi Care and Protection Residence.

New Zealand's youth justice system is underpinned by restorative justice principles outlined in the *Children, Young Persons and their Families Act 1989*. There is an emphasis on diversion, with the vast majority of children and young people dealt with by alternative youth justice procedures at their point of interaction with police, rather than through formal court processes.

New Zealand has approached youth justice through specialist police-led youth diversion, with 32 per cent of children and young people dealt with by Police Youth Aid Diversion, and an additional 44 per cent by warnings.⁵⁷ Family group conferences are also used.



COMMISSIONER MARGARET WHITE AO IS GREETED BY ELDERS FROM THE PASIFIKA COURT IN NEW ZEALAND.

The child protection system in New Zealand is currently undergoing reform, with the creation of a new government department, the Ministry for Vulnerable Children, Oranga Tamariki.⁵⁸ The Ministry will be responsible for the care and protection of vulnerable children and young people, youth justice services and operational adoption services.

Further visits

The Commission intends to make further visits in the course of its inquiry.

The Commission will, in its Final Report, consider a range of interstate and international programs and make recommendations about best practice models of child protection and youth detention systems. It is already clear that the existing system of youth detention in the Northern Territory falls well short of best practice.

ROUNDTABLES AND TARGETED MEETINGS

The Commission has also gathered information through a series of meetings and roundtable discussions. These events provide a structured but less formal means of gathering information, in settings where ideas can be exchanged openly.

Meetings with youth detention centre staff

To hear from detention centre staff, the Commission held meetings with current and former youth detention centre workers in Darwin on 22 February and Alice Springs on 23 February 2017.

The meetings were open to all current and former staff of youth detention centres, including youth justice officers, corrections officers, health workers and education workers. Territory Families, the Northern Territory Government Royal Commission Taskforce, United Voice, the Community and Public Sector Union and the Commission's Community Engagement Officers circulated information about the meetings.

Participants provided valuable insights and explained the challenges of their jobs, sharing their experiences and concerns.

Expert roundtable: 'Diversion and Alternatives to Youth Detention'

The Commission held an expert roundtable in Alice Springs on 24 February 2017 to discuss diversion of children and young people from the criminal justice process and alternative approaches to detention.

Attendees at the roundtable included academics and researchers, service providers of diversion and other programs, community organisations, and police officers from the Northern Territory and other states and territories.

Representatives from the Northern Territory Government also attended the roundtable.

The meeting explored the merits of alternative approaches and discussed how they could be implemented in the Northern Territory context. A list of attendees is at **Appendix C**.

Discussions covered the underlying principles of youth detention, early intervention and diversion, alternatives to remand, sentencing options, and alternative models of detention.

The meeting also considered issues of community involvement, and the geographic and cultural challenges of the Northern Territory.

Meetings with police

Police have a crucial role in the diversion of children and young people away from the youth justice system. The Commission held meetings with current members of the Northern Territory Police in Alice Springs on 16 March and in Darwin on 21 March 2017.

Again, participants provided valuable insights, explaining the challenges of their jobs and sharing their experiences and concerns.

To better understand the work of the Northern Territory Police in relation to youth crime and the day-to-day operational challenges of dealing with children and young people, a serving police officer seconded to the Commission from the NSW Police Force spent time working directly with the Northern Territory Police in both Darwin and Alice Springs.

Meetings with Judges

At the time of finalising this Interim Report, the Chief Justice of the Northern Territory and the Chief Judge of the Local Court, and a number of the Judges of those Courts, have accepted the Commission's formal invitation to engage in a discussion of broad issues relating to youth justice and child protection orders.

Meetings with victims of crime groups

Striking the right balance between reforming the youth justice system and ensuring community safety is of utmost importance to the Commission. The purpose of any criminal justice system is the protection of the community. The Commission wants to hear from victims of crime representatives to listen to their concerns and proposed solutions. The Commission has met with the Chamber of Commerce NT, Victims of Crime NT and Neighbourhood Watch NT.



PARTICIPANTS DISCUSS ALTERNATIVES TO DETENTION AT A FORUM HELD IN ALICE SPRINGS ON 24 FEBRUARY 2017.



INTERIM OBSERVATIONS 04

INTERIM OBSERVATIONS

Although the process of taking evidence and considering submissions is not yet complete and the Commission is only part way through its current session of hearings on detention, some general themes have emerged from the material received.

PATHWAY FROM PROTECTION TO DETENTION

Children and young people who have entered the child protection system are over represented in youth detention, both in the Northern Territory and in other parts of Australia.

In 2014-15, an Australian Institute of Health and Welfare report showed that 45 per cent of children and young people in detention in selected states and territories had also received a child protection service during the same year (the Northern Territory is not included in this statistic).⁵⁹

The Commission has heard that placement instability and having an experience of being in out-of-home care are also strong indicators of potential involvement in the youth justice system.⁶⁰

The Commission will consider what needs to change in the current child protection system to break the cycle for children and young people going from care into detention.



CENTRAL COURTYARD AT ARANDA HOUSE FACILITY, ALICE SPRINGS.

COMMUNITY SAFETY

The ultimate goals of any youth justice system are to reduce youth crime and build safer communities.

The 2011 Review of the Northern Territory Youth Justice System⁶¹ identified a high level of public concern about community safety and juvenile offenders. The Commission appreciates those concerns are also being voiced today. Victims of crime are understandably angry and frustrated by continuing safety risks posed by young offenders.

However, the Northern Territory youth detention system appears to be failing to reduce the rate of youth crime or rehabilitate youth in detention. To address youth crime effectively, the failings of youth detention also need to be addressed.

It has been put to the Commission that a greater focus on rehabilitation and restorative justice is likely to lead to safer communities. The Commission will hear evidence on these issues in the upcoming hearings.

Striking the right balance between reforming the youth justice system and ensuring community safety is of utmost importance to the Commission. The Commission will continue to receive evidence on this topic from experts and interested persons.

REMOTENESS AND ISOLATION

There are more than 1 000 communities in the Northern Territory, many of them geographically dispersed, isolated and hard to access, and subject to seasonal conditions. It is not unusual to drive for up to eight hours from the urban areas to some of these communities. Travel by air may be an option but the cost is prohibitive for the majority of people and air travel is generally only available for medical emergencies.

The Commission has already observed that remoteness from the larger towns may lead to decreased options for health services, less economic development resulting in fewer jobs, limited educational opportunities and restricted programs and services.

Remoteness means that there are often limited temporary and permanent solutions for child protection, and greater challenges to delivering effective early intervention.

In these circumstances, there are limited options for children and young people and detention may not always be used as a last resort. This results in children and young people being separated from their families and country.

Responding to the issues of remoteness in the Northern Territory will be a fundamental consideration for the Commission when making its recommendations.

DISENGAGEMENT OF COMMUNITIES FROM DECISION-MAKING

The quality of engagement between governments and the Aboriginal community in the Northern Territory was raised with the Commission many times during consultations and community engagement meetings. There were criticisms of the Northern Territory Emergency Response (the Intervention) and the abolition of Community Councils by the Northern Territory Government in 2007.

Even at this stage the Commission is of the view that any sustainable outcomes in the Northern Territory need to be based on communities being included and participating in decisions that affect them. Engagement not only requires governments to take action, but should also empower community ownership of the problems and participation in determining their solutions.

The Commission will further explore ways of achieving effective engagement as the inquiry progresses.



COMMISSIONER MICK GOODA SPEAKING WITH TONY WURRAMARRBA AO, THE CHAIRMAN OF THE ANINDILYAKWA LAND COUNCIL, AT ANGURUGU, GROOTE EYLANDT COMMUNITY MEETING.

OVER-REPRESENTATION OF ABORIGINAL CHILDREN AND YOUNG PEOPLE

The evidence before the Commission clearly establishes that there is a significant over-representation of Aboriginal children and young people in both child protection and youth detention. This fact must influence the Commission's response to many of the issues under consideration.

The Commission accepts that many Aboriginal children and young people face disadvantage from birth. The National Aboriginal and Torres Strait Islander Women's Alliance pointed out to the National Children's Commissioner in 2015 that:



ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE CONTINUE TO SUFFER THE INTERGENERATIONAL EFFECTS OF PAST WELFARE PRACTICES INCLUDING THE FORCED REMOVAL OF THEIR CHILDREN AND DISLOCATION FROM THEIR COMMUNITIES, COUNTRY AND CULTURE, AS WELL AS EXPERIENCING HIGHER LEVELS OF POVERTY AND SOCIAL DISADVANTAGE COMPARED TO OTHER AUSTRALIANS.⁶²



The Commission is acutely aware of the continued impact of intergenerational trauma on Aboriginal people within the Northern Territory. Aboriginal people have experienced trauma stemming from the results of colonisation and the loss of culture and land, as well as government policies such as the forced removal of children. This trauma has had a negative impact on cultural identity, which consequently has reduced the capacity of Aboriginal people to participate fully in their own lives and community.

The fact that so many Aboriginal children and young people enter out-of-home care and youth detention in the Northern Territory is a consequence of these factors.⁶³

HEALTH

There are high rates of mental illness among children and young people in the Northern Territory, particularly among Aboriginal children and young people.⁶⁴ Children and young people in the Northern Territory also suffer from high rates of rheumatic heart disease,⁶⁵ sexually transmitted infections,⁶⁶ ear disease and hearing loss,⁶⁷ among other diseases and conditions.

The Commission has been provided with evidence from Western Australia,⁶⁸ which is applicable across all Australian jurisdictions, that demonstrates the profoundly harmful effect of the alcohol consumption, particularly in the early stages of pregnancy on the developing brain of an unborn child, leading to cognitive and behavioural deficits known generically as Foetal Alcohol Spectrum Disorder (FASD). Children and young people affected by FASD experience significant behavioural problems, including difficulty paying attention, learning and controlling their emotions and urges, and placing them at significant disadvantage in the context of the criminal justice system.⁶⁹ It also adversely affects their educational outcomes and general well-being.

The Commission has received evidence that critical periods of brain development occur from conception to birth, through early childhood and into adolescence.⁷⁰ The Commission has been told that from conception to the age of five, environmental influences have a disproportionately greater impact on brain development compared with any other stage in life, and that trauma experienced in that period can have profound impacts that last through to adulthood.⁷¹ For example, the Commission has heard that early life trauma can expose children to ‘toxic stress’, which can impair the development of neural connections in the developing brain, leading to lifelong problems with learning, behaviour and physical and mental health.⁷² These problems, in turn, are associated with an increased likelihood of contact with the child protection and youth detention systems.⁷³

A second significant period of brain development occurs from early puberty through to early adulthood,⁷⁴ when the brain matures in order to achieve higher order cognitive function, including decision-making, memory recall, understanding consequences and language comprehension.⁷⁵ The Commission has been provided with evidence indicating that incarceration during this period of brain development can be traumatic and can interfere with the normal developmental processes.⁷⁶

The Commission will continue to investigate these issues and consider the consequences of adolescent incarceration upon the developing brain. Health issues for children and young people in the Northern Territory will form a significant part of the Commission’s considerations as it moves towards making its final recommendations.



COMMUNITY ENGAGEMENT TEAM MEMBER BARBARA SHAW MEETING WITH COMMUNITY MEMBERS AT TRUCKING YARDS TOWN CAMP IN ALICE SPRINGS.

ALCOHOL AND OTHER DRUGS

The Commission is aware of the high rates of drug and alcohol use (as well as other volatile substances) in the Northern Territory, and its impacts. In March 2017 the Australian Criminal Intelligence Commission released data on drug and alcohol use in the Northern Territory indicating that alcohol and tobacco consumption rates were the highest average per capita across all states and territories, and with high rates of consumption of methylamphetamine ('ice') and MDMA.⁷⁷

The Centre for Primary Health Care and Equity reports that 'Aboriginal people are more likely to be incarcerated if they have a history of substance misuse, and substance misuse is considered to be responsible for a large proportion of offending behaviour that leads to incarceration'.⁷⁸ The Commission has also heard that children and young people who are being detained in detention centres are often withdrawing from drugs and/or alcohol.⁷⁹

YOUTH JUSTICE

Detention Practices

The Commission is continuing to take evidence on a range of practices within the detention centres, including the use of restraints, isolation and force, as well as the general treatment of detainees by detention centre staff.

The evidence heard so far, however, raises serious concerns about inappropriate and unlawful practices, unacceptable standards of conduct and inappropriate methods of dealing with detainees within the youth detention centres.

The Commission has heard evidence to the effect that a causal factor may have been the quantity and the quality of the training received by staff working in youth detention centres along with the staffing levels at the centres. Training has been explored with a number of youth justice officers through their statements, in public forums and in the public hearings.

Problems in the detention centres were also recognised within government well before the broadcast of the *Four Corners* program that led to the establishment of this Commission.

In September 2014 a 'Memorandum of Issues in Youth Detention' prepared by the Director of the Department of Correctional Services' Professional Standards Unit⁸⁰ listed many of the same issues which have been raised in the Commission's hearings, including:

- poor or inadequate staff recruitment, training and rostering
- inappropriate communication methods used by staff with children and young people
- a lack of understanding of the rules of the centre by the children and young people detained
- a lack of direction from centre managers, and
- insufficient programs and activities for the children and young people detained resulting in boredom and escalation of difficult behaviours.

The Memorandum concludes:

It should be obvious to anyone that if you treat youths like animals by not communicating, threatening, belittling them, withholding food and other entitlements they will react in an aggressive way. Most of these incidents were most probably entirely preventable with the use of appropriate communication and open interaction with the detainees combined with a regular routine to keep them occupied.

The positive response of YJOs once provided with direction from prison staff, clearly indicates that most YJOs are capable of performing appropriately once they are shown what is expected of them and follow up is provided to them to reinforce that they are doing the right thing.

The Commission expects to hear further evidence on this Memorandum as public hearings progress and will no doubt hear a range of perspectives on the challenges faced by those working in the youth detention system or responsible for overseeing that system.

The Commission is aware that the Northern Territory Government has recently announced a number of measures to address some of these issues.

New youth justice officers will undergo six weeks of training with a focus on rehabilitation, including training about the impact of trauma on children and young people delivered by the Australian Childhood Foundation.⁸¹ A total of 25 new youth justice officers have been recruited to undergo this training, including 11 women and 12 Aboriginal people.⁸²

It is important to note, however, that many children and young people enter detention with serious cognitive disabilities, mental illness, addiction to nicotine, alcohol and other drugs as well as physical deficits such as poor hearing and sight, and, in some cases, also functional illiteracy. These factors impact on their behaviour and ability to conform to the rules within a facility. The Commission has heard some evidence from past detainees who suggest that rules were not well communicated or consistently applied.

The Commission will continue to take evidence on these issues, and examine past and current practices in detention centres in the Northern Territory. The Commission will also continue to investigate methods of dealing with detainees, standards of training and the qualifications of youth justice officers.

In addition, the Commission will examine the importance of ensuring that Northern Territory youth detention centres are accessible to families, that visiting hours are sufficiently flexible to encourage family visits, and that the facilities are accessible by public transport. It will consider the treatment of detainees upon arrival in detention, including the availability and the adequacy of health checks, as well as the steps taken to ensure that detainees are given full and adequate information about the circumstances of their detention in a language that they understand.

Access to culture

Communities and experts have told the Commission about the importance of maintaining and strengthening connection to land and culture as a protective factor for young Aboriginal people.

The Commission has heard that cultural competency recognises and understands that Aboriginality is not generic and that a range of individualised factors such as language, clans, skin groups and remote or urban-based communities inform how Aboriginal children and young people should be treated, what they consider important and how they may react.⁸³

The Commission will continue to consider the extent to which Aboriginal children and young people in detention are able to maintain their connection to culture and community and the significance of this connection.

Detention facilities

Site visits to the current youth detention centres have revealed fundamental problems with the structural design of the Northern Territory youth detention centres. The Commission has heard concerns about the age and unhygienic conditions of the detention centres, their inappropriate design, the absence of privacy and the lack of windows for natural light and ventilation.⁸⁴ The Commission will consider whether poor design and infrastructure may have contributed to incidents and disturbances in centres. The Commission will address the conditions of detention facilities as it moves forward. This will include considering alternative options and best practice facilities in other jurisdictions.

The Commission notes the Northern Territory Government's announcement that additional funds have been identified for investment in new youth detention facilities.⁸⁵ However, it would be premature for the Northern Territory Government to commit those funds at this stage to any immediate upgrading or building new detention centres before the Commission completes its work and makes final recommendations. While there is no doubt that the current facilities are not appropriate places to house youth detainees, before expending additional resources to fix or replace them, decisions need to be made about the more fundamental question of what kind of facilities are required, and where they should be located. The Commission is examining these questions in its inquiry, including considering the most appropriate model for detention facilities in the Northern Territory.

Diversion

The appropriateness and effectiveness of diversion of children and young people away from the formal court process has emerged as an important theme for the Commission's consideration.

On 24 February 2017 the Commission hosted an expert roundtable, 'Diversion and Alternatives to Youth Detention', in Alice Springs.

The roundtable brought together community organisations, government officials, academics and service providers from across Australia. Participants engaged in a detailed discussion considering the underlying principles of youth justice, early intervention, diversion and successful models of detention. The roundtable was an opportunity for the Commission to hear firsthand from experts with experience in diversion, including local service providers in Alice Springs.

The Commission is aware that on 8 February 2017 the Northern Territory Chief Minister announced an \$18.2 million package of initiatives to address crime and to break the cycle of offending. The announcement included commitments to:

- fund 52 youth diversion workers based in Darwin, Palmerston, Katherine and Alice Springs, to be co-located with police, education and non-government organisations—the positions were to start immediately and be operational in all regions within three months, and
- provide an additional \$6 million for non-government organisations to run diversion options for police and courts and to support the enforcement of bail conditions.

The Commission is also aware of a staffing increase for Northern Territory Police to tackle youth crime, announced on 31 January 2017.

The Commission welcomes this new funding, noting particularly the additional support for diversion.

Diversion options arise at many stages, from the time a child or young person first comes into contact with the police, through to the courts and sentencing options. Police engagement with ‘at risk’ children and young people in the Northern Territory can involve diverting them away from formal court processes with the use of warnings, cautions, family conferencing initiatives and other diversion programs.

The Commission has benefited from discussions with police officers who participated in the meetings in Darwin and Alice Springs. The Commission received evidence that diversion at the



PUBLIC HEARINGS WERE HELD AT THE ALICE SPRINGS CONVENTION CENTRE IN MARCH 2017.

earliest stage of a child or young person coming into contact with the police is shown to have positive results when implemented effectively.⁸⁶

The Commission notes that police are key to a successful reform agenda to divert children and young people away from a life of crime. The decisions police make in the early stages of their contact with a child or young person will affect the way they travel through the youth justice system, and how likely they are to be sent to detention.

The Commission will also consider the use of group conferences and family conferences, which are used in other jurisdictions including South Australia and Victoria as an alternative to divert children and young people away from the court system, and involve families in the decision-making process.

In future hearings, the Commission will consider whether the current or proposed diversion options in the Northern Territory are appropriate, sufficient and well-targeted.

Another important theme that has emerged from the Commission's work is the use of remand, the practice of holding children and young people in detention prior to conviction. The majority of the youth detainee population today are on remand,⁸⁷ awaiting trial or hearing, and a significant proportion are in detention for breaching the 'non-criminal' conditions of a bail order.

The Commission will examine alternatives to custodial orders and remand conditions in future public hearings.

Bail conditions

The Commission has heard that bail conditions in the Northern Territory are too strict, particularly for minor offences, and effectively set children and young people up to fail with breaches of bail conditions leading to detention.⁸⁸ However the Commission has also heard that while on bail, children and young people continue to offend.

Notably, there has been a substantial increase in breaches of bail conditions by children and young people in the Northern Territory in recent years.⁸⁹ It has been suggested that there is a need for a more graduated response to breaches of bail.⁹⁰

The Commission notes the Northern Territory Government's recent legislative amendments to expand the use of electronic monitoring bracelets.⁹¹

The Commission will further consider issues relating to bail, together with the use of specific remand facilities, separate to youth detention centres with fewer restrictions placed on those on remand. The Commission will also look into the important role of police in making decisions about breaches of bail conditions, which could lead to detention.

Post-detention and recidivism

Preparing children and young people to reintegrate into society is fundamental to their rehabilitation and to reducing crime. Support for children and young people leaving detention is critical to their successful transition back into the community and not falling back into a cycle of re-offending.

The Commission will examine post-detention services for children and young people in the Northern Territory in future hearings. The Commission will also consider the need for transition planning for those leaving detention.



05 CONCLUSION

CONCLUSION

To date, the main focus of the Commission has been on youth detention in the Northern Territory.

In the coming months, the Commission will be focusing more directly on child protection matters.

In both areas, making recommendations that will lead to sustainable change will require consideration of the specific challenges faced by children and young people in the Northern Territory.

The objectives, however, are clear.

The Northern Territory deserves a safer community where youth crime is at a minimum.

The children of the Northern Territory deserve to be treated with respect and dignity, with every child in out-of-home care or in detention given a real opportunity to reach their full potential.

The task ahead for the Commission is considerable, as is our responsibility to recommend the right path for the future.

The Commission's Final Report, due on 1 August 2017, will put forward detailed recommendations to guide the Northern Territory in achieving these goals.



COMMISSIONER MICK GOODA SPEAKING WITH MUTITJULU COMMUNITY MEMBERS.

06 APPENDICES

APPENDIX A – LETTERS PATENT

ENTERED ON RECORD by me in Register of Patents No. 51, page 54, on 1 AUGUST 2016

Secretary to the Federal Executive Council



ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Margaret Jean White AO; and
Michael Lloyd Gooda

GREETING

WE do, by Our Letters Patent issued in Our name by Our Administrator of the Government of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into the following matters:

- (a) failings in the child protection and youth detention systems of the Government of the Northern Territory during the period since the commencement of the *Youth Justice Act* of the Northern Territory (the *relevant period*);
- (b) the treatment, during the relevant period, of children and young persons detained at youth detention facilities administered by the Government of the Northern Territory (the *relevant facilities*), including the Don Dale Youth Detention Centre in Darwin;
- (c) whether any such treatment during the relevant period may:
 - (i) amount to a breach of a law of the Commonwealth; or
 - (ii) amount to a breach of a law in force in the Northern Territory; or
 - (iii) amount to a breach of a duty of care, or any other legal duty, owed by the Government of the Northern Territory to a person detained at any of the relevant facilities; or

- (iv) be inconsistent with, or contrary to, a human right or freedom that:
 - (A) is embodied in a law of the Commonwealth or of the Northern Territory; and
 - (B) is recognised or declared by an international instrument; or
- (v) amount to a breach of a rule, policy, procedure, standard or management practice that applied to any or all of the relevant facilities;
- (d) both:
 - (i) what oversight mechanisms and safeguards (if any) were in place during the relevant period at the relevant facilities to ensure that the treatment of children and young persons detained is appropriate; and
 - (ii) whether those oversight mechanisms and safeguards have failed, or are failing, to prevent inappropriate treatment, and if so, why;
- (e) whether, during the relevant period, there were deficiencies in the organisational culture, structure or management in, or in relation to, any or all of the relevant facilities;
- (f) whether, during the relevant period, more should have been done by the Government of the Northern Territory to take appropriate measures to prevent the recurrence of inappropriate treatment of children and young persons detained at the relevant facilities and, in particular, to act on the recommendations of past reports and reviews, including:
 - (i) the Review of the Northern Territory Youth Detention System Report, of January 2015; and
 - (ii) the Report of the Office of the Children's Commissioner of the Northern Territory about services at Don Dale Youth Detention Centre, of August 2015;

- (g) what measures should be adopted by the Government of the Northern Territory, or enacted by the Legislative Assembly of the Northern Territory, to prevent inappropriate treatment of children and young persons detained at the relevant facilities, including:
 - (i) law reform; and
 - (ii) reform of administrative practices; and
 - (iii) reform of oversight measures and safeguards; and
 - (iv) reform of management practices, education, training and suitability of officers; and
 - (v) any other relevant matters;
- (h) what improvements could be made to the child protection system of the Northern Territory, including the identification of early intervention options and pathways for children at risk of engaging in anti-social behaviour;
- (i) the access, during the relevant period, by children and young persons detained at the relevant facilities, to appropriate medical care, including psychiatric care;
- (j) any matter reasonably incidental to a matter mentioned in paragraphs (a) to (i).

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (k) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (l) the need to ensure that evidence that may be received by you that identifies particular individuals as having been subject to inappropriate treatment is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (m) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate.

AND We appoint you, the Honourable Margaret Jean White AO, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by the Government or a Minister of the Northern Territory.

AND We declare that in these Our Letters Patent:

child means a person under the age of 18 years, and *children* has a corresponding meaning.

AND We:

- (n) require you to begin your inquiry as soon as practicable; and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 March 2017.

IN WITNESS, We have caused these Our Letters to be made Patent.

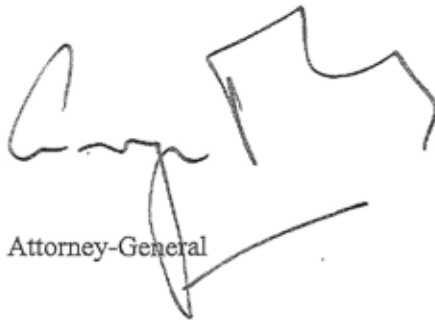
WITNESS the Honourable Paul de Jersey AC QC,
Administrator of the Government of the Commonwealth of
Australia.

Dated *1st August* 2016



Administrator

By His Excellency's Command



Attorney-General



APPENDIX A – APPOINTMENT OF BOARD OF INQUIRY BY THE NORTHERN TERRITORY GOVERNMENT

NORTHERN TERRITORY OF AUSTRALIA

Inquiries Act

APPOINTMENT OF BOARD OF INQUIRY

I, Adam Graham Giles, Chief Minister of the Northern Territory of Australia, under section 4 of the *Inquiries Act*:

- (a) appoint the following persons to be a Board of Inquiry to inquire into and report to me on the matters relating to the Territory and mentioned in the Schedule:
 - (i) The Honourable Margaret Jean White AO;
 - (ii) Michael Lloyd Gooda; and
- (b) appoint The Honourable Margaret Jean White AO to be the Chairperson of the Board.

The inquiry is to be conducted in combination with an inquiry into the same matters, or any matters related to those matters, required or authorised under Letters Patent dated 1 August 2016 appointing the members of the Board to be a Commission of inquiry.

The inquiry does not require inquiring, or continuing to inquire, into a particular matter, to the extent that the Board is satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

To avoid doubt, the Board is, for the purposes of the inquiry and report, to consider the following, and to take (or refrain from taking) any action that the Board considers appropriate arising out of the consideration:

- (a) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (b) the need to ensure that evidence that may be received by the Board that identifies particular individuals as having been subject to inappropriate treatment is dealt with in a way that does not prejudice

current or future criminal or civil proceedings or other contemporaneous inquiries;

- (c) the need to establish appropriate arrangements in relation to current and previous inquiries, in the Northern Territory and elsewhere, for evidence and information to be shared with the Board in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by the Board in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses

Dated

3/8/16

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Chief Minister

SCHEDULE

1. In this instrument:

child means a person under the age of 18 years.

2. The matters are:

- (a) failings in the child protection and youth detention systems of the Government of the Northern Territory during the period since the commencement of the *Youth Justice Act* (the **relevant period**);
- (b) the treatment, during the relevant period, of children and young persons detained at youth detention facilities administered by the Government of the Northern Territory (the **relevant facilities**), including the Don Dale Youth Detention Centre in Darwin;
- (c) whether any such treatment during the relevant period may:
 - i. amount to a breach of a law of the Commonwealth; or
 - ii. amount to a breach of a law in force in the Territory; or
 - iii. amount to a breach of a duty of care, or any other legal duty, owed by the Government of the Northern Territory to a person detained at any of the relevant facilities; or
 - iv. be inconsistent with, or contrary to, a human right or freedom that:
 - A. is embodied in a law of the Commonwealth or of the Northern Territory; and
 - B. is recognised or declared by an international instrument; or
 - v. amount to a breach of a rule, policy, procedure, standard or management practice that applied to any or all of the relevant facilities;
- (d) both:
 - i. what oversight mechanisms and safeguards (if any) were in place during the relevant period at the relevant facilities to

- ensure that the treatment of children and young persons detained is appropriate; and
 - ii. whether those oversight mechanisms and safeguards have failed, or are failing, to prevent inappropriate treatment, and if so, why;
- (e) whether, during the relevant period, there were deficiencies in the organisational culture, structure or management in, or in relation to, any or all of the relevant facilities;
- (f) whether, during the relevant period, more should have been done by the Government of the Northern Territory to take appropriate measures to prevent the recurrence of inappropriate treatment of children and young persons detained at the relevant facilities and, in particular, to act on the recommendations of past reports and reviews, including:
 - i. the Review of the Northern Territory Youth Detention System Report, of January 2015; and
 - ii. the Report of the Office of the Children's Commissioner of the Northern Territory about services at Don Dale Youth Detention Centre, of August 2015;
- (g) what measures should be adopted by the Government of the Northern Territory, or enacted by the Legislative Assembly of the Northern Territory, to prevent inappropriate treatment of children and young persons detained at the relevant facilities, including:
 - i. law reform; and
 - ii. reform of administrative practices; and
 - iii. reform of oversight measures and safeguards; and
 - iv. reform of management practices, education, training and suitability of officers; and
 - v. any other relevant matters;
- (h) what improvements could be made to the child protection system of the Northern Territory, including the identification of early intervention

options and pathways for children at risk of engaging in anti-social behaviour;

- (i) the access, during the relevant period, by children and young persons detained at the relevant facilities, to appropriate medical care, including psychiatric care;
- U) any matter reasonably incidental to a matter mentioned in paragraphs (a) to (i).

APPENDIX A – AMENDING LETTERS PATENT

ENTERED ON RECORD by me in Register of Patents No. 52 , page 2 , on 9 February 2017

Secretary to the Federal Executive Council

Handwritten signature



ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Margaret Jean White AO; and
Michael Lloyd Gooda

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Administrator of the Government of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 March 2017.

AND it is desired to amend Our Letters Patent.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting paragraph (p) of the Letters Patent and substituting the following paragraphs:

- “(p) require you to submit to Our Governor-General an interim report of the results of your inquiry, and any recommendations for early consideration, not later than 31 March 2017; and
- (q) require you to submit to Our Governor-General a final report of the results of your inquiry, and your recommendations, not later than 1 August 2017.”.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC
(Ret'd), Governor-General of the Commonwealth of Australia.

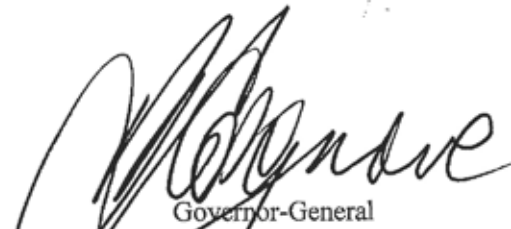
Dated

9th February 2017

By His Excellency's Command



Attorney-General



Governor-General

LS.

APPENDIX B – WITNESSES

October 2016 Hearing

1. Dr Howard Bath
2. Colleen Gwynne
3. Muriel Bamblett
4. Carolyn Richards
5. Dr Damien Howard
6. Professor John Boulton
7. Megan Mitchell
8. Jody Barney
9. Patricia Anderson
10. Scott Avery

December 2016 Hearing

11. Robert Hamburger
12. Jeanette Kerr
13. Russell Goldflam
14. Dr James Fitzpatrick
15. Dr Carmela Pestell
16. Dylan Voller
17. AD
18. Antoinette Carroll

March 2017 Detention Hearing

Week 1 – Alice Springs

19. Jamal Turner
20. BF
21. BC
22. John Fattore
23. Trevor Hansen
24. Derek Tasker
25. Barry Clee
26. Antoinette Carroll
27. Chris Castle
28. Christine Connors
29. Professor John Rynne
30. BY
31. CA
32. Marion Guppy
33. David Glyde
34. Brett McNair
35. The Honourable Gerry
McCarthy MLA

Week 2 – Darwin

36. Conan Zamolo
37. Jonathan Hunyor
38. Terry Byrnes
39. Andreea Laschz
40. Ben Kelleher
41. AX
42. BR
43. Olga Havnen

44. BH
45. Leonard de Souza
46. AS
47. David Ferguson
48. AU
49. AF
50. BZ
51. AB
52. Professor Stuart Kinner
53. Dr Mick Creati
54. AG
55. Greg Harmer
56. Louise Inglis
57. Saki Muller
58. Eliza Tobin
59. AN

Week 3 – Darwin

60. BQ
61. James Sizeland
62. BE
63. AQ
64. Ian Johns
65. Russell Caldwell
66. Michael Yaxley
67. Salli Cohen
68. BV
69. BA
70. BX
71. BN
72. Marius Puruntatameri

APPENDIX C – ATTENDEES AT THE EXPERT ROUNDTABLE: ‘DIVERSION AND ALTERNATIVES TO YOUTH DETENTION’

Name	Organisation
Superintendent Luke Freudenstein	Redfern Local Area Commander, NSW Police, ‘Clean Slate Without Prejudice’ project
Shane Phillips	Chairman & Chief Executive Officer, Tribal Warrior Aboriginal Corporation
Jared Sharp	General Manager Northern Territory, Jesuit Social Services
Eddie Robertson	Chairperson, Mt Theo Outstation (Warlpiri Youth Development Aboriginal Corporation – WYDAC)
Lottie Robertson	Chairperson, Mt Theo Outstation (Warlpiri Youth Development Aboriginal Corporation – WYDAC)
Will MacGregor	Chief Executive Officer, Bushmob Aboriginal Corporation
Dr Thalia Anthony	Associate Professor, UTS
Rhys Aconley-Jones	Mediation and Justice Coordinator, Yuendumu Mediation and Justice Committee
Enid Gallagher	Mediation Team Leader, Yuendumu Mediation and Justice Committee
Rev Steve Orme	Chairperson, East Arnhem Mediation
Keith Hamburger	Managing Director, Knowledge Consulting
Dr Rohan Lulham	Research Fellow, UTS
Dr Elizabeth Grant	Senior Research Fellow, University of Adelaide
Associate Professor John Rynne	Director Youth Forensic Service, School of Criminology and Criminal Justice, Griffith University
David Woodroffe	Principal Legal Officer, North Australian Aboriginal Justice Agency
Stewart Willey	Chairperson, Youth Justice Advisory Committee
Acting Assistant Commissioner Daniel Bacon	Northern Territory Police Force
Ken Davies	Chief Executive Officer, Territory Families
Jeanette Kerr	Deputy Chief Executive Officer, Territory Families
Tracey Brand	General Manager, Central Australian Aboriginal Congress
Dr John Boffa	Chief Medical Officer, Central Australian Aboriginal Congress
Eileen Van Iersel	Chief Executive Officer, Central Australian Aboriginal Legal Advisory Service
Clement Ng	Lawyer, Northern Territory Legal Aid Commission
Stan Winford	Principal Coordinator, Legal Programs, Centre for Innovative Justice RMIT
Professor Harry Blagg	Criminologist, UWA and CDU
Jodie O’Leary	Assistant Professor, Bond University
Greg Shanahan	Chief Executive, Northern Territory Attorney-General’s and Justice Department
Meredith Day	Deputy Chief Executive Officer, Northern Territory Attorney-General’s and Justice Department
Jayne Weepers	Manager, Policy and Research, Central Land Council
Michael Klerck	Social Policy and Research Manager, Tangentyere Council
Geoff Radford	Manager, Support Services, Relationships Australia, NT



ENDNOTES 07

- 1 The Letters Patent dated 1 August 2016, which include the Terms of Reference, the Amending Letters Patent dated 9 February 2017 and the Appointment of the Board of Inquiry dated 3 August 2016 are at Appendix A.
- 2 The establishment of the Royal Commission under Commonwealth Letters Patent and the Northern Territory Board of Inquiry recognises the co-operation between the Commonwealth and Northern Territory governments and the commitment to correcting failings within the current system.
- 3 Senior Counsel Assisting, *Opening Address to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 11 October 2016, p.4, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence11october/Opening-Address-Senior-Counsel-Assisting.pdf>>.
- 4 Australian Bureau of Statistics, 'Australian Demographic Statistics, September 2016', *Australian Bureau of Statistics* [website], March 2017, <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0>>, accessed 23 March 2017.
- 5 Australian Bureau of Statistics, 'Estimates of Aboriginal and Torres Strait Islander Australians, June 2011', *Australian Bureau of Statistics* [website], 30 August 2013, <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>>, accessed 1 February 2017; Based on the 2011 Census of Population and Housing.
- 6 Consistent with international standards and the *Youth Justice Act* – the Commission defines a 'child or young person' as a person under 18 years of age, or in the absence of proof, apparently under 18 years of age. However, for the purposes of the child protection system, New Zealand is moving toward the provision of out-of-home care up until the age of 21 years, with transitional support and advice available up until the age of 25 years.
- 7 Almost 16 per 10 000 children and young people aged 10 to 17 years; Australian Institute of Health and Welfare, *Youth detention population in Australia 2016*, Bulletin 138, December 2016, p.13, <<http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129557685>>, accessed 1 February 2017.
- 8 Northern Territory Department of Correctional Services, *2015-16 Annual Report*, Northern Territory Government, Darwin, 2016, p. 56. A further 154 were subject to community based supervision.
- 9 Northern Territory Department of Correctional Services, *2015-16 Annual Report*, Northern Territory Government, Darwin, 2016, p. 56.
- 10 Northern Territory Department of Correctional Services, *Northern Territory Department of Correctional Services Annual Statistics 2014-15*, Darwin, 2016, p. 9.
- 11 Northern Territory Department of Correctional Services, *Northern Territory Department of Correctional Services Annual Statistics 2014-15*, Darwin, 2016, p. 9.
- 12 Northern Territory Department of Correctional Services, *Northern Territory Department of Correctional Services Annual Statistics 2014-15*, Darwin, 2016, p. 9.
- 13 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 64.
- 14 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 64.
- 15 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016 p. 37.
- 16 Australian Institute of Health and Welfare, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 7.
- 17 Australian Institute of Health and Welfare, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 6.
- 18 Australian Institute of Health and Welfare, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 7.
- 19 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.
- 20 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-16*, Northern Territory Government, Darwin, 2016, p. 48.
- 21 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.
- 22 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p. 9, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.
- 23 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p. 9, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.
- 24 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p. 9, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.
- 25 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p. 9, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.
- 26 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 1.
- 27 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.24, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.
- 28 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.17, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.

[evidence9december/Exh-045-001.pdf](#).

29 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.18, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.

30 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.55, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.

31 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.55, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.

32 Joe Yick, *Statement to Royal Commission into the Protection and Detention of Children in the Northern Territory*, 14 October 2016, p.55, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence9december/Exh-045-001.pdf>>.

33 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 2.

34 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 2.

35 Australian Institute of Health and Welfare, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 7.

36 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.

37 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 56.

38 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 57.

39 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.

40 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.

41 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 37.

42 Solicitor-General for the Northern Territory, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.

43 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 42.

44 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 43.

45 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 43.

46 Office of the Children's Commissioner Northern Territory, *Annual Report 2015-2016*, Northern Territory Government, Darwin, 2016, p. 37.

47 See above, 'Some Stark Facts'.

48 For further information, see ACT Government, 'Bimberi Youth Justice Centre and Residential Services', *ACT Community Services* [website], February 2016, <<http://www.communityservices.act.gov.au/ocyfs/bimberi>>, accessed 13 March 2017.

49 In the first three years since the implementation of the *Blueprint for Youth Justice in the ACT 2012-22*, the ACT Government has seen a 35% decrease in the number of young people in detention. See ACT Government, 'Annual Progress Report 2015', *ACT Community Services* [website], March 2017, Executive Summary, <http://www.communityservices.act.gov.au/ocyfs/the_blueprint_for_youth_justice_in_the_act/blueprint-annual-report-2015#about>, accessed 18 March 2017.

50 For further information, see NSW Government, 'Children's Court Home', *NSW Justice* [website], 8 February 2017, *The Children's Court of New South Wales*, <<http://www.childrenscourt.justice.nsw.gov.au/>>, accessed 21 February 2017.

51 For further information, see NSW Government, 'Media & news', *NSW Justice* [website], 14 November 2014, *NSW Trials Youth Koori Court*, <<http://www.justice.nsw.gov.au/Pages/media-news/news/2014/NSW-Trials-Youth-Koori-Court.aspx>>, accessed 21 February 2017.

52 For further information, see NSW Government, 'Juvenile Justice – About us', *NSW Justice* [website], 3 November 2016, <http://www.juvenile.justice.nsw.gov.au/Pages/Juvenile%20Justice/aboutdjj/centres_information/centres_CobhamJJC.aspx>, accessed 23 February 2017.

53 For further information, see NSW Government, 'Juvenile Justice – About us', *NSW Justice* [website], 26 October 2015, <http://www.juvenile.justice.nsw.gov.au/Pages/Juvenile%20Justice/aboutdjj/centres_information/centres_ReibyJJC.aspx>, accessed 23 February 2017.

54 For further information, see WA Department of Corrective Services, 'Banksia Hill Detention Centre', *Department of Corrective Services* [website], <<http://www.correctiveservices.wa.gov.au/youth-justice/youth-detention/banksia-hill.aspx>>, accessed 1 March 2017.

55 For further information, see Courts Administration Authority for South Australia, 'Youth Court', *Courts Administration Authority for South Australia* [website], <<http://www.courts.sa.gov.au/OurCourts/YouthCourt/Pages/default.aspx>>, accessed 28 February 2017.

- 56 For further information, see South Australia Government, 'Adelaide Youth Training Centre – Kurlana Tapa', *South Australia Government* [website], <<https://www.sa.gov.au/topics/rights-and-law/young-people-and-the-law/adelaide-youth-training-centre>>, accessed 29 February 2017.
- 57 Youth Court of New Zealand, 'Youth justice principles & processes', *Youth Court of New Zealand* [website], 7 September 2016, <<https://www.youthcourt.govt.nz/youth-justice/youth-justice-principles-and-processes/>>, accessed 7 March 2017.
- 58 For further information, see New Zealand Government, 'Oranga Tamariki, Ministry for Vulnerable Children', *Ministry of Social Development* [website], <<https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/investing-in-children/oranga-tamariki-ministry-for-vulnerable-children.html>>, accessed 2 March 2017.
- 59 Australian Institute of Health and Welfare, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 9. As the Northern Territory provides non-standard data to the Australian Institute of Health and Welfare in this area, the Northern Territory is not included in this statistic.
- 60 CREATE Foundation, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2017, p. 6.
- 61 J. Carney, *Review of the Northern Territory Youth Justice System: Report*, 30 September 2011, p. 26, 41-2.
- 62 National Aboriginal and Torres Strait Islander Women's Alliance, *Submission to the National Children's Commissioner on the Examination of Children Affected by Family and Domestic Violence*, June 2015, p. 2; This level of disadvantage was acknowledged most recently in the Closing the Gap Report that was delivered in February 2017 and showed that six of the seven closing the gap targets were not on track (Department of Prime Minister and Cabinet, *Closing the Gap Prime Minister's Report 2017*, February 2017).
- 63 As the World Health Organisation has explained in relation to health: The social determinants of health are the circumstances in which people are born, grow up, live, work and age, and the systems put in place to deal with illness. These circumstances are in turn shaped by a wider set of forces: economics, social policies, and politics. (World Health Organization, 'Social determinants of health', World Health Organization [website], 2017, Key Concepts, <http://www.who.int/social_determinants/thecommission/finalreport/key_concepts/en/>, accessed 1 March 2017).
- 64 Northern Territory Mental Health Coalition, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 3.
- 65 Australian Institute of Health and Welfare, *Rheumatic heart disease and acute rheumatic fever in Australia: 1996 – 2012*, Cardiovascular Disease Series No. 36, 2013, p. 11.
- 66 National Notifiable Diseases Surveillance System, *Australia's notifiable disease status, 2014: Annual report of the National Notifiable Diseases Surveillance System*, 2016, Vol 40 No 1.
- 67 Damien Howard, *Witness Statement to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 5 October 2016, p. 5, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence13october/Exh-025-001.pdf>>.
- 68 J. Fitzpatrick & C. Pestell, *Joint Report prepared for the Royal Commission into the Protection and Detention of Children in the Northern Territory*, December 2016, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence8december/Exh-038-003.pdf>>.
- 69 While the lack of reliable data on FASD in the Northern Territory makes it difficult to estimate FASD prevalence amongst the juvenile detention population, James Fitzpatrick, the chief investigator for the only Australian population-based study of FASD, told the Commission that the study found FASD prevalence of almost one in five children in Fitzroy Valley, Western Australia. (James Fitzpatrick, *Oral Evidence to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 8 December 2016, p. 533, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/transcripts-2016/Transcript-8-December-2016.PDF>>).
- 70 Center on the Developing Child, 'InBrief: The Impact of Early Adversity on Children's Development', *Harvard University* [website], 2007, <<http://developingchild.harvard.edu/resources/inbrief-the-impact-of-early-adversity-on-childrens-development/>>, accessed 1 March 2017; Menzies School of Health Research, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016 p.1.
- 71 Australian Medical Association, *Aboriginal and Torres Strait Islander Health Report Card 2012-2013: The Healthy Early Years – Getting the Right Start in Life*, 10 December 2013, p. 1, <https://ama.com.au/sites/default/files/documents/AMA_Indigenous_Health_Report_Card_2012_2013.pdf>, accessed 28 February 2017.
- 72 Australian Medical Association, *Aboriginal and Torres Strait Islander Health Report Card 2012-2013: The Healthy Early Years – Getting the Right Start in Life*, 10 December 2013, p. 1, <https://ama.com.au/sites/default/files/documents/AMA_Indigenous_Health_Report_Card_2012_2013.pdf>, accessed 28 February 2017; J. Fitzpatrick & C. Pestell, *Joint Report prepared for the Royal Commission into the Protection and Detention of Children in the Northern Territory*, December 2016, p.16-17, <<https://childdetentionnt.royalcommission.gov.au/public-hearings/Documents/evidence-2016/evidence8december/Exh-038-003.pdf>>.
- 73 Children's Commissioner of England, *Nobody Made the Connection: The Prevalence of Neuro-disability in Young People who Offend*, October 2012, p. 5, <<https://www.childrenscommissioner.gov.uk/sites/default/files/publications/Nobody%20made%20the%20connection.pdf>>, accessed 28 February 2017.
- 74 Menzies School of Health Research, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016 p. 1.
- 75 J. Delima, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p. 19.
- 76 Menzies School of Health Research, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2016, p.3.
- 77 Australian Government, Australian Criminal Intelligence Commission, *NT wastewater drug monitoring findings* [media release], 26 March 2017, para. 1-3, <<https://www.acic.gov.au/media-centre/media-releases-and-statements/nt-wastewater-drug-monitoring-findings>>, accessed 27 March 2017.

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Royal Commission
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Detention of Children
in the Northern Territory

Commonwealth of Australia 2017

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Detention of Children in the Northern Territory.

ISBN: 978-1-920838-04-1

Published March 2017