



23 December 2022

To the Disability Royal Commission:

Inclusion Australia is the national Disability Representative Organisation representing the rights and interests of Australians with an intellectual disability and their families. Founded in 1954, we were previously known as the National Council on Intellectual Disability (NCID). Our mission is to work to make sure people with intellectual disability have the same opportunities as people without disability.

We work in systemic advocacy, projects, information and communication activities that advance the rights and interests of people with intellectual disability. We have state members in New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia.

Since September 2021 we have had a Northern Territory team based in Darwin (IANT). Our work in the Northern Territory is informed by a Local Steering Group that includes representatives from advocacy and other territory-based organisations.

The Local Steering Group has identified conditions in the detention and the impact of the criminal justice system as a primary issue for people with an intellectual disability in the Northern Territory. People with an intellectual disability who are in contact with the justice system experience violence, abuse, and neglect from individuals and also at a systemic level, with the system failing to meet their needs and adding trauma and harm. These issues are particularly stark for First Nations people with an intellectual disability.

This brief submission has been developed by working with Local Steering Group members and other civil society stakeholders across the Territory, and we thank them for their time and contributions. We have collectively identified the following key issues for people with an intellectual disability in the Northern Territory in relation to the justice system:

- Raising the age of criminal responsibility and supporting young people in contact with the justice system
- Access to assessments
- Access to culturally appropriate programs and services
- Workforce training and professional development
- Data availability.

We make brief recommendations for each of these issues below.

Raising the age of criminal responsibility and supporting young people in contact with the justice system

Young people with an intellectual disability and with disability-related needs, especially First Nations young people, are overrepresented in Australia's youth justice systems.

Inclusion Australia, including IANT, welcomes the Northern Territory Government's commitment to raise the minimum age of criminal responsibility from 10 to 12 years. We note that this is one of the first commitments nationally and precedes national agreement. However, IANT and the Local Steering Group will **continue to recommend** that the minimum age of criminal responsibility is raised to at least 14 years, in line with international standards embodied in the United Nations Convention on the Rights of the Child and enacted in many overseas jurisdictions.

Access to assessments

Access to disability assessment and diagnosis can be extremely limited for people in contact with the criminal justice system in the Northern Territory. This means the support needs of many people are not being recognised or met by the justice or disability service systems. This includes people with an intellectual disability and other disability, including foetal alcohol spectrum disorder.

We recommend each person in contact with the justice system in the Northern Territory is given access to holistic assessments and, critically, is referred to, and supported to access, relevant services. This is consistent with recommendations for supporting young people, made by the Aboriginal Peak Organisations of the Northern Territory (APO NT) and the North Australian Aboriginal Justice Agency (NAAJA)¹ and Jesuit Social Services.²

Further, **we recommend** implementation of recommendations 15.1 to 15.4 made by the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory,³ which address issues around health and mental health services and support for young people in detention.

Access to culturally appropriate programs and services

The Local Steering Group has identified a range of barriers for people in contact with the NT justice system in accessing culturally safe and appropriate services, including therapeutic programs and programs on country. We recommend the Northern Territory Government invests in diversion and restorative programs so that every person involved in the justice system in the Northern Territory has access to a restorative practices program. We support the recommendation by APO NT and NAAJA that remand in custody for children and young people should be the option of last resort.⁴

Workforce training and professional development

Our consultations in the Northern Territory have highlighted the need for significant investment in the justice workforce, to better support people with an intellectual disability and other disability. **We**

¹ [APONT-NAAJA-Joint-Report-to-the-UN-Committee-on-the-Rights-of-the-Child.pdf](#)

² [Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Criminal Justice System Issues Paper - Jesuit Social Services \(jss.org.au\)](#)

³ <https://www.royalcommission.gov.au/system/files/2020-09/findings-and-recommendations.pdf>

⁴ [APONT-NAAJA-Joint-Report-to-the-UN-Committee-on-the-Rights-of-the-Child.pdf](#)

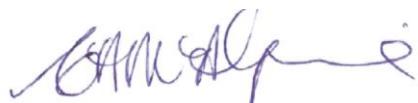
recommend training for police and corrections staff in cultural competency, supported decision making, and therapeutic and restorative responses. More must also be done to support retention of staff and to recognise and value the skill that is required from this workforce.

Data availability

There is very little data available about the number of people with disability in the Northern Territory justice system, and about their experiences, including whether or not they have an NDIS plan, and the supports they receive (or do not receive). The Local Steering Committee has identified the NT Children's Commissioner's report is due to be tabled shortly and may include some data on the experiences of young people. **We recommend** investment in improved data collection and in harmonising data collection and reporting practices with other jurisdictions to provide a national picture. This could be done through the National Disability Data Asset or the work to progress Australia's Disability Strategy.

Thank you very much for the opportunity to provide this submission to the Royal Commission. IANT and our Local Steering Group would welcome the opportunity to discuss these recommendations with the Royal Commission in 2023.

Kind regards,



Catherine McAlpine
Chief Executive Officer

Inclusion Australia