
'IT'S JUST A BIG VICIOUS CYCLE THAT SWALLOWS THEM UP': INDIGENOUS PEOPLE WITH MENTAL AND COGNITIVE DISABILITIES IN THE CRIMINAL JUSTICE SYSTEM

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Aboriginal and Torres Strait Islander peoples with mental and cognitive disabilities are significantly over-represented in Australian criminal justice systems. However, until recently there has been a lack of critically informed evidence, analysis and coordinated policy and service response on this most pressing human rights issue.

In October 2015, the report *A Predictable and Preventable Path* by a team of Indigenous and non-Indigenous researchers at the University of New South Wales was released,¹ detailing the findings of the Indigenous Australians with Mental Health Disorders and Cognitive Disability in the Criminal Justice System ARC Linkage Project ('the IAMHDCD project').² The project brings an innovative Indigenous-informed mixed-method research approach that provides, for the first time, a critical analysis of systems interactions and responses to the complex support needs of Indigenous people with disability in criminal justice systems. Its findings and recommendations are summarised here.

A Predictable and Preventable Path reports the findings of the quantitative analysis of a unique dataset which contains lifelong administrative information on a cohort of 2731 persons who have been in prison in New South Wales and whose mental health disorders and cognitive disabilities diagnoses are known ('the MHDCD cohort'). One quarter (676) of the MHDCD cohort is Aboriginal and/or Torres Strait Islander: 583 Indigenous men (21 per cent of the whole cohort and 86 per cent of the Indigenous sub-cohort) and 93 Indigenous women (3 per cent of the whole cohort and 14 per cent of the Indigenous sub-cohort). All New South Wales criminal justice agencies (Corrective Services, Police, Juvenile Justice, Courts, Legal Aid) and human service agencies (Housing, Ageing Disability and Home Care, Community Services, Justice Health and Health NSW) provided administrative data relating to these individuals, enabling the compilation of a linked de-identified dataset. This enabled both statistical description and comparison of service and system contacts for cohort sub-groups as well as lifecourse 'pathway' case studies for Indigenous people in the dataset.³ The report also details the findings of the qualitative investigation undertaken in four communities in New South Wales

and one community in the Northern Territory of the experiences of Aboriginal women and men who have mental and cognitive disability and have been in the criminal justice system.

QUANTITATIVE FINDINGS⁴

The research found that Indigenous people in the MHDCD cohort are significantly more likely to have experienced earlier and more frequent contact with the criminal justice system and to have greater levels of multiple disadvantage than non-Indigenous people. Indigenous people in the cohort were significantly more likely than non-Indigenous people to have:

- been in out-of-home care;
- come into contact with police at a younger age and at a higher rate as a victim and offender;
- higher numbers and rates of convictions;
- more episodes of remand; and
- higher rates of homelessness.

People in the cohort with complex support needs (multiple diagnoses and disability) in particular are significantly more likely to have earlier contact with police, to have been juvenile justice clients, and to have more police and prison episodes throughout their lives than those with a single or no diagnosis. Yet the data also highlights that most of the offences by Indigenous people in the cohort were in the less serious categories of offences— theft and related offences, public order offences, offences against justice procedures, government security and government operations, and traffic and vehicle regulatory offences.

Indigenous women in the cohort experienced the most complicated interactions with agencies and services and have the highest support needs. Indigenous women were significantly more likely than non-Indigenous women to have been in out-of-home care as children. They experienced their first police contact at a younger age and had a significantly higher number of police contacts and convictions throughout their lives than non-Indigenous women in the cohort. Indigenous women were more likely than non-Indigenous women to have been in custody

as juveniles. They had significantly more remand episodes and custodial episodes over their lifetime. Indigenous women with the most complex support needs, including for disability, mental health and drug and alcohol misuse in particular, have significantly higher convictions and episodes of incarceration than both their male and non-Indigenous female peers. They were more likely to have been homeless and to have been victims of crime than non-Indigenous women in the cohort.

This analysis confirms and extends initial findings of the IAMHDCD project⁵ that Indigenous women and men in the MHDCD cohort experience multiple, interlocking and compounding disadvantageous circumstances, and highlights their early and frequent contact with criminal justice agencies. The needs of Indigenous people in the cohort emerge as particularly acute and poorly serviced by past and current policy and program approaches.

QUALITATIVE FINDINGS⁶

Institutional racism, stigma and discrimination are common marginalising and destructive experiences for Indigenous people with mental and cognitive disabilities. Interviewees reported discrimination and stigma experienced on the basis of their Aboriginality, their disability, and in regard to the criminalisation of their behaviour, affecting their access to education, employment, housing and just legal outcomes. As one interviewee put it:

It's a double stigma—because not only have they got the label and all of the positive and negative connotations of having an intellectual disability, but they have the 'dangerous' and 'violent' 'forensic criminal' label as well. People then change their perception of that individual dramatically. So people may assume that this person is more risky/at risk than they actually are, so they may foreclose on the range of therapeutic possibilities, so they may not pay the right amount of attention to the context in which that person may have offended, or alleged to have been involved in criminal behaviour.

An assimilationist approach was perceived as still pervasive among many of those working within criminal justice and human service agencies, with little recognition of the ongoing impact of colonisation, intergenerational trauma, and grief and loss for Indigenous people. The lack of understanding and recognition around cognitive impairment was perceived as a key problem exacerbating contact with the criminal justice system. The over-representation of Indigenous people with mental and cognitive disabilities in the criminal justice system was described as normalised in every community and context investigated. One Indigenous service provider interviewed stated:

They just think that screaming and yelling and going off the deep end down at court and swearing outside the court where the Magistrate is, they say, 'Oh that's just how people behave', and I say, 'No—that's

not how people behave when they don't have mental illness or some kind of impairment. That's not the behaviour of someone who doesn't have any issues'.

Disability emerged as part of the accepted overall presentation of Indigenous people with multiple and complex support needs in the criminal justice system. The view that Indigenous people with disability should be managed by criminal justice agencies, that this is 'just how it is', permeates all agencies' practices. What emerged strongly from the data was the systemic normalisation of disadvantage, disability and offending, with the conflation of these seen most clearly in people with complex support needs. As one non-government care worker stated:

There's no support there [for the person leaving prison or their families] and that's the problem . . . You can understand the frustration of carers or family members who then, you know, eventually have to get on with their lives and their children; also for people with cognitive impairment and mental health, they just suffer. They just fade away, forgotten about. Because you sit here in this job and think 'oh, if I could just do more', but it comes down to 'well, I don't have capacity, I'm not a case worker to be able to do all that'. It's just a big vicious cycle that swallows them up.

Many Indigenous people who end up in the criminal justice system have early lives marked by poverty, instability and violence, without access to good primary health care or early childhood education. Interviewees highlighted that an Indigenous child with an intellectual disability or fetal alcohol spectrum disorder ('FASD') rarely receives early diagnosis or positive intervention, resulting in their disengagement or expulsion from school at a relatively young age. Drug and alcohol misuse by young people is a common experience, along with emerging mental health issues. Frequent out-of-home care placements, which sometimes break down and result in homelessness, are often experienced. Indigenous people with mental and cognitive disabilities, in particular girls and women, were described as particularly at risk of physical and sexual violence from a young age. Increased police contact as a person of interest in relation to minor theft or public order offences is a common pathway into the criminal justice system, with the likelihood of a number of court appearances before a juvenile justice custodial period. One interviewee with mental and cognitive disability described the ongoing impact of his early life experiences:

When I was younger, when I was in foster homes, I didn't like it. It broke me, being that young and not understanding—being ripped away from your mother. It hurt. It breaks you mentally and physically . . . Being in JJ brought back memories of being snatched away from my family.

Moving into adulthood, drug and alcohol misuse and mental health-related illnesses tend to worsen, often accompanied by increased experience of violence and self-harm, more serious

offending and longer periods in custody. Trauma and violence emerged as common and pervasive experiences for Indigenous people with mental and cognitive disabilities in the criminal justice system, as one interviewee described:

How do you identify people with impairment? They will have been a victim of violence as children. The young ones don't have any sense of their culture at all . . . Post traumatic stress disorder—they all suffer from it, it often contributes to their behaviour and probably offending.

Other than occasional crisis-related admissions into hospital, there are reportedly few positive health and wellbeing options for this group. Mental health services are ill-equipped and unable to accept people with drug or alcohol addiction, as alcohol and other drugs (AOD) workers are ill-equipped to treat people with cognitive impairment. Drug and alcohol rehabilitation is often only available in a regional centre, which may be many hundreds of kilometres away, and even then, does not cater for people with a cognitive impairment. As one service worker described:

We had a referral of a man with an intellectual disability and we didn't take him on [as an AOD client], and I asked why, but I think it was because it was too complex, because none of us have been properly trained to help people with intellectual disability. We have two clinical psychologists and we've had some training in that area, but the psychologists and social workers—this is all new for them, and then the AOD workers who are not trained at all.

Indigenous people with mental and cognitive disabilities, in particular girls and women, were described as particularly at risk of physical and sexual violence from a young age.

The few diversionary programs that aim to assist people whose offending is connected to their drug and alcohol addiction will not accept those with a history of violence. Incarceration becomes the default option in the absence of available or appropriate community-based care, housing or support. The multiple and complex support needs experienced by many Indigenous people in the criminal justice system can then be understood as emerging from the siloed institutional responses to their circumstances; in effect, created from those responses. Negative, punitive criminal justice interventions rather than positive human- or community-based service interactions are the norm. Indigenous people articulated the need for a holistic, integrated, culturally responsive model of care with rigorous client and community accountability to support Indigenous people with multiple and complex support needs to reduce contact with the criminal justice system.

WHAT THESE FINDINGS MEAN

The findings of the IAMHDCCD project unequivocally demonstrate that pathways into and around the criminal justice system for many Indigenous people with mental and cognitive disabilities in New South Wales and the Northern Territory are embedded and entrenched by the absence of coherent frameworks for holistic disability, education and human services support. Indigenous people with mental and cognitive disabilities are forced into the criminal justice system early in life in the absence of alternative pathways. Although this also applies to non-Indigenous people with mental and cognitive disabilities who are also highly disadvantaged, the impact on Indigenous people is significantly greater across all the measures and experiences gathered in the studies across the IAMHDCCD project. The research was purposive and selective rather than representative, yet the synchronicity across the findings points to a commonality of experience for Indigenous people with mental and cognitive disabilities. Together these findings indicate that thousands of Indigenous people across Australia with mental and cognitive impairment are being 'managed' by criminal justice systems in lieu of being supported in the community. Systems of control rather than care or protection are being invoked for this group, often from a very young age. The findings of the IAMHDCCD project highlight the ways that Indigenous people with mental and cognitive disabilities experience multiple, interlocking and compounding disadvantageous circumstances.

The serious implications of poor diagnosis and unclear definitions of mental and cognitive disability are starkly highlighted in the research. The findings demonstrate that there is a severe and widespread lack of appropriate early diagnosis and positive, culturally responsive support for Indigenous children and young people with cognitive impairment. This is connected to schools and police viewing certain kinds of behaviour through a prism of institutional racism rather than disability, as well as Indigenous community reluctance to have children assessed using particular criteria that are perceived as stigmatising and leading to negative intervention in Aboriginal families. For adults in the criminal justice system, their cognitive impairment is either not recognised at all, or if recognised, it is poorly understood.

For many Indigenous people, diagnosis of their cognitive impairment comes with assessment on entry to prison. However such a diagnosis rarely leads to appropriate services or support while in prison; analysis of the data reveals that subsequent interventions tend to continue to foreground offending behaviour rather than complex social disadvantage or disability, mental health or AOD support needs. The findings illuminate the particular challenges and vulnerabilities facing Indigenous women with mental and cognitive

disabilities as the most disadvantaged group in their cohort in terms of their multiple and complex support needs.

There is a growing awareness of the devastating impacts of current legislation, policies and practices on Indigenous people with mental and cognitive impairment, and the need for an evidence-informed response by political leaders, policymakers, people working in criminal justice systems (police, magistrates, correctional officers, parole officers) and service providers. Fundamentally, using the law and criminal justice services as management tools for Indigenous Australians with complex support needs is bad policy and practice.⁷ The IAMHDCD project report articulates a clear agenda for action.

SOLUTIONS FROM THE COMMUNITY

Based on the qualitative and quantitative findings of the study, and derived from interviews and discussions with Indigenous people in the study, the research team recommended the following five principles and associated strategies underpin policy review and implementation.

PRINCIPLE 1: SELF-DETERMINATION

Self-determination is key to improving access to and exercise of human rights and to the wellbeing of Indigenous people with mental and cognitive disability, especially for those in the criminal justice system.

Strategies include:

- Indigenous-led knowledge and solutions and community-based services should be appropriately supported and resourced;
- the particular disadvantage faced by Indigenous women and people in regional and remote areas should be foregrounded in any policy response to this issue; and
- resources should be provided to build the cultural competency and security of non-Indigenous agencies, organisations and communities who work with Indigenous people with mental and cognitive impairment who are in contact with the criminal justice system.

PRINCIPLE 2: PERSON-CENTRED CARE

Person-centred care that is culturally and circumstantially appropriate and whereby an individual is placed at the centre of their own care in identifying and making decisions about their needs for their own recovery is essential for Indigenous people with mental and cognitive disability.

Strategies include:

- disability services in each jurisdiction, along with the National

Disability Insurance Scheme ('NDIS'), should ensure there is a complex support needs strategy supporting Indigenous people with disability in contact with criminal justice agencies;

- specialised accommodation and treatment options for Indigenous people with mental and cognitive disability in the criminal justice system should be made available in the community to prevent incarceration and in custodial settings to improve wellbeing; and
- Indigenous people with mental and cognitive disability who are at risk of harm to themselves or others and who have been in the custody of police or corrections should not be returned to their community without specialist support.

PRINCIPLE 3: HOLISTIC AND FLEXIBLE APPROACH

A defined and operationalised holistic and flexible approach in services for Indigenous people with mental and cognitive disability and complex support needs is needed from first contact with service systems.

Strategies include:

- early recognition via maternal and infant health services, early childhood and school education, community health services and police should lead to positive and preventive support, allowing Indigenous children and young people with disability to develop and flourish;
- a range of 'step-down' accommodation options for Indigenous people with cognitive impairment in the criminal justice system should be available (the New South Wales Community Justice Program provides a useful template); and
- community-based sentencing options should be appropriately resourced, integrated and inclusive so they have the capacity and approach needed to support Indigenous people with mental and cognitive disability.

PRINCIPLE 4: INTEGRATED SERVICES

Integrated services are better equipped to provide effective referral, information sharing and case management support to Aboriginal and Torres Strait Islander peoples with mental and cognitive disability in the criminal justice system.

Strategies include:

- justice, corrections and human services departments and relevant non-government services should take a collaborative approach to designing program pathways for people with multiple needs who require support across all the human and justice sectors; and
- all prisoners with cognitive impairment must be referred to the public advocate of that jurisdiction.

PRINCIPLE 5: CULTURE, DISABILITY AND GENDER-INFORMED PRACTICE

It is vital that Aboriginal and Torres Strait Islander peoples' understandings of 'disability' and 'impairment' inform all approaches to the development and implementation of policy and practice for Indigenous people with mental and cognitive disability in the criminal justice system, with particular consideration of issues facing Aboriginal and Torres Strait Islander women.

Strategies include:

- better education and information are needed for police, teachers, education support workers, lawyers, magistrates, health, corrections, disability and community service providers regarding understanding and working with Aboriginal and Torres Strait Islander women and men with cognitive impairment, mental health disorders and complex support needs;
- information and resources are needed for Indigenous communities, families and carers, provided in a culturally informed and accessible way; and
- the foregrounding of the distinct and specific needs of Aboriginal and Torres Strait Islander women in such education and information.

RECOMMENDED RESPONSES

With these five principles in mind, the IAMHDCD project team recommends the following.

CRIMINAL JUSTICE LEGISLATION/SENTENCING

- Mental illness and cognitive impairment should not be conflated in mental impairment legislation. There is the need for specific processes and diversionary pathways for people with cognitive impairment.
- Mandatory sentencing has specific and significant negative impacts on Indigenous people with a cognitive impairment and its application to this group should be repealed.
- The principle of imprisonment as the last resort should apply to everyone and particular care must be taken to apply this principle to Indigenous people with cognitive impairment and people considered unfit to plead under mental health legislation.
- All relevant mental health and forensic legislation should comply with the *United Nations Convention on the Rights of Persons with Disabilities*⁸ and the *United Nations Declaration on the Rights of Indigenous Peoples*.⁹
- Indigenous people who are detained under mental impairment legislation are neither prisoners nor offenders. Legislation, policy and practice should reflect this.

POLICE

- Ongoing education and training should be provided for police to assist in recognising, understanding and appropriately responding to children, young people and adults with multiple and complex support needs, and cognitive impairment in particular.
- Community–police collaboration should be prioritised to build positive approaches to support children, young people and adults with mental and cognitive disability and complex support needs and to keep them out of the criminal justice system.
- Police Local Area Commands should be accountable for demonstrating community liaison and collaboration with Elders and other Indigenous community members, including through the Local Area Command Police Aboriginal Consultative Committee ('PACC').

LEGAL AID/ABORIGINAL LEGAL SERVICE

- More resourcing should be provided for Legal Aid and Aboriginal Legal Services to allow relationship building with a client to establish their background and any indication of mental or cognitive disability.
- Support for Legal Aid and Aboriginal Legal Services to arrange for assessment and diagnosis where indicated.

COURTS

- Education and training should be provided for lawyers, court support workers and magistrates in recognising, understanding and appropriately responding to children, young people and adults with complex support needs, especially those with cognitive impairment. Particular attention is needed in relation to FASD.
- A special court list for cognitive impairment and mental health disorders should be introduced in jurisdictions where it does not exist.
- More resourcing should be provided for local courts, especially circuit court in regional areas, and for lawyers to reduce caseloads and allow time for appropriate hearings for Indigenous people with mental and cognitive disability.

DIVERSIONARY PROGRAMS

- Jurisdictions that have legislative but no actual options for community-based accommodation and support for Indigenous people with cognitive impairment should redress this as a matter of urgency.
- Specialised disability case managers should be funded to work with solicitors to assist in making applications (such as section 32 applications in New South Wales)¹⁰ for diversionary programs or non-custodial sentencing options for Indigenous people with mental and cognitive disability.

- Diversionary programs that can address underlying causes of offending for Indigenous people with mental and cognitive disability, including AOD dependency, should be developed.
- Expansion of diversionary options appropriate for Indigenous people with mental and cognitive disability, in particular specialist women's programs and greater options for people living in regional and remote areas, are urgently required.

CORRECTIONS

- Screening tools—such as those available for mental health—should be available for cognitive disability, including FASD, and should be applied for all people on remand as well as those being received on sentence.
- People identified as having a cognitive disability should be diverted from remand to a community support service.
- Programmatic support should be available for people with cognitive disability who do end up in remand, even for very short periods.
- No person should be sent to prison for the purposes of having a psychiatric assessment. Such assessments should be available in the community for consideration by magistrates before sentencing.
- No person with a mental or cognitive disability should be imprisoned in order to access a service, such as a psychiatric assessment.
- No individual with a cognitive impairment should be detained indefinitely in prison. Jurisdictions that currently allow for indefinite detention should legislate for the use of limiting terms for people with a cognitive impairment and abide by the principle of least restrictive support.
- Indigenous people with cognitive impairment detained under mental impairment legislation must be provided support and intervention that is of significant benefit to that person.
- Detention of Indigenous people with cognitive impairment under mental impairment legislation must be accompanied by a justice plan that identifies pathways from high-security to low-security detention and to community and from the most restrictive to the least restrictive arrangement.
- In-prison programs to address offending behaviour, including alcohol and other drug rehabilitation, should be designed to be inclusive of people with a cognitive impairment and complex support needs.
- Each jurisdiction should ensure there is a culturally appropriate disability support program in prison.
- For all prisoners with disability, remand or sentenced, the National Disability Insurance Agency ('NDIA') and each corrections agency should come to an agreement regarding assessment, support and referral into the NDIS upon release from prison.

- In each jurisdiction, corrections agencies should build a working relationship with the NDIA (through Local Area Coordinators) and NGOs that work with people with disability to best support people with disability leaving prison.
- Where a person with mental and cognitive disability is imprisoned, a pathway referral out of prison into disability support and case management in the community must be ensured.

POST-RELEASE

- Resources and funding should be provided to Indigenous organisations to ensure the building of skills and capacity to work with people with a cognitive impairment and complex support needs returning to community after completing criminal justice orders or sentences.
- Specialist long-term accommodation, wrap-around services and case management support should be provided post-release for Indigenous people with mental and cognitive disability across the country.

HUMAN SERVICES COMMUNITY SERVICES

- Early diagnosis and positive culturally appropriate support for Indigenous children and young people with cognitive impairment and complex support needs should be resourced and supported.
- Culturally appropriate support and respite are needed for families and carers of Indigenous children with cognitive impairment and complex support needs.
- Indigenous children with disability who are in out-of-home care must be provided with appropriate community- and school-based support to promote wellbeing and positive life pathways.

SCHOOLS

- Education and information is required to enable school personnel to better recognise and respond to children with a cognitive impairment and complex support needs.
- Schools where there are enrolments of Indigenous children with cognitive impairments should be linked with agencies to provide specialist behaviour interventions where those behaviours are assessed as of concern.
- Culturally appropriate information and support for families of Indigenous children with cognitive impairment should be made available through schools in all jurisdictions.

DISABILITY

- Improved identification, assessment and referral processes and pathways for Indigenous young people with cognitive impairment are required urgently.

- Concerted effort is needed to enable appropriate and early diagnosis and treatment for Indigenous children and young people with FASD, particularly through adequate resourcing of professionals and through community education programs.
- Alternative appropriate models of care should be provided to Indigenous people with FASD to avoid imprisonment of those unable or unfit to plead.
- Respite options should be provided to families and other members of Indigenous communities supporting people with mental and cognitive disability.
- Specialist Indigenous violence intervention programs should be linked with disability support in Indigenous communities.
- Particular attention must be paid to the planning and support options for Indigenous people with mental and cognitive disability and complex support needs through the NDIS.

MENTAL AND OTHER HEALTH CONCERNS

- Improved referral pathways and greater case coordination between corrections and community-based health providers in regard to medication and therapeutic services and support for Indigenous people with mental health disorders and complex support needs.
- Maintenance and provision of up-to-date medical reports and assessments are vital for consideration in court matters when sentencing Indigenous people with mental health disorders and complex support needs.
- Culturally appropriate, community-based, holistic, specialised mental health services able to address the whole range of complex support needs should be available in all areas and communities with significant numbers of Indigenous people.
- Indigenous community healthcare clinics should be resourced to assess and respond to Indigenous children and adults, in particular to children with FASD.

HOUSING

- A range of culturally appropriate supported housing, depending on need, should be available for Indigenous people with mental and cognitive disability and complex needs in their communities.
- Step-down supported housing should be available for Indigenous people with mental health disorders and cognitive disability leaving prisons.

CONCLUSION

This research provides evidence that the pathways of Indigenous people with mental and cognitive disabilities from disadvantaged backgrounds into prison are predictable, preventable and devastating. The findings provide for the first time an in-depth picture and analysis of the interactions of diagnoses, vulnerabilities,

complex support needs and intensive interventions and how these coalesce for Indigenous people with mental and cognitive disabilities in Australian criminal justice systems. The findings bring new understandings of the interactions among criminal justice and social, health, disability and other human services for Indigenous people with complex support needs. They provide innovative applied knowledge that can assist in the reduction of the unacceptably high level of Indigenous people with mental and cognitive disabilities in Australian criminal justice systems and can support people to live with dignity in their own communities.

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- 1 E Baldry, R McCausland, L Dowse, E McEntyre, 'A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system' (The University of New South Wales, 2015) <<https://www.mhdcd.unsw.edu.au/>>.
- 2 See <<https://www.mhdcd.unsw.edu.au/>>.
- 3 Fifteen de-identified case studies of Indigenous people with mental and cognitive disabilities who have been in prison in New South Wales can be found at <https://www.mhdcd.unsw.edu.au/sites/www.mhdcd.unsw.edu.au/files/u18/pdf/a_predictable_and_preventable_path_2nov15.pdf>, 48–63.
- 4 Detailed quantitative method and findings can be found at <https://www.mhdcd.unsw.edu.au/sites/www.mhdcd.unsw.edu.au/files/u18/pdf/a_predictable_and_preventable_path_2nov15.pdf>, 28–45.
- 5 E Baldry, L Dowse, H Xu, M Clarence, *People with mental and cognitive disabilities: pathways into prison* (MHDCCD in the CJS Background Paper, 2013).
- 6 Detailed qualitative method and findings can be found at <https://www.mhdcd.unsw.edu.au/sites/www.mhdcd.unsw.edu.au/files/u18/pdf/a_predictable_and_preventable_path_2nov15.pdf>, 77–147.
- 7 E Baldry, 'Disability at the Margins: the limits of the law', *Griffith Law Review*, vol 23(3): 370–88.
- 8 *United Nations Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, A/RES/61/106 (entered into force 3 May 2008).
- 9 *United Nations Declaration on the Rights of Indigenous Peoples*, opened for signature 28 June 1989, 1650 UNTS 383 (entered into force 5 September 1991).
- 10 Section 32 of the *Mental Health (Forensic Provisions) Act 1990* (NSW).