



OUTLINE OF EVIDENCE OF DAMIAN GRIFFIS (FIRST PEOPLES DISABILITY NETWORK AUSTRALIA)

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I INTRODUCTION

1. I am a descendant of the Worimi people and leading advocate for Aboriginal and Torres Strait Islander people with a disability and their families. I am CEO of the First Peoples Disability Network Australia (FPDN), a peak national human rights organisation representing First Peoples with disability, their families, and communities. I represent FPDN at regional, national and international forums. While I am based in New South Wales, FPDN also work in Victoria.
2. In 2014, I received the Tony Fitzgerald Memorial Award at the Australian Human Rights Awards for my work on disability issues.

II FIRST PEOPLES DISABILITY NETWORK AUSTRALIA

3. FPDN was established in 2000 in NSW, and we evolved into a national body. We're unique in that we're governed by Aboriginal people with disabilities – every staff member has a disability or has a close personal connection to a person with a disability.
4. Our work involves extensive community consultation, where we advocate for the interests of Aboriginal and Torres Strait Islander people with disability in Australia and internationally. We also do policy work, systemic advocacy and training, including with the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability where we advocated for a strong focus on justice.
5. A copy of our submission 'Submission to the Emergency Planning and Response Issues Paper' to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability is at **Annexure 1**. A copy of our submission 'Culture Is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability', is at **Annexure 2**. A transcript of our appearance at the Royal Commission on 14 July 2022 is at **Annexure 3**.
6. We've also taken matters to the United Nations on several occasions with a particular focus upon on the indefinite detention of Aboriginal people with disability in Australian prisons. We have also raised the issue of the increasing criminalisation of disability.

III FIRST NATIONS' WAY OF THINKING ABOUT DISABILITY

7. It's important to understand the way that disability manifests for First Nations people. In traditional language evidence shows that, we don't have a word for disability, and that's a wonderful thing. Labelling people is a western approach. Therefore it is not uncommon for Aboriginal people with disability to not self-identify as people with disability.

8. It's actually very unusual for a First Nations person to say, "I'm living with a disability". Usually, we use impairment or functionality-based language to talk about disability, but not in a pejorative way. For instance, we'd say, 'cousin can't hear too well', 'brother moves a bit slower'.

IV ASSUMPTIONS ABOUT FIRST PEOPLES WITH DISABILITY IN CHILD PROTECTION

9. It's commonplace to hear of Aboriginal children with disability being removed from their families. However, there are layers to these situations – it's not uncommon in those circumstances for one or both Aboriginal parents to have a disability. These parents are often targeted by an unwritten policy in the medical profession; to flag kids who have parents with disability. The system will assume you're a bad parent if you have a disability and this means you're at a higher risk of surveillance. Parents with cognitive impairments will tell you all the time "the system has its eye on you".
10. I knew an Aboriginal man in NSW with an intellectual disability who had to fight hard to get custody of his child because the system immediately assumed he would not be able to parent. He had to fight so hard to get support. This went to show the power imbalance between the system and Aboriginal people with disabilities – that's central to the issue.
11. Children are also more likely to be removed if they have a disability themselves. Parents are judged as being bad parents just because they can't afford the resources they need to support their child with disability. The costs involved in support a person with disability are often very significant. Furthermore there is often a lack of information available to Aboriginal parents about how to access potential supports.
12. The Child Protection system, and case workers, are quick to assume that a child is being neglected, when reality the issue is one of poverty. Having a disability is inherently expensive, and that's not well understood. It's not the fault of parents or family, it's the system's fault for not providing adequate support and resources. Parents also don't have the information they need or access to new disability technology for example to support their child with disability.
13. There is no reliable data about First Nations people with disability in out-of-home care. I am not aware of any data that shows how many Aboriginal children with disability are in out of home care anywhere in the country.

V REMOVAL OF CHILDREN DUE TO DISABILITY

14. Coerced removal of children with disabilities was very common up until 20 years ago. It was common for the system, usually health professionals, to say to parents that there was no hope for children with disabilities and the best option for them were to be placed in institutions. Victoria had several notorious institutions in places like Colac, Bendigo and Oakleigh in Melbourne to name a few. These institutions were often 'out of mind, out of sight', often hidden behind sandstone walls.
15. Many young people with disability who were removed lived relatively long lives, but their experiences were horrendous. The institutions were bizarre places where children lived in dormitories, and were incredibly vulnerable to abuse from other children and from staff. They were denied their liberty and live a highly regimented undignified life. For Aboriginal people with disability in these institutions they were completely denied access to their culture. These are the sorts of stories that don't often get told – some Aboriginal people from this community call themselves the 'Forgotten Generation'.

16. There needs to be a process of truth-telling around these institutions. Some Aboriginal people with disability would have died there, and their story is largely unknown. Or for those that survived the institutions and were able to return to community life their stories need to be told.

VI ASSUMPTIONS ABOUT FIRST PEOPLES WITH DISABILITY IN THE HEALTHCARE SYSTEM

17. First Peoples with disability also face negative assumptions in the healthcare system. We had a man recently with quadriplegia who was having spasms on a hot day. He presented to hospital because it is very dangerous to be dehydrated when you have quadriplegia. He was falling ill very quickly, but the hospital's first response was, "have you been drinking?". That's common for Aboriginal people, and for people with cerebral palsy. We're facing massive assumptions all the time.

VII PROBLEMS WITH THE NATIONAL DISABILITY INSURANCE SCHEME

18. The National Disability Insurance Scheme (**NDIS**) is largely failing our communities. First Nations communities need to get their fair share of early intervention support. The NDIS is also challenging to navigate, especially for people with cognitive impairments and for people living in poverty. Some First Nations families don't even know about the supports available – they're given a brochure and that's it. That's not enough when applying for the NDIS as it is so complex.
19. There is also a lack of cultural safety in the process. There needs to be more investment in that. The system just doesn't engage appropriately with First Peoples.
20. A lot of First Nations families are reluctant to apply for the NDIS because of fear of surveillance and removal of children. To get good access to the NDIS, you have to talk yourself down – the more you say you need assistance, the more support you get. Families are worried that they might later go into crisis, with health problems or otherwise, then they are in the NDIS with no control over how they are viewed by that system or the assumptions that are made about them. They are scared that they will be perceived as bad parents and their children will be removed.
21. It's a very 'deficit' focused system – for individuals, why share your personal story with a system that is so hard to deal with?

VIII CRIMINALISATION OF FIRST PEOPLES WITH DISABILITY

22. In NSW, First Peoples with disability spend long periods in prison within the forensic mental health system (**Forensics System**). People are put into the Forensics System if they're considered a danger to themselves or others, and they may never leave. I see that as a failure of the system to provide meaningful supports – it's a criminalisation of disability. It's a secret world. There are no cultural supports within the Forensics System, and if you're caught up in it, there's no one advocating for you.
23. There is a case in NSW where a woman has been locked up in the Forensics System for 18 years. She is often placed in solitary confinement. The UN has been very critical of cases such as this, but it's a very hard issue to talk about when we're living in an environment that's 'tough on crime'. In Victoria it critical that a thorough investigation be undertaken into the experiences of Aboriginal people who are in the forensic prison system.

IX LINK BETWEEN DISABILITY AND INTERACTION WITH THE CRIMINAL JUSTICE SYSTEM

24. For young people with disability that goes undiagnosed, we see a clear trajectory into the criminal justice system. Young, valued, Aboriginal members of our community with disability start to experience problems when they begin interacting with external systems. Often, they encounter a school system that doesn't support them. This is where they begin to experience the intersection between racism and ableism.
25. This is a common experience for young people with hearing impairments, as they are often viewed as 'difficult' or 'non-compliant'. These behavioural labels are very common, and they can lead to a young person being suspended or expelled. Then they start hanging around town, then they get into trouble and end up in juvenile detention.
26. There is a lack of opportunity for early intervention in these types of situations. We have these systems in place, but they need to be better resourced, and they need to be run by Aboriginal people. It is critical that Aboriginal children with disability get access to the NDIS Early Intervention Support System. However such supports must be culturally safe and relevant to the lives of young Aboriginal people with disability. All the evidence shows that the earlier the disability related intervention (very unfortunate term) for a young person with disability the better the outcome.

X LACK OF DISABILITY SUPPORT IN THE CRIMINAL JUSTICE SYSTEM

27. Once you're in prison, getting support for your disability doesn't really happen, particularly if you have a psycho-social disability. People with psycho-social disability usually receive heavy sedation, chemical restraints and different versions of solitary confinement. A lot of people in prisons have cognitive impairments or acquired brain injuries, but there's no support which focuses on your needs.
28. Alcohol spectrum disorder is also increasingly common in young people in juvenile detention. Young people with cognitive impairments such as this are very vulnerable to manipulation, but our criminal justice system doesn't understand that.
29. There is also a high rate of brain injuries or PTSD in Aboriginal women in prison. Often, these disabilities are a result of domestic violence.
30. Prison also compounds disabilities – if you don't go into prison with a psycho-social disability, then you're likely to come out with one. Then once you're in prison, there's little support available to support your disability.

XI LACK OF DISABILITY TRAINING FOR POLICE

31. The police system does not spend time understanding disability. Bizarrely, police tell me that they mostly work with people with psycho-social disability, and yet that's not something they learn about in training. The attitude of police is usually that people with disabilities are strange, or that their behaviour is weird. If police don't know how to deescalate a situation with a person with a psycho-social disability, things get out of hand rapidly. The consequences are life and death – that's a huge area of concern for us.

32. The system is institutionally ableist. This intersects with the racism in the system, and First Nations people end up with a double disadvantage. Police and judges need greater training on disability issues.
33. From my experience working with disability issues, I've also seen a lot of racial profiling and disability profiling from police. The police might keep an eye on certain families or individuals.

XII CHALLENGES NAVIGATING THE LEGAL SYSTEM

34. The whole legal system is inaccessible to people with disability – the environment is so intimidating. Often, Aboriginal people with disabilities are not believed, particularly if they have an intellectual disability. Police won't even interview disabled people sometimes. That's why we had a Royal Commission because people with disability would make complaints and just not be believed.
35. There needs to be a custody notification service with a specific focus around disability. If an Aboriginal person presents to police, there needs to be a system in place to ensure that someone from community is contacted and brought in as an advocate. It needs to be acknowledged, however, that these programs are only as good as the police stations who know about them, and use the service.
36. Legal services also need disability advocates. They can't deal with both disability issues and all the lawyering. Government always acknowledges the need for this, but no one ever funds it. There needs to be support for people with a disability if they don't go to prison – services to step in and assist those people to find housing and get the support they need.

Annexures

Annexure 1	First Peoples Disability Network Australia, 'Submission to the Emergency Planning and Response Issues Paper: Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability', 20 August 2020.
Annexure 2	First Peoples Disability Network Australia, 'Culture Is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability', Submission to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 23 November 2020.
Annexure 3	Transcript, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Public Hearing 25: NDIS and First Nations people in remote and very remote communities, 14 July 2022.