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Don Dale royal commission demands sweeping change – is there political will to make it happen?

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A royal commission has recommended that the Don Dale detention centre be closed. Neda Vanovac/AAP

The Royal Commission into the Protection and Detention of Children in the Northern Territory's final report, which was handed down on Friday, revealed "systemic and shocking failures" in the territory's youth justice and child protection systems.

The commission was triggered following ABC Four Corners' broadcasting of images of detainee Dylan Voller hooded and strapped to a restraint chair, as well as footage of children being stripped, punched and tear-gassed by guards at the Don Dale and Alice Springs youth detention centres.

The commission's findings demonstrate the need for systemic change. However, the commission will not, in itself, bring about that change. Its capacity to make lasting change lies with the government implementing its recommendations.

What did the commission find?

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The commission found that the NT youth detention centres were not fit for accommodating – let alone rehabilitating – children and young people.

It also found that detainees were subjected to regular, repeated and distressing mistreatment. This included verbal abuse, racist remarks, physical abuse, and humiliation.

There was a further failure to follow procedures and requirements under youth justice legislation. Children were denied basic human needs, and the system failed to comply with basic human rights standards and safeguards, including the Convention on the Rights of the Child.

The commission also found that the NT child protection system has failed to provide appropriate and adequate support to some young people to assist them to avoid prison.

Importantly, the commission found that isolation “continues to be used inappropriately, punitively and inconsistently”. Children in the high security unit:

... continue to be confined in a wholly inappropriate, oppressive, prison-like environment ... in confined spaces with minimal out of cell time and little to do for long periods of time.

What did the commission recommend?

Based on these findings, the commission recommended wide-ranging reforms to the youth justice and child protection systems.

Not surprisingly, a central focus of the recommendations relate to detention. They ranged from closing the Don Dale centre to significant restrictions on the use of force, strip-searching and isolation, and banning the use of tear gas, spit hoods, and restraint chairs.

There is a focus on greater accountability for the use of detention through extending the Commissioner for Children and Young People’s monitoring role. Recommendations also cover health care (including mental health and fetal alcohol spectrum disorder screening), education, training, and throughcare services for children exiting detention.

Among its suite of proposed reforms, the commission recommended developing a ten-year strategy to tackle child protection and prevention of harm to children, and establishing an NT-wide network of centres to provide community services to families.

Youth justice reforms include improving the operation of bail to reduce the unnecessary use of custodial remand; expanding diversionary programs in rural and remote locations; and operating new models of secure detention, based on principles of trauma-informed practice.

Adequate and ongoing training and education for police, lawyers, youth justice officers, out-of-home-care staff and judicial officers in child and adolescent development is also recommended.

The commission also emphasised the importance of developing partnerships with Indigenous organisations and communities in the child protection and youth justice systems. Several organisations in written submissions to the commission identified the importance of appropriately resourcing community-controlled, and locally developed and led, programs for Indigenous young people.

Increasing the age of criminal responsibility a good place to start

One of the commission's most significant recommendations is to increase the minimum age of criminal responsibility to 12 years, and only allowing children under 14 to be sentenced to detention for serious offences.

If this recommendation were to be implemented it is likely to have far-reaching implications across Australia. Currently, the minimum age is ten years in all states and territories.

Of particular relevance to the commission is the adverse affect of a low minimum age of criminal responsibility on Indigenous children.



The majority of children under the age of 14 who come before Australian youth courts are Indigenous. In 2015-16, 67% of children placed in detention under the age of 14 were Indigenous. This concentration is even higher among those aged 12 or younger.

Nationally, 73% of children placed in detention and 74% of children placed on community-based supervision in 2015-16 were Indigenous.

Raising the minimum age of criminal responsibility opens the door to responding to children's needs without relying on criminalisation, given its short- and long-term negative impacts.

It enables a conversation about the best responses to children who often – as the commission's findings acknowledged – have a range of issues. These can include trauma, mental health disorders and disability, coming from highly disadvantaged backgrounds, having spent time in out-of-home care, and – particularly among Indigenous children – being removed from their families and communities.

A positive outcome from the commission will require political will and leadership to respond effectively to broader systemic issues. Raising the minimum age of criminal responsibility is a good place to start.

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