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ADDITIONAL INFORMATION following personal appearance at Senate Inquiry 23rd March 2016

Indefinite detention of people with cognitive and psychiatric impairment in Australia

Addressing Terms of Reference:

- a. the prevalence of imprisonment and indefinite detention of individuals with cognitive and psychiatric impairment within Australia;

Identifying prisoners, especially Aboriginal and Torres Strait Islander people, with cognitive and psychiatric impairment in Australian prisons might be guided by the attached papers.

- Prevalence of mental illness among Aboriginal and Torres Strait Islander people in Queensland prisons Heffernan, et al July 2012
- How Fetal Alcohol Spectrum Disorders Co-occur with Mental Illness, SAMHSA, January 2006
- Parole Officers Screening tool for FASD

- c. the differing needs of individuals with various types of cognitive and psychiatric impairments such as foetal alcohol syndrome, intellectual disability or acquired brain injury and mental health disorders;

- See "Jack's story" attached

- f. compliance with Australia's human rights obligations;

- Life expectancy among people with FAS is very low and this in itself is a human rights issue given that FASD is a preventable disorder.
- See attached Life Expectancy of People with Fetal Alcohol Syndrome. Thanh NX, Jonsson E, J Popul Ther Clin Pharmacol. 2016;23(1):e53-9. Epub 2016 Mar 9.

- e. the capacity of various Commonwealth, state and territory systems, including assessment and early intervention, appropriate accommodation, treatment evaluation, training and personnel and specialist support and programs;

The Australian Government response to fetal alcohol spectrum disorders (FASD) in Australia can only be described as abysmal. Despite \$9.2m being allocated, it was done so within a closed circle. Subsequently there has been no major awareness, prevention, education, diagnostic or support services for parents, carers or consumers campaigns. Instead it appears to have been spent on an unnecessary diagnostic tool, showcasing via a hub and a national registry of FASD cases. Diagnostic tools have been developed internationally, there are at least three hubs existing as well as a Paediatric Surveillance Unit. Meanwhile parents and carers are clamouring for diagnostic services and linked support while their children grow into adults with increased risks of developing secondary disabilities. There are even fewer adult diagnostic services and many become adults via the criminal justice system.

Australia's probable prevalence rates, based on May et al's study of a mid-socioeconomic cohort of 87% Caucasian children in the USA, would be at least 3.6% that is, 30 babies per day being born with FASD. This statistic over a decade equates to 105,000 newborns with brain damage from alcohol, higher than all congenital abnormalities combined.

- See attached MAY et al (2009), "Prevalence and epidemiologic characteristics of FASD from various research methods with an emphasis on recent in-school studies." *Developmental Disabilities Research Reviews*, Special Issue: Fetal Alcohol Spectrum Disorders, Volume 15, Issue 3, pages 176–192, 2009.
- Media release, Janet Hammill, CARDD.

- f. the interface between disability services, support systems, the courts and corrections systems, in relation to the management of cognitive and psychiatric impairment;

The judiciary are increasingly aware of the developmental disorders appearing in their courts as children with FASD invisible to early intervention progress into secondary disabilities and criminal offending. See attached.

- Judicial Views of Foetal Alcohol Spectrum Disorders in Queensland's Criminal Justice System. Douglas et al (2012) 21 JJA 178.pdf.
- Grappling with the challenge of fetal alcohol disorder in law *Prenatal alcohol exposure 'quite clearly prevalent,' judge says*, Cristin Schmitz, September 13 2013 issue.

- g. access to justice for people with cognitive and psychiatric impairment, including the availability of assistance and advocacy support for defendants;

Having advocated and followed a cohort of young people with FASD until their graduation from youth detention into "the big house" when they turned 17 years of age, I am only too aware of the lack of services available for them as they approach 28-30 years of age. Despite positive attitudinal changes in the court and prison services to their plight, seldom do they qualify for parole due to constant and ongoing re-offending. One young man has to serve full terms because there is no available service that can fully cater for his needs outside prison. One or two of these sentences

have been up to 3 years demonstrating his life outside youth detention and prison has been limited especially as he ages.

- h. the role and nature, accessibility and efficacy of programs that divert people with cognitive and psychiatric impairment from the criminal justice system;

My 'grandson' Jack, an Aboriginal man and many of his friends, have been tried with numerous services including the Murri and Drug Courts. Their cognitive impairments and poor executive functioning are too pervasive for the programs to be successful. The frequency of domestic violence, self-harm and suicide within this group is undoubtedly the highest nationally. I am unable to ascertain the number of suicides within this group other than to comment that it is alarming.

- i. the availability of pathways out of the criminal justice system for individuals with cognitive and psychiatric impairment;

Several years ago I proposed a solution using prison farms as vocational education centres to no avail.

- See attached prison farm proposal.

- m. the impact of the introduction and application of the National Disability Insurance Scheme, including the ability of individuals with cognitive and psychiatric impairment to receive support under the National Disability Insurance Scheme while in detention; and

There is widespread concern about the capacity of the NDIS to cope with the expected flood of individuals with cognitive and psychiatric impairment. Not least of these will be individuals with FASD who are expected to be the main cause of disability seeking assistance.

- See attached NDIS comment.

Yours sincerely



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1. Prevalence of mental illness among Aboriginal and Torres Strait Islander people in Queensland prisons Heffernan, et al July 2012
2. How Fetal Alcohol Spectrum Disorders Co-occur with Mental Illness, SAMHSA, January 2006
3. Parole Officers Screening tool for FASD
4. "Jack's story"
5. Life Expectancy of People with Fetal Alcohol Syndrome. Thanh NX, Jonsson E, J Popul Ther Clin Pharmacol. 2016;23(1):e53-9. Epub 2016 Mar 9.
6. MAY et al (2009), "Prevalence and epidemiologic characteristics of FASD from various research methods with an emphasis on recent in-school studies." Developmental Disabilities Research Reviews, Special Issue: Fetal Alcohol Spectrum Disorders, Volume 15, Issue 3, pages 176–192, 2009.
7. Media release, Janet Hammill, CARDD.
8. Judicial Views of Foetal Alcohol Spectrum Disorders in Queensland's Criminal Justice System. Douglas et al (2012) 21 JJA 178.pdf.
9. Grappling with the challenge of fetal alcohol disorder in law *Prenatal alcohol exposure 'quite clearly prevalent,' judge says*, Cristin Schmitz, September 13 2013 issue.
10. prison farm proposal
11. NDIS comment