Aboriginal Disability Justice Campaign

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Background

Across Australia, particularly in remote regions, many Indigenous persons suffer from cognitive impairment. Foetal Alcohol Related brain damage is believed to be the predominant cause. It is expected to increase dramatically in coming years. Most of those affected do not receive proper support and care and are left throughout childhood in situations of neglect and abuse. Inevitably they develop risk behaviours which channel them into the criminal justice system.

The Criminal Justice System And Mentally Impaired Offenders

- Mentally impaired offenders lack understanding of the Criminal Justice System - concepts of punishment, deterrence and rehabilitation are inaccessible
- Legislatures recognise the need for alternate pathways to protect mentally impaired individuals

Intent Of Alternative Pathways In The Criminal Justice System

- Apprehension/referral
- Mental health legislation response
- Mental impairment assessments
- Provision of appropriate services

Martin Noble (Case Study)

- A young male from WA with permanent brain damage wanted to contest sexual offence allegations
- Remanded in prison for 2 years until non-fitness to plead was determined
- Mentally Impaired Accused Board placed him in prison-based supervision for 8 more years
- Transitioned to home-based support following media interest
- Undeared as to why he needed prison based supervision

Needed Health And Welfare Reforms

- Better understanding of disabilities
- Education and indigenous involvement
- Recognition, intervention and support
- Independent authority
- Statutory cross-departmental expert body

Reality Of Alternative Pathways In The Criminal Justice System

- Excessive remand times
- Limited/no appeal or review process
- Disregard of professional advice re: care
- Unwarranted prison-based supervision
- Changes to correctional services legislation

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