
Legal safeguards insufficient to protect vulnerable prisoners

Disability advocates are calling for an independent audit by the Inspector of Custodial Services of the use of restraints, seclusion and crisis care provisions to manage the behavior of vulnerable prisoners across youth and adult detention in Western Australia.

The calls follow revelations the restraint chair featured on the recent 4 Corners report on the Don Dale Detention Centre was also used on a man with significant intellectual disability in an adult prison in the Northern Territory.

Chief Executive Officer of Developmental Disability WA, Taryn Harvey, who advocates for people with intellectual and cognitive disabilities in the criminal justice system, said prisons are high risk environments for restraint and seclusion and safeguards regulating their use for people detained in State care are inconsistent.

“You have an overrepresentation of people with mental illness and cognitive or intellectual disabilities in environments that are poorly designed and operated to meet their needs,” she said.

“You have a workforce that is not well supported to respond to these needs and a lack of proper screening and resourcing.

Ms Harvey said legal safeguards governing juvenile detention and adult prisons do not meet the standards applied in other situations where people with impairments are detained in State care, including the State’s first ‘declared place’ for people found unfit to stand trial and authorised hospitals where people could be held involuntarily.

“Our primary concern is to ensure that there are clear safeguards enshrined in law to ensure that vulnerable detainees, particularly young people and prisoners with impairments, are protected from abuses of power in the use of restraint and seclusion,” she said.

“We also want to ensure that there is consistency in law across all forms of State detention of vulnerable people.”

Ms Harvey said an audit by the Inspector of Custodial Services specifically on restraint, seclusion and the use of crisis care to manage the behavior of vulnerable people would bring a much needed focus to the needs of prisoners with impairments.

Prisoners with a mental impairment detained indefinitely under WA's 'fitness to stand trial' law, for example, faced different safeguards in the care of Corrective Services than in the State's first disability justice centre or an authorised hospital.

Ms Harvey said WA's 'Governors pleasure' with no judicial discretion or oversight amounted to a form of torture.

"WA stands alongside the NT as the last jurisdictions to retain archaic 'Governors pleasure' provisions that see people held in custody indefinitely," she said.

"This ultimately politicises decisions regarding the custody of people because of their disability."

"We simply do not have sufficient protection enshrined in law in WA to ensure vulnerable people are safe from abuse of power in custody."

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