



## First Peoples Disability Network Australia

Submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs

**Inquiry into Racism, Hate and Violence Directed at Aboriginal and Torres Strait Islander People**

April 2026

### 1. Executive Summary

First Peoples Disability Network Australia (FPDN) is Australia's national peak organisation for Aboriginal and Torres Strait Islander people with disability, led by and for First Nations people with disability. FPDN is a member of the Coalition of Peaks and serves on multiple national advisory bodies.

This submission centres a dimension of racism that remains largely invisible in Australian policy: racial-ableism - the compounding, intersectional experience of racism and ableism that shapes the lives of First Nations people with disability. Approximately one in four First Nations people live with disability. They do not experience racism and ableism separately; these forces interact and amplify each other across every system - health, education, justice, employment, housing, and service access.

Our core position is that any response to racism against First Nations people that does not account for disability will fail a significant proportion of those it seeks to protect. The evidence demonstrates that First Nations people with disability experience racism at higher rates, face greater barriers to reporting it, and suffer more severe consequences from it - yet they remain invisible in racism data, complaints systems, and policy responses.

FPDN makes three central requests of this inquiry:

1. **Recognise racial-ableism** as a distinct, compounding form of discrimination requiring specific policy attention.
2. **Close the intersectional data gap** - mandate cross-tabulation of racism data by disability status in all national surveys and complaints systems.
3. **Implement the Disability Royal Commission's Volume 9 recommendations** as a core component of any national anti-racism response.

### 2. Introduction and Background

#### Who We Are

FPDN was established in 2010 as Australia's only national peak body representing Aboriginal and Torres Strait Islander people with disability. FPDN is governed by a Board of Directors who are First Nations people with disability, family members, and carers. Our work spans systemic advocacy, community capacity building, policy development, and international human rights engagement, including with the UN Committee on the Rights of Persons with Disabilities (CRPD) and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP).

#### The Scale of Intersecting Disadvantage

Approximately 183,700 Aboriginal and Torres Strait Islander people, 25.3% of the First Nations population, live with disability (Avery & Australian Bureau of Statistics, 2024). First Nations people experience severe or profound disability at approximately 2.5 times the rate of non-Indigenous Australians. These figures are conservative: the Survey of Disability,





Ageing and Carers (SDAC) excludes very remote areas and discrete Aboriginal communities, where approximately 17% of the Indigenous population resides (Avery & ABS, 2024).

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC) found that First Nations people with disability experience a "double disadvantage" of racism and ableism, with their experiences "not separate from the impacts of colonisation, intergenerational trauma and racism experienced by First Nations people more generally" (DRC, 2023, Vol. 9). The concept of racial-ableism, developed by scholars including Dr Scott Avery along with FPDN, describes how racism and ableism are not simply additive but produce compounding and distinctive forms of harm.

### Why This Inquiry Must Address Disability

This inquiry was established in the wake of violent attacks on First Nations people and communities, and responds to rising racism particularly following the 2023 Voice referendum. FPDN submits that these same forces of hatred and dehumanisation operate with particular intensity against First Nations people with disability, a population that faces heightened vulnerability to hate, greater barriers to reporting, and systemic invisibility in both anti-racism and disability policy frameworks.

## 3. Key Messages

- **Racial-ableism is real and measurable.** First Nations employees with disability are significantly more likely to experience racism than those without disability, and less likely to feel safe disclosing their identity (Centre for Indigenous People and Work, 2025).
- **First Nations people with disability are invisible in racism data.** No national survey cross-tabulates racism experiences by disability status for Indigenous Australians. The inquiry literally cannot see this population without FPDN's evidence.
- **The pathway from undiagnosed disability to death in custody is well-documented and preventable.** Undiagnosed disability leads to school exclusion, early police contact, criminalisation, incarceration, and death, a trajectory shaped at every stage by the intersection of racism and ableism.
- **Reporting racism is structurally harder for First Nations people with disability.** Communication barriers, fear of institutional retaliation, inaccessible complaints systems, and forced choice between the Racial Discrimination Act 1975 (RDA) and Disability Discrimination Act 1992 (DDA) all suppress reporting.
- **The Closing the Gap Priority Reform 3 racism target remains unmeasured six years after the National Agreement.** Any future measurement framework that does not capture the disability dimension will perpetuate invisibility.

## 4. Evidence and Statistics

### Racism prevalence - general:

- Two in three (65%) First Nations adults experience everyday discrimination. Everyday racial discrimination accounts for 27% of the total psychological distress burden and could explain 47% of the Indigenous-non-Indigenous distress gap (Thurber et al., 2022, pp. 2088-2091).
- 54% of First Nations people experienced racism in the preceding six months in 2024, up from 39% in 2014 (Reconciliation Australia, 2024, p. 12).





#### **Racism prevalence - disability-specific (the only known cross-tabulation):**

- 31% of Indigenous employees with disability experienced inappropriate racial comments often or very often, versus 23% without disability (Centre for Indigenous People and Work, 2025).
- Only 32% with disability felt safe to share their Indigenous identity at work, versus 40% without disability (Centre for Indigenous People and Work, 2025).
- Indigenous employees with disability were twice as likely to report their workplace was never or rarely culturally safe (Centre for Indigenous People and Work, 2025).

#### **Justice system:**

- 89% of young people in Western Australian youth detention had at least one domain of severe neurodevelopmental impairment; 36% had Fetal Alcohol Spectrum Disorder (FASD) - the highest known prevalence in any custodial setting globally (Bower et al., 2018, p. 5).
- First Nations children constituted 61% of all 10-17 year-olds in detention despite being approximately 6% of the child population (ABS, 2023, Table 16).
- 33 Indigenous deaths in custody in 2024-25 - the highest since records began in 1979-80. A total of 617 since the 1991 Royal Commission into Aboriginal Deaths in Custody (Australian Institute of Criminology [AIC], 2025, summary statistics).

#### **Data gaps:**

- The ABS does not cross-tabulate racism experiences by disability status for Indigenous Australians in any published output.
- The SDAC excludes approximately 17% of the Indigenous population living in very remote areas.
- Australian Human Rights Commission (AHRC) complaints data cannot be analysed by Indigenous status and disability status simultaneously.

## **5. Responses to Consultation Questions**

### **5.1 The nature, prevalence and impact of racism (Term of Reference 1)**

For First Nations people with disability, racism does not operate in isolation - it intersects with ableism to produce racial-ableism, a compounding form of discrimination with distinctive manifestations. These include: disability presentations being mistaken for intoxication due to racial stereotypes; children's disability-related behaviours being attributed to "delinquency" rather than support needs (what Dr Scott Avery terms "Bad Black Kid syndrome"); and the suppression of cultural identity to avoid carrying "another thing to have to deal with" alongside disability.

The lived experience of racial-ableism was captured powerfully by a research participant at an FPDN conference:

*"I never used to speak about being Aboriginal. With my disability, I didn't want another thing to have to deal with."*

- Indigenous person with disability (First Peoples Disability Network Australia [FPDN], 2016, p. 3)

This identity suppression - choosing to hide one's Aboriginality because the burden of intersecting discrimination is too great - is a direct harm of racism that is invisible in population data because it occurs precisely among those least likely to disclose either identity.





The health impact is severe. Aboriginal man Jake Briggs, an incomplete quadriplegic and founder of NDIS service provider Culture Connex, described arriving at hospital unable to speak due to temperature dysregulation - a consequence of his spinal cord injury - and being dismissed as intoxicated:

*"They thought I was a bit pissed. They thought 'he's another drunk blackfella'. They were treating people before me."*

- Jake Briggs, Aboriginal man with quadriplegia (Smee, 2020)

This diagnostic overshadowing, where disability symptoms are misattributed through a racialised lens, has life-threatening consequences and exemplifies how racism and ableism compound to produce harm that neither framework captures alone.

Perhaps the most extreme case of racial-ableism in the Australian justice system is that of Marlon Noble, an Aboriginal man from Western Australia with intellectual and cognitive disability. In 2003, he was declared unfit to stand trial, yet he remained in prison for a decade without ever being convicted. His case was ultimately taken to the UN Committee on the Rights of Persons with Disabilities.

*"I don't like it in jail, I don't like it in there. Scary place. You got no families in there. No brothers or sisters to talk to, you on your own."*

- Marlon Noble, Aboriginal man with intellectual disability, detained for 10 years without conviction, Western Australia (SBS NITV, c. 2013)

Noble's case is not an anomaly. Across Australia, First Nations people with cognitive disability continue to be held on indefinite forensic orders - imprisoned not for a crime but because the systems meant to support them failed, and the justice system became the default "manager" of their disability (Baldry et al., 2015).

## 5.2 The role of online platforms (Term of Reference 2)

FPDN's evidence on online racism specifically targeting First Nations people with disability is limited, reflecting a broader gap in research at this intersection. However, we note that First Nations people with disability face compounding barriers to digital participation - lower rates of digital literacy, inaccessible platform design, and content moderation frameworks that do not account for First Nations languages, cultural contexts, or disability accessibility needs.

The January 2026 Disability Representative Organisations (DRO) Joint Statement on Hate Speech and Vilification highlighted that current legislative protections "continue to fall short for people with disability." FPDN submits that First Nations people with disability experience online hate at the intersection of racial and disability grounds, and that any platform accountability framework must address this intersection.

FPDN flags this as an area requiring further community consultation and commits to providing supplementary evidence.

## 5.3 Ideologically motivated extremism (Term of Reference 3)

Ideological extremism, particularly white supremacist and far-right movements, targets both racial minorities and people with disability through shared logics of dehumanisation with deep historical roots in eugenics. First Nations people with disability sit at the intersection of both targets. The attacks that prompted this inquiry - including the January 2026 attack on the Survival Day rally in Perth, occurred in contexts where First Nations people with disability were present and particularly vulnerable.

FPDN submits that intelligence and law enforcement responses to extremism must account for the heightened vulnerability of First Nations people with disability, including through accessible threat communication, culturally safe community engagement, and disability-inclusive security planning for First Nations community events.





#### 5.4 Reporting and responding to racism (Term of Reference 4)

First Nations people with disability face structural and practical barriers to reporting racism that are more severe than those experienced by either First Nations people without disability or non-Indigenous people with disability.

**Structural barriers:** Australia's anti-discrimination framework forces complainants to choose between the RDA and the DDA. A First Nations person with disability who experiences racial-ableism - for example, a deaf Aboriginal person told they are "not deaf, just a drunk blackfella" - must characterise this as either racial discrimination or disability discrimination. The intersectional harm is legally inarticulable. FPDN supports Women With Disabilities Australia's (WWDA) call for combined-ground discrimination claims (WWDA, 2025).

**Practical barriers:** Communication barriers (including for people with cognitive, sensory, or psychosocial disability), inaccessible complaints processes, lack of culturally safe disability advocacy services, fear of child protection involvement, and justified distrust of government systems all suppress reporting. The finding that only 32% of Indigenous employees with disability feel safe disclosing their identity at work suggests extreme under-reporting of workplace racism (Centre for Indigenous People and Work, 2025).

**Institutional barriers:** AHRC complaints data is not disaggregated to allow analysis by both Indigenous status and disability status simultaneously, rendering the intersectional experience statistically invisible.

#### 5.5 Existing initiatives to reduce harm (Term of Reference 5)

The most significant national initiative addressing racism against First Nations people, the Closing the Gap National Agreement, contains a specific target under Priority Reform 3 to decrease experiences of racism. Six years after the Agreement, this target remains unmeasured. The Productivity Commission's (PC) 2024 review found that transformation of government organisations under Priority Reform 3 "has barely begun" (PC, 2024, p. xii). The Coalition of Peaks' Independent Review (June 2025) concluded that structural racism within government "continues to block progress and must be actively dismantled" (Coalition of Peaks, 2025).

Disability is identified as a cross-cutting outcome in the National Agreement but has no dedicated target. The Commonwealth Closing the Gap Implementation Plan acknowledges that First Nations people with disability experience intersecting layers of individual and structural discrimination (ableism and racism) with a compounding effect (National Indigenous Australians Agency [NIAA], 2023), yet dedicated action remains minimal.

The AHRC's National Anti-Racism Framework (November 2024) explicitly addresses intersectionality with disability and recommends a National Anti-Racism Data Plan. The Australian Government has not yet adopted or funded the Framework. FPDN calls for its implementation with specific attention to the disability dimension.

FPDN's own initiatives including the Cultural Model of Inclusion, the National Disability Footprint, and the 10-Point Plan for First Nations Disability, demonstrate what community-controlled, culturally grounded responses to racial-ableism look like. These models centre First Nations knowledge and self-determination rather than deficit-based approaches.

#### 5.6 Other related matters (Term of Reference 6)

##### The school-to-prison-to-death pipeline

The most devastating consequence of racial-ableism is the well-documented pathway from undiagnosed disability in childhood to death in custody. This trajectory operates as follows: a First Nations child's disability (commonly FASD, intellectual disability, hearing impairment, or speech-language disorder) goes undiagnosed due to lack of culturally safe





assessment. Disability-related behaviours are misattributed to delinquency, the "Bad Black Kid" syndrome. The child is excluded from school, encounters police early, and enters the criminal justice system. Once incarcerated, disability remains undiagnosed or unmanaged. The cycle deepens until, for too many, it ends in death in custody.

Dr Scott Avery, a deaf First Nations researcher whose work with FPDN produced the foundational concept of racial-ableism, described how this pathway begins:

*"This is where presentations of someone's disability is kind of misconstrued as delinquent behaviour. They go it's not a case of you might struggle to hear or you might have a cognitive impairment you're cast as a Bad Black Kid."*

- Dr Scott Avery, Worimi/Warrimay man, profoundly deaf, FPDN researcher (Disability Advocacy Resource Unit, 2019)

This misattribution, where a child's unmet disability support needs are read through a racialised lens as behavioural problems, is the entry point to a trajectory that ends, for too many, in incarceration and death. The 1991 Royal Commission into Aboriginal Deaths in Custody identified systemic racism and institutional failures. The 2023 DRC documented the "largely hidden national crisis" of First Nations people with cognitive disability in custody (DRC, 2023, Vol. 9, Ch. 6). Yet 617 Indigenous deaths in custody have occurred since 1991, with 2024-25 recording the highest number in 45 years (AIC, 2025). The criminal justice system has become the default manager of many First Nations people with disability, a predictable and preventable path that begins in classrooms where disability is mistaken for defiance (Baldry et al., 2015).

### The critical data gap

FPDN submits that the absence of intersectional data is itself an act of structural racism. When national surveys do not cross-tabulate racism experiences by disability status for Indigenous Australians, First Nations people with disability are rendered invisible. Professor John Gilroy describes the intersection of Aboriginality and disability as "vastly under-researched," noting that "Closing the Gap, a policy that aspires to be evidence-based, remains disengaged from data that demonstrate the acute disadvantage experienced by Indigenous people with disability" (Gilroy, 2023, p. 3).

The single workplace study that cross-tabulates racism by disability for Indigenous people, the Gari Yala 2025 report, constitutes the entirety of the intersectional quantitative evidence base. This is not because the experience is rare; it is because the systems designed to measure racism were not designed to see disability, and the systems designed to measure disability were not designed to see racism.

### Disability Royal Commission implementation

The DRC's Volume 9 contains 13 recommendations specific to First Nations people with disability. Of the 57 recommendations FPDN considers most relevant across the entire Final Report, only one was accepted outright by the Australian Government. FPDN submits that implementation of these recommendations, particularly the establishment of a National First Nations Disability Forum (Rec 9.10) and disability-inclusive cultural safety standards (Rec 9.12), is essential to any credible national anti-racism response.

## 6. Recommendations

### Recommendation 1.

The Committee should recognise **racial-ableism**, the compounding intersection of racism and ableism experienced by First Nations people with disability, as a distinct form of discrimination requiring specific policy attention in any national anti-racism response.





#### **Recommendation 2.**

The Australian Government should mandate the **cross-tabulation of racism and discrimination data by disability status** in all national surveys collecting Indigenous-specific data, including the NATSIHS, NATSISS, and any future racism measurement framework under Closing the Gap Priority Reform 3.

#### **Recommendation 3.**

The Australian Government should **implement the Disability Royal Commission's Volume 9 recommendations** in full, beginning with the establishment of a National First Nations Disability Forum with decision-making authority (Rec 9.1).

#### **Recommendation 4.**

The Australian Government should **adopt and fund the AHRC National Anti-Racism Framework** with a specific implementation stream addressing the intersection of racism and disability for First Nations people.

#### **Recommendation 5.**

The Australian Government should amend federal anti-discrimination legislation to **enable combined-ground discrimination claims** so that First Nations people with disability can seek redress for intersectional harm without being forced to choose between the RDA and DDA.

#### **Recommendation 6.**

The **AHRC complaints system** should be reformed to collect and publish data disaggregated by both Indigenous status and disability status, enabling analysis of intersectional discrimination patterns.

#### **Recommendation 7.**

Any measurement framework for the **Closing the Gap Priority Reform 3 racism target** must include disability-disaggregated indicators, developed in partnership with FPDN and other relevant peak bodies.

#### **Recommendation 8.**

The Australian Government should **raise the minimum age of criminal responsibility to 14** nationally, consistent with DRC Recommendation 8.28 and the overwhelming evidence of First Nations children with undiagnosed disability entering the criminal justice system.

#### **Recommendation 9.**

The Australian Government should fund a **dedicated national research program** on racism, ableism, and their intersection for First Nations people with disability, governed by Indigenous data sovereignty principles and led by First Nations researchers with disability.

#### **Recommendation 10.**

Online platform accountability frameworks should be required to address **intersectional hate** - including hate that targets people on the combined grounds of race and disability - and to ensure that content moderation, reporting mechanisms, and safety features are accessible to people with disability.

## **7. Conclusion**





First Nations people with disability experience racism in ways that are distinctive, compounding, and systematically invisible. This inquiry provides an opportunity to make that experience visible and to act on it.

FPDN does not ask this Committee to create new knowledge. The evidence has been gathered - by royal commissions, inquiries, researchers, and most importantly by First Nations people with disability themselves. What is needed is the political will to act on it.

We offer our ongoing engagement with this inquiry, including through oral evidence, community consultations, and supplementary submissions. We urge the Committee to ensure that its recommendations explicitly address the intersection of racism and disability, and that First Nations people with disability are centred - not footnoted - in any national response.

*"It wasn't that long ago that being Aboriginal was considered a disability in this country."*

- FPDN research participant, First Nations person with disability (FPDN, 2016, p. 8)

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