

PEOPLE IN CUSTODY WITH AN INTELLECTUAL DISABILITY

EARLY IDENTIFICATION OF PEOPLE IN CUSTODY WITH INTELLECTUAL DISABILITY IS ESSENTIAL TO PROVIDING APPROPRIATE CARE

There has been a welcomed focus on issues faced by people living with disability since the publication of findings from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Many of these findings related to the experience of people with intellectual disability who come into contact with the criminal justice system, particularly those held in some form of custodial environment.

Research shows that people with intellectual disabilities are over-represented amongst people in custody. It is estimated that between 15 and 30 per cent of people in custody have an intellectual or cognitive impairment (Baldry, Clarence, Dowse, & Troller, 2013). This compares to approximately two to three per cent in the general population (AIC, 2017).

Intellectual disabilities are particularly prevalent in the youth custodial estate. A 2018 study of young people in Banksia Hill Detention Centre found 89 per cent had at least one domain of severe neurodevelopmental impairment, and 36 per cent were diagnosed with FASD (Bower, et al., 2018).

This research underpins much of our own work and experience in this area. It also highlights the importance of recognising the challenges people with intellectual disabilities may face while in custody, including being at greater risk of exploitation and abuse. Early identification of people in custody with an intellectual disability is a key safety factor and helps ensure they are provided with appropriate supports and services.

This review examined the identification, management and supports available to people with intellectual disabilities in Western Australian custodial facilities.

In responding to the draft of this report, the Department of Justice agreed that early identification of people in custody with an intellectual disability was a key factor to providing appropriate supports aimed at ensuring such disability does not unfairly disadvantage individuals throughout their rehabilitation journey. They said, and we agree, that identification of people with disability can be complex and often intellectual disability may not be obvious or easily detected.

The Department has commenced several initiatives aimed at addressing some of these challenges. Notably, the introduction of the Functional Impairment Screening Tool (FIST) has resulted in an increase in the numbers of individuals identified with possible cognitive impairment. This is a positive initial step, but it still needs to be developed further. The Department advised us that more work was being done on identifying secondary screening tools for cognitive impairments to help improve identification, and that a longer-term project was looking at validation of the FIST as a reliable screening tool.

The Department's Disability Coordination Team (DCT) is the central liaison point for disability information in the adult custodial environment. But as outlined later in this report, our review found that they are under-resourced for the size and scope of the work they are required to do. Although, we understand that a recent business case for funding was unsuccessful, this should not be the end of the issue. In response to Recommendation 1 of this report, the Department noted that the findings and recommendations of the Royal Commission are being considered by Government, this is an ideal opportunity for the Department to push for improvements in the resourcing of the DCT.

The Department's acceptance of Recommendation 3 relating to the development of a policy framework for the identification of intellectual disability in young people was very positive. We have already seen some early signs of improvement with the presence in Banksia Hill and Unit 18 of the onsite health team from the Child and Adolescent Forensic Health Service. This initiative is to be commended and encouraged.

These initiatives are positive and a good start on the reforms badly needed to improve early identification and supports available to people in custody with intellectual disability.

An area that requires immediate improvement is the sharing of information between the various disciplines involved in the care of young people and adults with intellectual disability in custody. Our report identifies several limitations around information sharing and silos across different areas in the Department. For example, we identified issues around information transfer when a young person transitions to, or is received into, an adult custodial facility. More generally, there are issues around the sharing of meaningful information about individuals with an identified disability and the complexities this creates for staff managing their behaviour.

Given the research showing the prevalence of intellectual disability in people who come into contact with the criminal justice system, there is an imperative to respond quickly. This point is important because many of the structural reforms identified in our review and elsewhere will take time to implement. Once an intellectual disability is identified in someone received into custody, appropriate information needs to be shared with the staff who are responsible for their day-to-day care. Similarly, those people need to have appropriate knowledge and skills to understand and manage them. Otherwise, many of the issues and challenges identified in this report will remain unaddressed for the foreseeable future.

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I acknowledge the contribution and hard work of the team in our office who were involved in undertaking this review. I would particularly acknowledge and thank Scott Young for his work in leading this review and as principal analyst and drafter of this report.

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