

Criminal justice system report

Easy English Summary

This report looks at how adults with cognitive disability are treated in the Queensland criminal justice system. Cognitive disability can include intellectual disability, acquired brain injury, Fetal Alcohol Spectrum Disorder (FASD), dementia, or some mental health conditions.

The report was written by the Queensland Public Advocate after more than two years of research and listening to people with disability, families, advocates, government agencies, service providers, lawyers, police and courts.

The report makes **26 recommendations** to make the criminal justice system better for adults with cognitive disability.

Key message

Adults with cognitive disability should have the same opportunity as everyone else to understand the justice system, participate in it, have their rights respected, and be treated fairly.

What the report found

Adults with cognitive disability are more likely to be involved in the criminal justice system than other adults. They may be:

- accused of a crime
- victims of crime
- witnesses to crime.

Many people with cognitive disability find the system:

- difficult to understand
- stressful
- hard to navigate.

The report found that people often do not get the support they need. This can lead to unfair outcomes and make it harder for them to access justice.

Problems across the whole system

The report identified three main issues:

1. Accessibility

Many forms, court processes, police procedures and prison programs are difficult to understand.

People may not understand:

- what is happening
- their rights
- what they need to do next
- what might happen because of the decisions they make.

2. Support and advocacy

People often need help to understand information and speak up for their rights.

Advocates and support people are important but are not always available.

3. Equity

More First Nations people with cognitive disability are involved in the criminal justice system than other people.

First Nations people with cognitive disability often face more challenges when getting help and support.

The report says services need to better understand First Nations culture and be easier to use.

Police

Police are usually the first contact a person has with the justice system.

The report found that:

- police may not always recognise when someone has a cognitive disability
- police may think a person's disability-related behaviour means something else
- some situations become worse instead of calmed down
- people may not receive support during police interviews.

The report recommends:

- better police training
- stronger rights to have a support person present
- more accessible information
- more alternatives to police responses during mental health crises or when a person's disability is affecting their behaviour.

Courts

Courts can be noisy, fast-moving and confusing.

The report found that:

Many people with cognitive disability:

- do not understand court processes
- struggle with bail conditions
- have difficulty understanding court decisions
- may say they are guilty without fully understanding what could happen next.

The report recommends:

- making courts easier to use
- having people at court who can provide support
- providing more help with communication
- helping people understand court decisions and their responsibilities.

Prisons and Detention

People with cognitive disability in prison may not get the support they need.

The report found:

- people may enter prison without anyone knowing they have a cognitive disability
- it can be hard to get support in prison
- prison programs are not always suitable for people with cognitive disability
- some people may be taken advantage of or bullied by other people in prison
- there is not always a good plan for when people leave prison.

The report recommends:

- better checks to find out if someone has a disability
- more support and programs to help people learn new skills and make positive changes
- access to NDIS support for people who are eligible
- programs that teach everyday life skills
- better planning before people leave prison.

Forensic disability and the mental health system

Some people do not go through the usual court process because their disability or mental health condition affects their understanding or actions.

They may go to the Mental Health Court and then get something that's called a forensic order. A forensic order makes people do things to help them stop doing crimes and be part of the community. An order can also make a person stay in a place like a hospital or other service while they do programs or get treatment.

The report found problems with forensic orders including:

- some people stay in secure facilities for a very long time
- some orders can last for an unknown amount of time
- there are not enough ways for people to return to community life
- the system focuses more on treatment than helping people build skills and independence.

The report recommends:

- stopping detention with no end date
- setting a maximum time that people can be detained
- improving the way the forensic disability system works
- creating better ways for people to return safely to their community.

Victims and witnesses

People with cognitive disability are more likely to experience abuse or violence.

The report found that people may:

- feel scared to report a crime
- not be believed when they report a crime
- find it hard to communicate with police
- find court processes confusing, stressful, or frightening.

The report recommends:

- better support for victims and witnesses
- more help with communication
- making it easier to report crime
- helping people tell the court about how the crime affected them.