



**CRC** community  
restorative  
centre

---

---

---

<b>The Community Restorative Centre .....</b>	<b>3</b>
<b>Vision .....</b>	<b>3</b>
<b>Purpose .....</b>	<b>3</b>
<b>Values .....</b>	<b>3</b>
<b>Executive Summary .....</b>	<b>5</b>
<b>Background to the Project .....</b>	<b>5</b>
<b>Key Findings .....</b>	<b>5</b>
Lack of access to services in prisons and on release .....	6
No systematic identification of people with disabilities and Justice system Involvement.....	6
Lack of transparency, clarity, and consistency .....	7
Increased time in prison for people with disabilities .....	7
Problematic theoretical and practice frameworks.....	7
<b>Recommendations .....</b>	<b>9</b>
<b>Introduction .....</b>	<b>10</b>
<b>Background .....</b>	<b>11</b>
<b>Vulnerable Populations Within NSW Prisons .....</b>	<b>13</b>
Aboriginal and Torres Strait Islander people.....	13
Women.....	14
People with co-occurring cognitive and psychosocial disability.....	15
People on Remand .....	15
<b>The Ideal ‘Smooth Transition’ to the NDIS for People in Prison .....</b>	<b>17</b>
<b>Key Challenges and Concerns .....</b>	<b>18</b>
1. Lack of identification of cognitive and psychosocial disability amongst prisoner populations .....	18
2. System failures in transitioning people with disability in prison to the NDIS.....	19
3. The lack of skilled NDIS planners and support coordinators.....	20
4. The inadequacy of service provision under the NDIS for people with complex support needs who are in prison .....	21
5. The lack of choice and control for people with complex support needs in contact with the criminal justice system.....	23
<b>Recommendations .....</b>	<b>25</b>
<b>References .....</b>	<b>27</b>

## THE COMMUNITY RESTORATIVE CENTRE

---

The Community Restorative Centre (CRC) is the lead non-government organisation in NSW providing specialist support to people affected by the criminal justice system, with a particular emphasis on the provision of post-release programs for people with multiple and complex needs on release from custody. Established in 1951, CRC has over 65 years' specialist experience in this area. CRC has developed an evidence-based post-release model designed to work with populations at high risk of re-offending and has a proven track record of success in this area. All CRC programs aim to reduce crime and recidivism and break entrenched cycles of criminal justice system involvement. CRC works holistically to do this, addressing issues such as homelessness, social isolation, physical and mental health, disability, drug and alcohol use, employment, education, family relationships, financial hardship and histories of trauma.

### VISION

---

A just, safe and inclusive society that is working towards decriminalisation and decarceration.

### PURPOSE

---

CRC supports individuals, families and communities impacted by the criminal justice system, and works for positive social change.

### VALUES

---

1. Social disadvantage is an underlying cause of incarceration and people should not be criminalised or discriminated against as a consequence of their disadvantage.
2. Australia's history of colonisation and oppression is reflected in and a cause of the relationship between Australia's Aboriginal and Torres Strait Islander people and the criminal justice system.
3. The application of the law reflects broader inequalities and is not always just.
4. Imprisonment is overused, is a failed response to crime, causes more harm than good and leads to more imprisonment.
5. For as long as there are prisons, they should be fair, just and humane environments which respect universal human rights.
6. There is a need for community based alternatives to the criminal justice system.
7. People who have been released from prison should not experience perpetual punishment.
8. The families and kin of people who are incarcerated are often serving an invisible sentence and require acknowledgement and support.

The Community Restorative Centre acknowledges and pays respect to the traditional custodians of the land on which our offices stand, elders past and present, and all Aboriginal peoples within these boundaries

## EXECUTIVE SUMMARY

---

People with disabilities who are incarcerated in NSW prisons frequently do not receive any support from the NDIS. In many cases, when support is received, it is not of the level or quality that is required. Despite the best intentions of administrators and practitioners both inside and outside the prisons, the implementation of the NDIS has resulted in both an overall reduction of support services that are meaningful for people with disabilities in the justice system, and a reduction in the capacity of incarcerated populations to access the support that does exist.

## BACKGROUND TO THE PROJECT

---

In 2016, as the disability service system in NSW transitioned to the NDIS, the Community Restorative Centre began documenting the impact of the transition to the NDIS for clients with disabilities. Prior to the transition, CRC had run a number of disability specific projects through the ADHC administered CJP project (including in the Hunter Pilot Site). Under the CJP model, clients received intensive holistic, wrap-around support on release from custody, with a housing component at its core. While such programs were not without their difficulties, they offered a concrete pathway *out* of the justice system. When CRC began working to transition clients to the NDIS, it became apparent there were some profound resource and structural challenges in obtaining NDIS packages that in any way replicated the intensity of support clients required (and had previously been receiving under the state funded disability supports).

In 2017, as CRC finalised the shutting down of our disability support projects, we commenced an NDIS reintegration project to assist in the smooth transition for existing ADHC clients within NSW Correctional Centres. We also wanted to try and better understand the interaction between the justice system, the NDIS, and community service providers. This project ran for over a year (until the end of 2018). This report documents this process, and also builds on previous research into the extent to which the NDIS is able to meet the needs of people with disabilities in the justice system.

**The authors acknowledge that the interface between the NDIS and the Justice system is a constantly changing landscape, and that at the time of publishing this report, more than a year has passed since we were actively gathering information. We do however have confidence that the key issues identified in this report, including the multiple systemic barriers for people in prison with disabilities, have not shifted dramatically over the last year and that the findings and recommendations remain relevant.**

In preparing this report, the authors reviewed extensive documentation by the CRC NDIS Reintegration Coordinator and also conducted a series of interviews in which the coordinator detailed her experiences in assisting NSW prisoners to transition to the NDIS. Key issues and concerns which emerged out of this process were identified and thematically organised. The researchers also met with key stakeholders from government departments and agencies to provide insights on their experiences in working in this space.

## KEY FINDINGS

---

The project found that many clients who were formerly receiving supports through state based services such as the ADHC funded Community Justice Project (CJP) were no longer receiving *any* support in the community. Although there have always been complex challenges in supporting people with disabilities at each stage in the criminal justice system, these challenges considerably worsened under the first phase of the NDIS. People with cognitive disabilities were more likely to be held in prison in NSW on remand (because there weren't supports available in the community while awaiting court), more likely to be held in prison during their parole period (because of the absence of pathways *out* of the justice system), and then when

released, were *less* likely to receive the kind of flexible holistic services that are required to support people with multiple and complex support needs stay out of prison. In short, this project found, that this population – under the NDIS – were more likely to be criminalised as a consequence of their disabilities.

The project found that the NDIS and the NDIA have to date delivered a complex, unwieldy, inconsistent, and at times incoherent service system for incarcerated populations. This is not to say that the promise and intent of the NDIS will not be realised, but three years in from the transition (and more than twice that for clients in the pilot sites), although there have been pockets of improvement, this research found a marked deterioration overall in options and opportunities for people with disabilities in the justice system.

There has been little movement around the key concerns raised by vulnerable populations and their advocates since the roll-out of the NDIS in 2016. Despite two parliamentary inquiries, multiple submissions and consistent direct advocacy work by multiple stakeholders outlining the key issues re-articulated in this report, there still doesn't appear to be a clear way forward for the majority of incarcerated people with disability support needs.

The key concerns identified by CRC over the last four years, and additional challenges identified by this research include:

---

#### LACK OF ACCESS TO SERVICES IN PRISONS AND ON RELEASE

---

- People with disabilities in prison do not have access to the same supports as people in the community with disabilities.
- Even when people with disabilities are identified in prison environments, aside from the small number of individuals housed in specialist units, there are no comprehensive mechanisms in place to support this population in most prisons in NSW.
- There are risks posed to the community if this group are not adequately supported. For instance, there are individuals who were formerly CRC clients who went from receiving 24-hour support in accommodation services to NDIS packages of less than 2 hours a week.
- The handing over of the ADHC CJP accommodation service to the community sector has resulted in a deterioration of services and available beds for people with disabilities leaving prison. There are a number of reasons for this including: no centralised vacancy system, a lack of transparency about available beds across the system, different expectations from providers and community corrections colleagues, and inadequate support packages making the financial viability of some services extremely difficult.
- The NDIS packages that people with disability and complex needs are receiving on release from prison are frequently inadequate and unable to address the holistic support needs for people exiting custodial settings
- People in prison have different support needs to what they do in the community. This can make assessment planning very complex

---

#### NO SYSTEMATIC IDENTIFICATION OF PEOPLE WITH DISABILITIES AND JUSTICE SYSTEM INVOLVEMENT

---

- Although significant work has occurred in this space, (including training of Corrections staff who work on reception and capacity building around disability identification), there are still challenges in identifying people with cognitive impairment and intellectual disability in prison settings.

- There is still no systematic approach from the NDIS when it comes to identifying and working with people with disabilities who have experienced imprisonment, or who are imprisoned at the time of an NDIS referral.

---

### LACK OF TRANSPARENCY, CLARITY, AND CONSISTENCY

---

- Despite the COAG justice interface principles there is still a lack of clarity in terms of where government and community responsibility for people with disabilities in justice settings should be situated.
- There are inconsistencies in terms of access to services and NDIS planning. What happens in one jurisdiction does not happen in others.
- There is a lack of transparency from the NDIA with regard to *how* to access support, *how* to fill in Access Request Forms in a way that is meaningful, *how* to access complex needs support pathways, and *how* to appeal decisions that are unfair.

---

### INCREASED TIME IN PRISON FOR PEOPLE WITH DISABILITIES

---

- People are being held in prison for longer than what they should on parole because there are inadequate support and accommodation options on the outside
- People are being remanded in custody more often than what they should be because there are inadequate support and accommodation options on the outside.

---

### PROBLEMATIC THEORETICAL AND PRACTICE FRAMEWORKS

---

- The separation of disability and non-disability related behaviours under the NDIS framework can significantly reduce the level of support someone with complex needs is able to access
- The framework of 'choice and control' in relation to this population group (who have frequently never had the opportunity to practice choice and control) is problematic because this population frequently do not have access to advocates.

The combination of disability, poverty and disadvantage results in a situation in which people are propelled directly into the justice system. The NDIS has provided no relief with regard to this trajectory, and in these early stages appears to have worsened outcomes. The fragmentation, inconsistency, and complexity of the NDIS means that when populations with disabilities do end up in prison, they lose both the capacity to access services, and the agency to challenge their situation. There is still uncertainty about roles and responsibilities of the multiple agencies and staff involved in the intersection between the NDIA, the Justice System (Corrections and Justice Health), and the community sector providers offering various forms of support. There is also a lack of consistency and often no clearly defined processes in the following areas: Identification of disability, assistance with access request forms, access to NDIA planners, the quality and capacity of planners to adequately design plans for people in prison, access to accommodation supports, access to complex needs support pathways, and the role of support coordinators for people with multiple and complex support needs who are in custody.

However, in amongst the complexity and uncertainty of the changes, there have been remarkable efforts to make it work. The quality work of the State-wide Disability Services Unit of Corrective Services, and the

persistence of individuals within this unit (and their Justice Health counterparts), alongside some key relationships with individual NDIA planners, has meant over the last few years that hundreds of people identified as having a disability have had Access Request Forms completed and have had meetings with NDIA planners organised and plans facilitated. This is especially the case for people with disabilities who are incarcerated in the specialist disability units in the prisons. However, this is not replicated throughout the state, and is reliant on the work – and the work-arounds- of committed individuals working in this space, rather than a meaningful or coherent service system.

There have also been some system level changes which are a useful start in acknowledging the unique needs of incarcerated people with disabilities in NSW. Although these are new initiatives, the implementation of the Complex Needs Support Pathway has the potential to improve outcomes for incarcerated populations with disabilities. The identification of specialist justice planners and support coordinators in some LAC's may also improve the quality of service. So too, the introduction of Justice Liaison officers may improve coordination. At the time of writing however, the impact of these changes is not apparent.

Despite the promise of the NDIS, people with disabilities continue to be over-represented at all stages of the justice system in NSW and are still more often than not, unable to access adequate support. When access to support is facilitated, it is frequently not the quality or quantity of support that is required. The support also differs to the supports available to people with disabilities who are not incarcerated. It is difficult to conceive of the differential treatment of people with disabilities in the justice system, as anything other than overt discrimination. Responding to the challenges and concerns identified in this report (and in the many documents that have come before), is a responsibility to be shouldered by multiple stakeholders. There are people working on the ground in this space, and many people with disabilities who have experienced incarceration, who have the expertise and experience to lead the way in terms of improving the service system for all vulnerable populations. We are hopeful that the voices of these groups are reflected in this report, and will be listened to as a matter of urgency.



## RECOMMENDATIONS

---

1. There is the need for a NSW based single point of contact and information for people with disabilities and criminal justice system involvement. There should be web resources, clear explanations of processes, and telephone numbers that workers (both inside the prisons and based in the community) as well as people with disabilities and their families who are impacted by the justice system can access easily. The telephone numbers and contact e-mails of support coordinators who specialise in supporting people in prison should be available via this central point of contact so that these individuals are easily able to be contacted
2. There is a need for clear transparent guidelines and information to be made available to all people in prison (regardless of whether they have a diagnosis), about how to access the NDIS and how to access disability support.
3. There is a need for clear transparent guidelines to be available for workers responsible for referring to the NDIA (both in corrections and in the community) outlining; the key areas for assessment and consideration when filling out Access Request Forms; how to access the complex needs support pathway; how to access the appeals process if decisions regarding plans are not satisfactory
4. In-reach into the prisons by disability support workers, planners, and support co-ordinators should be a business as usual element of community service provision. Corrections NSW should wherever possible work collaboratively with community service providers to facilitate this access.
5. There is a need for highly skilled justice support planners to have a regular presence in all Correctional Centres (including those outside of the Metropolitan area, and especially in those centres that do not have access to specialist support).
6. There is a need for a specialist Criminal Justice Unit within the NDIA to work collaboratively with Corrections. Information sharing and privacy protocols should be developed between this unit and Corrections and Justice Health so that critical information with regard to disability support needs is not lost when someone is imprisoned, or forgotten when someone is preparing for release.
7. The need for access to a complex support needs pathway should be assumed for all incarcerated individuals who have a disability. The process for accessing this pathway should be transparent.
8. For imprisoned individuals who already have an NDIS plan, protocols with regard to maintaining and reviewing this plan are required so that supports can wherever possible be maintained during the period of incarceration.
9. A review of the COAG justice interface principles is required to provide a more comprehensive framework and break down of responsibilities between agencies and protocols for working together for incarcerated populations with disabilities.
10. The separation of disability and non-disability related behaviours under the NDIS framework (and the unmet need for holistic support for complex needs clients) requires further examination and response, particularly as this relates to accommodation, drug and alcohol services and other risk factors related to disabilities that may be related to offending cycles.
11. The crisis in the shortage of accommodation services and support for people with disabilities requires urgent examination and redress. The inability of the existing NGO service providers to meet demand, and the challenges in having de-centralised accommodation options also require urgent attention.

## INTRODUCTION

---

NSW has the largest prisoner population nationally, accounting for 31 per cent of the total Australian adult prison population (ABS 2019). The latest figures show that there are over 13,635 people in NSW prisons today (BOCSAR 2020a). However, this figure is based on census data and therefore fails to capture the more volatile picture of how many people flow in and out of prisons over the course of a year. Discharge data indicates that close to 20,000 people are released from NSW prisons each year (BOCSAR 2020a).

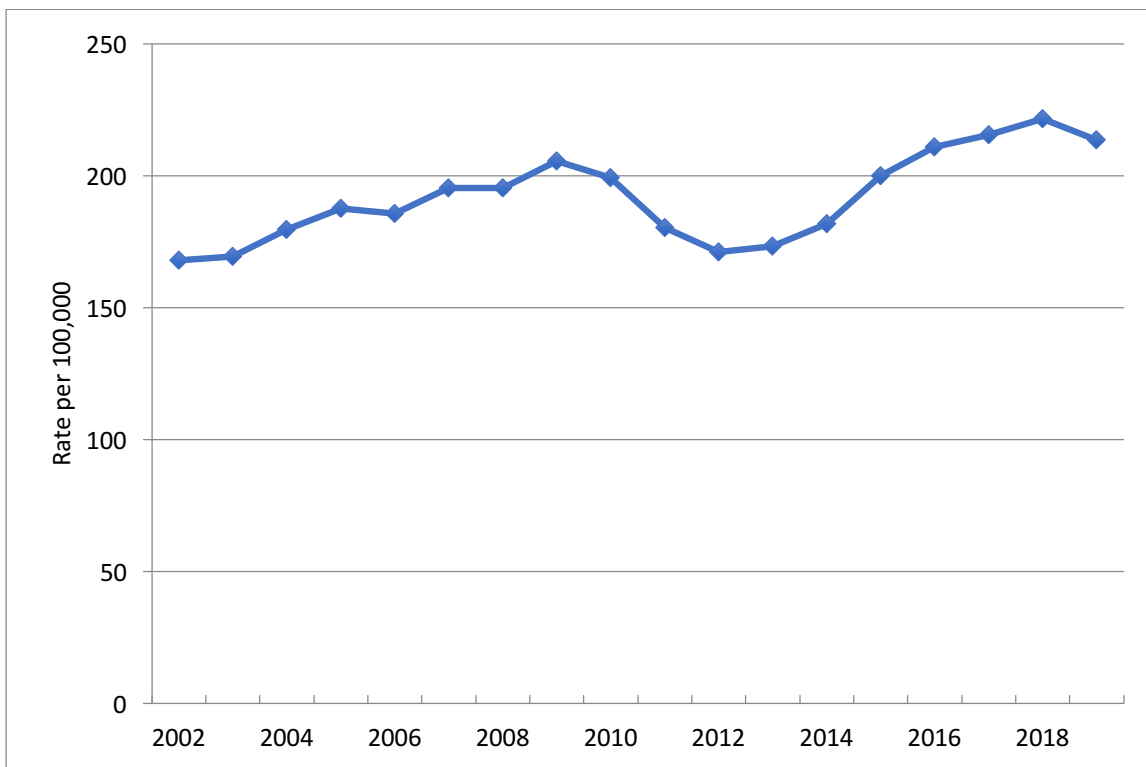
Repeated studies from Australia and overseas have found significant rates of mental health disorders and cognitive disability amongst prisoner populations (Baldry et al 2013, 2015; Dias et al 2013; Heffernan 2012; Jackson et al 2011). Almost half (49%) of Australian prison entrants have been told by a health professional that they have a mental health disorder, and more than 1 in 4 (27%) are currently on medication for a mental health disorder (Australian Institute of Health and Welfare 2015). Prisoners also experience a range of cognitive disabilities, including intellectual disability, borderline intellectual disability, acquired/traumatic brain injury and foetal alcohol spectrum disorder at a much higher rate than populations in the general population. While reports on prevalence have varied, there are some indications that approximately 10 per cent of the prison population has a cognitive impairment and up to 30 per cent have a borderline impairment (Baldry et al 2013; Dias et al 2013). While the latest NSW custody health survey (JH&FMH 2017a) found that 28 per cent of people in prison have some form of disability, research indicates this may be a conservative estimate as there are large numbers of people in prison with unidentified disabilities, either because the systems they have interacted with have failed to identify their disabilities or their disability is masked by other factors, such as their drug and/or alcohol use.

The vast majority of people with cognitive disability who come into contact with the criminal justice system have 'complex support needs'. That is, they experience multiple and compounding forms of disadvantage, including but not limited to: high levels of psychosocial disabilities related to their mental health, substance abuse problems, backgrounds of trauma and experiences of out of home care. Invariably, prisoners come from and return to neighbourhoods and communities with high levels of entrenched social and economic disadvantage (Baldry et al 2013, 2015).

It is now well recognised that the complex needs of this group originate not from an individual, but rather from the systemic failure of services to appropriately support people with cognitive disability who experience intense social disadvantage. People with complex support needs who are enmeshed in the criminal justice system have often spent their lives cycling in and out of prison and being 'managed' by criminal justice institutions (police, courts and prisons). The economic and human costs to governments, communities, families and individuals associated with their entrenchment in the criminal justice system are significantly greater than the financial cost of providing appropriate services in the community.

While the NSW prison population has risen considerably in recent years (increasing by 26 per cent over the period 2012 to 2017), there has not been a corresponding rise in holistic mental health and disability services to support the large numbers of people with mental and cognitive impairment who cycle in and out of NSW prisons over the course of a year.

FIGURE 1 NSW IMPRISONMENT RATE 2002 - 2019 (ABS 2019)



## BACKGROUND

As part of the bilateral agreement between the Commonwealth and NSW, the NSW State government transferred funding from Aging Disability and Homecare (ADHC) to the National Disability Insurance Agency (NDIA). Under this agreement, ADHC clients already known to the NDIA were supposed to automatically transition to NDIS funded supports. However, this did not occur for a large number of former ADHC clients. There are a number of reasons as to why this transition to the NDIS did not occur including: the client was in prison at the time of transition; the client did not engage when contacted by phone by the NDIA; the client had not received any disability support in the prior 12-18 months. For these clients, all required a new NDIS application to be completed. Even for those who were previous ADHC clients, the transition to the NDIS has not been smooth.

At 30 November 2017, out of 26 prisoners previously known to CRC and ADHC who should have transitioned automatically to the NDIS, only six were transitioned. Out of the six that were transitioned to the NDIS, only one client had a plan approved, four had their plans cancelled because they were listed as 'unable to contact', one was awaiting planning, and another was released from prison with no link to the NDIS. Another client was asked for further evidence of disability, despite being a previous ADHC

While the NDIS presents an exciting opportunity for people to receive more responsive and personalised supports, there have been ongoing concerns regarding the implementation of the NDIS, and in particular how failures in implementation affect vulnerable people with complex support needs who are in contact with the criminal justice system. CRC has previously highlighted in depth some of the key challenges and concerns regarding access to the NDIS for justice-involved people with cognitive disability and complex support needs (see Churchill et al 2017). These concerns can be summarised as follows:

1. The separation of disability and non-disability related behaviours under the NDIS framework (and the unmet need for holistic support for complex needs clients)
2. The complicated implications of the 'choice and control' policy framework of NDIS in relation to this population group
3. The implications of the fee-for-service model in terms of 'cherry-picking' clients in order to ensure organisational financial sustainability (why clients with rapidly changing complex support needs won't be supported)
4. The need to appropriately consider the risks posed to the community if this group are not adequately supported (and the poor access to services in the community for this group)
5. The importance of understanding the full effects of incarceration on individuals with intellectual disability and complex needs
6. The implications of excluding prisons in NDIS pilot sites (which means there is no possibility of implementing internationally recognised best practice through-care models of support) (Churchill et al 2017).

In this report, we are building upon these earlier findings to critically analyse the way the implementation of the NDIS has led to unjust outcomes and further criminalisation of some of the state's most vulnerable and disadvantaged citizens.

People with disabilities who are also engaged with the criminal justice system represent a unique and complex population with regard to access to services in the community. Many people with disabilities inside prisons across Australia have spent their lives being 'managed' in criminal justice system settings, rather than being supported in the community. There are significant gaps across Australia in the provision of solid and sustainable pathways out of the criminal justice system for people with disabilities – this is particularly the case with regard to building pathways from prison. In some jurisdictions the absence of these pathways has led to the indefinite detention of incarcerated populations. As is the case with imprisonment more generally, Aboriginal people with cognitive impairment have been overwhelmingly over-represented in the practice of indefinite detention. While the NDIS and the shifting service landscape across Australia represents a remarkable opportunity for many populations to engage with supports and programs that are flexible, responsive, and personalised to individual needs, the capacity for people who are in prison to access this same level of service has diminished under the current NDIS service landscape.

There appears to be a significant level of confusion about the way the NDIA interacts with the NSW criminal justice system. The implementation of the NDIS has been hindered by complexity and rules which change often. There is a lack of clarity around government department and agency responsibility at each level of the NDIS process. The absence of information, misinformation, and 'buck shifting' of responsibility has created an exceptionally complex and difficult system to navigate for stakeholders and participants. Feedback received from those working in this space indicates that the NDIS has become an extra responsibility without adequate resourcing and alongside competing NSW justice reform priorities. In this context, the NDIS is not seen as a priority or matter of urgency. This is of particular concern when it is also clear, that there are people in NSW prisons today who are there due in large part to the failures of service systems in the community. There are many people in government departments working exceptionally hard to support this population, however the systemic failures of the NDIS, including its complexity and lack of appropriate resourcing means that for some vulnerable populations, there are no holistic pathways *out* of the criminal justice system. We have in NSW a situation where many people are criminalised *as a direct result* of their impairment, and when this happens, this cohort struggle to find a way out of a relentless cycle of recidivism.

### CASE STUDY: JARRAD

Jarrad is a 23-year-old non-Indigenous man. He is deaf, has epilepsy and an intellectual disability. The CRC Reintegration Coordinator was contacted by Corrective Services NSW to assist in transitioning Jarrad to the NDIS. Jarrad had been refused bail due to a lack of disability supports available to him in the community and was imprisoned at the Long Bay Correctional Centre.

Jarrad has significant complex support needs and has experienced high levels of trauma and neglect throughout his life. Although Family and Community Services were involved with him as a child, there are no records of Jarrad ever receiving disability support in the community. He has never learnt to speak Auslan, despite his best efforts to try. As such, it is difficult for Jarrad to communicate.

In the moments before Jarrad has an epileptic seizure, he experiences significant anxiety, is unable to control his actions and can have periods of aggressive behaviour. While in prison, Jarrad was handcuffed and shackled on all movements, due to his risk of seizures. When the CRC Reintegration Coordinator visited him in prison he had visible cuts on his wrists from handcuffs.

When Jarrad was first incarcerated, he was placed in a 1-out medical observation cell with 24-hour surveillance. There were concerns regarding a suitable placement for him, particularly around him mixing with other prisoners who do not understand his disability or who may take advantage of him. Jarrad has previously struggled with sharing open spaces with lots of other people.

The CRC Reintegration Coordinator was able to complete an ARF for Jarrad and Statewide Disability Services escalated his case. An NDIS planner met with Jarrad alongside two interpreters. As soon as Jarrad had received NDIS support, he returned to court and was released immediately.

The primary reason Jarrad was imprisoned was because he had no safe place to go and no disability support available in the community.

## VULNERABLE POPULATIONS WITHIN NSW PRISONS

There are a number of vulnerable groups within the NSW prison system who are particularly impacted by the current implementation of the NDIS. These include Aboriginal and Torres Strait Islander Australians, women, people with co-occurring cognitive and psychosocial disabilities, and those on remand.

### ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

Aboriginal and Torres Strait Islander people continue to be significantly overrepresented at all levels of the criminal justice system across all Australian states and territories. In NSW, they comprise almost a quarter (24 per cent) of the total prisoner population. Figures show that Aboriginal and Torres Strait Islander people are 9 times more likely to be in prison in NSW when compared with non-Indigenous people (ABS 2019).

Aboriginal people experience higher levels of mental and cognitive impairment when compared with their non-Indigenous counterparts (Baldry et al 2015; Indig et al 2010; Shepherd 2017) yet have significantly lower rates of access to appropriate health and disability support (Australian Medical Association 2015; Australian Human Rights Commission 2015). Aboriginal people with mental health disorders and cognitive disabilities are significantly more likely to have experienced earlier and greater contact with the criminal justice system and to have experienced greater disadvantage than non-Indigenous people (Baldry et al 2015).

The challenge of identifying and diagnosing cognitive and psychosocial disability amongst Aboriginal prisoner populations is well established in Australia (Roy and Balaratnasingam 2014). It is important to note that in some Aboriginal communities, there are different conceptualisations of disability. In some communities the terms ‘intellectual’ or ‘cognitive’ disability are problematic (Sotiri and Simpson 2006). Research by Sotiri and Simpson (2006:1) found:

The legacy of explicitly racist ideas about Aboriginal people and reduced intellectual capacity clearly has implications for the way in which cognitive disability is discussed. As a consequence of the history of removal of Indigenous children from Indigenous families, a strong mistrust of white government agencies, and the associated and fraught notion of ‘protection’ it was also identified in the project that there is some reluctance to name people... as ‘disabled’.

As a result of Australia’s historical context, it may be more likely for Aboriginal people in prison to have an unidentified disability. Even in cases where a person may acknowledge they have a disability, this distrust of authorities, particularly in criminal justice system settings, may mean they are not interested in receiving any support.

---

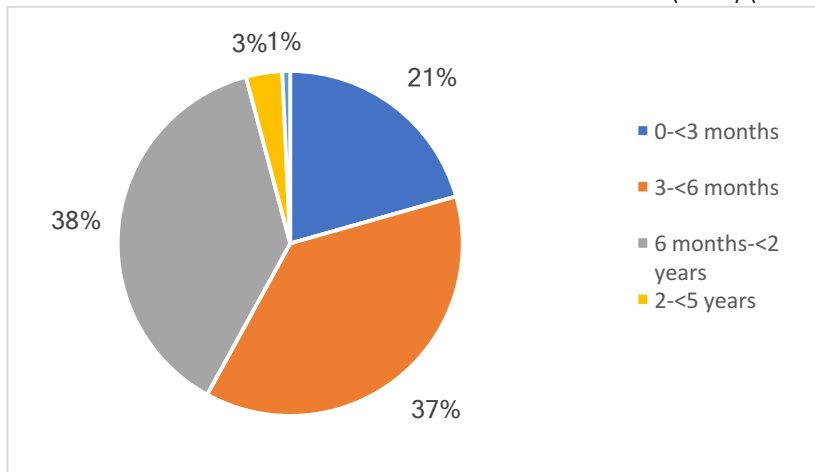
## WOMEN

---

Although women constitute a much smaller percentage of the total prisoner population in NSW, their numbers are increasing at a concerning rate. From 2011 to 2017, the overall number of women in prison in NSW increased by 50 per cent, and the number of Aboriginal women in prison increased by 74 per cent (Ooi 2018). Alarming, the overall number of women on remand in NSW has increased by 114 per cent (119 per cent for Aboriginal women) over the same period.

The vast majority of women are imprisoned on relatively short sentences. For example, 58 per cent of the total female prison population are on sentences of less than 6 months and 96 per cent are on sentences of less than 2 years (BOCSAR 2018b). What this data tells us is that there are significant numbers of women cycling in and out of prison on remand and on very short sentences. This has implications regarding their transition to the NDIS.

FIGURE 2 SENTENCE LENGTH OF WOMEN IN PRISON IN NSW (2017) (BOCSAR 2018B)



Women in prison experience high rates of vulnerability. For example, 57 per cent of women in prison have experienced a head injury that led to unconsciousness and in the majority (58 per cent) of cases, the head injury occurred as a result of assault (JH&FMH 2017a). Over half (55 per cent) of women in prison have received some form of psychiatric care before entering prison (JH&FMH 2017a).

Feedback gathered in the process of developing this report suggests that women are often more likely to have unidentified disabilities. Another factor making the transition to the NDIS more difficult is that women have high rates of psychosocial disabilities relating to their mental health condition. There is a well-acknowledged under-identification of psychosocial disabilities in prison, which means a large number of women are missing out on NDIS supports which they are entitled to.

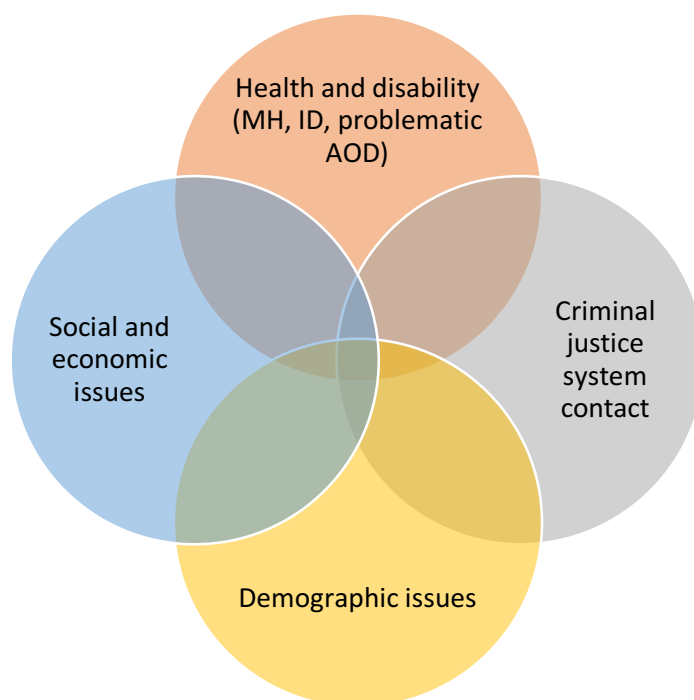
---

## PEOPLE WITH CO-OCCURRING COGNITIVE AND PSYCHOSOCIAL DISABILITY

---

Many people enmeshed in the criminal justice system have co-occurring cognitive and psychosocial disability as well as experiences of social disadvantage (Dias et al 2013, Baldry et al 2015). The interplay of these factors leads to great difficulties exercising decision-making, choice and control. As Rowe et al (2017: 4) have stated individuals with co-occurring cognitive and psychosocial disability may superficially appear to be quite independent but in fact have undiagnosed disability and substantially reduced functional capacity, particularly in communication, social interaction, learning and self management. As a result, members of this group will commonly not see or wish to acknowledge these impairments and will often initially be suspicious of suggestions to obtain support from the NDIS (Rowe et al 2017: 4). Additionally, people with complex support needs have volatile and fast-changing support needs.

FIGURE 3 THE INTERACTION OF MULTIPLE AND COMPOUNDING NEEDS FOR PRISON POPULATIONS




---

## PEOPLE ON REMAND

---

There has been a dramatic rise in NSW in the number of people who are held in prison on remand, that is, those who have been charged, not been granted bail, and are held in prison custody awaiting their court appearance or trial but have not yet been found guilty. Unsentenced prisoners comprise more than a third (34 per cent) of the total prisoner population (ABS 2019). The number of unsentenced people in NSW prisons has increased by 75 per cent over the last decade (ABS 2019). NSW now has the largest unsentenced prisoner population in Australia and the longest time spent on remand for un-sentenced prisoners (ABS 2019). As a result, the NSW prison population is now spending considerably more time on remand than in

previous years. Participants in this project observed that people with disabilities appear particularly affected by this and in many cases are spending longer periods on remand than they would if they were sentenced.

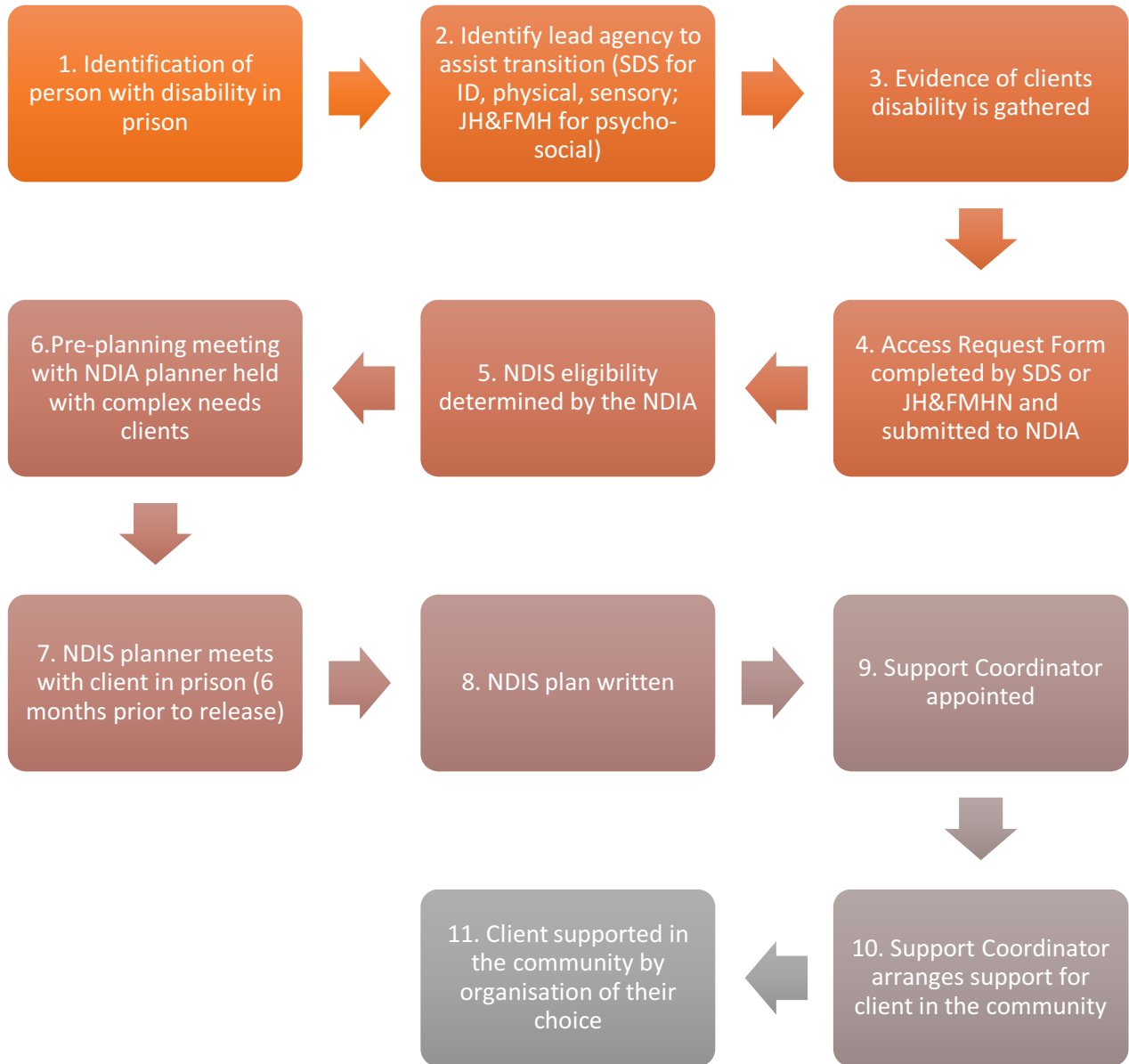
The significant and growing numbers of people held in prison on remand in NSW has implications for the NDIS. Decisions about whether to transition a client to the NDIS are based primarily on that person's release date. For those with cognitive and psychosocial disabilities who are in prison on remand, their transition to the NDIS is not seen as a priority. There appears to be reluctance on behalf of Corrective Services staff working on this client group to initiate the transition due to uncertainty regarding when the client will be released. A result of this is that clients with disability may be released directly from remand without adequate NDIS-provided disability supports in place.



## THE IDEAL 'SMOOTH TRANSITION' TO THE NDIS FOR PEOPLE IN PRISON

There are various reasons why the ideal 'smooth transition' to the NDIS is not occurring for people with complex support needs in prison in NSW. These reasons will be explored in depth in the following sections.

FIGURE 2 THE IDEAL TRANSITION TO THE NDIS FOR PEOPLE IN PRISON



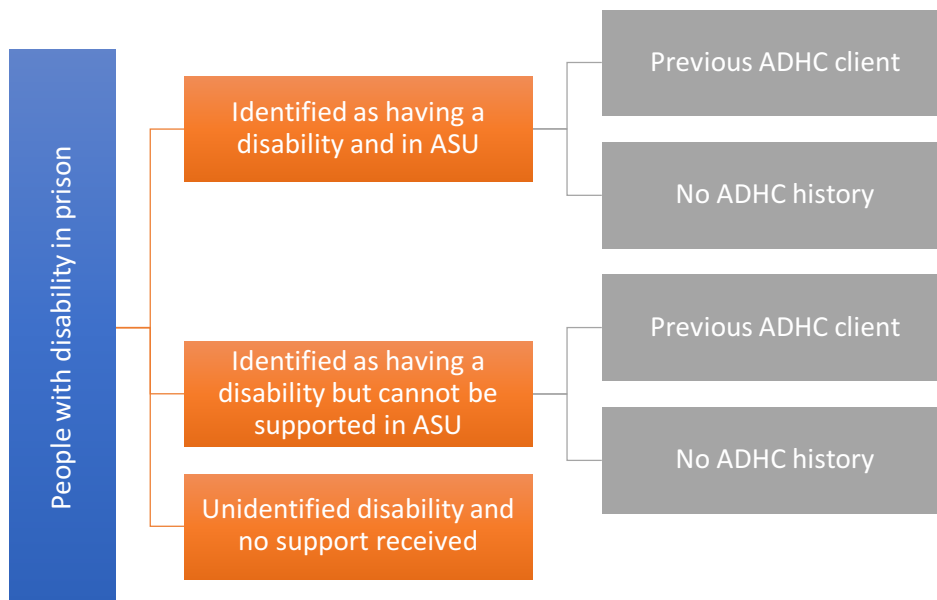
## KEY CHALLENGES AND CONCERNS

### 1. LACK OF IDENTIFICATION OF COGNITIVE AND PSYCHOSOCIAL DISABILITY AMONGST PRISONER POPULATIONS

When men are first imprisoned in the Sydney Metropolitan Region, they are usually inducted at the Metropolitan Reception and Remand Centre (MRRRC) at the Silverwater Correctional Complex. Women are usually received into Silverwater Women’s Correctional Centre. We were told that there is an unrealistic expectation placed on SAPOs at these overcrowded centres to be able to undertake NDIS referrals. Incoming prisoners are interviewed by a Services and Programs Officer (SAPO) and will usually be asked questions related to disability, such as whether they have a disability; if they have ever received the Disability Support Pension; or if they have ever been a client of Ageing, Disability and Home Care (ADHC), the Community Justice Program (CJP) or the NDIS. Disability workers and specialists note that people are unlikely to volunteer information about their disability to a SAPO at this stage.

If a person in prison is not a former ADHC client, has not been linked in with the NDIS, and their disability is not picked up during the prison induction, then the process becomes more convoluted. It is hoped that a SAPO or corrections case manager will recognise the person’s disability and it will be reported. There has over the last two years been considerable work undertaken by the specialist support unit in training and educating staff in identifying disabilities. Participants in this project were hopeful that this would make a difference. Historically, our experience has been that many people with disabilities are not identified at the point of reception.

FIGURE 3 PATHWAYS TO IDENTIFICATION OF DISABILITY FOR PEOPLE IN NSW PRISONS



There are still significant challenges in the identification and assessment of non-physical disabilities inside prison environments. This is especially the case for people with psycho-social disabilities and cognitive impairment.

In our research for this report, we were repeatedly told of the need for more psychologists and psychiatrists within Corrective Services NSW in order to identify people with disabilities and to assist in the preparation of

Access Request Forms (ARF's) (which must be signed by a Corrective Services psychologist). The lack of qualified professionals in prison settings in NSW has resulted in:

- 1) People who require disability support not having their impairment identified, and
- 2) People in prison who require disability support not having their impairment assessed
- 3) ARF's not being processed in a timely manner
- 4) Transition to the NDIS being delayed or not followed through

#### CASE STUDY: MARTY

Marty is an Aboriginal man with an acquired brain injury, mental health diagnosis and borderline intellectual disability and presents with very high needs. Despite this, there were no reports or records available that defined Marty's needs as a result of his disability or mental health diagnosis. The latest report on Marty's intellectual disability was completed 20 years ago. Marty was released from remand without an NDIS plan.

## 2. SYSTEM FAILURES IN TRANSITIONING PEOPLE WITH DISABILITY IN PRISON TO THE NDIS

Within Corrections environments, aside from a small number of key staff who specialise in working with people with disabilities, there is frequently a lack of awareness and understanding of the NDIS process: from completing an ARF, to building the evidence required to prove that a client has a disability. An outcome of this is that the appropriate information required to support a client's transition to the NDIS is often not gathered.

In our experience working in this space, there are also a number of compounding factors which complicate the ideal 'smooth transition' to the NDIS. These include but are not limited to high staff turnover within the NDIS, a lack of face-to-face interaction during the planning phase, and a highly bureaucratic and complex system. Inconsistencies between NDIS planners and across NSW correctional centres add further complexity to an already difficult system. Different security access requirements make it exceptionally challenging to arrange planning meetings and to visit clients in custody. Particularly in regional jails, there is a lack of clarity around roles and responsibilities. Critical information regarding a client's NDIS transition is constantly missing and as a result long delays make any pre-planning with clients extremely difficult. The CRC Reintegration Coordinator has reported that there is often a lack of information about clients. In these circumstances, a trusted support person is vital. If ARFs are filled in with little or inaccurate information, it is more likely that their request for NDIS support will be denied.

These compounding issues alongside slow processes mean that often by the time a decision is made as to whether a client may be eligible for NDIS support the client has already been released from prison and is living in the community without adequate support. During the time that this project was gathering data, the vast majority of people in prison with disability were being released without NDIS plans. Additionally we found that when people were released from prison before a decision about the NDIS plan was made, accessing adequate support is highly problematic. Under the fee-for-service arrangement, none of the NGOs in the community will work with the client because there is no funding attached. Understandably, organisations cannot be expected to work with clients if they have no funding or resources to do so.

The NDIS system is highly complex and requires navigating multiple levels of bureaucracy. Despite the COAG *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* (COAG 2015) there appears to be a lack of clarity over responsibility in regard to providing support and assistance to people with disability who are in contact with the criminal justice system. The feedback we have received is that some

SAPOS working within Corrective Services NSW have reported that they have received no communication about the operation of the NDIS or direction regarding the process and are lacking in clarity around who holds responsibility in completing NDIS referrals. The COAG principles (2015) are not clear-cut and still allow room for those working in this space to argue that it is not their departmental or agency responsibility.

#### **CASE STUDY: BRYCE**

Bryce is a 32-year old quadriplegic with a psychosocial disability. Although Bryce requires 24-hour care, he has not previously received any support from ADHC or the NDIS. The CRC Reintegration Coordinator visited Bryce in prison to complete an ARF and was told by Corrections staff that Bryce is unable to receive any support for his physical disability and that the maintenance of his wheelchair should be the responsibility of Corrective Services - not of the NDIS. Following months of advocacy by the CRC Reintegration Coordinator, an NDIS planner read the COAG agreement and acknowledged that Bryce is entitled to NDIS support for his physical disability. Bryce now has a support coordinator.

Many people with complex support needs who come into contact with the criminal justice system do not have informal supports to assist them and they therefore rely on NSW government staff to assist them to access the NDIS. Unfortunately, government agencies and departments do not always have the resources to assist people.

#### **CASE STUDY: JACK**

Jack is a 20-year-old Aboriginal man with a cognitive impairment and psychosocial disability. There are no ADHC or SDS records of Jack or any evidence he has ever received support in the community for his disability. Jack was not engaging with the psychologist in prison. When the CRC Reintegration Coordinator met with Jack to complete an ARF, he was very withdrawn, depressed and difficult to engage. He told the CRC worker that he has no family support and that his closest friends and family have all passed away from suicide.

Jack is eligible for parole and has been trying to complete a housing application but has not had any assistance from anyone in the prison. He has not been granted parole because he does not have an appropriate or safe place to go. At the time the CRC reintegration coordinator met with Jack, he had spent three months in prison beyond his parole period.

If a client does not have a set release date, generally no ARF will be completed. As previously highlighted, there are significant numbers of people within NSW prisons (particularly women and Aboriginal women) who are on remand and therefore have no set release date.

### **3. THE LACK OF SKILLED NDIS PLANNERS AND SUPPORT COORDINATORS**

---

People with complex support needs who are in contact with the criminal justice system require highly skilled NDIA planners and support coordinators to facilitate their transition to the NDIS. In our experience, this has been a significant gap for our client group. There is huge variability in the quality and skill of NDIA planners and support coordinators which can result in people with complex support needs in prison receiving inadequate NDIS plans. In the first few years of the roll out, there has been a lack of training and knowledge

amongst some NDIA planners and support coordinators and as a result a very limited understanding of the ways that disability interacts with criminal justice issues.

#### CASE STUDY: MONICA

*"I attended an in-prison planning meeting with Monica. The NDIS planners were dressed in very formal clothes and used really complicated language throughout the meeting. It was almost impossible for Monica to comprehend what was going on and they were unable to break down the information so that she could actually understand it. They asked her if she could use the bus and she responded 'yes', but then asked no further questions! So I elaborated and asked whether she had ever used an opal card and it was obvious she had no idea what an opal card is. They asked her really closed questions and were unable to redirect conversation from negative experiences, so Monica became completely overwhelmed and upset. As we were leaving, the planners explained they would not complete a full plan as Monica didn't have a fixed release date and explained that they will do a review before she gets released. What's the point of even having a meeting if we're not going to be completing an accurate plan? The meetings can be re-traumatising for some people and they really need to consider potential emotional impacts"*

#### CASE STUDY: DYLAN

*"I met with Dylan in prison but he didn't know anything about the NDIS. He told me he has never received any services or support in the community that he can remember. Initially he said he didn't have a disability but later told me about having issues with reading and writing. When we spoke about what kind of support he might require in the community, he was really vague and couldn't really identify any support he required. He will be homeless on release and will need assistance with his drug and alcohol addiction, but beyond needing some help with accommodation and attending appointments, he couldn't identify anything else he needed. I told him that I would come back and speak with him again before an NDIA Planner came but he wasn't interested. He is really difficult to engage with and I'm really worried about how he will engage with a planner if he presents well and tells them he can manage without support. He will likely receive a very basic plan, that is if his ARF is even approved"*

## 4. THE INADEQUACY OF SERVICE PROVISION UNDER THE NDIS FOR PEOPLE WITH COMPLEX SUPPORT NEEDS WHO ARE IN PRISON

---

The inadequacy of service provision under the NDIS for people with complex support needs has resulted in people with disability remaining in custody because of a failure to secure disability support services in the community.

The NDIA is responsible for identifying and funding needs that relate *only* to disability. The process of developing case plans to which funding dollars will be attached relies on the ability to identify and separate disability-related needs and behaviours from *all other* aspects of an individual's life. As we have previously stated:

For criminalised people with disabilities and complex support needs (e.g. active drug and alcohol addiction, mental illness, psychosocial disabilities, long histories of offending), it is impossible to separate the disability from other complex needs. This over-simplified, siloed approach to funding and support for the target group is highly problematic... While the NDIS does not fund support that is not specifically disability related, there is no doubt that this client group require support packages that work holistically. This is partly because the interaction of complexity requires it, and also

because this population are frequently excluded from mainstream services. They are excluded as a consequence of both their disabilities and their offending behaviours (Churchill et al, 2017: 9)

There is no capacity under the current system for wrap-around and holistic supports for people with complex needs.

#### CASE STUDY: JAMES

James is a 28-year-old Aboriginal man with an intellectual disability, psychosocial disability and problematic AOD use. He has been in and out of prison his whole life. James should have automatically transitioned to the NDIS as he was receiving ADHC supports in the community. The CRC Reintegration Coordinator was told James had NDIS access met, however delays in the process resulted in him being released from prison before supports were put in place. He reoffended soon after he was released and has ended up back in prison.

James has a very serious drug addiction. He was taken off methadone while in prison and is now using any drugs he can find and is sharing needles with people known to have HIV. He is self-harming by swallowing dangerous materials but has not seen a psychologist since he has been in prison. James requires significant supports in the community.

The withdrawal of all state government funded disability services has meant that for those people with disability who do not meet eligibility for the NDIS, there are simply no services available for them. Previously, ADHC provided a range of holistic, person-centred services to people with intellectual disability that the NDIS now deem the responsibility of other services such as health or justice. However, under the current service landscape the NSW state government has handed all responsibility of people with disability to the commonwealth and has essentially become de-responsibilised by moving disability from state policy.

#### CASE STUDY: JIMMY

*“Jimmy had an NDIS plan and was working really well with his support. The organisation working with Jimmy requested the NDIA review his plan with the hope that it would have more hours included so that more could be achieved in supporting Jimmy. When the plan was eventually reviewed by the NDIA, they determined that all the support provided was actually the responsibility of Justice and completely cancelled his plan. He’s been left with absolutely no support now and I think it’s inevitable that he will eventually return to prison”*

When CRC clients *have* received NDIS plans, they have for the most part been inadequate. There appears to be reluctance on the part of the NDIA to fund adequate plans for people enmeshed in the criminal justice system. There is a presumption on the part of the NDIA that a person in prison will have their NDIA plan reviewed and increased when they are released into the community. Unfortunately, it is very common to lose track of people when they exit prison and enter the community, particularly if they do not already have adequate supports in place. The assumption that a plan can be easily reviewed is based on a number of misleading assumptions:

- 1) that the process of reviewing an individual’s NDIS plan is a smooth and efficient process. It appears that the NDIA is overwhelmed by a backlog of plan reviews that take up significant resources.
- 2) That people with complex support needs who have come into contact with the criminal justice system have strong advocates and informal supports in the community who will assist them in having their plan reviewed.

The presumption that the NDIS plan of a person with complex support needs will be subject to constant review is worrying when we consider the time, effort and resources required to do so and the fact that it involves navigating slow, daunting and complex bureaucratic systems.

The NDIA has been described by participants and stakeholders in this research as an impenetrable faceless organisation that is almost impossible for participants to navigate. There is no sense of the structure of the system. The only way for most people to contact the NDIS is through an 1800 number. The result of this is that when problems inevitably do arise, it makes them almost impossible to resolve.

Some have noted that one of the factors that contributes to the inadequacy of NDIS plans for people with complex support needs has been the writing of NDIS plans for imprisoned people. There is a fundamental difference between an individual's needs when they are in prison, compared to when they are living in the community. It is difficult to assess a person's daily living skills in an institutional environment where their daily living needs, such as accommodation and meals, are provided for them. Context is very significant when it comes to assessing needs.

In addition, a lack of safe, secure, affordable and supported accommodation was articulated throughout this study as the primary concern for people with disability in prison. However, there is extremely limited accommodation available for this client group and a complete lack of crisis intervention for people with complex support needs on release. Some people with disability in prison require 24-hour supported accommodation, however securing the funding to respond to this need is extremely difficult under the NDIS. In many instances, if a client in custody requires supported accommodation and this is recognised as the highest need of that client, it is not included in their NDIS plan *until* the supported accommodation has been sourced and a quote from a supported accommodation provider is received. By the time this process has taken place one of two things has happened: 1) the client has already been released from prison into homelessness, or 2) the accommodation originally sourced is no longer available. Inevitably, time delays and slow processes result in people with complex support needs being held in prison (either bail or parole refused) due to the system failing to allow access to supported accommodation in the community. The transfer of some of the former CJP housing to NGO and disability support providers has done little to improve this situation. Providers and stakeholders identified numerous challenges in identifying where beds were available (because there is no centralised vacancy system). They also noted that there were regular tensions between the providers and community corrections staff who were tasked with managing clients in the community, and also financial difficulties in providing intensive housing and support when NDIS packages were regularly inadequate.

## 5. THE LACK OF CHOICE AND CONTROL FOR PEOPLE WITH COMPLEX SUPPORT NEEDS IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

---

As we have stated previously, the NDIS aims to position participants as active consumers with *choice* and *control* over the supports they need to live the life they want (see Churchill et al 2017: 14). Whilst such an objective is commendable and indeed achievable for many NDIS participants, it is clear that the schemes central principles of choice and control are based on a particular conception of the disability experience, which excludes the majority of people with complex support needs who are in prison. Implicit in these conceptions is an assumption that the only way to support self-determination for people with disabilities is through choice and control. This assumption fails to properly consider the capacity of people who experience cognitive disability, psychosocial disability, entrenched social disadvantage and trauma to identify positive and unchanging life goals and to make positive life choices (Churchill et al 2017: 14).



### CASE STUDY: CHRIS

Chris is a 40-year-old non-Indigenous man with intellectual disability, major mental health and psychosocial disability. NDIS access was met for Chris however he did not engage in the process. Under the NDIS, people have to be willing to engage and receive supports and there is nothing to enforce support. Chris was released from prison without parole and is now living in the community without any supports.

Under the current service landscape, support coordinators and services engaged to provide support are able to decide whether they accept someone as a client. This has meant that some support coordinators and service providers refuse to work with particular individuals if they exhibit challenging behaviours. The fact that there is no provider of last resort in NSW means that some people who are eligible and require NDIS provided supports are effectively excluded. This skews the idea of choice and control for the individual, and instead allows this choice and control for the people and organisations working in this space. CRC is not confident that the private market has the capacity, skills, expertise and willingness to meet the needs of these clients. An outcome of this fragility of service provision is that some organisations are withdrawing their support services and many people with disability are breaching their bail conditions and returning to custody. This is contributing to the increased number of people with complex support needs who are held on remand. In a case of 'justice by geography', some people with complex support needs who are living in rural or remote locations are receiving NDIS plans, however there are simply no service providers available in their area.

### CASE STUDY: JORDAN

*"I attended a meeting with Jordan, his support worker, an NDIA Planner and SDS. A pre-planning meeting had been held the previous week with the client and this had gone really well. It was agreed in the planning meeting that Jordan requires 24-hour supported accommodation. But after the meeting, the NDIA Planner explained they wouldn't be including it in the plan until a quote was received and an agreement of a possible placement was organised. I questioned why supported accommodation couldn't be included if we all agreed it was necessary and more importantly so that it could be organised and ready for him on release. I was told that they can do a review of the plan later, but that's likely to include significant delays. So, Jordan has no supported accommodation and will be homeless on release from prison. Another huge issue is that because we all believed supported accommodation would be included in his plan, during the meeting we didn't focus too much on his cognitive ability to remember to take his medication and attend appointments because we believed that supported accommodation would cover these areas"*



## RECOMMENDATIONS

---

1. There is the need for a NSW based single point of contact and information for people with disabilities and criminal justice system involvement. There should be web resources, clear explanations of processes, and telephone numbers that workers (both inside the prisons and based in the community) as well as people with disabilities and their families who are impacted by the justice system can access easily. The telephone numbers and contact e-mails of support coordinators who specialise in supporting people in prison should be available via this central point of contact so that these individuals are easily able to be contacted
2. There is a need for clear transparent guidelines and information to be made available to all people in prison (regardless of whether they have a diagnosis), about how to access the NDIS and how to access disability support.
3. There is a need for clear transparent guidelines to be available for workers responsible for referring to the NDIA (both in corrections and in the community) outlining; the key areas for assessment and consideration when filling out Access Request Forms; how to access the complex needs support pathway; how to access the appeals process if decisions regarding plans are not satisfactory
4. In-reach into the prisons by disability support workers, planners, and support co-ordinators should be a business as usual element of community service providers. Corrections NSW should wherever possible work collaboratively with community service providers facilitate this access.
5. There is a need for highly skilled justice support planners to be have a regular presence in all Correctional Centres (including those outside of the Metropolitan area, and especially in those centres that do not have access to specialist support).
6. There is a need for a specialist Criminal Justice Unit within the NDIA to work collaboratively with Corrections. Information sharing and privacy protocols should be developed between this unit and Corrections and Justice Health so that critical information with regard to disability support needs is not lost when someone is imprisoned, or forgotten when someone is preparing for release.
7. The need for access to a complex support needs pathway should be assumed for all incarcerated individuals who have a disability. The process for accessing this pathway should be transparent.
8. For imprisoned individuals who already have an NDIS plan, protocols with regard to maintaining and reviewing this plan are required so that supports can wherever possible be maintained during the period of incarceration.
9. A review of the COAG justice interface principles is required to provide a more comprehensive framework and break down of responsibilities between agencies and protocols for working together for incarcerated populations with disabilities.
10. The separation of disability and non-disability related behaviours under the NDIS framework (and the unmet need for holistic support for complex needs clients) requires further examination and response, particularly as this relates to accommodation, drug and alcohol services and other risk factors related to disabilities that may be related to offending cycles.
11. The crisis in the shortage of accommodation services and support for people with disabilities requires urgent examination and redress. The inability of the existing NGO service providers to meet demand, and the challenges in having de-centralised accommodation options also require urgent attention.



## REFERENCES

---

- Australian Bureau of Statistics (ABS) (2019) *Prisoners in Australia, 2019*, cat. no. 4517.0, ABS: Canberra.
- Australian Human Rights Commission (2016) *Social Justice and Native Title Report 2015*. AHRC: Sydney.
- Australian Institute of Health and Welfare (2015) *The Health of Australia's Prisoners 2015*. AIHW: Canberra.
- Australian Law Reform Commission (ALRC) (2017) *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*. Final Report. ALRC: Sydney.
- Australian Medical Association (AMA) (2015) *Indigenous Report Card on Indigenous Health: Treating the high imprisonment of Aboriginal and Torres Strait Islander peoples as a symptom of the health gap: an integrated approach to both*. AMA: ACT.
- Baldry, E; Dowse, L & Clarence, M (2012) *People with intellectual and other cognitive disability in the criminal justice system*. Sydney, University of New South Wales.
- Baldry, E., Clarence, M., Dowse, L., and Trollor, J. (2013) 'Reducing vulnerability to harm in adults with cognitive disabilities in the Australian criminal justice system', *Journal of Policy and Practice in Intellectual Disabilities*, 10(3): 222-229.
- Baldry, E., McCausland, R., Dowse, L. and McEntyre, E. (2015) *A Predictable and Preventable Path: Aboriginal People with Mental and Cognitive Disabilities in the Criminal Justice System*. UNSW: Sydney.
- Bureau of Crime Statistics and Research (BOCSAR) (2020a) *NSW Custody Statistics: Quarterly Update December 2020*. BOCSAR: Sydney.
- Bureau of Crime Statistics and Research (BOCSAR) (2018b) *NSW Criminal Court Statistics 2018*. Reference: kr18-16343. BOCSAR: Sydney.
- Churchill, A., Sotiri, M. and Rowe, S. (2017) *Access to the NDIS for people with cognitive disability and complex needs who are in contact with the criminal justice system: key challenges*. Community Restorative Centre: Sydney.
- Council of Australian Governments (COAG) *Principles to Determine the Responsibilities of the NDIS and Other Service Systems*. COAG: Canberra.
- Dias, S., Ware, R., Kinner S., Lennox, N. (2013) 'Co-occurring mental disorder and intellectual disability in a large sample of Australian prisoners', *Australian and New Zealand Journal of Psychiatry*, 47(10): 938-944.
- Heffernan, E; Andersen, K; Dev, A & Kinner, S (2012) "Prevalence of mental illness among Aboriginal and Torres Strait Islander people in Queensland Prisons", *The Medical Journal of Australia*, Vol 197(1): 37-41.
- Indig, D., Topp, L., Ross, B., Mamoon, H., Border B, Kumar, S. & McNamara, M. (2010) *2009 NSW Inmate Health Survey: Key Findings Report*, Justice Health Sydney.
- Jackson, M., Hardy, G., Persson, P. and Holland, S. (2011) *Acquired Brain Injury in the Victorian Prison System*, Corrections Research Paper Series (4). Victorian Department of Justice: Melbourne.
- Justice Health and Forensic Mental Health Network (2017a) *Network Patient Health Survey 2015*. Justice Health and Forensic Mental Health Network: Sydney.

- Justice Health and Forensic Mental Health Network (2017b) *Network Patient Health Survey – Aboriginal People’s Health Report*. Justice Health and Forensic Mental Health Network: Sydney.
- Legal Aid NSW (2018) *Inquiry into market readiness for provision of services under the NDIS*. Legal Aid NSW: Haymarket.
- Mental Health Commission of New South Wales (2017) *The provision of Services under the NDIS for people with psychosocial disabilities related to a mental health condition*, Submission to the Joint Standing Committee on the NDIS, Mental Health Commission NSW: Sydney.
- NSW Bureau of Crime Statistics and Research (BOCSAR) (2018) *New South Wales Custody Statistics Quarterly Update March 2018*. BOCSAR: Sydney.
- Ooi, E. (2018) ‘Recent Trends in the NSW Female Prison Population’, *NSW Bureau of Crime Statistics and Research*, Issue paper no. 130, NSW BOCSAR: Sydney.
- Rowe, S., Simpson, J., Baldry, E. and McGee, P. (2017) *The provision of services under the NDIS for people with disabilities who are in contact with the criminal justice system*. Australians for Disability Justice: Australia.
- Roy, M. and Balaratnasingam, S. (2014) ‘Intellectual disability and Indigenous Australians: An overview’, *Asia-Pacific Psychiatry*, 6: 363-372.
- Shepherd, S., Ogloff, J., Paradies, Y. and Pfeiffer, J. (2017) ‘Aboriginal prisoners with cognitive impairment: Is this the highest risk group?’, *Trends & Issues in Crime and Criminal Justice*, No. 536, AIC: Canberra.
- Sotiri, M. and Simpson, J. (2006) ‘Indigenous People and Cognitive Disability: An Introduction to Issues in Police Stations’, *Current Issues in Crime and Criminal Justice*, 17(3): 431-443.