



Submission to the Senate Standing Committees on Community Affairs April 2016

Never Stand Still

Medicine

Department of Developmental Disability Neuropsychiatry

A response to the Senate inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia

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DEPARTMENT OF
DEVELOPMENTAL
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Context

People with an intellectual disability (ID) represent about 1.8% of the Australian population, or approximately 400,000 individuals (1). People with ID experience very poor physical health and mental health compared to the general population. They often have complex support needs, which can arise because of complexity at the person level, complexity at the service level or systems levels. The prevalence of mental disorders is at least two to three times higher in people with ID compared to the general population (2). Many people with ID experience a high degree of complexity and an atypical profile and presentation of mental disorders (3), thus requiring a high level of psychiatric expertise, and coordinated approaches between services.

People with ID and mental illness are overrepresented in Australia's criminal justice system (4). In comparison to people without ID, those with ID are significantly younger when they have their first contact with the criminal justice system and those with ID and mental illness represent the youngest age group with an average age of 14.9 years at first police contact. In addition, people with ID have higher rates of police contact per year (3.6 times and 4.8 times for people with ID and mental illness) and those with ID and mental illness have higher levels of ongoing life-long criminal justice involvement (4).

Two main areas of complexity referred to here, relate to the complexity of ID and mental disorder, and ID and intersection with the criminal justice system, and their related service and system level components. The comments in this submission are informed by 1) our national leadership in ID mental health and 2) Professor Trollor's close work with individuals with ID and complex needs, many of whom have contact with the criminal justice system, and some of whom experience indefinite detention within this system in NSW.

Issues

Entry to the criminal justice system for a person with ID is often a marker of complexity at the person level, in combination with failure of services and systems to meet the complex support needs of the individual. Compounding this is the difficulty that elements of the criminal justice system has in meeting the complex support needs, including the mental health needs, of the person. Further, services and

systems are often not equipped to assist in charting a path by which the person can be adequately supported once in a non-custodial setting.

Failure at the service and systems level, in particular failure to appropriately connect people to, and support their engagement with appropriate supports, is associated with recidivism, and therefore appears to be a pathway into indefinite detention (4, 5).

Sector developments and the National Disability Insurance Scheme (NDIS)

Innovative programs such as the Community Justice Program (ADHC, FACS NSW) have been invaluable in coordinating complex supports to enable individuals to move out of prison and back into the community. Such programs are the result of longstanding investment and development of expertise by the NSW Government.

The introduction of the NDIS and the devolution of state based disability service provision in NSW will likely result in such programs to be scaled back and tendered to another provider. There is substantial risk that capacity development in this area will stall, and expertise eroded. The loss of capacity in this area risks compounding the indefinite detention of people with ID and complex needs within the criminal justice system.

Solutions

In the context of people with ID and complex support needs, a comprehensive matrix is required to understand and create appropriate actions to address indefinite detention in this context. A cohesive conceptual understanding of complex needs is necessary – for guidance see publications by our colleague A/Prof Leanne Dowse (6, 7). However, some actions are immediately apparent:

- a. For the person within the community, access to, and cohesive linkages between sophisticated behavioural, disability and mental health supports is critical,. These require sustained investment in high level programs (e.g. State wide behavioural intervention service in NSW) and workforce and services development (e.g. in intellectual disability mental health). With the roll out of the NDIS, specific sector development initiatives within NGO service providers is required so that high level disability and behavioural support needs can continue to be delivered under the

NDIS. Monitoring of capacities in this area is important but a current framework for this is lacking.

b. Within service systems, for example in Corrective Services and Justice Health in NSW, investment in training, education and equipping for IDMH is required. People with an ID often experience communication difficulties. While these are more apparent in people with more severe levels of disability, even a person with mild ID may have difficulty understanding abstract concepts or complex questions. Ensuring that staff are mindful and adopt flexible approaches when communicating with people with ID is important (for more information, see <https://3dn.unsw.edu.au/the-guide>). Equipping criminal justice system staff with disability education and training can create the potential for improved management and appropriate linkages to non-custodial support agencies, thus minimising indefinite detention..

c. At a services and systems level, in every jurisdiction, a cross jurisdictional framework of action should be established. This should include a set of agreed principles across justice, human services and health agencies, a clear path for assessment and review of individuals with complex needs who are detained indefinitely, and exploration of service pathways and mobilisation of relevant supports. There are examples of good practice in this area in NSW and in Victoria.

d. In keeping with sector expectations, monitoring and reporting of restrictive practices in relation to people with ID within the criminal justice system should be routinely undertaken, and is in keeping with recommendations we have made to the NDIS Quality and Safeguarding Framework (8).

Concluding Remarks

People with ID, including those with multiple and complex needs represent a highly vulnerable population whose needs are often unmet and who are over-represented in the criminal justice system. People with ID enter the criminal justice system at a young age and have high rates of ongoing life-long criminal justice involvement, and are at risk for involuntary detention. Proposed solutions include supports to enable individuals to move out of prison and back into the community with appropriate supports, appropriate training and education for criminal justice system staff in IDMH, a cross jurisdictional framework of action and routinely monitoring and

reporting of restrictive practices in relation to people with ID within the criminal justice system.

We thank the Senate for this opportunity for input into this important issue. Should you wish to discuss the content of this submission please do not hesitate to contact us. We can be contacted by phone on (02) 9931 9160 or by email,

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Sincerely,



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Appendix - About the Department of Developmental Disability Neuropsychiatry

The Department of Developmental Disability Neuropsychiatry (3DN) at UNSW Australia supports the mental health needs of individuals with an intellectual disability (ID) through the education and training of health and disability professionals and by conducting research with a particular focus on the mental health of people with an ID. 3DN's vision is to work with people with ID, their carers and families, to achieve the highest attainable standard of mental health and wellbeing. 3DN is led by UNSW's inaugural Chair of Intellectual Disability Mental Health, Professor Julian Trollor, who is supported by a dedicated team of researchers, project and administrative staff. Professor Trollor has over 20 years of clinical experience in the management of people with ID and complex health and mental health problems. He has had extensive experience with a range of disability service providers and professionals, and has led or contributed to numerous legislative, policy and service reviews in the disability arena. More information about 3DN and the work of the Chair IDMH can be found on our website: <http://3dn.unsw.edu.au/>