

Examining the links between disability support, risk and release from custody:

Desktop review summary

This is a summary of a review of literature about the support needs of people with disability when they leave prison after sentences for committing serious violent or sexual offences.

About the research

Background

In 2024, the National Disability Insurance Agency (NDIA) asked The Centre for Innovative Justice at the Royal Melbourne Institute of Technology (RMIT) to do a research project.

The project is called Leaving Prison Disability Support: Examining the Links Between Disability Support, Risk and Release from Custody.

We wanted to understand the links between disability support, risk and release from custody for people with disability who commit serious violent or sexual offences.

Read the full report <https://cij.org.au/research-projects/leaving-prison-disability-support/>

Why we did the research

There's not much information about the links between disability support, risk and release from custody for people with disability who commit serious violent or sexual offences.

We wanted to understand the impact of specialised disability supports for this group of people on:

- a person's risk of reoffending
- any other risks there are for them
- their social participation and inclusion in the community
- their move from custody into the community.

This would help the NDIA support this group of people and improve policy and practice in the future.

We wanted to know the following:

- What are the needs of people with disability after their release from prison?
- What are the risks for this group of people?
- What are the best disability supports when a person is transitioning from prison?
- What services lead to better outcomes for people with disability who have been in custody?

Because we were mainly interested in disability support for this group of people. This desktop review does not talk about offender treatment or how the justice system manages people who have committed crimes.

The research method

The Centre for Innovative Justice did a review of what has been published in the last 15 years by looking at:

- research and other scholarly literature
- government reports and papers.

Because there is limited research on the disability support needs of this group of people, this review has included evidence from areas of research like:

- support and services for people leaving prison
- disability support for people in contact with the criminal justice system
- the needs of First Nations people in contact with the criminal justice system.

The review has evidence from 103 pieces of Australian and international literature.

What the research tells us

One of the findings of the review is that there is not much research about people with disability in prison, or their experiences and challenges.

Only 12 of the 103 pieces of literature asked people with lived experience of disability and criminal justice system involvement about their experiences.

People with disability are over-represented in the Australian criminal justice system

Over-representation in the criminal justice system means that a group of people, such as people with disability, appears in places like prisons or courts more often than you would expect based on their share of the total population.

There is not much research about why people with disability are over-represented in criminal justice systems in Australia and around the world.

It's also hard to measure how many people with disability are in the criminal justice system, as disability is not well recognised or recorded.

The research also found that Aboriginal and Torres Strait Islander people with disability in the criminal justice system are over-represented.

The research found there are many reasons people with disability become involved in the criminal justice system. Some of those reasons are:

- The criminalisation of disability, where disability-related behaviour is misunderstood and punished

- The social causes of criminal justice system involvement, where social and economic disadvantage brings people with disability into contact with criminal justice systems
- Lack of support, especially when people with disability leave institutions without support to manage life in the community.

There is not much research on the intersection between disability services and prisons

The review did not find much research on the intersection of disability services and prisons.

There is a small amount of research that suggests there are complex issues leading to people with disability not getting the right supports in prison and when they leave.

One of the reasons may be because different systems have different purposes, and often they do not communicate with each other. This can result in badly coordinated services. In Australia, research has found that there are problems between the National Disability Insurance Agency (NDIA) and the criminal justice system. The research found that:

- people in prison do not always get enough disability support
- it is hard to get disability assessments for people in prison
- there are not enough trained and skilled staff in prison to support people with disability
- it is difficult for prisoners to access the NDIS.

In the community:

- there are not enough services available
- service providers sometimes reject clients with complex needs
- there is no back up service provider when no one else will work with the person.

For Aboriginal and Torres Strait Islander people there are some extra reasons why they may not be able to get support in prison or when they leave:

- they might have had bad experiences with the government and do not feel safe to seek support
- currently there are no disability assessment tools that have been specifically designed for Aboriginal and Torres Strait Islander people
- there are not many services that are culturally safe for Aboriginal and Torres Strait Islander people.

The needs of people with disability when leaving custody in Australia are not well understood

There isn't much research about the needs of people with disability when they are leaving custody.

There is some research about the needs of people with disability who have been in prison. This research does not focus on their needs as they leave prison, and it does not focus on different types of disability.

Because of this gap, the review looked at some of the research about the support needs of people without disability when they leave prison.

The review also looked at some of the research on 'offender rehabilitation.'

The problem with the 'offender rehabilitation' research is that it often focuses on the changes people can make in their lives to stop themselves from committing more crimes.

But there is evidence that this focus may not be quite right for people with disability. Instead, there is evidence that for people with disability, their support system plays a very important role when they leave prison.

We need more research on the needs and risks of people with disability who have committed serious violent or sexual offences

There is not much research about the needs of people with disability who have committed serious violent or sexual offences. There is not much research that looks at the social, communication, or disability support needs for this group. Instead, a lot of the research is about directly treating people's offending. There is also not much research about how systems need to change to better meet the needs of this group.

Because there is not much research about the needs of people who have committed these types of offences, the review also looked at research about what supports people with disability need when they have had contact with the criminal justice system, no matter what type of offence they have committed.

This research suggests that there are some supports that could be helpful like:

- positive behaviour support and different ways of managing risk
- supported decision-making with people who are not 'fit to plead' in their court cases. 'Fit to plead' means that because of their disability they cannot understand legal processes or make decisions about their case.

There are a number of risks for people with disability who have committed serious violent or sexual offences.

There is the risk that they might commit another crime, but there are also risks that they will not be able to get services, and that they will lose their human rights.

The review found there is some research on understanding risk of reoffending for people with disability who have committed serious violent or sexual offences that focuses on:

- disability specific risk assessment tools
- what role the person's environment and their support staff play in their risk of reoffending
- individual factors associated with risk of reoffending.

The research suggests that people with disability who have committed serious violent or sexual offences may benefit by having their risks and needs addressed through a range of supports and system changes.

The research suggests that people with disability need disability support that is:

- person-centred, whole-of-person and rights-based
- trauma-informed and strengths-based
- builds their skills, capacity and knowledge
- provided by highly trained and skilled staff.

The research suggests they may also benefit from:

- support that is brought together with disability-specific risk assessment and management tools
- support that promotes community participation and inclusion.

The research suggests that some changes need to be made to systems so people with disability receive appropriate disability support. These changes would make sure that:

- systems are well coordinated and work together
- Aboriginal and Torres Strait Islander communities can develop their own models of support that will work for Aboriginal and Torres Strait Islander people.

Next Steps

Because most research does not include the voices of people with disability, the NDIA has asked the Centre for Innovative Justice to do some research by interviewing people with disability who have committed serious violent or sexual offences.

The Centre for Innovative Justice will ask people with disability who have committed serious violent or sexual offences about:

- their experiences
- their needs
- what they feel will work for them.

The Centre for Innovative Justice will also talk to professionals who work with this group of people.

More information

- Read the full report on the Centre for Innovative Justice website:
<https://cij.org.au/research-projects/leaving-prison-disability-support/>
- To find out more about this research, email the Research Team.