

Disability Royal Commission
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30 May 2022

Dear Commissioners,

Addendum to Amaze submission - Ideas to improve interactions between autistic people and the criminal justice system.

Amaze works to build community understanding of autism, influence policy change for autistic people and provide independent, credible information and resources to individuals, families, professionals, government and the wider community. We are closely connected with the autistic community through our national help line Autism Connect, our peer support networks and community capacity building initiatives.

On 26 November 2021, we provided a written submission to the DRC outlining our ideas to improve interactions between autistic people and the criminal justice system. Our submission enclosed the detailed submission we provided to the Victorian Parliamentary Inquiry into Victoria's criminal justice system in September 2021. In our submissions to the Victorian Parliamentary Inquiry and the DRC, we called for the following key measures to be developed and implemented in co-design with autistic people, their families and carers:

1. An overarching autism and justice strategy to support autistic people who encounter the criminal justice system (covering autistic victims, witnesses and alleged offenders; diversions from involvement in the criminal justice system; and accessibility, supports and support systems across the entire justice system).
2. Systematic screening and data collection for autism/cognitive disability (applying at each stage of the criminal justice system, including police, courts and prison).
3. Autism accessible courts (including staff training, a Code of Practice for supporting autistic people attending court, accessible information and resources, and a guideline for creating autism accessible court rooms).

4. Autism accessible prisons and therapeutic pathways (including an autism accreditation program to support a consistent, comprehensive and transparent approach to supporting autistic people in prison).

The purpose of this addendum is to highlight and compare:

- Recommendations since made by the Victorian Parliamentary Inquiry into Victoria’s criminal justice system in its [Final Report](#), dated 22 March 2022 (“Justice Report”); and
- Recent commitments to improving the justice system in Victoria, made under Victoria’s **new [State Disability Plan 2022 – 2026](#)**, released on 13 March 2022 (“State Plan”).

Attachment A identifies and compares key recommendations in the Justice Report and commitments made under the State Plan.

We are also pleased to advise that the systematic review (led by the Global Autism and Criminal Justice System Consortium (GACJSC), funded by the International Society of Autism Research) **referred to in our initial submission has now been published. Its citation is Cooper D et al. [Policy gaps and opportunities: A systematic review of autism spectrum disorder and criminal justice intersections](#). *Autism*, 2022, 1 – 18. doi:[10.1177/13623613211070341](#)**

1. Justice Report and State Plan

We are pleased to advise that while not direct, there is some alignment between the Justice Report’s recommendations and State Plan’s commitments. For example:

- **Disability awareness:** The Justice Report recommends training for all prison staff to identify and manage behaviours associated with cognitive disabilities, and the State Plan commits to embedding disability awareness and responsiveness in the corrections workforce.
- **Independent Third Persons:** The Justice Report recommends expanding the Independent Third Person (“ITP”) program and introducing mandatory requirements for ITPs when police interview a person with a cognitive impairment. The State Plan commits to increasing awareness and the use of independent third persons.
- **Intermediary Program:** The Justice Report recommends expanding the Intermediary Program to include accused persons with a cognitive impairment, and the State Plan commits to evaluating the program and increasing the use of intermediaries.

- **Police interactions:** The Justice Report makes recommendations for the review of policies, training and specialist roles to improve police interactions and assessments of criminal -v- disability behaviours and support needs. The State Plan commits to working with people with disability to co-design initiatives under Victoria's Police Disability Action Plan.

We are disappointed that none of the following recommendations in the Justice Report were reflected in the State Plan commitments:

- Improve victim support and court facilities (including quiet and sensory rooms).
- Mandate disability screening for all people entering incarceration.
- Create a mechanism for prison staff to refer people in incarceration for disability assessment.
- Expand and promote the Corrections Independent Support Officer program.
- Provide transition support for people with disability exiting prison.
- Ensure better collaboration between the Victorian and Commonwealth governments on NDIS access and planning.

We are also disappointed that the Justice Report made no recommendations to improve access to therapeutic facilities for people with cognitive disability. While it does include general recommendations to improve access to diversion programs and therapeutic options, these recommendations are not disability specific. Nevertheless, we are very pleased the State Plan does include a commitment to improving access to therapeutic options for women and young people with cognitive disability involved in the criminal justice system, including exploring dedicated forensic disability residential treatment and specialist accommodation services.

2. Systematic review

The GACJSC's systematic review of autism and the criminal justice system demonstrates a clear need for evidence-based strategies to reduce interactions between autistic people and the justice system, and improve outcomes for autistic people that interact with the system.

It particular, the systematic review highlights:

- **Key predictors of interaction with police:** These include a lack of supports or maladaptive supports across the life span and a history of physical abuse and neglect. Autistic people that exhibit 'externalising behaviours', such as 'obsessive interests', social naivety and a misunderstanding of laws, and autistic people that wonder or go missing are also more likely to interact with police at a higher rate than their neurotypical peers.
- **High rates of police contact and poor experiences with police:** Poor experiences with police can lead to trauma, fear and a reluctance to reach out in the case of an emergency. The evidence demonstrates a lack of police access to quality autism training and resources, as well as the use of ineffective and detrimental interviewing techniques when interviewing autistic people.
- **Poor court experiences:** These can include a lack of accessible resources and adjustments for communication and sensory needs, including poorly designed courtrooms that fail to meet sensory needs. Autistic people can be disadvantaged by inaccurate perceptions of autistic people among jurors and judges, as well as a lack of autism understanding among lawyers and other legal professionals.
- **Poor experiences in correctional settings:** These settings are not designed with autistic people in mind. The evidence demonstrates that they often do not meet the sensory needs of autistic people and can create significant challenges for autistic people who cannot secure routine or structure, or self-isolate or avoid social interactions when needed. Many autistic people are victimised, with autistic people being at increased risk of self-harm in correctional settings.
- **Difficulty transitioning back into the community:** Key contributors can include poor access to formal and informal supports, a lack of access to rehabilitation programs that can reduce recidivism and a lack of access to appropriate housing.

The systematic review also identifies key intercepts and associated opportunities for policy and program reform that can support equitable justice for autistic people. These include:

- **Increase access to community services and supports, and opportunities for meaningful community participation:** This should include clearer guides and supports to help autistic people navigate mainstream systems and break down barriers to accessing community services and supports. Education and safety planning in school, and transition planning is needed to reduce criminal behaviour or perceived criminal behaviour, as well as victimisation. Increased opportunity for community participation strengthens ties to the community and services.
- **Reduce contact with law enforcement:** Emerging evidence demonstrates the benefits of alternative responder models, such as the use of mental health teams to determine whether police presence is needed.
- **Autism appropriate police interview strategies:** Appropriate interview strategies enable autistic people to provide detailed and accurate testimony. While more research is needed, these may include adjustments to questioning techniques, utilizing sketching and using trained and impartial intermediaries.
- **Autism accessible courtrooms:** These would include simple modifications to reduce sensory overwhelm and stress, as well as adjustments to support effective communication (including the use of intermediaries). Utilisation of expert witnesses in court may also dispel stereotypes and myths about autism.
- **Safe custodial settings and diversion to appropriate community settings, including use of a standardized autism screening tool:** Outcomes for autistic people will be improved through diversion away from incarceration and towards mental health and disability services, and other treatment options. Further research is needed to develop a standardized screening tool to identify autistic people and alert correctional officers and staff that further assessment and alternative services, supports and settings may be needed. Safe custodial settings must meet the sensory needs of autistic people and may include specialised units. Further research is needed into how these units may be adapted to meet sensory needs.
- **Access to supports post prison to reduce recidivism:** While further research is needed, this may include support to access mainstream services and improved access to residential facilities and rehabilitation programs specifically adapted to meet the needs of autistic people.

Across all of these intercepts and in co-design with autistic people, the evidence also supports the development of tools to more easily identify autistic people entering each stage of the justice system and increasing access to quality autism training (for police, courts and corrections).

Please contact me by email at Nicole.rees@amaze.org.au if you have any questions or would like further information. We would also be pleased to attend any future public hearings on these matters.

Yours sincerely,



Nicole Rees

Deputy CEO | Executive Manager, Policy & Advocacy.

Attachment A

Comparison by Amaze of Victoria’s Justice Inquiry recommendations and Victoria’s State Disability Plan 2022-26 commitments.	
Recommendations	Commitments
Victoria’s Parliamentary Inquiry into Victoria’s criminal justice system – Final Report, released 24 March 2022.	Victoria’s State Disability Plan 2022 – 2026
<p>Data collection and reporting</p> <p>Improve data collection and reporting (recommendation 1). However, it contains no specific recommendations to improve data collection regarding the numbers of people with disability throughout the justice system, broken down by disability type.</p>	<p>Commitments to improving data collection under the State Disability Plan, however it includes no justice specific commitments.</p>
<p>Victoria Police</p> <p>Victoria Police review its disability policies, training programs and specialist roles to ensure they equip police officers with the knowledge, skills and support they need to distinguish between criminal and disability behaviours, and consider whether an alleged offender, witness or victim would benefit from reasonable adjustments and/or access to specialist advice or support such as the Independent Third person Program. (Recommendation 21)</p>	<p>Commitments to:</p> <ul style="list-style-type: none"> ➤ Working in partnership with Scope Australia to provide police with the knowledge and skills to improve interactions with people with complex communication needs. (3.5.15) ➤ Updating and promoting the Voluntary Disclosure Process. This process allows people with disability to give police information about their support needs and about how police can best engage with them. (3.5.16) ➤ Establishing a network of police employees with knowledge and understanding of disability to champion good practice and services that respond to the needs of people with disability. (3.5.17) ➤ Working with people with disability to co-design initiatives under the Victoria Police disability action plan. (3.5.18)

<p>Independent Third Person program</p> <p>Mandate that Victoria Police seek the attendance of an Independent Third Person (expanding and embedding the Independent Third Person Program into Vic Pol practices) when interviewing a person with a cognitive impairment or mental illness. (Recommendation 22)</p>	<p>Commitment to working with victims' services and the Office of the Public Advocate to increase policy awareness and use of intermediaries and independent third persons. (3.5.19)</p>
<p>Intermediary Program</p> <p>Expand the Intermediary Program, including that the government 'consider' expanding the program to accused persons with a cognitive impairment [currently the program only applies to victims and witnesses of crime with communication difficulties]. (Recommendation 31)</p>	<p>Commitments to:</p> <ul style="list-style-type: none"> ➤ Providing the Intermediary Program and consulting with people who use the program to undertake an impact evaluation and ensure their feedback informs future service development. (3.5.11) ➤ Working with victims' services and the Office of the Public Advocate to increase policy awareness and use of intermediaries and independent third persons. (3.5.19)
<p>Court facilities</p> <p>Victorian Government fund courts to update their facilities to improve standards in victim safety and wellbeing, including dedicated quiet or sensory rooms. (Recommendation 39)</p>	
<p>Victim support</p> <p>Victorian Government commit to improving the delivery of victim support services for people with disability. (Recommendation 42)</p>	

<p>Disability screening</p> <p>Victorian Government conduct a trial screening program assessing all people entering incarceration – on remand or a custodial sentence – for physical, cognitive and intellectual disability, to inform the provision of reasonable adjustments and support in prison and following release (including connecting people identified with disability during screening to appropriate social supports including the NDIS prior to release back into the community with follow up after release). (Recommendation 75)</p>	
<p>Prison staff training</p> <p>Victorian Government ensure that all staff working in privately and publicly owned prisons undertake training to identify behaviours associated with physical and cognitive disabilities, and manage these behaviours through the provision of appropriate supports, rather than the utilisation of punitive measures. (Recommendation 76)</p>	<p>Commitment to embedding disability awareness and responsiveness in the corrections workforce. (3.5.3)</p>
<p>Disability assessment</p> <p>Victorian Government establish a mechanism for prison staff to refer people in incarceration who exhibit behaviours possibly related to undiagnosed disabilities for professional independent assessment, with the outcome of the assessment informing implementation of appropriate adjustments or supports, to ensuring prison conditions are conducive to rehabilitation. (Recommendation 77)</p>	
	<p>Service integration</p> <p>Commitment to driving integration across the corrections system (custodial and community) with other agencies including the Forensic Disability Program and the NDIA.</p>

<p>Diversion programs and therapeutic options</p> <p>Improve access to diversion programs and therapeutic options [however no disability specific recommendations]. (Recommendations 13, 68, 69)</p>	<p>Commitment to improving access to appropriate therapeutic options for women and young people with cognitive disability involved in the criminal justice system. This will include exploring dedicated forensic disability residential treatment and specialist accommodation services. 3.5.4</p>
<p>Co-design</p> <p>No disability specific recommendations, refers to existing Victoria Police reference groups.</p>	<p>Commitments to:</p> <ul style="list-style-type: none"> ➤ Fostering mechanisms to co-design and continually improve policies, programs and services with people with cognitive disability with lived experience of the criminal justice system through the Forensic Disability Program. (3.5.5) ➤ Working with people with disability and partner organisations to better understand the prevalence, characteristics, pathways and experiences of people with disability involved in, or at risk of involvement in, the criminal justice system through the Forensic Disability Program. (3.5.6) ➤ Convening the Disability Justice Operational Forum four times a year. The forum will provide a collaborative environment for Victorian and NDIS stakeholders working at the operational level to regularly meet with people with disability who have experience of the justice system to learn together, share resources and identify ways to consider the voice of lived experience in policy and service design. (3.5.7)
<p>Children and young people</p> <p>No disability specific recommendations, however it does recommend investing in community based services that address the factors underpinning criminal behaviours of children and young people. (Recommendation 11). It also recommends a range of other (non-disability specific) reforms to improve the justice system for children and young people, and divert them from the justice system. (Recommendations 4, 8, 9, 24, 25 and 62)</p>	<p>Commitment to establishing a Disability Advice and Response Team (DART) within the Children’s Court of Victoria. DART will provide on-the-spot advice to the court in relation to a young person’s disability and the support they require, with the aim of diverting the young person out of the justice system at the earliest point. An Aboriginal DART worker will be available to the Koori Children’s Court and at Marram-Ngala Ganbu (Koori Family Hearing Day). (3.5.9)</p>



	<p>Forensic Disability Program – accessible information</p> <p>Commitment to developing accessible information for clients in the Forensic Disability Program in formats appropriate to their needs. This will support them to better understand their rights and responsibilities and to participate in decisions related to them including treatment and behaviour support plans. (3.5.12)</p>
<p>Justice for Aboriginal people</p> <p>No disability specific recommendations to improve the justice system for Aboriginal people with disability. However, there are a number of recommendations aimed at improving services for Aboriginal people and addressing the factors leading to the overrepresentation of Aboriginal people in the criminal justice system. (Recommendations 14, 16, 37)</p>	<p>Commitments to:</p> <ul style="list-style-type: none">➤ Working with Aboriginal community partners to enhance responses to Aboriginal people with disability under the Victorian Aboriginal Justice Agreement through developing its next phase. (3.5.13)➤ Embedding cultural safety in all aspects of the Forensic Disability Program’s services and promoting opportunities for self-determination for Aboriginal residents. This will include access to support from the Aboriginal liaison officer and exploring options for Aboriginal community-controlled specialist forensic disability accommodation services for adults and young people. We will increase police workforce capability to better serve people with disability. (3.5.14)
<p>The Report also recommended that Government consider the following:</p>	
<p>Assessment and Referral Court list</p> <p>Expand the Magistrates Court Assessment and Referral Court list (which provides a therapeutic response to accused people who have a mental illness and/or cognitive impairment, and has demonstrated success in supporting them to address the underlying causes of their offending), including review of its eligibility criteria. (Recommendation 64)</p>	



<p>Corrections Independent Support Officer program</p> <p>Expand and promote the Corrections Independent Support Officer program to all people in incarceration with diagnosed or suspected disabilities. (Recommendation 78)</p>	
<p>Transition support</p> <p>Increase funding and other resources available to community-based services that provide disability support to assist people exiting prison to reintegrate back into the community. (Recommendation 91)</p>	
<p>NDIS</p> <p>Victorian and Commonwealth governments work together to clarify and resolve definitional issues within the Applied Principles and Tables of Support which are inhibiting NDIS funding for incarcerated people with disabilities, and ensure that NDIS plans for incarcerated people with disabilities can be finalised without the need for a confirmed release date.</p>	