



Royal Commission
into Violence, Abuse, Neglect and Exploitation
of People with Disability

Research Report

Police responses to people with disability

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Table of acronyms

Acronym	Explanation
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AAP	Accessibility Action Plan
ACPO	Aged Crime Prevention Officers
ADVO	Apprehended Domestic Violence Order
AFP	Australian Federal Police
AHRC	Australian Human Rights Commission
ANZPAA	Australia New Zealand Policing Advisory Agency
ARC	Ability Rights Centre
AVO	Apprehended Violence Order
CAAPP	Communication Access Accreditation Police Project
CAHOOTS	Crisis Assistance Helping Out On The Streets
CAIT	Child Assessment and Interview Team
CALD	Cultural and Linguistically Diverse
CIDP	Cognitive Impairment Diversion Program
COPS	Computerised Operational Policing System
DAC	Disability Advisory Committee
DAIP	Disability Access and Inclusion Plan
DAP	Disability Action Plan
DJLO	Disability Justice Liaison Officer
DPFEM	Department of Police, Fire and Emergency Management (Tasmania)
DPRG	Disability Portfolio Reference Group
DSP	Disability Service Plan
DV	Domestic Violence
EEO	Equal Employment Opportunities
FASD	Fetal Alcohol Spectrum Disorder
IDRS	Intellectual Disability Rights Service

Acronym	Explanation
ITP	Independent Third Person
IVWP	Interviewing Vulnerable Witness Program
JAS	Justice Advocacy Service
LAC	Local area coordinator
LEPRA	Law Enforcement (Powers and Responsibilities) Regulation Act
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex or Questioning
MHCR	Mental Health Co-Response
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NTPFES	Northern Territory Police, Fire and Emergency Services
OOHC	Out of Home Care
OPA	Office of the Public Advocate
OPM	Operational Procedures Manual
PACER	Police, Ambulance and Clinician Early Response
PINOP	Person in Need of Protection
PLO	Police Liaison Officer
PPR	Police Powers and Responsibilities
PROMIS	Police Records Online Management Information System
PSM	Police Services Model
QPS	Queensland Police Service
SAPOL	South Australia Police
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VEOHRS	Victorian Equal Opportunities and Human Rights Service
VPeR	Victoria Police electronic Referral
VPM	Victoria Police Manual
WAPF	Western Australia Police Force
WCAG	Web Content Accessibility Guidelines

1. Introduction

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission) has heard that people with disability are represented disproportionately as victims, offenders and witnesses in the criminal justice system and are at greater risk of violence, abuse, neglect and exploitation than people without disability. This project targets critical knowledge and practice gaps to build the Royal Commission's knowledge and evidence base about police processes, interactions and responses to people with disability, and how they can be improved. Doing so will directly assist the Royal Commission in making evidence-based recommendations about what governments, institutions and the community can and should do to improve police responses to victims, alleged offenders and witnesses with disability and so help to reduce or prevent violence, abuse, neglect and exploitation.

The project overall aims to:

- build the Royal Commission's knowledge and evidence base of police responses to people with disability in Australia
- take an evidence-based approach in examining good police practice and innovative models of reporting, investigating and responding to violence against, and abuse, neglect and exploitation of people with disability
- consider police responses that increase the risk of, or prevent violence, abuse, neglect and exploitation of people with disability
- examine innovative models/alternatives to police as first responders, and
- consider the particular experiences of culturally and linguistically diverse and First Nations people¹ with disability.

The project utilises 4 different activities which together provide evidence to achieve its purpose.

1) *Literature review* which aims to:

- examine and synthesise Australian and relevant international scholarly literature, reports and submissions on police practice and disability, and on innovative models/alternatives over the past 20 years.
- provide a framework for contextual analysis and interpretation of the case studies compiled by project partners; and
- guide targeted consultations with disability advocates, support workers and police persons.

2) *Desktop review* of current police policy and practice which aims to:

- map national data with regard to police responses to people with disability
- collect and assess Australian police jurisdictions' legislative, policy and practice commitments regarding interactions with people with disability.

¹ The term First Nations people is used throughout the report to refer to Australia's Indigenous people. Where quoted sources utilise other terms such as Aboriginal or Indigenous, or where the names of services or entities utilise these terms, the original has been retained.

3) *Compilation of case studies* which aims to:

- draw on the experiences of individual people with a range of disability types and across the life-course about their interactions with police as victims, alleged offenders and witnesses of crime
- explore and exemplify key issues, challenges and opportunities in police responses to people with disability
- contextualise insights from the literature and identify evidence-informed recommendations.

4) *Consultations with disability advocates, support and police persons* which aims to:

- examine the experiences and views of leading practitioners working with or on behalf of people with disability in their interactions with police
- draw insights from the field regarding key practice and systemic issues
- contextualise insights from the literature and identify evidence-informed recommendations.

2. Literature Review

This chapter examines and synthesises key insights from Australian and relevant international scholarly literature, reports and submissions over the past 20 years about: (1) the nature of police responses to people with disability; (2) improving police responses to members of this group; and (3) innovative models and alternatives to the use of police as first responders. It draws on sources that are critically informed and which recognise the impact of intersecting and compounding forms of social-structural disadvantage and other factors such as race, gender and sexuality that make disadvantaged and minoritised people with disability more likely to interact with police, as victims, alleged offenders or witnesses. Emphasis is given to sources written, or explicitly informed by people with disability, disability organisations and disability and justice researchers, activists and advocates.

Criminologists and disability scholars have been slow to consider disability in relation to criminal justice more broadly, and policing in particular.^{1, 2, 3} This review applies both a scoping⁴ and integrative⁵ framework to develop an understanding of the experiences of people with disability who come into contact with the police. Case studies are included throughout to illustrate the nature and impact of the various themes identified, and where relevant, the voices of people with disability who provided evidence to the Royal Commission highlight the effects of policing practices on people with disability. (See Appendix A for a list of case studies).

2.1 People with disability in contact with police

People with disability come into contact with the police as alleged offenders, victims or witnesses to crime. In addition to policing crime, people with disability are also subject to interactions with police via community-based policing associated with welfare checks, where police are requested to attend a person either in their home or in the community to confirm their health and safety. A further form of police contact for people with disability is in responding to reports of the person as a missing person, commonly associated with staff in disability residential settings calling police as a result of residents leaving or failing to return to those settings. No definitive data is available in Australia regarding the frequency, extent or nature of policing in relation to people with disability and very few studies address the issue (see section 3.4 for a discussion of this in relation to the capacity of police to capture disability status). This does not mean that police contact is unusual, instead it has been recognised as both frequent and inadequate.^{6 7} Two decades of successive government inquiries, empirical research and scholarship have highlighted that contact with agencies in criminal justice systems (including police, courts and corrections) is far more likely to occur for particular groups of people with disability. Specifically, this includes alleged offenders with cognitive disability, particularly First Nations people with cognitive disability, women with disability experiencing violence, and people with co-occurring cognitive disability, psychosocial disability and other disabilities such as hearing impairment – all of whom also commonly experience multiple and interlocking support needs and social and cultural disadvantage.

While people with other forms of disability may face additional barriers in accessing the justice system more generally, the literature is largely focused on the experiences of these particular

groups because they most frequently interact with police as first responders. There is also a very significant body of literature focusing on police responses to people with mental illness. This literature does not take a disability informed approach but rather focuses a medicalised and procedural lens on policing. In order to manage the scale of this review, issues that relate to the presence of psychosocial disability as an additional factor for disadvantaged people with disability who come into contact with police is considered, but those focused on mental illness alone are outside scope.

2.1.1 Characteristics and prevalence

The majority of people with disability who come into contact with criminal justice systems have some form of cognitive disability, including intellectual disability; acquired brain injury (including those related to traumatic brain injury e.g. assaults, motor vehicle accidents; and those related to a non-traumatic brain injury e.g. substance abuse, stroke, illness), autism spectrum disorders and fetal alcohol spectrum disorders.⁸ Significant problems with identification of disability, measurement and differing definitional and inclusion criteria used in criminal justice agencies make estimates of the prevalence of cognitive disability amongst people in contact with criminal justice systems likely to be understated.⁹ There is however widespread consensus that people with cognitive disability are grossly overrepresented in all western prison jurisdictions. Australian and international data indicates that up to 15% of prisoners have an intellectual disability, while 25-30% of prisoners are estimated to have a borderline intellectual disability.¹⁰ In the general Australian population, 2.9% of people have an intellectual disability.¹¹ Some 18% of young people in custody in NSW have an intellectual disability and between 39-46% have a borderline intellectual disability.¹² Both rates are significantly higher for Indigenous children and young people. For example, some 25% of Indigenous young people in custody have an intellectual disability.¹³ In the Australian state of Victoria, 33% of women and 42% of men in prison have an acquired brain injury, compared with just 2% in the general Australian community.¹⁴

The majority of criminalised people with cognitive disability have co-morbid or co-occurring mental health and substance abuse issues^{15 16} and so are also likely to experience psychosocial disability. They also experience multiple and intense forms of disadvantage, including high levels of victimisation, homelessness, poverty, poor health and violence.¹⁷ First Nations people are disproportionately represented in this group particularly due to the legacies of colonisation and a lack of culturally safe services which give rise to poorer social, economic, health and educational experiences.¹⁸ This combination of issues experienced by people with cognitive disability results in what is commonly referred to as cumulative¹⁹ or corrosive²⁰ social disadvantage or complex needs.²¹ The existing body of evidence shows that there is no inherent link between disability and 'offending',²² nor is there any validity in the supposition that some features of cognitive disability are themselves characteristics of so-called criminality.²³ Instead, it has been suggested that, far from neutral, the systematic criminalisation of this group results from a constellation of factors, including the impact of frequent and intense policing.²⁴ Criminalisation is more than being made subject to the criminal label.²⁵ It is an institutionalised *process* through which certain acts and behaviours are labelled as 'crimes' and subsequently policed and punished, all of which is influenced and contextualised by the determining contexts of social class, dis/ability²⁶, race, gender, age and sexuality.^{27, 28}

2.1.2 The victim-offender dichotomy

The demarcation between victims and offenders with disability is not at all clear.^{29, 30} While many people with disability who are victims are not also criminalised, the majority of criminalised people with disability have been victims of frequent and recurring forms of violence^{31 32}, including state-sanctioned forms of violence in institutional settings, such as Out of Home Care (OOHC).^{33, 34} The vast majority of these are not reported to police, or in the rare cases that they are, they are not responded to appropriately.³⁵ Unresolved trauma is therefore very common in the lives of criminalised people with disability,³⁶ and for First Nations people, the impact of intergenerational trauma has been well established.^{37, 38} There is a strong body of evidence that illustrates the nexus between individual experiences of unresolved trauma past and present (including intergenerational trauma), on the criminalisation of women³⁹ and other marginalised groups,⁴⁰ and particularly First Nations people.^{41, 42}

Evidence shows that there is a strong correlation between various forms of victimisation and survival techniques that are frequently labelled as offending behaviour.⁴³ As researchers employing an intersectional analysis have revealed in relation to criminalised women, so-called criminal conduct is frequently resistance and survival responses to the many forms of victimisation to which they have been exposed.^{44, 45} The literature points to the need to challenge the dichotomisation between victim and offender for criminalised people with disability in order to achieve justice for them. This requires that the full context of their 'offending' behaviour is properly addressed. This context is demonstrated below in Michael's lifelong experiences of disadvantage and criminal justice contact and the importance of appropriate and timely support.

Michael

Michael is a middle-aged man who has a mild intellectual disability characterised by poor communication and social skills. He was in special classes throughout his schooling. He also experiences severe depression marked by suicidal ideation on an ongoing basis. As a child Michael lived with his stepfather, at whose hands he suffered regular and ongoing sexual abuse. He struggles with self-care and is on a Disability Support Pension. He has no family support other than a younger nephew. He has no community support or treatment for his mental health conditions. Despite these challenges, Michael has worked sporadically as a labourer.

Michael was convicted over a decade ago and sentenced to a community-based order in respect of an offence of possessing child abuse material. This led to his automatic registration as a child sex offender. Around this time, a cognitive assessment diagnosed Michael as being in the lowest 1% of the population in terms of intelligence.

As part of his obligations as a registered child sex offender, Michael was required to report to police regularly and to submit to regular inspections of his home. During one such inspection police interviewed Michael in the absence of a support person about

whether he had accessed child pornography. Michael made several admissions, as a result of which he was arrested and taken to the police station. At the station, police recorded that he had an intellectual disability but decided not to organise a support person, describing him as 'quite articulate and intelligent however he is at times slow to process information'.

Michael pleaded guilty to further offences and was sentenced in the District Court. The Sentencing Judge noted Michael's intellectual disability was readily apparent from observing him. He was scathing of the police decision to proceed to interview Michael twice without a support person in the face of his apparent disability and the requirements of the NSW Law Enforcement Powers and Responsibilities Act (LEPRA), to which very perfunctory regard, if any, was had by police.

Fortunately, Michael was assisted through the court proceedings by a case manager and comprehensive support plan provided by the Intellectual Disability Rights Service (IDRS). The IDRS helped Michael apply to the NDIS and organised a range of community and case management supports to reduce his risk of reoffending. This included psychological, occupational and speech therapies and mental health support. This was the first time that Michael had ever been assisted in this way. Reassured by these measures and noting that Michael's offending was at the lower end of objective seriousness, Michael was sentenced to a supervised community-based order.

However, as a result of funding of IDRS being reduced, Michael lost the vital case management service it had provided. The loss of this support and the advent of COVID-19 meant that Michael was unable to attend appointments required under his support plan. He was prohibited from accessing the internet as part of his sentence and was therefore unable to attend on-line appointments and was also unable to access phone supports as a result of his communication difficulties. Due to loss of this support, his NDIS application languished. As a result, Michael did not receive the support he needed. As a registered sex offender, he was under regular police surveillance. He was arrested and charged in 2020 for failing to comply with his reporting obligations under the Child Protection (Offenders Registration) Act 2002.

At the police station Michael was initially supported by his young nephew, who himself has learning difficulties and so not an appropriate support person. Despite (1) a formal diagnosis of intellectual disability, (2) police recording that Michael had previously appeared at court with a Justice Advocacy Service (JAS) support person and (3) the prior judicial criticism of the police's interaction with Michael, police were sceptical about Michael's disability. In documents provided to the court, police described Michael's impairment as 'a façade' and accused him of exaggerating his disability.

Michael did not defend the charges and was sentenced to full time custody. He has no NDIS plan, no community supports on release and is now homeless.

[Case study provided by Legal Aid NSW]

Michael's experience provides a stark example of the ways in which early life victimisation and disadvantage combined with the presence of disability results in the need for multiple forms of support which, if not effectively addressed, lead to ongoing enmeshment in the criminal justice system and inappropriate incarceration. The service compiling Michael's case sees many clients like Michael whose underlying cognitive impairment has made them more vulnerable to sexual abuse, neglect and dysfunction. Like Michael, many then go on to commit low level offences which, in the absence of appropriate support and/or treatment, cascade to repeat offending and inevitable jail terms. Michael's experience highlights the importance of understanding that the majority of people with disability who come into contact with police have experienced trauma and/or abuse, that a support person must always be called and be present when police are interacting with a person with disability, that police information systems should flag that a person has disability and this should be taken seriously by police and that services, like IDRS, providing support to people with disability should be properly resourced to do so.

2.1.3 Causes of police contact

The overrepresentation of police contact with criminalised people with disability has its roots in extreme forms of social-structural injustice, including colonialist, racist, gendered and ableist ideologies.^{46, 47} Without appropriate support in the community or alternative pathways, criminalised people with cognitive disabilities are routinely and systematically forced into criminal justice interventions and institutions that are rarely supportive of persons with disability. The trajectory of members of this group into criminal justice management is often driven by factors such as intergenerational poverty, histories of child abuse and trauma, exclusion from schooling and employment, drug and alcohol use, and homelessness.⁴⁸ Furthermore, in the absence of crucial through-care⁴⁹ and support in the community, after exiting prison, prisoners with cognitive disability are re-incarcerated at more than double the rate of those prison releasees without cognitive disability.⁵⁰

2.2 The context for police responses to people with disability

The Disability Royal Commission, in its hearings, has heard about a range of issues that people with disability experience in their dealings with police. Primary among these is the observation that, despite experiencing significant forms of police violence and brutality, in the absence of appropriate social support services, people with disability may be forced to seek help from the very people and institution causative of that harm.

Dr Kerri Mellifont QC (DRC Senior Counsel Assisting): Was it hard for you to go to the police?

Dorothy Armstrong (DRC Witness): In a way, it seemed a bit like insanity, because, like *I didn't have anybody else*. But I had already been ... I had already been really quite injured by, you know, certain police officers, but I didn't have anyone else to ... I didn't have anyone else to go to.⁵¹

2.2.1 Policy context

Understanding contemporary police responses to people with disability is contingent on understanding the policy context in which it occurs, and on an examination of the culture of policing. Two key policy shifts over the past 30 years have influenced the nature of police responses to disadvantaged, minoritised and vulnerable groups, including people with disability.⁵² The first is the record expansion of both the size and remit of the modern police force. In NSW for example, the state police force was awarded a \$4.4 billion budget for the 2018-2019 financial year – the most substantial increase in 30 years.^{53, 54} The primary focus of police work now goes beyond law enforcement.⁵⁵ In particular there has been growth in the use of the police as the key means to maintain social control and order,⁵⁶ as a ‘solution’ to growing social and economic problems,⁵⁷ and most significantly for the focus of this report, to control and regulate ‘difference’⁵⁸ via the criminalisation and punishment of relatively non-serious behaviours and activities.⁵⁹ Police are now regularly called on to de-escalate behavioural health crises and distress, respond to increasing homelessness, and act on disciplinary concerns in OOH and disability group homes.^{60, 61, 62, 63} In this sense police officers have become the ‘carers’ of last resort,⁶⁴ and the leading agency in ‘managing’ disadvantaged people with disability,⁶⁵ particularly in the public sphere. As some police officers themselves have reported,⁶⁶ this is not ‘their training area, nor do they have the credentials to do that’.⁶⁷ While it is generally accepted that police serve a necessary function, there is no evidence that the impact of police force expansion has increased community safety,⁶⁸ nor has it been effective in preventing crime.⁶⁹

The second simultaneously occurring shift in Western neo-liberal states like Australia is the reduction of welfare provision as a central state function.^{70, 71} In the wake of deinstitutionalisation, the impact of this shift – including the devolution of the safety net, cuts in public services, erosion in living wages, and policies that make affordable and accessible housing out of reach – has contributed directly to the continuing failures of the policy of deinstitutionalisation for successive generations of disadvantaged and minoritised people with disability.^{72, 73, 74, 75} As Dorothy Armstrong’s testimony above makes clear, as long as services and supports remain under-resourced in the community, ‘there will be a demand for police to respond’.⁷⁶ It is however widely acknowledged that what disadvantaged people with disability require is compassionate and responsive social, health, housing and/ or disability-related services and support.^{77, 78} While it is currently the case that this support is not available when people need it, the fact that people are calling the police to access social, health, and disability-related care ‘is untenable’.⁷⁹

2.2.2 Police culture

Government inquiries, media reports, and research over the past two decades have drawn attention to the negative aspects of police culture within police forces across Australia and internationally.^{80, 81, 82, 83} It is widely acknowledged that these systemic cultural concerns are in part attributable to, and exacerbated by, the power, training and socialisation of police.^{84, 85,}
⁸⁶ They are also ‘baked into the institution of policing itself’.⁸⁷ Understanding the origins and

history of policing is critical to appreciating the continuity of the negative aspects of police culture.⁸⁸ Policing is an inherently 'political activity',⁸⁹ and since its earliest origins in Australia has been pivotal in colonial expansion, maintaining slavery, and the expropriation and control of First Nations people.^{90, 91} The historical continuity of colonial forms of policing are seen in the present day for example, in the expansion of police powers of arrest, over-policing, harassment and deaths in custody.⁹² That police are now provided with military-grade weapons⁹³ has further valorised aggressiveness, force and violence in what has been described as 'militarised masculinity'.⁹⁴ The impact of these negative aspects of policing culture are particularly heightened for disadvantaged, minoritised and vulnerable groups, including people with disability, the majority of whom are over-policed.^{95, 96, 97}

2.3 The nature of police responses to people with disability

Although the differential and unjust treatment of people with disability in *prison* is increasingly well-documented,^{98, 99, 100, 101} limited attention has been devoted to understanding the nature of *policing* in relation to people with disability. Several key themes about the nature of this contact are evident in the literature.

2.3.1 Negative assumptions and discriminatory attitudes

In 2014, the Australian Human Rights Commission's (AHRC) seminal report described the nature of police contact with people with disability as being 'marked with the range of societal fears, prejudices and discrimination' that are all too common in the lives of people with disability.¹⁰² Importantly negative attitudes, assumptions and stereotypes occur in the context of the dynamics and extreme power differentials experienced by people with disability when reporting crime, witnessing crime or being accused of crime. For members of this group, negative police attitudes and discrimination frequently results in police viewing people with disability as lacking credibility and/or reliability. For victims with disability in particular, this often means that police do not proceed with charges. As one participant told the AHRC,

It felt like they [police] were using my disability to discredit me, not help me.¹⁰³

Such attitudes, discrimination and stereotypes about people with disability frequently result in the fundamental right of access to justice for people with disability being denied.¹⁰⁴

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) identified similar experiences for people with disability reporting crime, where 'negative attitudes among police toward people with disabilities are commonplace'.¹⁰⁵ Interviews with police officers revealed that derogatory language, negative or paternalistic stereotypes and a 'what's the point?' attitude has, in some cases, become the norm.¹⁰⁶ Junior police reported feeling unable to challenge this culture, especially when such attitudes are expressed by officers in superior ranks.¹⁰⁷ People

with disability who are victims of crime consistently reported fearing that they won't be believed, or will be viewed as lacking credibility when they report a crime.¹⁰⁸ Unsurprisingly, many people with disability who are victims of crime do not believe that the police will protect them,^{109, 110, 111} and as a result many are reluctant to seek help or protection from the police.^{112, 113} Research from the UK suggests that the attitudes of police officers are crucial in determining how they make decisions regarding people with disability in general, and criminalised people with cognitive disabilities in particular.¹¹⁴ As one police officer stated,

If he has done it and just because he is not bright enough to have an intelligent argument about whether he is guilty or not, does it matter? If he is guilty and he has done it and he couldn't defend himself cause he wasn't bright enough to. Okay you did it, go to prison.^{115, 116}

Joseph's experience, set out below, demonstrates the risks for people with disability when they are subject to unnuanced responses by police which do not take into account the presence of disability.

Joseph

Joseph is a 32-year-old man who has intellectual disability and communication difficulties. He experiences significant anxiety, for which he takes medication. He lives with 3 other men of similar age in a group home in a Sydney suburb and is an NDIS participant.

Joseph is capable of independently and reliably walking to the corner shop near his home and returning. He does this most afternoons. He usually returns to the group home within 20 minutes. One Friday night Joseph had not returned to the group home after being away for over 45 minutes. A staff member went out to look for him, searching the immediate area but there was no sign of Joseph. The police were called to help find Joseph. The police were told that Joseph's file noted a history of 'absconding' and he could be aggressive. Joseph had never 'absconded' from his current home.

Three police attended with a police dog and conducted a further search of the area. After 75 minutes, the police located Joseph sitting on a step outside the post office. When he saw the police and the dog coming towards him, Joseph panicked. He tried to get away when the police called out to him. In his efforts to get away, Joseph kicked the police dog. He did not understand that the police had come to find and help him. His reaction was one of fear and flight.

The police held Joseph down until he stopped struggling and then took him to the police station. He continued to strike out at them and had to be restrained in the car. One of the staff from the group home went to the police station to collect Joseph. Joseph was in the custody area. Police were in the process of charging him with assaulting police and cruelty to an animal.

The police had not called for a support person. The group home staff person waited and transported Joseph home but took no other role at the police station.

Joseph's family sought legal advice from IDRS solicitors. The solicitor wrote to the police arguing that the police should consider Joseph's disability, anxiety disorder, his lack of understanding of the situation and his fear of the dog and should drop the charges against him.

This request was denied by the police and Joseph's matter proceeded through the court. Joseph had no understanding of the court process. The IDRS solicitor represented him and successfully applied for a diversionary order under Section 32 Mental Health (Forensic Provisions) Act 1990 (NSW). The magistrate did not attach any conditions to the diversionary order. The court process ran over 3 months.

[Case study provided by the Intellectual Disability Rights Service NSW]

Joseph's experience highlights the ways that traditional policing responses, even in the absence of an alleged offence (such as being absent from a group home), can be driven by a lack of knowledge, experience or willingness to alter their approach to someone with disability, even when that information is available to them. Heavy handed police responses can very clearly escalate risks for a person with disability. These include the risks of 'fight or flight' behaviours, risks to the personal safety of the person and importantly the risk of criminalisation, where minor issues result in charges against a person with disability for what might be understood as minor 'offending' but which is, in essence, for behaviour that police themselves provoke. Joseph's experience underscores the need for alternative first responders other than police in cases concerning a person with disability, where police are able to call in a disability specialist or alternative first responder.

Women with cognitive disability who have experienced sexual violence are particularly at risk of negative stereotyping by police. Research with police officers showed two consistently held myths about these women; that they are promiscuous and that their story is not credible.¹¹⁷ Research examining 850 police records of rape allegations found that cases involving victims with a cognitive disability or a mental health problem were least likely to result in charges against the offender, and twice as likely to be determined by police as false.¹¹⁸ Similarly a study from New Zealand examining 164 cases of sexual assault and rape found only 13 per cent of all complaints made by victims with intellectual disability or people with mental health problems were regarded as genuine by police.¹¹⁹ Given that women with disability are thought to be between 4 and 10 times more likely to be victims of sexual violence,^{120, 121} and that between 39 and 60 percent of women with cognitive disability will be sexually assaulted before the age of 18,¹²² there is significant concern that people with disability who are victims of sexual violence and other forms of violence, abuse, neglect or exploitation are far less likely to report the crime to police.^{123, 124} While lack of confidence in the capability of police to provide an appropriate

response is one factor in this poor record of reporting,¹²⁵ the underlying and compounding issues of ableism and sexism in police responses^{126, 127} continue to drive the routine dismissal by police of women complainants with cognitive and/or psychosocial disability who have experienced sexual violence, as Jessica's experience below exemplifies.

Jessica

Jessica is a 19 year old woman who has intellectual disability living in supported accommodation in a regional community. Jessica struggles in her communication at times, particularly when in a stressful environment. Jessica's aunty reported to police on Jessica's behalf that she had been a victim of sexual assault from a neighbour who she had recently become friends with.

Police met with Jessica and advised her aunty that due to Jessica's communication difficulties they would not be able to obtain a statement from her and would not be able proceed with an investigation. Police also commented that Jessica has reported being sexually assaulted numerous times before, none of which have resulted in any charges being laid against anyone.

Jessica's aunty contacted the Justice Advocacy Service (JAS) for support as she felt that the police had not taken this matter seriously. JAS contacted the Officer in Charge of the case and encouraged the officer to contact Victim Services NSW to make an 'out of project' request for assistance from a witness intermediary. The Witness Intermediary Scheme is available in child sexual assault matters for people who live in Sydney or the Hunter. The role of the witness intermediary is to assess child victim communication needs and inform police and the court of the best ways to communicate with the child.

Although Jessica was ineligible for this service due to her age and where she lives, JAS advocacy resulted in Victim Services agreeing to make an exception and assist Jessica. The JAS advocate had identified this avenue to achieve Jessica's goal of making a statement to police, when Police themselves were unaware that such a service existed and was available to assist them in these types of matters. JAS maintained communication with Jessica, Jessica's aunty, the witness intermediary, and the Officer in Charge, to ensure Jessica was supported and offered the opportunity to tell her story.

On the appointment of the witness intermediary, police interviewed Jessica in the presence of the witness intermediary who was a speech pathologist and who was able to facilitate Jessica's communication with police. Jessica was able to give details about what had happened and who had assaulted her. Jessica said in the past that she felt police thought she was making things up and didn't take her seriously.

The police went out and spoke to the alleged perpetrator and took out an Apprehended Violence Order forbidding any type of contact with Jessica. JAS was able to explain to Jessica the rules of the AVO including that this person was not allowed to talk to her or come anywhere near her. They also told her what she needed to do if this person broke the rules.

[Case study provided by the Intellectual Disability Rights Service NSW]

Jessica's experience highlights the barriers women with cognitive disability face in having their allegations of sexual assault effectively acted upon by police. Her experience underscores the importance of police being aware of and required to contact an appropriate support service who can assist with specialist knowledge and skills. In particular, recognising when a person needs assistance with communicating their experience or complaint is a crucial responsibility of police. The service compiling Jessica's case study highlight this type of experience as a common occurrence when a person with disability is both a witness to the crime and the victim of the crime.

2.3.2 Failure to identify or accept disability

The failure of police to identify disability in alleged offenders, witnesses or victims, and to respond to it appropriately, is identified in the literature as another defining feature of police contact with people with disability.^{128, 129, 130, 131, 132} Research has consistently shown that police lack an understanding about disability and how it affects a person's behaviour or ability to comply with police orders.^{133, 134, 135} In particular, evidence indicates that police have difficulty in distinguishing between mental health problems, intellectual disability, acquired brain injury and fetal alcohol spectrum disorder.¹³⁶ It is important to note that the complexity of the presentation of different cognitive impairments can render it difficult to determine the differences between these diagnoses and that these also commonly co-occur.

The inability of police to identify disability is most acutely felt by people with the so-called 'invisible disabilities' such as cognitive disability.¹³⁷ As a result of limitations in communication skills and linguistic fluency, people with intellectual and some other cognitive disabilities are severely disadvantaged by the reliance on verbal communication by police.¹³⁸ Alleged offenders with cognitive disability are at a particularly heightened risk of mis-appreciating the nature of the legal caution and misunderstanding the due process rights to which they are legally entitled.¹³⁹ This is because 'the legal system tends to discriminate against the less articulate, just as it discriminates against the less wealthy'.¹⁴⁰

The Western Australian (WA) case of Mr Gene Gibson, a First Nations man from Kiwirrkurra in the Gibson Desert, highlights how systemic failures in the criminal justice system place people with cognitive impairments at great risk of miscarriages of justice. In this case, a series of poor decisions, inaction, and lack of competency by WA Police during the investigation process, resulted in breaches of both legislation and policy, a guilty plea and subsequent conviction of a man with a significant cognitive disability.¹⁴¹

Gene Gibson

Mr Gibson, aged 20 years, was interviewed twice by police in August 2012 following the discovery of the body of another man on the side of a road in Broome WA two years earlier in February 2010.

Police failed to raise suspicion about Mr Gibsons' ability to understand or comprehend discussions during extensive police interviews. There was no facilitation of psychological assessments and therefore no opportunity for appropriate diversion of Mr Gibson from the criminal justice system or for the sentencing court to adopt therapeutic or community-based sentencing options. Instead, Mr Gibson, who lives with a 'significant and pervasive' cognitive impairment¹⁴², was convicted of manslaughter and spent nearly five years in prison.

These systemic breaches of police codified powers and responsibilities¹⁴³ and procedures¹⁴⁴ which created protections for Mr Gibson as a First Nations person of interest resulted in the curtailment of Mr Gibson's legal rights and led to eventual disciplinary charges against three police officers¹⁴⁵ following a WA Police Internal Affairs investigation and a Corruption and Crime Commission investigation¹⁴⁶.

Alongside these legal and procedural failures was the significant human rights failure that Mr Gibson's cognitive ability was not questioned during police interviews, nor during his trial, despite him making inconsistent comments about his involvement in the crime, showing a limited understanding of or ability to communicate, having limited schooling and a history of childhood trauma and drug use.

It was only on appeal against his conviction in 2017, that the WA Court of Appeal heard unchallenged evidence of a clinical psychologist and clinical neuropsychologist that 'at all material times' Mr Gibson 'suffered from cognitive impairments that were significant and pervasive' and seriously affected his capacity to function in day-to-day life; to respond effectively in novel situations, especially those requiring abstract or flexible thinking; to make decisions of importance; to understand the implications of decisions of importance; to understand complex oral instructions involving several steps; to evaluate, weigh and synthesise several pieces of information; to remember reliably detailed information; to pursue and complete complex or challenging tasks; to formulate and reflect on alternative strategies; to ask questions to clarify his understanding or lack of understanding; and to seek support from others.² This evidence contributed to the Court's finding of a miscarriage of justice; that Mr Gibson did not adequately understand the nature and implications of his plea of guilty, legal advice regarding the plea, the legal process, or the case against him; and there was a real risk 'that the plea was not attributable to a genuine consciousness of guilt'³.

[Case study provided by Prof Harry Blagg]

2 Gibson v The State of Western Australia [2017] WASCA 80 [161] (Buss P, Mazza and Beech JJA).

3 Gibson v The State of Western Australia [2017] WASCA 141, 12 [35] (Buss P, Mazza and Beech JJA).

Gene Gibson's experience highlights the need for an increase in education and understanding of not only police, but legal practitioners and judicial officers, of the importance of screening and appropriately assessing (by qualified professionals) the cognitive ability of defendants on entry into the criminal justice system.

A study of the capacity of police officers in Queensland to identify intellectual disability found the most commonly nominated characteristic used was physical appearance, indicating that some police officers are unable to recognise the people with intellectual disability with whom they interact.¹⁴⁷ A recent systematic review of international peer-reviewed research (including Australian research) on the experiences of police interacting with people with intellectual disability who are alleged offenders found that such interactions take place against a backdrop of widespread tenuously-resourced disability awareness training.¹⁴⁸ In response the study recommends specialised disability awareness training to both improve police capability to identify people with intellectual disability as well as to support and communicate with them through the investigation process.¹⁴⁹

Not only are police generally not sufficiently trained to identify disability, but there is evidence that even when a person's disability is identified, some police actively resist acknowledging it, particularly in relation to alleged offenders with cognitive disability.^{150, 151} Resistance by some police to accept a person's disability has been shown to result in failure to fulfil obligations to provide supports, to make necessary modifications, and to provide procedural and emotional supports ^{152, 153, 154, 155} as one witness has explained to the DRC:

Taylor Budin (DRC Witness): Police ... need a better understanding of disability since they are the ones with the most power. They can literally make or break your life. People with that much power should also have a responsibility to use it properly, and that definitely includes better understanding and supporting people with disabilities.¹⁵⁶

2.3.3 Resistance to engaging mandated supports

The failures of police to provide appropriate supports to people with disability who are either alleged offenders, witnesses or victims is consistently reported in the literature. It should be noted, at this point, that there is almost no literature on people with disability as witnesses and that in most of the cases reported in the literature, people with disability who are witnesses are the victims of the crime they are witness to. Widespread unmet need for the provision of procedural and emotional supports by police to people with intellectual disability who are alleged offenders is also commonly identified.^{157 158} As the Police Accountability Project in Melbourne, Victoria, clarifies, "at present, there is no legally enforceable obligation on police officers to ensure that an accused receives fair treatment during interrogation."¹⁵⁹ One recent Victorian study of police utilisation of independent support persons suggests it is higher than previously documented. However, it is crucial that these anomalous findings are viewed in the context of the significant methodological limitations of this study. Most notably, the study was based solely on a self-report survey distributed to 229 police officers, all of whom had undergone some form of training.^{160 161}

Despite the known vulnerabilities of people with hearing impairments, including the disproportionately high number of First Nations Australians with hearing impairments, the literature consistently reports that police are also failing to provide Auslan, or other First Nations sign language interpreters.^{162,163} Interpreters informed The Victorian Equal Opportunities and Human Rights Service (VEOHRS) that “police do not engage Auslan interpreters because of the cost, effort and a lack of knowledge about the process”.¹⁶⁴ The most commonly cited reason throughout the literature for the lack of provision of Auslan and First Nations sign language interpreters, and indeed all disability-related supports, is the impact of a lack of time and resources on police.^{165, 166} The underutilisation of supports by police has also been attributed to the lack of awareness of, and easy access to, existing resources that support people with disability.¹⁶⁷

The historical case of Mr Darryl Beamish highlights the miscarriage of justice that can occur when a vulnerable person with a disability that affects their ability to communicate, is charged with a crime. While there was never an investigation into possible police misconduct in this case, the WA Supreme Court of Appeal did raise the issue 45 years after the crime was committed, when considering the reliability of statements and confessions of Mr Beamish.

Darryl Beamish

In 1959, a woman was found stabbed to death in her flat in Western Australia. The crime remained unsolved until 1961, when 18-year-old Mr Darryl Beamish, a man with a criminal history of multiple thefts, was arrested and charged with a different crime – aggravated sexual assault on four young girls. After being remanded in custody, two police detectives (including a Detective Leitch) took Mr Beamish to the home of the victim and proceeded to question him about her murder. Mr Beamish was deaf and mute and had limited English, therefore an interpreter from the Adult Deaf and Dumb Society, who had known him for some time and had previously interpreted for him, was present. Mr Beamish initially denied any knowledge of the flat or the murder. Later that day, the detectives communicated to the interpreter that they needed to find out the truth, of which was communicated to Mr Beamish. He then confessed to entering the flat, stabbing the victim with an axe and sexually assaulting her. On the 12 June 1961, in the presence of a detective, a Reverend acting as an interpreter, and a psychiatrist, Mr Beamish again confessed to the murder.

At trial, Mr Beamish gave evidence that he had nothing to do with the murder and that the interpreter ‘told him that he was telling lies and pushed him’ and was “shaking me”.⁴ He also stated that Detective Leitch had put his fist in his face and was poking him with his fingers to make him cry. He said that the answers he gave to written questions were put to him by the interpreter. When asked about the confession he made on the 12 June, Mr Beamish said that he did not say anything during that interview. While giving evidence,

4 Ibid, [42].

Mr Beamish told the court that Detective Leitch had not been truthful in his evidence. This attack on Leitch's character was 'said to justify, under the then provisions of the Code, a similar (but very much more damaging) attack on Beamish's character'.⁵ The jury was then given details of the aggravated sexual assaults against the four children and he was painted as a sexually perverted killer, capable of murdering Miss Brewer.

In cross examination, Mr Beamish gave evidence of many examples where Detective Leitch had told him what to say or given him information to replicate in his answers. For example, when asked how he got into the victim's flat, it was put to him that he had shown the detective how he entered, however Mr Beamish said it was the detective who showed him the way in. He also stated that the detective had told him that the bed in the flat was different [to what he had described] and that when asked to demonstrate how he hit the victim, he did 'two quick blows with his right arm at the head of the bed', but only because the detective told him to do so.⁶ He further said that the written answers to questions and the confession of the 12 June were given because Detective Leitch was watching him and at times teasing him.⁷

Despite this evidence indicating that there was potential police misconduct, Mr Beamish was found guilty of the wilful murder of the victim and sentenced to death by hanging.⁸ Due to his disability however, the sentence was commuted to life imprisonment. After 15 years in prison and multiple appeals, he was released in 1977. It was not until 28 years later (the longest time gap between a conviction and an appeal victory anywhere in Australia) that the WA Supreme Court of Appeal acquitted Mr Beamish of the crime in 2005, on the basis of the 'gallows confession' of Mr Eric Edgar Cooke, who had confessed to the murder before being hanged at Fremantle Prison in 1964.

During the 2005 appeal, the Court examined police documents that corroborated the evidence of Mr Beamish at trial – that he had been prompted by Detective Leitch during interrogation – demonstrating that the police evidence was "palpably untrue".⁹ The Court also indicated the "credibility of the officers could have been challenged" had they been available for cross examination.¹⁰ However, this was only considered in the context of non-disclosure of evidence and was not accepted by the court as a successful ground of appeal. It was also acknowledged that during the trial, there were 'frequent difficulties in communication' where questions had to be repeated to Mr Beamish in order to be sure that there was no misunderstanding by him. 'Also, a check interpreter was present so as to audit the accuracy of the interpreting done by the court-appointed interpreter, Mrs McQuade. She was required to correct Mrs McQuade on a few occasions'.¹¹

5 Ibid, [48].

6 Ibid, [50].

7 Ibid, [54-55].

8 Beamish v R [1964] WASC 14.

9 Above n.1. [286].

10 Ibid, [287].

On his exoneration, 45 years after being convicted of a crime he did not commit, Mr Beamish stated,

The appeal court judges say that they believe me. I always told the truth. The deaf have many problems being understood by people who can hear. There are always mix-ups. I did not understand what was happening at the police station, or at my trial in court.¹²

[Case study provided by Prof Harry Blagg]

The historical case of Mr Darryl Beamish highlights how, in the absence of an appropriate support person to uphold and protect the rights of a person with a disability that affects their ability to communicate and who is charged with a crime, police coercion and potential misconduct can lead to a grave miscarriage of justice. That there was never an investigation into possible police misconduct in this case further highlights the well-documented problems that exist for people with disability in making complaints about police misconduct.

While an interpreter (the honesty and credibility of whom could also be questioned) was present during interviews with Mr Beamish, there is no mention of the presence of an appropriate support person or lawyer during any interviews where confessions were made.

2.3.4 Police violence against people with disability

Dorothy Armstrong (DRC Witness): I was raped. I was raped by that officer.

Dr Kerri Mellifont QC (DRC Senior Counsel Assisting): Did you try and contact that police officer after that?

Dorothy Armstrong (DRC Witness): Numerous times, Kerri. Initially it was, “He’s not in, I’ll take a message, he’s not in.” Then it was, “Oh, no, he doesn’t work here anymore.” And I just accepted that, like there was nothing I could do.¹⁶⁸

The Australian Anti-Corruption Commission Committee found that people with disability or mental health problems are more vulnerable to police misconduct and have ‘distinctive challenges to making complaints about police misconduct’.¹⁶⁹ The current absence of capacity in Australian police databases to reliably record disability prevents accurate reporting of police violence against members of this group, and it is crucial that the absence of data is not an excuse for neglect of the issue.¹⁷⁰ Evidence from the US suggests that people with disability

11 Ibid, [56].

12 Western Australia, Hansard Legislative Assembly, 20 June 2019, 10 (R.R. Whitby).

comprise one-third to one-half of all individuals killed by law enforcement,¹⁷¹ and members of this group are also overrepresented in police use-of-force incidents.¹⁷² While in Australia, such statistics are not reliably recorded or accessible, this evidence suggests that people with disability and/ or mental health problems will be over-represented in incidents involving both fatal and non-fatal police violence.¹⁷³

While there is very limited Australian research into police violence as experienced by people with disability, work by US scholar, Andrea Ritchie is relevant, as it provides a harrowing account of Black and women of colour who have been raped, abused and shot by police. Ritchie further notes that police sexual misconduct is the second most frequently reported form of police misconduct, and 'yet it is clearly not the second most frequently talked about'.^{174, 175} As Dorothy Armstrong's courageous testimony above shows, in the rare cases when survivor/ victims of police sexual violence do raise complaints, police often receive little or no punishment.¹⁷⁶

The available evidence indicates that First Nations Australians with disability are disproportionately subject to police violence, abuse and neglect. In the period between 2008 to 2019, 23 First Nations Australians with cognitive impairment and/ or mental health problems died in police custody.¹⁷⁷ It is clear that disability co-occurs with other factors such as race, class, gender and sexuality to magnify marginalisation and increase the risk of police violence.^{178, 179} As has been discussed in relation to police culture, the problem of police violence is also directly attributable to the power, training and socialisation of police. Indeed, it is not only individuals, but it is institutions and systems that perpetuate police violence.¹⁸⁰

While there is a dearth of evidence about police violence against people with disability who identify as LGBTQIA+, police violence against members of the LGBTQIA+ community has been well documented.^{181, 182} There is also evidence that the LGBTQIA+ community experiences disproportionately high rates of disability and mental health problems. In Australia, 39% of LGBTQIA+ people aged 14 to 21 identify as having a disability or long-term health condition; 27% of people with an intersex variation aged 16 and over identify as having one or more disabilities; 36% of transgender people aged 18 and over identify as having a mental health issue that they describe as being a disability or chronic health condition.¹⁸³ These data suggest magnified marginalisation and higher risk of police violence,^{184, 185} and therefore that police violence against people with disability who identify as LGBTQIA+ may be significant. This is underscored in an open letter opposing the inclusion of the Sheriff's Office and Victoria Police in the 2021 Melbourne Pride March, *Pride in Protest*:

Police pose a risk to the safety of many LGBTQIA+ community members, particularly First Nations people, people of colour, poor people, sex workers, people with disability and trans and gender diverse people Police continue to have unfettered power to use violence against the community with zero accountability. To expect people who have survived police violence to march with their oppressors, denies their right to justice and safety at Melbourne Pride. Inviting police to march actively excludes the most marginalised in the LGBTQIA+ community.¹⁸⁶

Issues for this community are starkly demonstrated in Ash's experience outlined below.

Ash

Ash is an 18-year-old Torres Strait Islander who intermittently identifies as a transgender person. They have identified at times as gay, she/her or other, and is referred to by the youth workers who support them as he/him. Ash lives in a metropolitan city in Queensland and their contact with police has been as an alleged offender.

Ash has sought support from a metropolitan youth service over an extended period of time. The youth service secured their medical records which documented they had congenital brain injury, schizophrenia and some personality disorders. The youth workers who support Ash describe their cognitive ability as 'that of a ten to eleven year old'. Ash has described their congenital brain injury as resulting from 'death from birth'. The diagnoses of schizophrenia and other personality disorders occurred around the age of 14 to 15 years. Despite these diagnoses, Ash does not receive a disability support pension, and has no disability support funding.

Ash comes from a low socioeconomic background, has cycled in and out of homelessness from the age of 12 or 13, and has had little contact with their mother or father. They will go to visit extended family in the outer regions of the city and stay there for a period of time, but there are concerns about Ash's wellbeing during these times and Ash's youth workers are unable to contact them while they are away. Their early family life involved significant trauma, including experiences of domestic, family and sexual violence, and problematic substance use within the family.

Their youth workers describe them as extravagant, and flamboyant. They like to dress in women's clothes and they have an afro and a beard, making them very visible and an 'easy target' to young men on the streets. They communicate at a level that is much younger than their age indicates. Ash regards some young people on the streets as their best friend, but these young people can be hurtful and manipulative to Ash. Ash has difficulties in maintaining healthy boundaries with people, often not reading physical and social cues around personal space and engaging in unwanted hugging. They can also be easily triggered by others around them and can become loud and defensive. Ash's youth workers describe them as being more defensive than violent when they are involved in altercations with others.

Ash's youth workers report that Ash has the highest number of offences compared with other young persons they work with. Many of these offences are what the workers regard as 'homelessness offences', such as public nuisance, trespassing and fare evasion. The most serious offence involved wilful damage from punching a wall and damage to property when someone was bullying them. Ash has been incarcerated in an adult correctional facility for male prisoners for 4 months for offences related to public nuisance and wilful damage.

Their youth workers feel that this should never have occurred given Ash's vulnerabilities. Ash currently has a number of fines related to public nuisance which they are paying off.

Ash is well known by police officers in the inner-city districts. Ash talks about having a really good relationship with some police officers, particularly the Police Liaison Officers (PLOs). The PLOs do not have the same legal authority/powers as regular police officers, and their role is to improve relationships between the community and police. Ash's youth workers also feel Ash has poor insight into their relationships with police. Some of the police officers that Ash really likes are the ones who advocate for them to be arrested. Their youth workers feel that police could use their discretion to find other options to respond to concerns. Ash has also suffered physical injuries in altercations with police, including one incident of having their jaw broken in an arrest.

[Case study provided by Dr Kathy Ellem]

Ash's case study highlights the negative compounding impacts of poverty, disadvantage, being trans-gender and/or gay, homeless, being a First Nations person and having cognitive and psychosocial disability. Police have poor understanding and appreciation of the impacts of these combined factors and their effects on a person's vulnerability to being abused and exploited and to being criminalised. Importantly, Ash's experience highlights the way some police inflict violence on people with disability, potentially further disabling them.

The disabling and debilitating effects of police violence has received very limited attention, yet it is clear that police violence and brutality often results in disability,^{187, 188} and for people with an existing disability, can result in secondary disability.¹⁸⁹ The Victoria Police Accountability Project documents several cases in which clients who have reported police violence have attributed this abuse as either the cause of, or a contributing factor to their deteriorating mental health.¹⁹⁰ They further explain a commonly reported root cause of police violence:

People experiencing mental illness or living with some form of cognitive disability often report feeling 'trapped' in a situation during a police encounter where their every move is interpreted as antagonistic to police and their own attempts to deescalate the situations become impossible when their main motivation is to stop or remove themselves from a stressful situation. Clients report that their own attempts to deescalate the situation is ignored by police or becomes impossible once police reach a certain level.¹⁹¹

Jonah's first-hand account below highlights the violence and abuse that people with disability can experience at the hands of police and the lack of understanding some police have regarding the nature of ABI and its impact on a person's behaviour.

Jonah's words

I used to be a lot smarter before I was knocked unconscious heaps and heaps of times. I've just been knocked out over and over... This particular time when I got arrested ... they didn't take anything into consideration ... they didn't look up whether I had any mental history or anything like that ... what they didn't realise was I was talking to the entities, and they just got in between me and that. If someone would've said, 'Hey buddy', well it might have been different. But um, they didn't. So, all they did to shut me up was just choke me until I was unconscious. And then I got charged with assaulting them because when I was on me back, apparently, I bruised the inside of one of their legs. I was sitting in the gutter, and they jumped on me and choked me ... So they didn't get into trouble for bashing me up, they had to say that I bashed them up. They couldn't say the bruises on me are from when I was slugging him down.

[Account provided by Simone Rowe, In Rowe (2021) PhD Thesis in Preparation, UNSW, Sydney]

2.4 Policing First Nations and culturally and linguistically diverse people with disability

The over-policing of First Nations and certain culturally and linguistically diverse communities, and the intersecting and compounding influence of racism and ableism amongst police add significant additional complexity for First Nations and culturally and linguistically diverse people with disability in their interactions with police.¹⁹² The higher likelihood of experiencing poverty in such communities¹⁹³ itself has a key impact on the incidence of disability¹⁹⁴. Exposure to the material conditions of poverty including lack of access to medical care, affordable healthy food and so on coupled with structural racism and contemporary forms of colonialism are argued to create the conditions for disability.¹⁹⁵ It also clear that, as a direct result of the material conditions of poverty and disadvantage, First Nations and many culturally and linguistically diverse communities commonly lack access to services, resources, support and appropriate education,¹⁹⁶ all of which would protect them from contact with the police, especially as alleged offenders.¹⁹⁷ In the absence of these protective factors, First Nations and culturally and linguistically diverse people with disability are disproportionately subject to explicit and implicit forms of ableism and racism, such as racial profiling, police harassment and discrimination.¹⁹⁸

2.4.1 First Nations people with disability

Colonial dispossession and repression of First Nations peoples is a structural and ongoing relationship¹⁹⁹ that is fundamental to understanding the nature of contemporary police interactions with First Nations people.²⁰⁰ In the continuing colonial context, First Nations people with disability are at a 'double disadvantage' in that they are subject to differential treatment by

police on the basis of both their race and their disability.²⁰¹ The disadvantages facing people with disability who come into contact with the police are amplified for First Nations people with disability due to the historical continuity of fear, intimidation and racism in the police force.^{202 203}

First Nations people with cognitive disability who come to police attention are more likely to be investigated, charged, and remanded in custody than First Nations people without cognitive disability.²⁰⁴ Similarly, First Nations young people with cognitive disability are more likely to be charged with a first offence at a younger age than those without cognitive disability.²⁰⁵ Pathways into police custody for First Nations people with disability appear to correspond with factors that arise throughout the life-course: unstable early life characterised by early first contact with police, removal from the family home and into OOHC and contact with the juvenile justice system, the impact of alcohol misuse, low locational mobility and in particular a location that is rural or regional, all appear to impact on the frequency of police custody.²⁰⁶

Research also suggests that when a person is identified as First Nations in criminal justice settings that other 'special needs' become less of a priority.²⁰⁷ This may be exacerbated by limited access to advocacy and legal services with disability expertise, especially in remote and regional areas.²⁰⁸ For many criminalised First Nations people with disability, diagnosis of their disability occurs for the first time upon entry to prison. This clearly exemplifies the missed opportunity for 'front end' investment to prevent the slide into the costly and ineffective criminal justice system.

Joel's experience below highlights how, early in their lives, many First Nations children with cognitive disability living in poor, disadvantaged circumstances become managed by police and are not afforded disability support services to which they have a right.

Joel

Joel is a 14 year old First Nations boy who lives in a metropolitan town in Queensland. He first came to the attention of an Aboriginal Legal Service at the age of 13 when he was apprehended by police for "serious allegations". A solicitor from this service observed the footage of the police interview with Joel and subsequently arranged for a psychological assessment, where Joel was diagnosed with Fetal Alcohol Spectrum Disorder (FASD). The footage of the police interview showed police asking Joel if he could read or write, and Joel responding 'kind of'. According to the solicitor, the police then assumed that Joel was literate, and that this assumption meant that Joel was not afforded the right to have a lawyer present at the interview. The solicitor reported that Joel also responded 'yes' to police questions. The solicitor believed that Joel was acquiescent because he thought this would lead to the best outcome.

Joel has a history of charges related to repeat offending. He has been incarcerated in youth detention for several months waiting for matters to be heard under the Mental

Health court. He has also had a myriad of psychological tests with differing results. Whilst in custody he has been known to contact his solicitor at the Aboriginal Legal Service on a regular basis, and has expressed that he wants to plead guilty to all charges so that he could be released.

The solicitor has reported difficulties in negotiating bail for Joel, as Joel does not have a stable environment to return to in his community. Previous attempts by Joel to live with his father have been unsuccessful, and Joel is considered too young to take on an independent living arrangement. Joel's father was a public housing tenant, but has a history of evictions and now must wait before he can reapply for public housing. The solicitor suspects that Joel's father also has FASD.

[Case study provided by Dr Kathy Ellem]

2.4.2 Culturally and linguistically diverse people with disability

There is a complete absence of research and literature which specifically addresses issues for CALD people with disability in relation to their experiences with police. While evidence abounds of police racial profiling and harassment of migrant and refugee groups such as Sudanese youth in Melbourne,²⁰⁹ the presence of disability has not been scrutinised in these contexts, despite evidence of high rates of disability in refugee²¹⁰ and culturally and linguistically diverse populations in Australia.²¹¹ In lieu of published evidence or examination, the following case studies compiled for the project are provided to demonstrate the complex issues that may arise when issues of cultural diversity, English as a second language combine with disability in relation to engagement and response by police.

Bee

Bee is an 80-year-old culturally and linguistically diverse woman from a migrant background, with an intellectual disability. Bee approached her local Sydney police station to inquire about a counselling referral. Earlier that day, Bee had a verbal fight with her daughter and was wanting to ask police about where to access counselling support to work through some long running issues that were impacting on their relationship. Bee's spoken English was very limited, and she was unable to read English. In conversations with Bee, police believed Bee had attended the station to lodge an AVO (Apprehended Violence Order) against her daughter. An AVO was taken out. Bee left the station with what she thought was paperwork for her counselling referral. Bee only became aware that she had taken out an AVO against her daughter, after being informed of the details during a conversation with a professional advocate and professional interpreting supports. Bee had never heard of an AVO, and had not wanted to lodge one. With weeks of

intensive practical support from the professional advocate, Bee was able to formally retract her statements and cancel the AVO just prior to her designated court date. The event caused great stress and anxiety for Bee, and further strained her relationship with her daughter. Bee is currently being supported by Legal Aid as she wants written evidence from the police station detailing/acknowledging what happened. The independent advocate and Legal Aid wrote to the police station on behalf of Bee to highlight the failure/lack of appropriate support provided to Bee, on that occasion; to date, the local station has not acknowledged its role in the outcome but has informed Bee that they are 'reviewing internal processes'.

[Case study provided by National Ethnic Disability Alliance]

Bee's experience demonstrates the negative outcomes that can ensue when a person with cognitive disability whose English is limited tries to seek assistance from police. It highlights the importance of ensuring police have access to and utilise both disability and interpreting support.

Daniel

Daniel is a Chinese Vietnamese-Australian man from a refugee background, in his late 30s, with hearing impairment and cerebral palsy, living in Melbourne. Daniel is fluent and very proficient in English.

Late one evening Daniel was walking to his girlfriend's apartment when he was approached by police. The police informed Daniel that there was a robbery in the area, and they wanted his details. They asked for his identification, where he was coming from and where he was going. Daniel stated that the officers appeared surprised or sceptical that he had a girlfriend. The officers then proceeded to ask Daniel inappropriate and ableist questions not related to the situation, such as 'is something wrong with you, you walk funny?'. The officers finished asking questions, turned to walk away, and Daniel overheard one officer saying to the other 'fucking druggies'.

On another occasion Daniel witnessed a fight occur between several people at a bar. Police arrived just after the fight had finished and asked if anyone witnessed the events. Daniel informed an officer that he did; the officer ignored Daniel and spoke to Daniel's friend. Daniel stated the officer did not acknowledge his presence and believed the officer thought he was of no use to the investigation.

[Case study provided by National Ethnic Disability Alliance]

Daniel's experiences demonstrate that police can both target and dismiss people with various forms of impairment in their dealings. On the one hand police erroneously assumed that the physical presentation of Daniel's physical impairment was related to substance misuse and on the other, despite his capacity and willingness to act as a witness to an incident, police overlooked Daniel's potential contribution in their investigation, in favour of speaking to Daniel's companion. These examples highlight the misrecognition and de-authorisation commonly reported by culturally and linguistically diverse people with disability in their everyday lives.

Fiona

Fiona is a 45 year old woman with an intellectual disability from a migrant background who has limited English proficiency. Fiona lived with her parents her entire life, until they both passed away in her early 40s leaving her the family home and a small inheritance. A year ago, Sally- Fiona's friend- convinced Fiona to lend her \$70 000 to pay for a partner's visa application. Fiona did lend Sally the money with the agreement Sally would pay her back. Sally did not pay Fiona back any money, and they are no longer friends. Fiona approached her local police station to lodge a complaint of theft. The police were not interested in hearing Fiona's story, and informed her to come back with evidence. Fiona was very angry with the police and visited her local disability advocacy organisation to talk with an advocate. With the support of an independent professional advocate Fiona again visited the police station to pursue the matter. The police formally opened a case and began investigating the matter. Fiona and the advocate both continue to find it very difficult to get updates or directions from the police. Fiona and her advocate both feel that the police are clearly not interested in helping them, or not prioritising a response. To date, Fiona and her advocate are awaiting a formal update of what actions police have taken in regard to the matter to determine if it is a policing matter, or if it the matter needs to be pursued via a small claims court process. Fiona is very upset that her savings are gone and her economic future is vulnerable.

[Case study provided by National Ethnic Disability Alliance]

Fiona's experience demonstrates the barriers that people with disability, particularly women with intellectual disability have in being taken seriously or being responded to appropriately by police when they are the victims of crime. Despite the assistance of an advocate in pressing the matter of a significant theft with police, Fiona and her advocate continue to experience police inaction and lack of due process without explanation.

John

John is a 50 year old man from migrant background with an intellectual disability. He has very limited spoken English proficiency and cannot read or write in English. Last year, John's 20 year old son, Terry, died a tragic and violent death. The police investigating the case ruled Terry's death a suicide. John is very upset with this assessment, and believes his son died from foul play. John is angry with the police, and believes the police are not considering crucial evidence, such as a long-standing altercation Terry had with another known person. John believes the police could determine Terry's death was not a suicide if they were to consider this additional information. An independent advocacy service is providing support to John to help navigate interactions with the police. The advocacy worker, in partnership with a Legal Aid officer, have formally written to the Commander of the Police Station on behalf of John to ask for a summary of the case, and to gain insight into what information has/has not been examined in the case to support the suicide finding. The advocacy support worker is of the opinion that the police involved with the case have not communicated or engaged with John in appropriate or accessible ways; they have not considered his disability-related and/or language needs. John is now not confident in engaging with the police regarding the case, as he does not trust them and has requested the support of an advocate during all engagements with the police.

[Case study provided by National Ethnic Disability Alliance]

John's experience underscores the barriers experienced by people from culturally and linguistically diverse people with disability in having their crime and justice related matters appropriately attended to by police and demonstrates the high levels of distress and frustration this brings about for people affected. It is difficult to account for what appears to be police inaction or obfuscation evident in several of the examples provided here, other than to observe that, in ways similar to those already identified in which the legal system tends to discriminate against the less articulate and the less wealthy, the presence of cultural difference is similarly challenging. The case studies collected for this project have not provided the opportunity for insight into issues that are likely to be specifically relevant for people who are current refugees in Australia or for those with disputed citizenship status, for whom issues related to policing are likely to be even more complex.

2.5 Improving police responses to people with disability

Over the past two decades much of the public debate and recommendations from researchers and advocates about ways to improve police response to people with disability has focussed on enhanced training for police. This section reviews the existing evidence about the benefits and limitations of police training in general, and disability-specific training in particular, as well as how such training can be improved. This is followed by an examination of key insights from the literature about the need to improve the provision of support persons for people with disability who come into contact with the police, followed by evidence regarding improving diversion. Finally, the section provides key insights from the rapidly expanding body of literature on innovative models and alternatives to the use of police as first responders.

2.5.1 The benefits and limitations of police training

There is general consensus in the literature that it is imperative that police learn to understand how to identify and interact with people with disability, however there is also consensus that training police will not be a sufficient solution.^{212, 213, 214, 215} This is because the problem is rooted in the deeper function and purpose of policing and the issue of values.²¹⁶ The Victorian Police Accountability Project clarifies what researchers, scholars, advocates, activists and people with disability have argued,

[T]raining has failed to bring about any meaningful change. For example, in the area of racial profiling by police. The literature, and police themselves, tell us that training at the Academy is insufficient to bring about systemic and behavioural change ... Previous reforms in this area which have focussed only upon changes or additions to police training and operational procedures, protocols and guidelines have proved to be manifestly inadequate and [have] misunderstood the nature and dynamic of police misconduct.²¹⁷

No studies were located that show a connection between police disability awareness training and improved knowledge, skills and attitudes of police officers toward people with disabilities,²¹⁸ nor impact on reducing the frequency of police brutality and violence against members of this group.²¹⁹ An international systematic review of the published literature on training programmes about disabilities provided to police officers found limited evidence for the effectiveness of police disability sensitivity programmes.²²⁰ Nevertheless training is important and Australian and international studies and reports show the need for an evidenced-based, high quality and consistent approach to police disability awareness training.^{221, 222, 223} Evidence from the field of policing and mental health suggests that scenario based training may be effective for enhancing police capacity in responding to people with psychiatric conditions²²⁴ and this may provide some lessons for policing people with disability. However as the discussion below shows, this evidence should be considered alongside existing evidence about the importance, value and efficiency of involving people with disability in police training.^{225, 226} While there have been repeated recommendations for improved training for police from numerous inquiries in Australia over the past twenty years, there has been little action to mandate these.

Given the high rates of victimisation and unresolved trauma experienced by people with disability who come into contact with the police, improving police awareness and responses to victim/survivors with disability, understanding of the intersection between disability and sexual violence and addressing stereotypes about women with disability are recognised priorities for police training.²²⁷ Others include that police training pay attention to unconscious biases²²⁸ and to the significance of cultural constructions of ability, gender and sexuality.²²⁹ Further suggested inclusions in police training are understanding the many issues confronting victim/ survivors with disability, the difficulties they may have in communicating what has happened, and the additional power imbalance that is present when a perpetrator is in a 'caring' role.²³⁰

Improving police disability awareness training relevant to people with disability who are victims, alleged offenders and witnesses rests on several key principles. First is the inclusion of people with lived experience of disability, and where possible, those who have also experienced police contact, to achieve change in the values, cultural norms and practices of police officers.^{231, 232, 233, 234} Evidence shows that when training is co-designed and delivered by people with lived experience, it "helps make the training come alive" and is more relevant and interesting.²³⁵ Second is that approaches to police training should be centred on a problem-based and experiential learning approach to promote longer-lasting effects.²³⁶ Research indicates that police training continues to rely too heavily on e-learning.²³⁷ Third, in order to promote greater recognition and appropriate responses to all people with disability, training must cover a wide spectrum of disabilities.²³⁸ In particular, there is a need for improved education and training about acquired brain injury,²³⁹ fetal alcohol spectrum disorder,^{240, 241, 242} autism spectrum disorder,^{243, 244, 245} and people with hearing impairments.²⁴⁶ Finally, training must go beyond diagnostic or impairment specific knowledge to explicitly address cultural awareness,^{247, 248} including being decolonised,²⁴⁹ and it must be trauma informed.^{250, 251}

2.5.2 Support persons

Evidence clearly indicates that the provision of appropriate support people is key to assisting people with disability who come into contact with the police to realise their fundamental right for access to justice.^{252, 253} Despite positive progress on the implementation of these supports in some Australian jurisdictions (notably, Victoria and New South Wales), the frequency with which supports are provided to people with disability remains low.^{254, 255, 256} The provision of supports continues to rely on police identification of a person's disability,²⁵⁷ and so efforts to increase access to support persons remains dependant on improving and expanding police disability awareness.

Currently in Australia there are two models of support with publicly available information: the Office of the Public Advocate's (OPA) Independent Third Persons (ITP) in Victoria, and the Intellectual Disability Rights Service Justice Advocacy Service (JAS) in New South Wales. OPAs ITP program supports people with cognitive impairment and mental illness who are interviewed by Victoria Police and is available 24/7.²⁵⁸ The ITP consists of trained volunteers who support alleged offenders, victims and witnesses of any age. ITPs are primarily engaged to provide communication assistance.²⁵⁹

JAS is a 24-hour service providing support to victims, witnesses and alleged offenders with cognitive impairment both in their interactions with police and in court.²⁶⁰ Central to JAS is not only the provision of communication assistance, but also the protection of the rights of people with disability, especially their right to silence. It consists of NSW-wide justice advocates and volunteer support people and is an extension of the Criminal Justice Support Network, also run by IDRS, which provided support to people with cognitive impairment for over two decades, largely via volunteers.²⁶¹ A recent evaluation of the service found that JAS,

[p]lays an essential role in ensuring people with cognitive impairment who are in contact with the criminal justice system are adequately supported within the system, that their rights are upheld and that they are able to understand the process and make decisions about their involvement. Without a service such as JAS, the population, which is overrepresented in the criminal justice system, is likely to have more intensive involvement in the system, lower rates of diversion from prison and longer sentences ... [The] JAS model is appropriate and fit for purpose, and provides a cost-effective approach to achieving the objectives of the program.²⁶²

The success of the JAS model provides a robust, evidence-based blueprint from which to increase and expand the provision of vital supports to all people with disability who come into contact with the police.

2.5.3 (Re) examining diversion

Diversion is defined as the process of keeping ‘offenders’ and other populations at risk of contact with criminal justice agencies away from the institutional arrangements of criminal justice.²⁶³ Diversion is one of the key mechanisms police have at their disposal in responding to people with disability who are alleged offenders. Despite evidence of its success,²⁶⁴ and of significant savings for governments,²⁶⁵ appropriate diversionary measures, both at the time of initial police contact and at court, are still underutilised, not available, or not effective due to the lack of appropriate community supports and services.^{266, 267} A key consequence of these limitations is that people with disability are more likely to receive custodial sentences than those without disability.²⁶⁸ This is particularly the case for young people with disability, First Nations peoples with disability, and people living in remote regions, all of whom are severely disadvantaged by the lack of appropriate diversionary options and/or community supports.^{269, 270, 271} This suggests the need for large-scale and long-term investment in effective diversion programs and in appropriate community-based supports.

An often-cited challenge to effective diversion at the point of police contact is that police struggle to identify the many agencies providing various services, many of which are changing under the NDIS.²⁷² In this regard, SupportLink, an initiative by Queensland Police, provides a notable example of good practice in addressing the obstacles police encounter in accessing options in the community.^{273, 274} SupportLink provides a web based eReferral and diversion gateway for police and other emergency services, allowing government and non-government agencies to work together.²⁷⁵ Police are able to refer a person with disability to over 200 registered support service agencies for victim support and counselling, trauma support, domestic violence,

drug and alcohol abuse, amongst others.²⁷⁶ While a promising initiative, no evaluation of the effectiveness of SupportLink is available, which would provide information to other jurisdictions considering a similar initiative. As such, establishing the use and effectiveness of this initiative should be a research priority.

The Cognitive Impairment Diversion Program (CIDP), previously run by the NSW Intellectual Disability Rights Service provides an example of a robust, holistic and culturally safe diversionary model.²⁷⁷ By simultaneously diverting criminalised people with cognitive disability from criminal justice and addressing the underlying social, structural and individual forms of disadvantage associated with criminal justice contact through the provision of a case management approach that supports participants to access the NDIS and other social services, the CIDP provided a crucial diversionary option for people with cognitive impairment in NSW.²⁷⁸ Despite the proven benefits of the CIDP model, funding for the CIDP ceased on June 30, 2020 – a decision that was found to have been based on a limited cost-benefit analysis of the program that did not take into account the significant savings the program yielded in health and welfare benefits.²⁷⁹ Recently (June 3rd 2021) The NSW Attorney general, Mark Speakman, announced 4 years of funding for JAS as well as well as for the CIDP, recognising the value the NSW government sees in these diversionary programs.²⁸⁰

Decolonising diversion

The need for diversionary measures for First Nations people with FASD and other cognitive disabilities, and young First Nations people with cognitive disability, is evidenced by the overrepresentation of this group in custody.²⁸¹ Research^{282, 283} has shown that police are less likely to use their discretion to divert First Nations young people. Chris Cunneen notes,

The manner in which these programs have been introduced has ignored Aboriginal rights to self-determination and has grossly simplified Indigenous mechanisms for resolving conflicts. In most jurisdictions, community conferencing has reinforced the role of state police and done little to ensure greater control over police discretionary decision-making.²⁸⁴

Research demonstrates the need for a decolonising diversionary framework.²⁸⁵ In acknowledgement of the critical role police play as 'gatekeepers' to criminal justice and the discretionary power they wield over diversionary decisions, the New Zealand option of legislating a reduction to police discretion to prosecute and making diversion mandatory in most instances shows promising outcomes.²⁸⁶ A decolonising diversionary framework also requires maximum diversion into community owned and managed structures and processes that are able to offer a culturally secure environment.²⁸⁷ In addition, it requires the creation of mobile 'needs focussed' courts that can provide comprehensive screening and rapid entry into on-county programs with strong First Nations community involvement. Ultimately, decolonising diversion must move beyond Western understandings of disability (e.g., the medical model) and criminal justice to a synthesis of First Nations and non-First Nations knowledge.²⁸⁸

2.5.4 Innovative models and alternatives to police

While reforms to policing and broader criminal justice systems are necessary, police-led responses to people with disability remain inadequate and ineffective. This is because the overwhelming majority of highly disadvantaged people with disability who come into contact with the police require a response that is outside criminal justice processes. As a significant number of researchers suggest, this group requires community-based, holistic, compassionate and responsive social and health services and support.^{289, 290,291, 292,293}

There is a strong evidence base that shows how existing efforts to divest the police from activities that they are neither trained nor equipped to handle can yield positive outcomes.²⁹⁴ The concept of Justice Reinvestment – that is, disinvesting from criminal justice agencies and reinvesting those funds into disadvantaged communities to improve education, employment, cultural and social outcomes – is one approach that could reduce criminal justice involvement.²⁹⁵ It has yet to be shown that Australian governments are disinvesting in criminal justice and reinvesting in communities. What is evident from the Justice Reinvestment approach in Bourke,^{296,297} and the community-development approach in Walgett²⁹⁸ is that when police are prepared to listen to and work in partnership with Indigenous communities, and when communities are able to determine the approaches to improving social issues, the potential for First Nations led self-determined local community driven solutions to reduce criminal justice involvement can progress. In Bourke the partnership approach developed with the local police command was very successful. What is not yet clear, as there has not been further evaluation since the Police Commander, Superintendent Greg Moore, who partnered in this way, left in 2019, is whether the benefits have continued. There is some evidence that matters where police have proceeded against First Nations youth may have increased substantially in the past two years.²⁹⁹ What is clear though is that positive changes and diversion can occur, when led by local First Nations communities and that approaches to prevent and divert need to be embedded structurally and in police policy and procedures.³⁰⁰

While there is very limited evidence in the literature of good police practice – particularly in relation to police involvement in the development and implementation of innovative models like the Justice Reinvestment approach – the exemplary work of Superintendent Greg Moore in responding to the Justice Reinvestment approach in Bourke is well known by members of the research team and others,³⁰¹ and hence his involvement in this research project. Utilising the unique opportunity the present partnership afforded to provide evidence of good police practice in this context, the following documents the key principles and features of the approach employed by Superintendent Moore when working alongside First Nations people in his previous role in Bourke and in his current role on the South Coast of NSW. See Appendix B for the full details of this approach.

Reflections on developing a community based and co-designed approach to policing, in Bourke and now on the South Coast of NSW

A key factor in Superintendent Moore's approach was the breaking down of hostility between police and community. Pivotal to this was an increased focus on relationship building, local level problem solving, daily check-in meetings with the community representatives and key agencies, willingness to adapt local service delivery to meet community needs and a 'whatever it takes' approach.

Principles driving Superintendent Moore's approach are:

- An ethical police force's primary duty is to the public, not the state and use of force is a last resort.
- Respect, relationship building
- Self-determination
- Collaboration, collective impact
- Data driven, evidenced based,
- Don't throw the baby out with the bath water, regularly review strategies and modify as required,
- Appropriate consultation and co-designed
- Shared Vision, Shared goals/targets, shared & uniform performance measures
- Good communication
- Efficient and respectful model of service delivery taking account of cultural and community sensitivities, needs.
- Not being afraid to have those hard conversations, listen to the quiet & wise voices, consider the motivation of individuals and their history, sometimes the loudest voices in the room may be projecting self-interest or a personal agenda such as loss of power where positive progress is being made in community.

Asking for help from a range of community services and supports (like Youth off the Streets and BackTrack) as well as Aboriginal elders, for example, in youth justice conferencing was pivotal. To avoid negativity from some in the police and community impacting on the outcomes, a local Aboriginal Community Police Officer was appointed. The position was a locally developed and constructed position and this officer helped break down barriers and communicate the vision of a crime free and cohesive community. The analogy that officers would rather be kicking a footy around with the kids than chasing them over fences resonated with the local police and community and with less crime occurring police were freed up to invest in preventative work.

Superintendent Moore is in the process of running a scaled-up version drawing on these principles in his current Command. The project will provide further evidence to influence government policy and social planning on the merits of a placed based, collective impact approach to addressing the needs of disadvantaged communities. The idea of investing time, money and energy into addressing the feeders of disadvantage is a no-brainer. The challenge is creating the framework and environment that will empower the powerful forces of community cohesion and problem solving. Government should avoid the instinct to attempt to short cut the process by imposing a successful program on an unknowing community without engaging in important steps such as the consultation & co-design phases.

The concepts and principles are reliant on having appropriately skilled and open-minded managers working on the ground within community. The approach is focussed on placed-based agile service delivery models. The approach could be enhanced and scaled up and energised with a commitment to a clear and well-considered vision at the senior levels of government. As many of the services are State based, this could occur with the Premier committing to a well-structured framework and simple vision statement.

Indigenous Night Patrols (commonly referred to as Aboriginal Patrols, Night Patrols or simply, Patrols) are a uniquely First Nations Australian initiative that provide an example of a grass roots community-led alternative to the police, or what has been called a counter-policing³⁰² response. First established in the Northern Territory sometime in the 1980s,³⁰³ estimates indicate that there are now well over 100 Indigenous Night Patrols operating in a diverse range of urban, rural and remote settings across the Northern Territory, Queensland, South Australia, New South Wales and Victoria.^{304, 305} Indigenous Night Patrols are locally run initiatives with formal agendas that focus on maximising the safety and well-being of First Nations people.³⁰⁶ Patrols are particularly concerned with protecting those who are considered 'at-risk' of police contact, such as youth, women, the homeless and those who are intoxicated or are affected by substance use.³⁰⁷ Patrols can also serve as a means of diversion from criminal justice.³⁰⁸ Estimates indicate that around 50% of patrollers in Australia are women,³⁰⁹ something which has proven highly effective in replacing the masculine ethos of authority and compliance embedded within the Western/ colonial institution of policing, with a stronger ethos of care and social welfare.³¹⁰

By many indicators, Indigenous patrols have been 'extremely successful'.³¹¹ The relationships between Indigenous Patrols and the police are reported to be excellent, with the police being 'unable to manage without them'.³¹² There is also a reduction in the presence of police in most communities with night patrols, with their engagement typically only being required at the request of the local patrol.³¹³ While few Indigenous Patrols have been formally evaluated, many areas where they are located attribute a range of reductions (including reductions in police arrests) to the presence and intervention of Patrol services.³¹⁴ They have also enabled

enhanced responses to those who experience victimisation by providing an 'early warning system and conduit into treatment'.³¹⁵ With respect to developing a decolonised/ 'counter-policing' alternative to policing, Indigenous Patrols demonstrate that Indigenous communities can develop ideas and strategies that 'counter' the punitive approach to social issues synonymous with Western/ colonial models of policing and that are rooted in an ethics of care.³¹⁶ Importantly, Indigenous patrols provide an alternative vision of public safety 'driven by people acting out of genuine care for their communities'.³¹⁷

Co-responder models are another established intervention that arose in the US in the 1980s³¹⁸ and are now used throughout the US, Australia and Canada.³¹⁹ Co-responders models entail a multi-disciplinary team that support police with on-scene mental health triage for people experiencing mental health crises.³²⁰ One such innovation is known as the Police, Ambulance and Clinical Early Response (PACER). Working as a co-responder unit comprising a police officer and mental health clinician, the PACER team provides a joint police and mental health secondary response activated by police, targeted to times of greatest demand, and offering on-site and telephone mental health assistance.³²¹ The results from PACER in NSW have been positive.³²² Mental health-related presentations to emergency departments have fallen and there has been faster turnaround in the emergency department as the person can be assessed prior to arrival. Similar benefits have been reported from PACER in Victoria.³²³ However, a systematic review of co-responder models show that there is a lack of evidence as to the effectiveness of such models.³²⁴

Critically, there is growing recognition in the Australian context that police cannot and should not be the first responders to a range of social issues,^{325, 326, 327} such as family violence.³²⁸ The implementation of successful initiatives that divest from police and provide an alternative to police as first responders will prove more successful if they are progressed as collaborations between the full range of groups advocating for such alternatives. These include researchers, practitioners, advocates and activists for criminalised people in general,^{329, 330} First Nations people,^{331, 332, 333} criminalised women,^{334, 335, 336} and women who experience domestic violence.³³⁷

While there are some community-based initiatives that respond to social issues in lieu of police officers,³³⁸ to date, one initiative in the USA has attracted global recognition for its success: the CAHOOTS program in Eugene, Oregon. The key elements of this program are set out below and a more detailed description is available in Appendix B.

The CAHOOTS (Crisis Assistance Helping Out On The Streets) is a 24 hour mobile crisis-intervention program that has been operating for over 30 years as a collaboration between White Bird Clinic and the City of Eugene, Oregon. The primary goal of the CAHOOTS is to create an alternative to police response for people experiencing social and behavioural health needs whenever possible.³³⁹ The program dispatches unarmed two-person civilian teams of crisis intervention workers and medics or nurses, to respond to 911 and non-emergency calls

involving people experiencing behavioural health crises related to medical and social service needs³⁴⁰, calls that in most other communities are directed to police by default.³⁴¹ CAHOOTS teams can be dispatched in addition to or in lieu of police or ambulance services,³⁴² enabling diversion to a non-police mental health response at the point of 911 dispatch.³⁴³ The program is equipped to provide a range of interventions and services including: unarmed de-escalation; crisis counselling; suicide prevention; conflict mediation; grief and loss support; welfare checks; substance abuse support; housing crisis; harm reduction; information and referral; first aid and non-emergency medical care.³⁴⁴ By freeing up law enforcement, CAHOOTS has calculated that it saves the Eugene and Springfield communities an estimated \$14,000,000 per year on emergency/ambulance treatment and \$8,000,000 per year on public safety.³⁴⁵ Because of its longevity, CAHOOTS offers a rare example of a robust community-based social and mental health response system, with well-established statistics backing up its effectiveness and cost savings. It serves as evidence that other programs can provide these benefits.³⁴⁶

2.6 Summary

This chapter has presented a synthesis of evidence currently available in the academic literature regarding policing and people with disability. Reflecting the overall balance of evidence available, the review has focused primarily on the experiences of criminalised people with cognitive disability and complex social disadvantage. Overall the literature, together with the accounts of first hand experiences of people with disability presented throughout the review demonstrate that police responses to people with disability are frequently deeply inadequate. The body of evidence is also characterised by a number of key absences and gaps. The first of these is the capacity to reliably record data about people with disability in Australian police databases. This poses a significant challenge for an accurate understanding of the nature of police responses to people with disability. Complicating this is the absence of disability diagnoses more generally, particularly for First Nations peoples with disability which would enable an accurate picture to be drawn. Other notable gaps in the literature relate to experiences for specific groups, in particular for culturally and linguistically diverse people with disability. These are particularly concerning given the compounding forms of disadvantage experienced by racialised people with disability who come into contact with the police. Similarly, very little is known about the nature and impacts of police responses to LGBTQIA+ people with disability who experience disproportionate rates of violence and victimisation.

Nevertheless, this review has identified findings that have implications for research, policy and practice. Inadequate and often damaging police responses to people with disability are evident. Two co-occurring factors are fundamental to the causation of, and remedies to, these inadequate responses: 1) the increasing expansion of policing and the related use of policing as the default

institutional response to the social, cultural and economic forms of disadvantage that propel people with disability into contact with the police, and to which police are not the appropriate responders; and 2) the reduction of funding for appropriate social and human services.

Central to improving police responses to disadvantaged people with disability is recognition that what members of this group require is not a police or criminal justice response. It is rather, a trauma-informed, culturally safe, community-based and holistic social service response. While initiatives in policing such as improved disability-awareness training are essential, the literature indicates that if real change is to occur, such reforms must occur alongside increased resourcing to a range of social services such as housing, health and disability-related supports; the expansion of programs such as the Justice Advocacy Service and a related legal mandate for police to use support persons; the pressing need for much greater independent oversight of the police in order to hold police accountable for violence perpetrated by police against people with disability; the development of diversionary options such as the Cognitive Impairment Diversion Program, and the decolonising of diversion; disinvesting in criminal justice and reinvesting in communities in First Nations-led self-determined local community driven initiatives such as Indigenous Night Patrols and the approaches taken in Bourke and Walgett; the documentation and expansion of progressive models of policing such as the model provided by Superintendent Greg Moore, and the introduction of successful initiatives such as CAHOOTS that invest in programs that provide alternative first responders to police that are well-equipped to respond to the needs of people with disability. As researchers, advocates and activists have argued, it is imperative that such initiatives are progressed as collaborations across the full range of groups advocating for these alternatives.

3. Police policy and practice

It is widely recognised that police responses to people with disability can be enhanced through policy settings and procedural guidance, which are informed by the concerns and experiences of people with disability. Such responses should also adhere to guidance regarding accessibility of processes and information and for which there is police leadership and adequate training. Policing in Australia is jurisdiction-specific and so there is no nationally consistent approach to consideration of and responses to people with disability. Approaches are therefore shaped over time by each jurisdiction's specific legislative context, state/territory disability policy, and by specific corporate, administrative and procedural priorities and initiatives.

A review of police policy and practice in all jurisdictions in Australia is presented in this chapter to capture key observations from the available information about the extent and nature of policy commitments, mechanisms for engagement and accommodations in police responses to people with disability. Requests were made to Police Commissioners in all jurisdictions for any detailed information that may supplement publicly available sources. Responses were received within the project timeframe from the ACT, Tasmania, WA, and Victoria Police Forces. For those jurisdictions where information was not received, the project was able to examine only publicly available sources including police service websites and annual reports, and other related publicly available documentation. The material presented below draws out what is known about current police policy and practice in relation to a number of key dimensions, which were informed by the findings of the project literature review. Where information is available, the details of particular approaches are described and where information is not available for a jurisdiction this is noted. Table 1 provides an 'at a glance' summary of policy and practice for selected domains across jurisdictions.

3.1 Planning, monitoring and reporting

Jurisdictions were invited to outline how policing in relation to people with disability is planned for, monitored and reported. All jurisdictional approaches, except for the NT, are driven by Disability Inclusion and Action Plans (DIAP) or Disability Service Plans (DSPs) or similar, some of which are police service specific and others by related departmental plans. All plans align with the relevant whole of jurisdiction state/territory disability strategies or plans and generally note a legislative basis. Most plans generally reference the National Disability Strategy. Plans demonstrate varying degrees of engagement and collaboration with disability advocacy and support services in their design, implementation and monitoring.

ACT: The following ACT review is based on information provided by ACT Policing and on publicly available information and documents.

The ACT launched its ten-year Disability Justice Strategy in August 2019 with the aim of ensuring people with disability in the ACT have equal access to justice. The Strategy addresses issues for people with disability, their families and carers, the justice system and the service system across three goals: that people with disability are safe and their rights are respected;

that the ACT has a disability responsive justice system; and that change is measured and achieved. The strategy has five focus areas to achieve its goals including:

- Information and communication – people with disability knowing their rights and being able to express their views, and effective information sharing through the justice and service systems.
- Education and guidance – developing a justice system that can notice disability, provide supports to people with disability and have the justice system work to deliver equal access to justice.
- Identification, screening, and assessment – identifying possible disability and taking further action where required.
- Better service delivery – how service delivery can be improved and the ‘dots joined’ to allow for a complete picture of service and support needs to be created for a person with disability.
- Data, research, and review – creating or adapting systems to collect and hold data and how information held about people with disability can be appropriately and safely shared to allow the justice system to work more effectively.³⁴⁷

The implementation of the ACT Disability Justice Strategy is overseen at the Director-General level through the Human Services Cluster Inter-Directorate Committee which includes Community Services, Health, Education, Chief Minister, Treasury and Economic Development and Justice and Community Safety. The Strategy is being implemented through a series of action plans which contain activities to fulfil the requirements of the focus areas and is reviewed at identified points. The first Action Plan spans the period 2019-2023.³⁴⁸ In its first annual progress report in 2020 notable achievements include the trial of an identification tool to determine whether a person may require adjustments to be made during their interaction with the justice system developed with justice stakeholders, and the establishment of an intermediary scheme for vulnerable witnesses and people with complex communication needs.³⁴⁹

NSW: The following NSW review is based on publicly available information and documents.

The NSW Police Force 2019-2020 Annual Report indicates that under the NSW Disability Inclusion Act 2014, the NSW Police Force is not required to develop a disability inclusion action plan. Instead, its commitment towards vulnerable communities, including people with disability, is articulated through a number of strategies and objectives in the Ageing, Disability and Homelessness Portfolio Action Plan 2020. The Annual Report indicates that corporate and region sponsors for Ageing, Disability & Homelessness engage communities and disability sector stakeholders with projects and ongoing activities designed to improve accessibility and inclusiveness including:

- recruitment, induction and professional development of aged crime prevention officers (ACPO) to prevent and respond to abuse, neglect and exploitation of older people and people with disability. Six positions started in July 2019 and an additional six positions were to be established by September 2020

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- investigation support, community engagement and networking with disability service providers and prevention of abuse, neglect and violence against older people and people with disability by ACPOs within their own commands and by commands within their region
 - collaboration with the NSW Ageing & Disability Commission including cross referrals of matters
 - maintenance of the cross-agency referral process with the NDIS Quality and Safeguards Commission
 - ensuring that resources on policing public health orders in the COVID-19 environment are available in Easy Read
 - the development of internal intelligence briefings on the impact of COVID-19 on people with disability
 - regional and local implementation of the joint protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system
 - the development of a range of training and education products for frontline and specialist police on responding effectively to people on the autism spectrum, people with dementia and people with cognitive impairment
 - collaboration with the Justice Advocacy Service, which provides support persons for people with cognitive impairment in contact with the criminal justice system
 - the development and dissemination of accessible resources on elder and disability abuse and the role of the ACPOs and
 - the continued use of Auslan interpreters for victims, witnesses or offenders, and the promotion of Auslan-interpreted resources on the NSW Police Force public website.³⁵⁰

Northern Territory: The following NT review is based on publicly available information and documents.

The NT does not have a Disability Action Plan or equivalent. Northern Territory Police, Fire and Emergency Services (NTPFES) Ten Year Strategy 2020-2030 includes a number of specific strategies to address specific populations, including a community engagement strategy, a custody strategy, a diversity and inclusion strategy, a domestic and family violence strategy, an investigation strategy, a regional and remote policing strategy and a training and education strategy.³⁵¹ Disability is not explicitly addressed in the Ten Year Strategy nor in any of the outlined sub-strategies. The most recent NTPFES annual report 2019-2020³⁵² similarly does not explicitly address disability other than in relation to the Screening Assessment for Employment NT, one function of which is implementing the National Disability Insurance Scheme Worker Screening capacity in the Northern Territory.

Queensland: The following Qld review is based on publicly available information and documents.

The Queensland Police Service (QPS) developed a Disability Service Plan (DSP) 2017-2020 as required under the State's Disability Services Act (2006) with the aim of ensuring each agency has regard to human rights as provided for in the Act and service delivery principles, and the government's policies for people with disability. The DSP sets out QPS' commitments in line with the priorities of the National Disability Strategy as well as agency specific actions including in relation to:

- disaster management and preparedness
- understanding and assisting people with disability who engage with QPS
- working at the local level with people with disability in First Nations communities and rural and remote communities to identify disability service options
- collaborative partnerships to deliver a more cohesive and informed police response to domestic and family violence and people with disability
- maintaining its Police Referrals system to ensure local timely referral services for people with disability and their families and carers
- providing a cohesive, informed and quality policing response to people with disability impacted by crime
- supporting Victim Assist Qld to promote access to support services for people with disability who are victims
- support for people with disability to lodge complaints and
- encouraging membership of Community Policing Boards.³⁵³

Yearly reporting against the DSP indicates all actions were completed by 2020 and that key areas have been embedded into core QPS business operations beyond 2020.³⁵⁴ QPS makes reference to a Vulnerable Persons Framework, however detail regarding this framework is not publicly available.

South Australia: The following SA review is based on publicly available information and documents.

South Australia developed and implemented the first in Australia, Disability Justice Plan (2014-2017).³⁵⁵ Based on wide community consultation, the DJP aimed to make the criminal justice system more accessible and responsive to the needs of people with disability. Subsequent to this Plan the South Australian Police (SAPOL) has been guided by a series of police service specific Disability Access and Inclusion Plans (DAIP) 2017-2020 and 2020-2024, developed in response to Inclusive SA: State Disability Inclusion Action Plan. The current DAIP 2020-2024

commits SAPOL to providing accessible and inclusive information, services and faculties for people with disability around four themes, across 12 priorities as follows.

1) Inclusive communities

- enhancing disability awareness and other training
- safeguarding people with disability via understanding and information flow
- better engaging people with disability in community activities

2) Leadership and collaboration

- establishing a disability service development Advisory Group,
- establishing a disability engagement forum

3) Accessible communities

- applying universal design principles to SAPOL's site, buildings, and facilities,
- providing accessible information on SAPOL's websites
- enhancing use of technology to better enable people with disability to communicate with police in the field and with SAPOL in general

4) Learning and employment

- ensuring inclusive training and development practices
- HR processes are inclusive
- formalising workplace skills program for people with disability
- enhancing volunteer program involvement for people with disability.³⁵⁶

Responsibility for management of outcomes of SAPOL's Disability Access and Inclusion Plan rests with its Diversity and Inclusion Branch.

Tasmania: The following is based on information from Tasmania Police and on publicly available information and documents.

The Tasmania Department of Police, Fire and Emergency Management (DPFEM) has a Disability Action Plan (DAP) 2018-2021, developed as required for all departments under *Accessible Island*, Tasmania's third Disability Framework for Action.³⁵⁷ The current DAP builds on two previous plans covering the years since 2008. The DAP sets out a framework under which to develop disability-related initiatives and policy direction. The aims of the current DAP are to improve the relationship DPFEM has with those with disability in the Tasmanian community; and to improve the internal relationships within DPFEM experienced by employees

or potential employees of the Department.³⁵⁸ Ownership of the Disability Action Plan sits with Strategy and Support, Business and Executive Services, DPFEM and a Disability Working Group assists in monitoring the implementation of the DPFEM's DAP.

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

The Victoria Police Diversity and Inclusion Framework 2017-2020 and the Victoria Police Accessibility Action Plan 2021-2023 (AAP) outline Victoria Police's commitment and actions to improve policing for people with disability. The Diversity and Inclusion Framework has a primary focus on the Victoria Police workforce, recognising that people with disability may be part of this group as employees.³⁵⁹ The Accessibility Action Plan aligns with Victoria's state disability plan 2017-2020 'Absolutely Everybody' and with the National Disability Strategy 2010-2020. The 2021-2025 plan builds on a previous action plan and sets out four key goals and associated priorities as follows:

1. Victoria Police services are accessible
 - improve access to information
 - provide state-wide accessible police facilities
2. Victoria Police services are equitable
 - strengthen collection of disability data
 - strengthen support for people with disability, their families and carers when in contact with police as victims, offenders and witnesses
 - strengthen local partnerships and networks with and for people with disability, their families and carers
3. Victoria Police employees have the right attitude and the right capability
 - increase police understanding of how to identify disability and provide appropriate supports
 - protect against discrimination to ensure people with disability and their families and carers have equal access to justice
4. Victoria Police has improved capacity to employ, develop and retain people with disability
 - enhance attraction and recruitment practices
 - create inclusive and supportive workplaces free from workplace harm and discrimination
 - support employees by enhancing development opportunities.³⁶⁰

Responsibility for the implementation of actions associated with these goals is spread across Victoria Police divisions. The Victoria Police Professional Standards Command is currently undertaking a program of work to improve accessibility to and understanding of service delivery

issues under the Victoria Police Complaints system. A key consideration in the proposed enhancements to the complaints system is ease of access for people with disability to provide feedback or make complaints to Victoria Police.

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

The Western Australia Police Force's (WAPF) Disability Access and Inclusion Plan (DAIP) 2018-2022 sets out its commitment to be responsive and inclusive with policing services to people with disability, their families and carers. Included within the DAIP is a series of seven outcome commitments that people with disability have the same opportunities as other people to:

- access the services of, and any events organised by, WA Police Force
- access the buildings and other facilities of WA Police Force
- receive information from WA Police Force in a format that will enable them to access the information as readily as other people are able to access it
- receive the same level and quality of service from the staff of WA Police Force as other people receive from the staff at WA Police Force
- make complaints to WA Police Force
- participate in any public consultation by WA Police Force and
- to obtain and maintain employment with WA Police Force.³⁶¹

The WAPF has a number of other policy and legislative obligations that cater for service delivery to people with disability. Communication is a major factor within those policies and the agency adapts its practices to better serve those people in need by, for example, the recent introduction of an additional critical skill titled 'Effective Communication' to its members. WAPF Judicial Services maintains responsibility for the coordination and development of the DAIP. In addition, a DAIP Coordination Group, an internal working group composed of representatives from business areas across the agency, provides governance and support for the implementation of reporting against the DAIP across the agency.

In summary, the only consistency across the jurisdictions in relation to policing and disability in policies, planning, strategies and requirements is that every jurisdiction, except the NT, has a strategy or plan guiding police working in an inclusive and engaged manner. Those plans and/or strategies though, vary greatly in regard to: whether they are formally disability action plans or similar, for example neither NT nor NSW Police have specific DAPs, DIAPs or similar whereas all other jurisdictions have specific police disability plans and/or strategies. Variation is also noted in relation to who has responsibility for the implementation and reporting on strategies and action, for example in WA, Judicial Services is responsible whilst in Victoria the responsibility is spread across police divisions. Some plans and strategies are directly relevant to police

interaction with people with disability as victims, witnesses and alleged offenders, for example the SA Disability Justice Plan and its subsequent iterations specifically aim at improving the way justice agencies interact with people with disability. Some jurisdictions emphasise employment of people with disability in the police service as their way of actioning their strategies.

3.2 Engagement with people with disability as advisors

Jurisdictions vary in the mechanisms used to engage with people with disability in advisory or other roles in relation to policing policy or practices. Some have an explicit focus on and mechanism for consulting people with lived experience of disability, including external stakeholders and those with disability who are part of the police workforce, with some jurisdictions centralising lived experience more than others.

ACT: The following ACT review is based on information provided by ACT Policing and on publicly available information and documents.

ACT Policing's engagement with people with disability occurs in the context of its commitment to the ACT Disability Justice Strategy 2019-2026 through which it works with partner agencies, both government and non-government organisations and charities to ensure practices, policies and improvements align with the Strategy. A Disability Justice Reference Group³⁶² was central to the development of the Strategy and membership included people with disability, lived experience of the justice system, and representatives from government and non-government organisations across the justice, disability and human services sectors.

NSW: The following NSW review is based on publicly available information and documents. The NSW Police Force 2019-2020 Annual Report indicates that the corporate and region sponsors for Ageing, Disability & Homelessness have been active in engaging communities and disability sector stakeholders.³⁶³ No detail regarding current specific mechanisms to engage people with disability in advisory roles is publicly available.

Northern Territory: The following NT review is based on publicly available information and documents.

No information is publicly available regarding a police specific engagement mechanism. However, the Disability Advisory Committee (DAC) of the NT Office of Disability, established in 2019, provides an opportunity for Territorians with disability to advise the Minister for Disabilities on issues impacting their lives and their interactions with government services. The terms of reference for the DAC indicates that 'rights protection, justice and legislation'; is one of the six key policy areas in developing the NT Disability Strategy (in line with the National Disability Strategy) and that members of the DAC are to have expertise and/or lived experience in regard to interactions of people with disability with key government service systems, including but not limited to the NT Justice System.³⁶⁴

Queensland: The following Qld review is based on publicly available information and documents.

The QPS Disability Service Plan 2017-2020 included consultation with people with disability in either the development or implementation of the Plan. The most recent (2019-20) report on the Plan indicates that members of the community including people with disability are considered in relation to and encouraged to participate on Community Policing Boards which are established in each police district as a way for police to work together with communities on crime and community safety, with members co-opted who have the specialist skills to provide solutions and strategies addressing the matter at hand.³⁶⁵

South Australia: The following SA review is based on publicly available information and documents.

SAPOLS's Disability Access and Inclusion Plan (DAIP)³⁶⁶ is overseen by a Steering Group established by its Diversity and Inclusion Branch. Meeting regularly, the steering group engages with stakeholders in the allocation of actions to meet required outcomes within the specified timeframes. The current SAPOL DAIP 2020-2024 includes an objective to establish a Disability Service Development Advisory Group to engage people living with disability, carers and service providers to hear feedback on service delivery issues impacting people living with disability and to generate, where feasible, involvement in collaborative change activity and outcomes of the DAIP. A further objective in the DAIP is to establish a Disability Engagement Forum with the aim of engaging and consulting people with disability, their families and carers on a regular basis, providing them with information and opportunity to ask questions and enabling them to provide input and feedback in relation to service delivery and other issues. It is envisaged that information obtained in this forum would be actioned locally and/or directed to the Disability Service Development Advisory Group.

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

The DPFEM convenes a Disability Working Group (DWG) which, by design, has multiple members with disability or lived experience of disability. The DWG and the DPFEM Policy Development and Research Services branch regularly consults with the Tasmanian Premier's Disability Advisory Council (PDAC) in formulating policy and advice.³⁶⁷ PDAC was established in 2007 with the primary purpose to assist the Premier and Government to implement Accessible Island: Tasmania's Disability Framework for Action 2018- 2021. Accessible Island is Tasmania's implementation framework for the National Disability Strategy 2010-2020. The PDAC works with Government and the broader community to promote the inclusion and participation of people with disability in community life and this includes an advisory role. The PDAC membership includes people with disability, carers of people with disability, people with lived experience of disability or people connected to people with disability due to their community role, practice or research.

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

The Victoria Police Disability Portfolio Reference Group (DPRG) is informed by the experiences of people living with disability and their support networks and brings a stakeholder and community perspective to the review and development of Victoria Police's policies, processes, and initiatives. This group provides strategic advice and advocacy on the actions contained in the Victoria Police AAP and Disability Accessibility Inclusion Strategy and provides advice on policies and practices as sought by Victoria Police Commands and Corporate Projects. The DPRG is co-chaired by a person with disability, reflecting Victoria Police's commitment to community partnership and the principles of self-determination and co-design. The Victoria Police Enablers Project, formed in 2016, provides employees with disability a voice within the organisation. The Project aims to create opportunities for employees with disability to advise the organisation on ways it can be an inclusive and responsive employer of people with disability.³⁶⁸

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

There are no specific mechanisms for engagement with people with disability in advisory or other roles in relation to policing policy or practices in Western Australia. The WAPF DAIP³⁶⁹ was developed in consultation with community stakeholders including disability advocacy services and disability service providers. Additionally, the WAPF engages in ongoing consultation with disability advocates, stakeholders and internal and external reference groups. Their participation assists with consultative processes to inform their strategies and will contribute to the development of the 2023-2028 DAIP. The WAPF also engages on a regular basis with community groups that provide services to people with disability. The purpose of this is to develop and maintain relationships between police and these groups as well as inform and advise one another on issues related to policing and justice that impact upon people with disability.

In summary there is no consistency across Australian jurisdictions regarding people with disability being directly engaged as advisors to police. Only one jurisdiction, Victoria, appears to have a standing police advisory group including people with disability whilst other jurisdictions aim to create such an advisory group (SA), seek advice via other means such as other agency advisory groups or indicate they were advised by people with disability in the setting up of disability strategies or plans.

3.3 Police corporate leadership and oversight

There is a variety of policing portfolio designations that subsume disability, including those broadly concerned with community, safety and vulnerability. There is variation in the salience and function of internal and external reference and coordination groups.

ACT: The following ACT review is based on information provided by ACT Policing and on publicly available information and documents.

In 2019-20, ACT Policing received funding for its Police Services Model (PSM), to commence the transition to a community-focused service that centres on proactive and preventative

methods. ACT Policing notes the PSM aims for police to work in a more connected and effective way...to lower crime rates and divert people away from the justice system. This includes collaboration with other agencies to share information and identify intervention opportunities, targeting resources where they are most effective, and focusing on addressing the root causes of crime.³⁷⁰ As part of the PSM, ACT Policing has established a Community Safety portfolio overseen by a Deputy Chief Police Officer. This portfolio has responsibility for strengthening relationships and practices with those members of the community who may be more vulnerable.

In line with the ACT Government's Disability Justice Strategy 2019-2029, ACT Policing is in the process of recruiting a Disability Justice Liaison Officer (DJLO). The DJLO will become a contact point for advice and guidance on best practice for engagement with the community, to provide training to frontline officers, and assist ACT Policing as it moves to provide equal access to Easy English formatted information. A Better Practice guide between ACT Policing and ACT Victims of Crime Commission will be completed once the DJLO commences, which is expected to further strengthen police engagement with all vulnerable groups within the community.

NSW: The following NSW review is based on publicly available information and documents. NSW Police have traditionally maintained corporate leadership and responsibility for disability matters via a designated corporate sponsor. NSW Police's commitment to vulnerable communities, including people with disability, is currently articulated through a number of strategies and objectives in the Ageing, Disability and Homelessness Portfolio Action Plan 2020. The NSW Police Force Annual Report indicates that there is a single corporate sponsor who has oversight of the portfolio in collaboration with region sponsors for Ageing, Disability & Homelessness.³⁷¹

Northern Territory: no information available

Queensland: The following Qld review is based on publicly available information and documents.

The Queensland Police Service 2019-20 Annual Report states that the QPS has a dedicated State Domestic, Family Violence and Vulnerable Persons Unit (SDFV&VPU) which provides strategic direction and operational advice, as well as delivering statewide reforms to enhance the policing response to vulnerable persons. Relatedly, steps have been taken to create a network of human rights champions in each region, district and command across the QPS to serve as a key point of contact and to foster a culture of human rights within their respective areas.³⁷²

South Australia: No information available

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

The DPFEM Policy Development and Research Services unit manages policy related to vulnerable community groups, which incorporates people with disability and their carers. This allows for a central point of contact within the Agency for stakeholders, and the ability to develop subject matter expertise.

The Disability Working Group (DWG) assists the DPFEM to meet its obligations under the DAP 2018-2021 to develop disability-related initiatives and policy direction, as well as providing an avenue for key personnel from within the Department who have responsibility for implementing and/or informing policy, and people with lived experience of disability, to have input into this process.

The primary role of the DWG is to assist DPFEM to enable people with disability full and effective participation in all interactions with the Department, in accordance with the vision contained within Accessible Island, including:

- consulting with PDAC or relevant disability specialist/s regarding policy changes that may affect people with disability (subject to the approval of the DWG chair)
- providing strategic advice on directions, policies and solutions to disability-related issues
- promoting the needs, rights and aspirations of people with disability, their families and carers
- monitoring the implementation of DPFEM's DAP
- making contributions to the Department's annual report to the PDAC on the progress of the DAP, and
- assisting to prepare the Head of Agency's biannual presentation to PDAC.

Victoria: The following Victoria review is based on information from Victoria Police.

Victoria Police has four senior disability champions across Victoria Police who actively advocate for access and inclusion matters. These include:

- Deputy Commissioner, Capability, who is the organisational Executive Sponsor who advises the Executive Command on accessibility matters.
- Deputy Secretary, IT & Infrastructure who represents Victoria Police at external whole of government committees such as the Deputy Secretary Disability Champion Roundtable meetings, organised by the Victorian Public Service Commission and Interdepartmental Committee on Disability.
- Assistant Commissioner, Gender Equality & Inclusion who is a member of the Executive for Victoria Police Enablers Network.
- Director, Property Services, who is a member of Victoria Police Enablers Network advocating for accessibility features during the planning and implementation of the new Victoria Police Complex.

The Victorian Commissioner for Disability is also a member of the Chief Commissioner's Human Rights Strategic Advisory Committee, which meets quarterly. Victoria Police incorporated an Accessibility Checklist into the Victoria Police Design Guidelines for all new Victoria Police built infrastructure.

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

The WAPF's DAIP 2018-2022 addresses the agency's plans regarding policing and employment concerning people with a disability. The DAIP Coordination Group is an internal working group designed to provide governance and to support the implementation of the DAIP across the agency.³⁷³

In summary, in regard to corporate leadership and oversight of police interactions with people with disability, most jurisdictions provide very little information. Three of the eight jurisdictions have no information on this. Victoria Police has disability champions and the rest have a single or a number of corporate sponsors. Notably, few jurisdictions have established dedicated Liaison Officers as part of their strategic focus.

3.4 Disability data

Publicly available information was analysed for evidence of data collection capacity and Commissioners were asked whether any capability exists in their jurisdiction for recording disability status in their operational policing system and if present, what is recorded and how it is used.

ACT: The following ACT review is based on information provided by ACT Policing.

The ACT Policing database, Police Records Online Management Information System (PROMIS), has configuration challenges that limit system updates to allow for additional information to be recorded in an easily searchable format. ACT Policing's interaction with the community is not limited to victims and offenders, and the agency notes that there are limitations around what is appropriate to ask members of the community, particularly if they do not want to disclose a disability or an otherwise diverse background. ACT Policing has indicated that they are regularly researching ways to improve this capacity and reviewing policing practice across partner agencies nationally and internationally to ensure the needs of people living with a disability are acknowledged and respected in the most appropriate way.

NSW: No information available

Northern Territory: No information available

Queensland: No information available

South Australia: No information available

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

Tasmania Police capture Information about disability when a person is charged with any offence or crime, in order to inform prosecution services and help ensure the charged person is not

disadvantaged throughout the criminal justice process. Arrested/charged persons are asked if they identify as having a disability, and if so the details of the disability. When a disability status and disability type is entered into the Online Charging System it automatically populates across to the corresponding fields on the prosecution or youth proceedings file. The Tasmania Police Disability Action Plan 2018-2021 notes as an emerging issue that information sharing regarding the disability status of alleged offenders in the justice system was highlighted as an action in the Disability Justice Plan for Tasmania 2017-2020 and indicates the need to consider issues around privacy and disclosure.³⁷⁴

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

There are several areas where disability status is recorded and utilised within current Victoria Police operating systems. These include:

- The Victoria Police electronic Referral (VPeR) system provides Victoria Police members with two pathways to refer people with disability using an e-referral program. Referrals for people with disability in contact with police can be made to the NDIS, or alternatively for people with a cognitive impairment in a forensic context, referrals can be directed to the Department of Families, Fairness and Housing. VPeR is a component of Victoria Police's Future Directions to Victim-Centric Policing strategy.³⁷⁵
- Victoria Police implemented an evidence-based and scored family violence risk assessment and risk management tool in July 2019. This tool is referred to as a Family Violence Report (L17). This report records information regarding a person's disability if relevant and specifically asks about their accessibility requirements
- Victoria Police members record incidents or crimes that are prejudicially motivated, including those against a person with disability. Information about the crime or incident is noted in the Victoria Police data system, including supporting evidence as to why the crime or incident was motivated by prejudice. This information helps Victoria Police monitor trends and develop local strategies and police responses.³⁷⁶

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

The WAPF currently has no capability for recording disability status within their operating systems but note this will be considered in the future. While all detainee management is recorded in the Custody Management System, there is no capacity within the existing system to obtain reports in respect to disabilities of detainees.

In summary, while statistics are reported in relation to incidence of violence experienced by people with disability by the Australian Bureau of Statistics drawing on data from the Personal Safety Survey in conjunction with other data sources, this does not include information about

policing responses to this violence. This is due to the inconsistency or lack of capability in jurisdictions for recording disability status in operational policing data systems. Data in relation to police contact with people with disability are not available nationally and are either absent or very limited in specific jurisdictions. No information was available publicly for jurisdictions. Some jurisdictions, WA and Tasmania, note technical constraints within their operational policing data systems that inhibit the capacity to record and use disability status but acknowledge the need for improvement. Other jurisdictions, Victoria and the ACT, have more advanced systems that allow the recording of disability status and accessibility requirements, as well as an in-built referral capability to meet the welfare needs of people with disability but raise concerns around privacy and information sharing in relation to these.

3.5 Training

Jurisdictions were asked to provide details of any disability specific training provided to Police. For those that did not provide a response, publicly available information has been analysed to detect any information about police training in relation to disability.

ACT: The following ACT review is based on information provided by ACT Policing and on publicly available information and documents.

ACT Policing officers undertake the Australian Federal Police (AFP)'s cultural awareness and diversity education and training program, as well as a Respectful Workplace workshop training package. Initial training is available to members who are progressing through recruit gateways with the aim of preparing them for community policing. This is supplemented by online training offered through the AFP's internal training framework, which includes training modules in autism awareness, interviewing vulnerable witnesses, cultural awareness training and the ACT human rights legislation. ACT Policing members also undertake training specific to the autism spectrum, which commenced on 17th February 2020.

ACT Policing also has a number of training programs that recognise the diversity of the community they serve and aim to enhance day-to-day interactions. All ACT Policing frontline officers undertake mandatory Enhanced Mental Health Training delivered by Canberra Health Services. This three-day training program aims to better skill police officers in the management of operational responses to mental health incidents through a broad awareness of mental health illnesses and disorders, and to enhance how police respond to and manage people in crisis including the inherent issues of dignity, stigma and trauma. It also encompasses an intellectual disability presentation in the community and provides information regarding autism spectrum disorder prevalence and guidance on management by police. Through the ongoing delivery of Enhanced Mental Health Training to members and the continued utilisation of the mental health clinicians embedded in the ACT Policing Operations centre, ACT Policing aim to continue to build knowledge and capability around best practice approaches to dealing with mental health consumers. ACT Policing also aims to continue to strengthen partnerships with support services and the ACT Government, working together to achieve better outcomes for mental health consumers.

Easy English training, conducted by Disability ACT, has been undertaken by some ACT Policing Community Safety members. The purpose of this training is to provide ACT Policing members with the skills to communicate more effectively and compassionately with people who experience disability. More members within ACT Policing will be trained as further courses become available.

NSW: The following NSW review is based on publicly available information and documents. The NSW Police Force 2019-2020 Annual Report notes as a strategy/objective the development of a range of training and education products for frontline and specialist police on responding effectively to people on the autism spectrum, people with dementia and people with cognitive impairment.³⁷⁷ More detailed information regarding disability specific training for NSW police is not publicly available.

Northern Territory: No information available

Queensland: The following Qld review is based on publicly available information and documents.

The most recent QPS Annual Report (2020) identifies that, as part of its commitments under the Human Rights Act (2019) steps have been taken toward the development of the Human Rights Training Strategy 2019-20 which aims to equip employees with the requisite knowledge to consistently and competently apply human rights considerations in the performance of their duties.³⁷⁸ Further information regarding disability specific training for Qld police is not publicly available.

South Australia: The following SA review is based on publicly available information and documents.

SAPOL's 2019-20 Annual Report indicates that on-line Disability Awareness training is compulsory for all new employees. This training provides information to assist employees to understand and respond appropriately to the needs of people with a disability. The training also contains information on the Carers Charter and the Act, and SAPOL's Disability Access and Inclusion Plan (DAIP). As part of the review of the DAIP, a revised online training program will be made available to all staff and everyone will be required to complete the new training program. Online Disability Awareness training was undertaken by 253 SAPOL employees between 1 July 2019 and 30 June 2020. SAPOL's Police Recruit Training Program, Constable Development Program and the Promotional Qualification Framework also incorporate disability management training.³⁷⁹

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

Tasmania Police, as part of their DAP 2018-2021, outcome area – rights protection, justice and legislation, has developed training courses on disability awareness. The topic of disability is covered during recruit training at the Tasmania Police Academy within a wider University of Tasmania-aligned unit on at-risk and vulnerable community groups (*HSP332 – Contemporary Social Issues and At Risk Populations 'Part B'*). Some members enhance their interviewing and investigative skills within a Professional Honours Degree program which includes 'vulnerable witnesses'.

Police recruits and new State Service personnel are required to complete an Induction package that includes a segment addressing diversity and inclusion. This online training package references the legislative framework regarding anti-discrimination as an employer, employee and service provider. A 'Disability Confident Workforces' eLearn package, developed by the Australian Network on Disability was commissioned by the Tasmanian Department of Communities and all State Government Agencies, including DPFEM, contributed to the development cost. The package has a focus on building capacity to support and promote the inclusion of people with disability within the workplace. This training assists staff to identify ways to develop an inclusive and accessible environment for employees, customers and stakeholders. The package has been contextualised and adapted for the emergency services, with input from the DWG. An implementation plan to roll out this package as training for all personnel is currently under development.

There is an undertaking in the current DAP to continue to provide mandatory equity and diversity training to ensure front-line police officers understand and respect the rights of people with disability, to provide investigator training which includes guidance on interviewing people with disability and mock vulnerable witness interviews, to review and update the curriculum of the Police Recruit Course to include best practice training on interacting with those with disability and provide interviewing vulnerable witnesses/suspects training to all police recruits.³⁸⁰

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

Victoria Police has developed a range of opportunities for members to access education and resources on policing and people with disability. These include:

- Formal training and promotional programs for Victoria Police members, including Recruits and Police Managers, which involve direct engagement with people with disability and stakeholders. These sessions include direct community engagement and the opportunity to discuss and consider a range of case studies.
- Disability awareness and confidence training, which has been delivered to recruitment teams, hiring managers and customer service employees.
- Police members are trained in communication accessibility as part of the Communication Access Accreditation Police Project (CAAPP), which is a collaborative partnership between Scope Australia and Victoria Police. The aim of the CAAPP is to increase the capability of Victoria Police to effectively support people with communication difficulties when reporting crime. In CAAPP, members of Victoria Police are trained by facilitators with lived experience of communication disability. Victoria Police has two sites accredited. Box Hill was the first watch house in Australia to receive the nationally-recognised Communication Access Symbol. The symbol was awarded following the completion of a two-year program funded by the National Disability Insurance Agency (NDIA). Officers participated in training sessions led by people with a communication disability. A Victoria Police Watch House Communication Book was also developed to help people get their message across.³⁸¹ Geelong is also accredited, and Victoria Police are currently exploring an opportunity to expand a further site.

- The Cultural Community and Diversity Resource Hub is an online resource for Victoria Police members that houses a range of resources and links to good practice guidance, reports, stakeholders, and education materials relating to people with disability and other identified and intersectional priority communities including: Aboriginal, Mental Health, Multicultural, Young People, Seniors and LGBTIQ.
- Co-designed resources have been made available to police to improve their ability to make reasonable adjustments and make use of disability referral pathways.³⁸²

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

WAPF's 'Vulnerable Persons' and 'Effective Communications' training packages were introduced in 2020 with the aim of improving police awareness and response when engaging with people with disabilities. There is no direct reference to persons with any particular disability. However, this is indirectly addressed in both Vulnerable Persons and Equal Opportunities training delivered to Police Recruits at the Police Academy.

- Vulnerable Persons Training (120 minutes): Delivered by the Foundation Training Unit in a classroom environment, includes four group activities/discussions and no refresher is required.
- Additional training specific to Vulnerable Persons: The Foundation Training Unit delivers four additional training packages in a classroom environment.
 - Reduce Youth Offending (160 minutes)
 - Cultural Diversity (120 minutes)
 - Aboriginal Cultural Awareness (13 hours over two consecutive days)
 - Equal Employment Opportunities (EEO) and Bullying Awareness (90 minutes, followed by an online assessment on completion).
- Tier 1 and Tier 2 Interview Training: The Detective Training School delivers two training packages in a classroom environment as part of the interview training program with consideration given to interviewing vulnerable people.
- Family Violence Training: The Foundation Training Unit delivers this training package over a week in a classroom environment. Topics specific to violence against people with a disability include:
 - Family Violence, Common myths, Barriers to reporting, in an LGBTI context
 - Family Violence in CALD communities
 - Family violence against people with disabilities.

The Professional Development Portfolio work with the Department of Communities Office of Disability, Disability Justice Prevention and Diversion. Examples of initiatives include:

- Disability Alert Information poster and Disability Alert Cards³⁸³ developed for the WA Police Force provided to cadets, recruits and in-service employees

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- Guest presentations by the Department of Communities, Disability Services -Justice Prevention and Diversion Division to the WA Police Force.

In partnership with Autism Australia, three five-minute videos were commissioned for use in training to create a greater understanding of Autism and its impacts, with two produced to date. From a general perspective, mandatory EEO training is undertaken by all employees and refreshed every three years.

When conducting interviews, investigators in the interview planning process are trained to consider mental or cognitive disability of a witness or suspect. The other investigative interview training delivered is the Tier 3 'Specialist Investigative Interviewer of Children and Persons with Mental Impairment' course, where the interview process is aligned to the Australia New Zealand Policing Advisory Agency (ANZPAA) Education and Training Guidelines for Investigative Interviewing of Vulnerable Persons V1.1 2014. The Tier 3 interview training course is delivered by the Detective Training School at the WA Police Academy, in partnership with the Child Assessment and Interview Team (CAIT), a unit within the Sex Crime Division. The two-week program is delivered in the classroom and supported by online modules before and during the course. This is followed by a four-day internship at CAIT. This program is targeted to experienced police officers.

In summary, only one jurisdiction, the NT had no publicly available information regarding disability awareness and capability police training. NSW and Qld indicate that they intend to and are developing disability training for police but to date the details of this are not available. The other jurisdictions, ACT, SA, WA, Victoria and Tasmania provide information indicating that police must undertake disability awareness and capability training, most in partnership with disability advocacy or support organisations.

3.6 Accessible information

Information on initiatives which address accessibility of information related to policing for people with disability was requested from Commissioners and reviewed via police service websites.

ACT: The following ACT review is based on publicly available information and documents.

The ACT Policing website has not accessible information publicly available and does not mention Web Content Accessibility Guidelines (WCAG) 2.0 Level AA compliance.

NSW: The following NSW review is based on publicly available information and documents. The NSW Police website provides links to a number of easy read documents and resources including:

- Easy English Victims of Crime fact sheets³⁸⁴
- Abuse of older people and people with disability³⁸⁵

but there is no mention of WCAG 2.0 Level AA compliance.

Northern Territory: No accessible resources publicly available

Queensland: The following Qld review is based on publicly available information and documents.

The QPS website has been designed and developed to ensure that its content is available to as many users as possible, including people with disabilities who may use assistive technologies.³⁸⁶ The website does not include any Easy Read versions of brochures or factsheets.

South Australia: No accessible resources publicly available

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

The Tasmania Police website is WCAG compliant, and messaging during disaster events typically involves the use of an AUSLAN interpreter. Tasmania utilises the *Emergency Alert* system, which provides Australian emergency service organisations the ability to send warning voice messages to landlines and text messages to mobile phones based on their registered address or last known location. This was utilised regularly during the early COVID-19 response in Tasmania to ensure messaging was accessible and consistent. No further accessible resources are publicly available.

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

Victoria Police make available a suite of Easy English documents including:

- Family Violence Safety Notices
- Family Violence
- How to Make a Complaint Against Police
- How to Report a Missing Person
- How to Report a Sexual Offence to Police
- Information and Support Referral
- Reporting a Crime
- Victims of Crime.

Additionally, as part of the AAP, Victoria Police has committed to the following initiatives:

- developing police information in accessible formats with community through a co-design approach
- ensuring publicly available information is available in accessible formats
- ensuring that Victoria Police internet and intranet sites are compliant with current accessibility standards.

The Victoria Police website has been developed with the aim of complying with W3C WCAG 2.0 Level AA accessibility standards and additionally provides Recite Me, an assistive toolbar, to allow users to customise accessibility settings. However, Victoria Police note that the Online Reporting site does not offer the Recite Me accessibility features. This may restrict users from reporting non-urgent crime online such as theft and property damage in a way that meets their accessibility needs.

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

The WAPF hosts inclusive, accessible events that enable all individuals, including individuals with disability, to engage fully. The agency uses an Accessibility Event checklist when hosting events, which is completed by a representative of the event venue to ensure accessibility requirements can be met. The WAPF website is endeavouring to meet the WCAG 2.0 Level AA requirements and accessibility features to ensure it is accessible to as many people as possible. The range of accessibility features that have been implemented on the website are noted on their Accessibility page.³⁸⁷ Notably, no stated features appear to address needs specific to people with cognitive disability. Easy Read documentation is not available on the WAPF website, but information about police functions and services is available in alternative formats upon request.

In summary, some jurisdictions acknowledge the importance of alternative formatting to improve access to information for people with disability. However, three jurisdictions (SA, NT and Tas) had nothing on accessibility. WA states it attempts to make all events accessible but there are no easy read documents on its website; and Qld and NSW have some easy read documents but compliance with WCAG 2.0 Level AA is not evident. Victorian Police seems to have the most comprehensive suite of accessible easy read documents and to comply with international standards.

3.7 Procedural guidance

Jurisdictions were invited to provide information regarding any specific police procedural guidance available to Police officers in relation to responding to people with disability and a website review was undertaken to identify any guidance that is publicly available.

ACT: The following ACT review is based on information provided by ACT Policing and on publicly available information and documents.

The ACT Intermediary Program, launched in January 2021, provides intermediaries to assist police and courts' engagement with vulnerable witnesses in criminal matters including witnesses with language delays, mental health issues, learning disabilities, cognitive issues, autism and ADHD. Intermediaries facilitate communication between witnesses and police and witnesses, lawyers and others at court during the criminal trial process.³⁸⁸ The role of the intermediary is to carefully assess the communication needs of the witness and inform police and the court of the best ways to communicate, so the witness can provide their best evidence. The intermediary

does this by conducting a Communication Assessment of the witness' communication needs at two separate stages of the process: immediately prior to the witnesses' interview with police and prior to the witnesses' attendance at court. After undertaking the Communication Assessment and advising the police and court about communication with the witness, the intermediary may remain involved. The intermediary may be present during the police interview and may also be present at the court hearing, so the intermediary can immediately assist if a breakdown in communication occurs. It is important to note that the witness intermediary is not a support person. The intermediary is an impartial participant in the process who is focused on helping the effective communication of evidence. Intermediaries are officers of the court who have undertaken rigorous training in order to become accredited. Intermediaries are often drawn from allied health professions including Speech Pathology, Social Work, Psychology and Occupational Therapy. A procedural guidance manual is made available regarding key aspects of the intermediary role.³⁸⁹

The AFP also has various governance frameworks to guide the management of 'Evidence in Chief' interviews with young people or vulnerable witnesses (including those with an intellectual impairment). These interviews are only conducted by appointees who have completed the Interviewing Vulnerable Witness Program (IVWP). The IVWP was developed specifically for AFP officers and includes a session about 'Disability and Capacity', which was designed to examine mental illness and intellectual disabilities and their impact on witnesses. The training also explains how to develop an interview plan that caters for an individual's needs and their specific disability. ACT Policing also has procedures for interviewing people with hearing loss including an AUSLAN translator to assist during interview and engagement with police. ACT Policing appreciates that this may not be suitable to all being interviewed and as such, would consider other options that did not disadvantage the person being interviewed.

In December 2019, the Police, Ambulance and Clinician Early Response (PACER) initiative was launched.³⁹⁰ This tri-service response sees police, ambulance and health clinicians responding to mental health crises in the community together. It has highlighted the benefits that can be achieved through a multiagency response and has seen a high percentage of patients treated avoid a hospital admission, reducing the burden on hospital resources. By having mental health experts attend critical incidents with police, a greater level of dignity is afforded to those vulnerable members of the community. PACER also provides training for general duties members of ACT Policing to ensure continued improvement in mental health crisis competence and response.

Additionally, ACT Policing has been operating a multiagency family response model since December 2020. The model comprises a Secondary Response Capability to improve victim safety and reduce the workload of frontline workers. While the capability has focused its work on family violence related issues, it is envisioned that, dependent on its success, ACT Policing will adapt this capability to focus on additional vulnerable groups such as people living with a disability.

NSW: The following NSW review is based on publicly available information and documents. Under the Law Enforcement (Powers and Responsibilities) Regulation 2016 (LEPRA) (NSW)

people with cognitive impairment are classified as ‘vulnerable persons’ and so have the right to have a support person and the right to communicate with a legal practitioner before any investigative procedure takes place and during a police interview.³⁹¹ The NSW Police Handbook is not publicly available, however indications are that operational guidance is provided in relation to a number of issues such as determining the presence of intellectual disability and therefore ‘vulnerable’ status in relation to the LEPPRA requirements and other practicalities associated with the provision of independent support persons via the community organisation the NSW Justice Advocacy Service which provides support persons for people with cognitive impairment in contact with the criminal justice system [see Section 2.5.2 for a detailed description of the operation of the JAS], and of interpreters for people who are Deaf or hearing impaired.

Northern Territory: No information available

Queensland: The following Qld review is based on publicly available information and documents.

Under the *Police Powers and Responsibilities Act 2000* (Qld) (PPR Act), police are required to have a support person (independent person) present when they interview a person with impaired capacity. The person may nominate a support person. People with a disability are also entitled, before they are questioned, to speak with a support person without being overheard. Moreover, if it becomes apparent to police that a person they have charged has a disability, police must suspend questioning until they have allowed the person to speak with a support person. A person with a hearing impairment is entitled to have both an interpreter and an independent person present during the interview. Under both the *Crimes Act 1914* (Cth) and the PPR Act, federal and Queensland police officers investigating a case must arrange for an interpreter to be present, if they believe that the person under arrest is unable to communicate verbally in English, due to a physical disability or inadequate knowledge of the English language.³⁹²

In July 2021, Queensland launched an Intermediary Scheme as a two-year pilot program in two Brisbane and Cairns. The Queensland Intermediary Scheme aims to overcome communication barriers and create a more accessible justice system by facilitating the communication of evidence that may not otherwise be heard. It aims to reduce trauma to vulnerable witnesses, improve the quality of evidence, give police officers, the legal community, and the courts a better understanding of the needs of vulnerable witnesses, improve access to justice and reinforces the importance of effectively and respectfully responding to child sexual offence allegations.³⁹³

Queensland Police Operational Procedures Manual OPM Issue 80 Public Edition | Effective 12 February 2021³⁹⁴ sets out procedures designed to ensure contact between members and persons who are vulnerable, disabled or have cultural needs is conducted in a manner which is fair and does not place the person at a disadvantage. This guidance applies to persons who are suspects, witnesses and victims. The OPM also provides guidance on the circumstances which constitute a vulnerability, disability or cultural need (6.3.1); on establishing whether a person is vulnerable, disabled or has a cultural need (6.3.2); and on interviewing persons with a

vulnerability, disability or cultural need (6.3.3); or those who are Deaf, hard of hearing, blind or have low vision (6.5.6). In addition, the Qld OPM provides detailed guidance on the use of independent persons (6.3.4) and their specific roles (6.3.5). The OPM also provides guidance in relation to procedures relevant to vulnerable people during arrest, and when in police custody (16).

South Australia: The following SA review is based on publicly available information and documents.

Part 4 of the South Australia Summary Offences Regulations (2016) under the Summary Offences Act 1953 [Summary Offences (Interviewing Vulnerable Witnesses) Amendment Act 2017] outlines police responsibilities in relation to 'interviewing certain suspects and vulnerable witnesses'. The Act defines a vulnerable witness as 'a person with a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions' [s 74EA].³⁹⁵

While a South Australian police manual or equivalent is not publicly available, an outline of some police powers in relation to search and arrest procedures, including forensic procedures, and the rights of an arrested person is made publicly available by the Legal Services Commission of South Australia. This website states police recognise vulnerable witnesses in relation to interviewing as follows: 'When a *vulnerable witness* is being interviewed as a witness to a serious offence against the person (such as murder, manslaughter, criminal neglect, a sexual offence, abduction, blackmail, unlawful threats to kill, and some other offences [see s 74EA]), police have an obligation to make an audio visual recording of the interview [s 74EB]. Police must allow the person or their legal representative to view the audio visual record and they are able to obtain a copy of the audio record part of it, but not the visual part [see s74D(4) Summary Offences Act 1953 (SA)].'³⁹⁶

The South Australian *Evidence Act* 1929 (SA) and the *Summary Offences Regulations* 2016 (SA) establish a scheme whereby a person with complex communication needs is entitled to receive communication assistance during certain interactions with the justice system. People with complex communication needs may include people with intellectual disability, Cerebral Palsy, an acquired brain injury, mental health issues or is on the autism spectrum. When this is recognised, a police officer must make arrangements for the person to be accompanied by a 'prescribed communication partner' or for the use or provision of a 'prescribed communication device' for the purposes of the interview either as a suspect for an indictable offence or as a potential witness in relation to a serious offence against the person. The role of a communication partner is to assess people with complex communication needs in order to impartially facilitate communication between the person with complex communication needs and the interviewer, judicial officer or other participant in the justice process.³⁹⁷ From March 2020 the SA Attorney General approved a number of types of practitioner who may act as a 'prescribed communication partner' including speech pathologists, occupational therapists, psychologists, developmental educators or social workers who have a minimum of five years relevant experience working with people with complex communication needs and who agree in writing to comply with the Communication Partner Code of Conduct.³⁹⁸

Tasmania: The following Tasmania review is based on information from Tasmania Police and on publicly available information and documents.

Tasmania Police has an internal webpage of disability resources, which is accessible by all personnel. This includes links and contact information for relevant support services and agencies, the relevant plans and strategies linking to disability, and information sheets addressing various aspects of interacting with people with disability.

The Tasmania Police Manual has a chapter specific to '*People with Disability and Impairment*' which was reviewed and updated in 2020. This provides education and guidance to members regarding service provision to people with disability. The chapter includes information on the following topics:

- General information about disability and the requirement for equitable access to the services provided by police
- Definition of disability
- Considerations in dealing with people with disability as victims, witnesses or suspects, including specific legislative provisions
- Where to access information on support and advocacy services
- Communication etiquette when interacting with people with disability
- Assistance animals
- Considerations when charging and bailing people with disability
- Transportation of people with disability.

The Tasmania Police Manual is available to members of the community via the Tasmania Police website.³⁹⁹ Specifically guidance suggests that appropriate assistance should be secured, that persons with disability should be asked if they have an advocate or support person and if so, this person should be contacted and that an interpreter may be called if the person has difficulty communicating or comprehending speech or if being interviewed as an offender, an independent interpreter should be sought' (2.26.1). The manual also refers to 'Guidelines for Interacting with People with Disability', however these are not publicly available. For people with disability who are victims of crime the manual directs members 'to obtain guidance from officers who have been trained in interviewing vulnerable witnesses prior to interview' 2.26.2).

Victoria: The following Victoria review is based on information from Victoria Police and on publicly available information and documents.

The Victoria Police Manual (VPM) includes guidance on engaging with people who have disability. For example, the VPM on 'Interviews and Statements' requires that any person who has an intellectual disability be offered the use of an Independent Third Person (ITP) in any interview or statement situation. In Victoria, ITPs are provided through the Office of the Public

Advocate.⁴⁰⁰ ITPs under this program attend police interviews for adults and young people with disability to ensure that they are not disadvantaged during the interview process. ITPs are trained to support and assist the person with disability through the interview process by:

- facilitating communication between the person and police
- providing assistance to contact a lawyer, relative or friend if requested
- helping the person understand their rights and any legal advice given
- informing police if they observe that the person does not fully understand their rights or circumstances at any stage of the process
- ensuring the person understands the questions asked by police, which may involve requesting the police to rephrase a question and,
- requesting a break during an interview if the person is becoming distressed or is unable to concentrate.

ITPs are independent of the police process and cannot instruct a person with disability on how to deal with the issue they are facing or provide legal advice.

Further considerations around people with disability are included in many procedures within the VPM, including those related to family violence, protection of children, sex offender management, sexual violence and people in custody. Details regarding these are not available at the time of reporting due to delays in obtaining access to a publicly available version of the VPM.

WA: The following WA review is based on information from WA Police Force and publicly available information and documents.

The WA Police Force Manual has not been made available to the project, but section titles include specific attention to 'Disability Services Policy and Guidelines' and 'Communicating with People with Disability'. Procedurally, the WAPF asks a series of screening questions to persons in police custody and upon admission to the Perth Watch House custodial facility to ensure their welfare is appropriate while in custody. This includes the provision of access to a registered nurse. There are no specific activities or facilities to cater for disabilities other than access to wheelchairs for detainees where required. The WAPF's Automated Interview Plan (AIP), a tool for police interviews relating to criminal investigations, is designed to identify and consider interviewee vulnerabilities including disability. It is not known whether the AIP is yet operational within the jurisdiction. It is intended that progress of the implementation of this is monitored and reported to the DAIP Coordination Group. In addition, annual reporting is required to the Department of Communities, Disability Services and within the WA Police Force Annual Report. To ensure police officers can provide services for people in their care, client-focussed services are accessed through the National Disability Insurance Agency after-hours referral advice line and the Crisis Care support services.

The WAPF continue to deliver the multiagency Mental Health Co-Response (MHCR) Program, ensuring a targeted, person focused service is delivered to people experiencing a mental health crisis. MHCR recognises that mental illness impacts a significant number of interactions between police and the community and is not confined to any particular group. After a successful two-year trial, the MHCR Model was expanded to the entire metropolitan area. Under the partnership arrangement between the WA Police Force, Mental Health Commission and the Department of Health, people experiencing mental health distress are diverted from the criminal justice system and hospital emergency departments. MHCR Teams are located in Warwick, Midland, Cockburn and Cannington; according to the WA Police annual report this program is providing both police and the community with more effective outcomes.⁴⁰¹ MHCR states it values diversity and continues to build its awareness and understanding of the range of disability people may experience.

In summary every jurisdiction, except the NT, has evidence of procedural guidelines. However public availability of police operational manuals, procedural guidance or other relevant resources is limited. There is evidence of policing organisations in all jurisdictions except the NT, deferring appropriately to bespoke tools, external experts and multiagency models that improve responses to people with disability and mental health issues. Some jurisdictions (Vic, WA, ACT, SA) benefit from more embedded and more expansive options although provisions for a communication intermediary or support person for people with cognitive or communication impairment is not legislatively mandated in all jurisdictions. There is a common focus on specific interview skills and capabilities when interviewing people with disability, but these are designed and applied differently across jurisdictions. As is seen in other aspects of disability and policing across Australia there is great variation in what disability or vulnerability is focused on with some, for example, singling out mental health support but not specifically recognising cognitive impairments.

3.8 Other initiatives

Jurisdictions were asked to provide information on any other initiatives, data capture, reporting or leadership with respect to policing and people with disability not previously specified. The following reports on the information received.

ACT: The following ACT review is based on information provided by ACT Policing.

ACT Policing works with the ACT Office for Disability to identify reasonable adjustments for people with a disability during their interactions with police. Disability ACT provides strategic advice to government and community to create an inclusive Canberra so that people with disability are able to fully enjoy their rights as citizens of the ACT. ACT Policing notes a trial designed to help police identify what reasonable adjustments may be required when processing an intake will commence with the ACT Watch House, but that this proposal is still in its early stages. ACT Policing anticipate this initiative will help to inform how the organisation incorporates reasonable adjustments and other needs related to disability into its usual business practices.

The Mental Health Community Policing Initiative is a partnership between the Mental Health Justice Health Alcohol and Drug Services portfolio, the ACT Ambulance Service, the Canberra Hospital, Calvary Hospital and ACT Policing. This coordinated approach ensures that the root cause of an incident is examined and addressed, reducing the likelihood of further instances of behaviour warranting police intervention.

ACT Policing acknowledges that the suite of programs and initiatives available to enhance policing policy and practice with respect to people with disability, while comprehensive, does not take the place of health professionals. They are committed to looking at ways in which they can engage with medical partners to ensure the best outcomes for the community. As a community police force, ACT Policing recognises the need to ensure they are equipped to serve all members of the community, that there will always be a need to improve their approach to working with vulnerable groups and that police are only 'one piece of the puzzle' when it comes to ensuring holistic support for vulnerable members of the community.

NSW: No information available

Northern Territory: No information available

Queensland: No information available

South Australia: No information available

Tasmania: The following is based on information from Tasmania Police.

DPFEM conducts regular employee surveys which seek employees to anonymously self-report their disability status. This provides a snapshot for the organisation to assist in the development of policy and practice concerning industrial matters.

DPFEM also has a Diversity and Inclusion Working Group to promote, support and report on the implementation of the *Diversity and Inclusion Actin Framework 2020*. The action areas of this Framework are:

- Building an inclusive and diverse workforce
- Supporting our employees
- Working together to create change

Many of the actions within this framework relate to workplace practices which aim to enhance the culture, experience and opportunities for people with disability, among other groups.

Victoria: No further information provided

WA: The following WA review is based on information from WA Police Force and publicly available information and documents. The WAPF is developing a new clinical services

nursing model for the Perth Watch House custodial facility. Part of this model will include the development of individual detainee care systems, which will include care for specific disabilities. There is an increasing number of contracts across the agency employing disability enterprises to fulfill contracts required by the WAPF including gardening, painting and cleaning, document distribution and creation, in addition to catering services through the Blue Bean Cafe at Police Headquarters. WAPF monitors the progress of the Disability Royal Commission, and reviews recommendations with a view to enhance policies, procedures and training as opportunities are identified. The WAPF acknowledge that people with disability may have a fear of reporting crime to police directly and provide the contact details for the National Disability Abuse and Neglect Hotline to support people with handling their abuse claim.

3.9 Summary of findings

There is significant variability across jurisdictions on an overall strategic approach to policing and disability and to disability justice more broadly. Examples of strong overall strategic approaches are seen in the ACT and Victoria, with Qld, SA, Tasmania and WA having some areas of good practice in responding to people with disability. The following key observations can be made on the basis of responses provided to date by some jurisdictions or on publicly available data on police websites from others.

All jurisdictions, except the NT, have Disability Inclusion Action Plans or their equivalent, requiring all government agencies, including police services, to prepare internal plans or strategies to recruit people with disability and to make services accessible to people with disability in the community. These plans and strategies vary greatly in their content and focus and there is little consistency. There is a focus on employment of people with disability in most police force plans but a number of jurisdictions also have developed good plans in regard to policing responses to people with disability. For example, SA developed the first Disability Justice Plan in Australia in 2014 with the ACT following in 2019 and these plans include disability informed and aware strategies for their police services to respond to and work with people with disability. Victoria and the ACT have the most comprehensive plans and strategies for policing and people with disability. Most police services indicate that they monitor progress against their plans but there is little evidence of robust evaluation other than in SA where there was evaluation of the Disability Justice Plan. As is seen across all areas of disability and criminal justice, evaluation is seriously hampered by lack of data and this will be discussed later in this summary.

There is an overall lack of specialist disability liaison personnel across jurisdictions with the exception of ACT Policing's introduction of DJLO that provides an example of good leadership and may be the first and only jurisdiction to take this initiative. As we received no information other than that publicly available from most jurisdictions, we are unable to confirm whether or not this is the case. This also speaks to consistency in the way disability is positioned as a specialist operational focus for police. In some jurisdictions it is joined with ageing, in others

with 'vulnerable' groups, in others with 'diversity'. This is in contrast to most jurisdictions having a clear specialist operational focus or strategic focus on other population groups for example, First Nations People, Multicultural populations and Youth. There is almost no recognition of the impact of co-occurring, compounding or intersectoral impacts such as being a person with a disability who has a number of disabilities, is a woman, experiences domestic violence, is a First Nations person, is homeless and so on, and what this means for policing.

Lack of policing disability data affects all areas of policing and disability negatively. Victoria is the only jurisdiction collecting disability data in relation to policing. There is almost no capability to collect data in police administrative data systems about incidences or the nature of policing matters relating to people with disability. This has significant implications for jurisdictional and national reporting, analysis and monitoring which is reflected in the absence of national or state/territory data about policing and disability. Alongside this, attention to accessibility (public information) is inconsistent across jurisdictions. It is absent from some jurisdictions and prominent in others. Only some jurisdictions note near or continuation of the pursuit of compliance with W3C Web Content Accessibility Guidelines (WCAG) 2.0 Level AA accessibility standards on their websites (WAPOL, VICPOL, SAPOL, NSWPF, DPFEM). Specific accessibility features noted tend to cater for people with vision, hearing and fine motor related disabilities using assistive technologies, more so than for people with cognitive disabilities. Easy read materials are available on some topics in some jurisdictions. So, data in disability and policing are almost non-existent and access to information about policing, about people with disability's rights in relation to policing and about support services available is highly variable both in availability and quality.

There is little detail available in regard to training for police in disability awareness and response. There is no information at all on training in the NT or Qld Police services; all other jurisdictions run some disability training for their police. There is no information on evaluation or monitoring of the impact of police training on police interactions with people with disability. There is some evidence in some jurisdictions of police training being conducted by disability NGOs and in some cases by people with 'lived experience' of disability. There is increasing interest in and implementation of autism awareness training, but the content of this training is not publicly available. Nevertheless, there is evidence of partnerships between policing jurisdictions and state-based autism organisations.

All jurisdictions, except the NT, have procedural guidance related to policing and people with disability but in most cases the guidance is not publicly available. There is no consistency in guidance across jurisdictions. An important intervention introduced in some jurisdictions over the past few years, that is independent third person/ support services for people with disability at police stations, appears to be available only in four jurisdictions (the ACT, Qld, Victoria and NSW). Again, there is no information on evaluation or the benefit of these schemes, although it is a fundamental right for people with disability to be afforded independent support when in contact with police.

A range of other disability and policing related information was evident in the information the three jurisdictions that responded to our request for further information as well as in some of the publicly available information. Across jurisdictions, there appears to be willingness to engage in a variety of co and/or alternative response models or initiatives (direct co-response and cooperation with police, targeted referral pathways etc) that acknowledge the expertise of clinical supports in mental health. This momentum could be expanded to include people with cognitive disability by using suitably qualified and experienced behaviour support practitioners and/or people with lived experience trained in compassionate de-escalation. The different policing models and cultures across jurisdictions for example, ACT Policing has a focus on 'community policing'; Victoria Police has a 'victim-centric' focus, could be harnessed to trial alternative approaches to policing with people with disability.

The Australia New Zealand Policing Advisory Agency (ANZPAA) has strategy priorities and publications responding to the abuse of children and young people, Family and Domestic Violence and gender but nothing in relation to policing and people with disability. Information available on mental health appears to relate only to occupational factors for policing staff. However, the ANZPAA Annual Report 2019-2020 mentions that ANZPAA 'influenced the way in which police respond to incidents involving persons likely to be experiencing mental health issues by developing an interactive Mental Health Guide allowing easy access for frontline members to practical advice in an operational setting'.⁴⁰² This Mental Health Guide is not publicly available, and it is not clear whether and how individual jurisdictions are utilising it but it could be another avenue to improve approaches for people with disability.

The only consistency in policies, strategies, training, monitoring, data gathering and use of good practice across Australian Police Services working with and responding to people with disability is that there is no consistency. Victoria is the only policing jurisdiction that appears to be addressing all the key aspects of improving policing with people with disability, while the NT appears to not be addressing any of those aspects (see Table 1). There is very little information or evaluations on training or policing approaches that are working to divert from and support people with disability during involvement with police.

Table 1: Police Policy and Practice Dimensions by Jurisdiction

	Disability Action Plan or equivalent	Disability Data	Intermediary/ Independent Third person Scheme	Advisory Mechanism	Corporate Leadership	Accessible Information (selected)	Training	Procedural Guidance	Other
ACT	✓	X	✓	X	X	X	X	✓ ✓	✓
NSW	✓	N/A	✓	X	X	X	X	X	N/A
NT	X	N/A	X	X	X	X	N/A	N/A	N/A
Qld	✓	N/A	✓	X	X	X	N/A	X	N/A
SA	✓	N/A	X	X	X	X	X	X	N/A
Tas	✓	✓	X	X	X	✓	✓	✓	✓
Vic	✓	✓	✓	✓	✓	✓	✓	✓	✓
WA	✓	X	X	X	X	X	✓	✓	✓

*N/A – Information Not Available

4. Consultations with advocates and support persons

This chapter presents the findings from interviews with disability advocates and those assisting people with disability in their interactions with police as victims, alleged offenders and witnesses. The ideal approach of interviewing people with disability who have had contact with the police was beyond the scope of this short research project, however the direct experiences of people with disability are again included throughout in the form of case studies to illustrate the nature and impact on people with disability of aspects of their interactions with police. The purpose of the interviews was to examine the experiences and perspectives of leading disability advocates working with or on behalf of people with disability in their interactions with police; to draw insights from the field regarding key practice and systemic issues as well as evidence of good police practice; and to contextualise insights from the literature and identify evidence-informed improvements to police responses to people with disability and about alternatives to the use of police as first responders. Issues that specifically pertain to First Nations people with disability are presented as a separate section in order to highlight the additional and unique circumstances relevant to policing for this group. Similarly issues specific to young people with disability in contact with the police are explored in an additional section of this chapter.

A total of 37 interviews were conducted with leading advocates engaged in a wide range of professional positions across a variety of service sectors across five jurisdictions. All interviewees were identified via recommendations from the project's partners and advisors. Advocates included chief executive officers, managers, and front-line staff from leading disability and justice organisations, and senior and frontline legal representatives across a range of legal services. Advocates interviewed were drawn from New South Wales, Victoria, Queensland, Western Australia, and the Northern Territory (see Appendix C for a full list of agencies represented in interviews).

The semi-structured interviews canvassed the views of advocates working in either individual or systemic advocacy across three broad areas (see Appendix D for the Semi-structured Interview Schedules).

- The context of their practice and their perceptions of the drivers of police contact for the people with disability with whom they advocate for and/ or support.
- Their experiences of, and perspectives on the nature and outcomes of police responses to people with disability.
- Their knowledge about improving police responses to people with disability and about alternatives to the use of police as first responders.

UNSW Human Research Ethics Committee provided approval for the interviews (#HC210126 & UQ Human Research Ethics Approval number (2021/HE000836). Interviews were conducted by members of the project's research team. All interviews were recorded and transcribed verbatim. A combined analytic approach utilising content and thematic analysis was undertaken allowing both descriptive and reflective reporting of the findings from interviews. The analytic method

commenced with initial data familiarisation of all transcripts by two researchers, line by line coding of all data, followed by descriptive capture of linked or similar content to identify and describe key practice and systemic issues, and inductive thematic analysis to identify common reflective insights for improving police responses to people with disability, and views about alternatives to the use of police as first responders.

4.1 Context and drivers of police contact

Advocates were asked to describe the context of their practice, the characteristics of the people with disability they work alongside and the reasons for people's contact with the police. Observations were sought about any differences in police responses to people with disability based on their status as either alleged offenders, victims or witnesses to crime and about the key drivers of police contact for the people with whom they advocate for and/or support. Interviewees' observations accord closely with the findings reported in relevant literature.

4.1.1 Characteristics

Advocates identified that people with cognitive impairment comprise the largest group of people with disability who come into contact with the police. This reflects the key findings from the literature review. Included in this group are those with the diagnostic labels of intellectual disability, borderline intellectual disability, autism, acquired brain injury (due to traumatic brain injury, or because of drug and alcohol use) and fetal alcohol spectrum disorder. Some people may be formally diagnosed but many are not. Advocates also noted the common incidence of 'dual diagnosis' (e.g., mental health problems and/ or substance abuse issues) or the presence of a number of co-occurring impairments such as hearing impairment or a mental health problem that combine with low education and/or an active drug-use problem.

Advocates observed that these impairments and disadvantageous circumstances, in combination with the social factors of class, race, gender, age and sexuality, bring people with cognitive impairment into contact with the police. Commonly noted impacts of impairments that may lead to police contact and over-policing of people with disability include:

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- not thinking as quickly as others
 - difficulties with decision making
 - difficulty controlling strong emotions often expressed as aggression or abruptness
 - limited understanding of what constitutes an offence
 - difficulty understanding the consequences of disclosure and a tendency to over-disclose
 - appearing as if intoxicated, particularly those with acquired brain injury or cerebral palsy
 - unconventional/ non-normative behaviour that is not a criminal offence but rather is 'difference'
 - limited understanding of the significance, impact or designation of their behaviour being a 'criminal' offence
 - difficulty navigating the social service and legal systems
 - exclusion from mental health and other social services such as alcohol and drug services because of their disability
 - 'higher functioning' persons learning to 'mask' their disability
 - decreased ability to understand and assert their legal and civil rights
 - a higher susceptibility to be the 'fall guy' for other people.

Advocates also noted the ways that poor police understanding of the impact of a person's disability can escalate the nature of police contact. A common example given was that of police welfare checks or where police approach a person who is homeless and not because an offence has been committed. The person may be fearful when police approach and ask them questions because of previous trauma associated with police and are likely to react adversely. This often results in the person being charged with a number of offences, such as resisting arrest, intimidating police, and assaulting police. This process of escalation and criminalisation was also very commonly observed in relation to the victimisation experiences of people with cognitive impairment. One advocate described this process:

With people that were victims, quite often they were treated like accused or defendants, depending on the situation that they were trying to report. I've seen a lot of victims becoming accused if they didn't have the right support.

4.1.2 Reasons for police contact

Alleged offenders

Most interviewees worked with people with disability who were alleged offenders. The types of offences reported as most commonly bringing their clients into contact with police are generally of a minor nature, the most common being:

- crimes of poverty such as sleeping in a public place and stealing food (examples provided include a person who had bail refused and spent time in custody for stealing less than \$10 of food, and a case where a person received a three-month sentence for stealing a Freddo Frog)
- significant numbers of breaches of violence protection/intervention orders and of court orders associated with not understanding the nature and conditions of the orders. Violence protection/intervention orders and court orders were noted to set people up to fail and create a 'snowball effect' in the justice system
- violence protection/intervention orders between people living in disability group homes or a support worker against a client, where in both cases, the person with disability does not have the capacity to understand or adhere to the order
- possession of an illicit substance or other drug-related offences such as break and enters
- behaviour related to the presence and impact of a disability, but which is construed as a crime (e.g. a person who is a compulsive hoarder and who steals items without a knowledge of this being a crime)
- 'online entrapment' by police for sexual-related offences to which people with cognitive disability are more susceptible
- police using a person with disability as an informant and the informant subsequently being criminalised for involvement in a criminal act that they have advised police about
- people experiencing a mental health crisis and being charged with assault of medical personnel
- inappropriate sexualised behaviours, largely attributed to the lack of access to sexual education
- some more serious offences related to violence and biker affiliation where the person with disability is commonly the 'fall guy'

Victim-offender dichotomy

All interviewees noted that the alleged offenders they worked with were almost always a victim of crime prior to their alleged offending, but that this victimisation is rarely recognised or reported due to the barriers that victims and witnesses who have disability face in coming forward to police and being believed. In concert with the findings from the literature review, the majority of advocates either explicitly or implicitly spoke about the significant problems associated with the victim-offender dichotomy for people with disability, which many stressed were intensified for the women with disability with whom they work.

While victimisation is very seldom the reason for contact with an advocacy service, advocates noted that during the course of their work the vast majority of their clients who were alleged offenders (some indicated over 80%, some 100%) invariably disclosed victimisation. Usually this was not the subject of contact with police but rather an ever-present backdrop in their lives. In other words, there was rarely any legal redress for the victimisation experiences of their clients. Closely aligned with the findings from the literature review, advocates noted that police response to clients who did progress to reporting their victimisation is often compromised because they are unable to provide a clear narrative of what occurred, they are not believed, or they are dismissed as either substance affected or as wasting police time. This was widely identified as corrosive of trust in police on the part of victims with disability, who are then more reluctant to report their victimisation to police. One advocate described a consistently reported issue:

A lot of clients talk about police not really listening, or taking them seriously, being too heavy handed in their approach, and many clients spoke of fear of police as well.

This fear of the police was also reported to be exacerbated when a person with disability is supported to make a complaint against police. One advocate discussed his extensive experience of supporting many people with disability to make police complaints, all of which had led to no further action by the police. Consistent with the findings of the literature review, the advocate stressed the pressing need for 'much more independent oversight of the police in order to hold the police accountable for their actions' and interactions with people with disability.

Victims/ Witnesses

Advocates indicated that supporting a person solely as a witness is very rare, if not unknown, in their practice. Instead, witnesses are almost always both a witness to, and the victim of the crime. In comparison to the lower-level offences allegedly committed by people with disability, offences against people with disability are often more serious crimes. The commonly noted types of victimisation experienced by people with disability include:

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- sexual violence and assault
 - domestic or family violence
 - institutional violence and abuse
 - being exploited by other people to commit illegal activities
 - harassment by vigilantes in the community, particularly if the victim has a history of sexual offending

Advocates also frequently noted that the presence of criminal histories in their records means that victims with disability tend to be treated 'differently' by police.

Advocates also noted that people with disability tend to be less likely to come forward when they are the victim of lesser crimes. It was suggested that this may reflect the limited understanding that people with disability have of their legal rights and/ or that they may be afraid of police, and/ or they do not understand how to report a crime. Some advocates noted that people with cognitive disability can be 'extremely honest' in reporting their victim experiences, or they do not think through or understand the consequences of the information they provide. This, they observe, frequently leads to the disclosure of illegal activity on the part of the person with disability, resulting in them being accused of, or charged with an offence effectively resulting in the criminalisation of victims with disability.

Victimised women with disability

Several advocates were interviewed because they provide services to victims specifically. These advocates said that women with disability who use victim specific advocacy or legal services were likely to have been victimised many times and to experience ongoing targeting by offenders. It was observed that many women made repeated attempts to report such violence to police, either alone or with family members or other supporters. Police involvement with this group tends to be associated with police attending the victim's place of residence for incidents of domestic violence or in relation to police protection notices (DVOs) either initiated by police themselves or due to complaints made by the victim with minimal police involvement. Advocates also noted instances of 'cross-orders' in which a woman with disability may also have orders against her which, in the view of the advocate, is commonly a result of 'misidentification of the primary aggressor from inadequate response by the police to not knowing how to handle a situation [and not] being able to investigate adequately'.

Advocates noted numerous instances where victims with disability do not report their victimisation to police because they are fearful of police from previous interactions, find the process of reporting 'too hard' or are deterred by police at their first contact on the assumption that they will not be a reliable witness. As one advocate explained, 'people aren't necessarily perfect victims, and might have had conflictual situations, or have repeated calls to police themselves and been labelled as a nuisance'. As Andrea's case study below demonstrates, people with cognitive impairment are at risk of being perceived by police as unreliable or as the perpetrator/aggressor when they may be, like Andrea, a victim in the situation.

Andrea

Andrea has cognitive impairment including an acquired brain injury, fetal alcohol spectrum disorder and a hearing impairment.

Andrea had made application at her local Court in regional NSW for an Apprehended Domestic Violence Order against her ex-partner. Andrea was also named as the defendant in an ADVO application made by her ex-partner and it was deemed both applications would go to hearing. A mention date was set to check compliance.

Andrea had strong support from a family member, but no legal representation and the local domestic violence (DV) victim's support service did not have the staff to support her. Andrea had great difficulty articulating the nature of her ex-partner's violent behaviour and in citing concrete examples of that violence. Andrea had called 000 twice to report her ex-partner but she was unable to describe the emergency due to her disability. Andrea was given a warning for calling 000 the first time but the second time, Police arrested her.

As she had no professional support, the DV support service referred Andrea to the Justice Advocacy Service (JAS). In the referral it was noted that she did not 'present well', local police did not take her seriously and the DV support service was filing a complaint against a Police Officer alleging unfair/biased treatment towards Andrea quoting the police officer saying: 'I can't wait for her to look at me sideways so I can arrest her'.

Andrea was fearful and highly distressed when JAS met her. JAS linked Andrea with the Ability Rights Centre (ARC) – the IDRS Community Legal Centre – which undertook to represent her. The ARC solicitor assisted Andrea with her ADVO application. The ARC solicitor wrote to Police explaining the situation and requesting that the ADVO against Andrea be dropped. A week before the mention date, neither Andrea nor the solicitor had received paperwork concerning the application. JAS followed up with the Court and Andrea collected a five-page document.

At the next Court attendance, the Magistrate accepted the narrative of Andrea's ex-partner that this was a dispute over property and the matter was referred for mediation despite Andrea's solicitor arguing that this was an ongoing DV matter. The following week, Andrea's ex-partner trespassed on her property and assaulted her. Initially the police did not take her report seriously, but an independent witness made a report to the police corroborating Andrea's account. Finally, a non-contact ADVO was ordered by the police and this and the charges against Andrea's ex-partner were scheduled in court.

Police are progressing Andrea's ADVO application. The JAS advocate has contacted the local Police Domestic Violence Officer seeking a better police response if there is further harassment towards Andrea.

[Case study provided by Intellectual Disability Rights Service]

As Andrea's experience demonstrates, a person with disability is often seen as less believable and their disability may reduce their ability to present their side of the story to police. They are likely to have more trouble with remembering, communicating effectively, remaining calm, and comprehending police questions. Police often do not recognise these difficulties as effects of a disability and instead the person may be viewed as a nuisance or unreliable and may not be taken seriously. It is clear from Andrea's experience that police processes and communication can exacerbate these difficulties, particularly when police do not have an empathetic understanding of the impacts of cognitive impairment and are not equipped to communicate effectively with people with cognitive impairment. The absence of designated police positions with expertise in interviewing adults with specific communication challenges and the lack of a strict legal mandate for the provision of a support person, when coupled with poor access to support from mainstream services compound to disadvantage a person with disability in having their victimisation properly recognised and responded to.

In relation to the nature of responses by police, one Queensland-based advocate noted the positive impact of the provision under the Evidence Act 1977 Section 93A. This provision uses an interview process where the detective is trained in asking non-leading questions, and therefore avoids some of the pitfalls around suggestibility or compliance. It also allows for a video recording to be made and used as the evidence in chief in the court, thereby avoiding the re-traumatisation of the victim in having to tell the whole story from the beginning in the court. While identified as a positive capability, advocates stressed that this is a discretionary process which relies on the individual judgment or capacity of a detective to recognise the presence of impairment; a process of assessment for which they have little training and the application of which continues to be inconsistent.

4.1.3 Differences in police responses

Overall, there were varying views amongst advocates regarding whether police responded differently to a person with disability based on their status as either an alleged offender, victim or witness. Some advocates believed all the people with disability in contact with the police were treated 'the same' and that generally they were treated as 'normal' by police, in that their disability was not acknowledged or accommodated in their dealings with police as either an alleged offender, victim or witness. Others noted significant discrepancies where, for example, victims were catered for with more care and respect, and alleged offenders were treated as guilty already, with police seen as just a processing facility for any particulars of the alleged offence/offenders to be dealt with at court.

Victims

There were mixed observations regarding police responses to people with cognitive disability who are victims of crime. Some advocates observed that they tend to experience more timely, positive, and appropriate responses by police since it is often the case that police will have been informed in advance that the victim is a person with disability and there is more likely to be a support person in attendance. That is, police are more likely to be 'less reactive and more prepared in their response to victims of crime'. This suggests a good practice model that will be discussed later in this report. Conversely, others observed a strong tendency for police to view such victims as unreliable or untrustworthy, something that was also evident in the findings from the literature review and is evident in Andrea's case study. There was a view that the larger the number of previous complaints (which are generally visible on the police administrative system), the less willing police are to follow up and undertake a proper and thorough investigation. This is despite many victims being at high risk of abuse and exploitation and likely to have experienced numerous episodes of victimisation. This 'prejudgement of the victim' based on their history of complaints when combined with police judgement regarding the reliability or credibility as witnesses to their own victimisation, in the view of some advocates, resulted in a greater likelihood that matters do not progress to charges or investigations do not proceed. Indeed, some advocates noted that they did not have 'any victims that have made it past the complaint stage'. This in turn led several advocates to conclude that police should clearly document why an investigation against a perpetrator has not proceeded and communicate that to the victim.

Alleged offenders

Advocates on the whole believed that the sensitive approach sometimes observed for victims was rarely taken with people who come into contact with police as alleged offenders. Instead, police were described as 'much less accommodating and take less time when they're communicating with alleged offenders'. Some noted that police responses were also influenced by the nature of the offence: the more serious the offence (e.g., child sex offences) the poorer the treatment (e.g., unwarranted strip searches). Others gave examples where a support person may have been called, but by the time the support person arrived at the police station, the police had manipulated the person to 'waive their right to legal advice and had participated in an interview'. Jason's case study, provided by the NSW JAS highlights the challenges that people with disability who are alleged offenders, even with support, can be disadvantaged in the police process of interview.

Jason

Jason is a 20-year-old young man who has intellectual disability. JAS was contacted by police at 10pm on a Saturday night to provide a support person for Jason when he was arrested on suspicion of armed robbery.

The support person assisted Jason to contact the volunteer solicitor on duty so that Jason could get legal advice. Having discussed the situation with Jason, the solicitor advised him that he was not required to participate in an interview and that Jason shouldn't participate in an interview or answer questions from the police except for providing basic information on his name and address. The solicitor spoke to the custody manager about the advice that had been given Jason.

Jason told the detectives that he did not want to do an interview. The detectives said that was OK but they needed him to come into the interview room and say this on tape. The support person asked the detectives if they could record his refusal of an interview in their notebooks instead, but the detectives said that was not possible due to the seriousness of the offence. They said they need to have his refusal on the tape.

In the interview room, Jason was asked his name and address, who he lived with, who was his case worker and questions about his mental health. Jason answered these questions. The detective then asked in a friendly manner and nodding his head 'so do you want to talk about what happened tonight? We've just got a few questions.' Jason looked at the support person who asked the police to explain what they meant. The second detective then asked, 'do you want to have an interview?' Jason was then quite clear in saying 'no', explaining that the lawyer told him not to do that.

The detectives then brought out some copies of handwritten statements. They told Jason that these were notes from the police officer who arrested him. They said they wanted to give him a chance to confirm what he had said to those officers and to see if he agreed with what was written. The support person asked whether that involved an interview. The detectives said that Jason did not have to answer any questions. Jason then said he didn't want to answer any questions. The detectives then asked Jason if he would agree to be in a line up. Jason asked what that was, and the detectives explained. Jason asked the support worker what she thought about this. She said she thought that Jason should talk to the lawyer again before deciding about this. After they came out of the interview room, Jason was formally charged with armed robbery and possession of a prohibited drug. The support person raised with the custody manager the concern that Jason had been taken into the interview room to have his refusal to be interviewed recorded on tape. The custody manager explained that this was normal procedure and happens as a matter of course.

[Case study provided by Intellectual Disability Rights Service]

Jason's experience highlights the continuing uncertainty that may persist when asked by police in different ways, to agree to questions and communications with police despite having received legal advice not to participate in an interview. His difficulty was in understanding whether what the detectives were suggesting was an interview or not. His experience underscores the importance of the support person having a focus on Jason's rights and being aware of the legal advice and in helping him to clarify the police requests of him. It is likely without the support person, Jason would have agreed to talk further with police without realizing their requests actually suggested an 'interview', just using other words. His experience highlights the risk involved in a person with cognitive impairment being required to go to the interview room to record their refusal possibly leading to them inadvertently participating in an interview. The presence of an impairment clearly makes an individual vulnerable to unintentionally forgoing their legal rights and answering questions which may incriminate them. There is the risk that poor understanding of questions can result in unsound or false admissions. Jason's experience highlights the importance of the support person having a focus on rights, understanding and communication. Advocates noted that it is a common practice for police to insist that it is essential that the person record their refusal to be interviewed.

Overall, advocates identified numerous factors as having a bearing on the way that police respond to alleged offenders with disability. These include the behaviour of the person at the time of police contact and the effect of having had previous contact with police. Other advocates described their clients in terms of the 'reputation they have in their local communities', where a person who is known (by name) to police in their local area may be subject to particular forms of surveillance, targeting and over-policing as a result.

4.1.4 Drivers of police contact

Advocates consistently identified the intersecting and compounding confluence of social-structural (including cultural) and individual and situational disadvantage as key factors driving police contact with alleged offenders. Several advocates were clear that poverty (in combination with a number of other socio-structural factors as just noted) was the overwhelming common factor leading to the criminalisation of people with and without disability and to initial and ongoing contact with police. The term 'precarious lives' was used to describe the many forms of disadvantage experienced by the people with disability with whom they work, and many advocates identified an almost inevitable trajectory into the criminal justice system. Advocates widely acknowledged, in various ways, the importance of understanding how different forms of social-structural disadvantage make people more likely to experience other forms of individual or situational disadvantage. These observations are in concert with the research literature.

The forms of social-structural disadvantage identified by advocates as the key drivers of police contact with people with disability include:

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- a widespread absence of, and difficulty accessing appropriate support services and relatedly services being under-funded and overwhelmed
 - early and repeated contact with child protection/child safety services
 - exclusion from schooling and employment
 - living in marginalised and over-policed communities
 - contact with youth justice for trivial offending which escalates and results in enmeshment in the criminal justice system
 - institutional racism and ableism in the police force
 - disability discrimination against people with disability by community members
 - precarious housing and/or homelessness
 - not receiving the disability support pension to which they are entitled because they are unaware of how to do so
 - lack of access to technology to receive communications about obligations to comply with court orders and other services such as Centrelink
 - failings in disability services such as disability residential care settings, including staff calling police for behaviour management and untrained staff not following service processes
 - people with complex support needs being unable to access appropriate services and support as they are considered 'too complex' for services or are in geographically poorly serviced areas, despite many receiving significant NDIS packages.

There were also a number of commonly occurring circumstantial factors identified by advocates as associated with disadvantage experienced by people with disability which combine with drivers of police contact including:

- the impact of unresolved trauma resulting from sexual abuse and violence
- dislocated childhoods
- lack of familial support
- normalisation of incarceration in families/ intergenerational enmeshment in the criminal justice system
- domestic and family violence
- drug and alcohol use, particularly the impact of methylamphetamines and benzodiazepines on offending behaviour
- being drawn into negative peer groups
- neighbourhood disputes resulting in violence protection/intervention orders
- loneliness linked to a lack of community connections
- 'masking of disability' to avoid being a target in prison or in the community
- no identification or bank account
- purposeful offending in order to be re-incarcerated to be able to access basic survival needs such as food and shelter.

4.2 Nature and outcomes of police contact

Advocates were asked to describe the nature and outcomes of police responses to, and interactions with people with disability and to identify the police responses and interactions that were helpful for people with disability. Relatedly, the nature of the advocacy and/ or support they have provided to people with disability who come into contact with the police was explored in interviews.

4.2.1 Police interactions and responses

Advocates identified a wide range of issues observed in police responses to, and interactions with people with disability. Reflecting the key findings from the literature, were widely acknowledged problems with police not identifying and/or having insufficient knowledge about the impact of a person's disability, the many problems associated with police not providing support people, and the impact of the negative aspects of policing culture.

Failure to identify and understand disability

Advocates noted wide variation in police awareness or acknowledgement of disability, with many careful to differentiate these or to see them on a continuum. Overall, responses were seen to vary from police being completely unaware of disability, to having some acknowledgement but disregarding the impact, to doubting or disbelieving the diagnosis based on the appearance or actions of the person. Any of these were understood to create significant problems, often from the outset, for navigating the policing process. Examples were provided where police did not take appropriate action despite clients providing information about their disability, or providing proof of support by a disability service, and despite the advocate following organisational procedure. One advocate summed up what many communicated about the nature of police responses to people with disability,

It can be a case of I don't want to help, I'm not going to help, I don't believe you have a disability, or I don't believe you deserve the help.

There was a perception that acknowledging disability runs counter to police emphasis on dealing with offenders by getting them off the streets and 'out of sight and out of mind' as well as there being a view amongst police that having lived experience of disability was not a contributor to and not 'a reason why the person has offended'.

All advocates drew attention to the numerous problems that arise from police not identifying or understanding the impacts of disability. This was described as a 'general disregard for the presence of disability and its impacts'. Particularly noted was poor police capacity to differentiate borderline intellectual disability and acquired brain injury. Similarly, the often-complex presentation of people with disability together with other dimensions of social marginalisation (i.e., multiple disability diagnoses, mental health problems, homelessness and alcohol and drug issues) means that often police do not identify the presence of cognitive impairment at all. Others noted that the presence of autism frequently confounded police who commonly refuse to accept that a person with autism who can communicate 'is impaired'. To address this, one advocate suggested a mandated system of an opt-in 'alert' signalling the presence of disability to be placed on the police database, but this would work only for those who have been diagnosed and/or those who are willing to disclose their disability.

Many advocates raised the issue of the lack of Easy Read materials in police stations, particularly in relation to legislative requirements, legal documents and those detailing the conditions of AVOs and bail requirements. Another commonly reported issue was the repeated failure of police to use their discretion in cases where it 'so obviously is required'. Specifically advocates referred to cases where it was clear that a person's impairment had directly affected their capacity to understand and adhere to AVOs and bail conditions. Even when advocates explained this to relevant police, charges for minor breaches of AVOs or bail conditions could not be avoided. The general failure of police to implement a clear procedure to ensure that a person understands what has been said to them and their legal rights was a recurrent theme.

Consistent with the findings from the literature review, many advocates noted that some police have a 'disbelief of the disability', especially in relation to alleged offenders. While noting the challenges police experience in dealing with the range of issues ordinarily associated with alleged offenders (including those who are substance affected), advocates suggested that, particularly for those without obvious physical manifestations of their impairments, police often do not believe disability is present. Typical observations are summed up in one advocate's reported comment by police, 'he looks alright, there's nothing wrong with him'. Additionally, police were often understood to be in a 'processing mode' in their dealings with offenders and to be more focused on the crime that has been committed than on the person accused and therefore may have less of a desire to be understanding.

Some advocates viewed as 'rampant' the criminalisation of disability-related behaviours by police, amounting to the criminalisation of difference. It is suggested that this is because a person's cognitive disability may raise fear, suspicion, or perceptions of dangerousness, when in fact 'there's just difference'. It was also noted that because people with cognitive disability often live in poverty and have precarious housing or are homeless, they are highly visible to police and are in turn seen as 'easy targets'.

Advocates were unanimous that communication is a crucial factor in the success or otherwise of police interactions with people with disability (especially those with cognitive impairment). All too often situations of police contact escalate because the police come with a naturally authoritarian manner and use language that the person does not understand. This has the effect of making an already stressed person more stressed and, in these circumstances, people respond in ways that provoke a heavier response from police which may lead to charges such as resisting arrest or assaulting police on top of the initial issue of concern. In this way already traumatised people often become locked into a cycle of escalation in their interactions with police. Advocates very frequently cited a lack of understanding on the part of police in modulating or changing their approach to communication (for example, slowing down speech and simplifying expression).

Many advocates readily recognised that there are individual instances of police personnel responding and managing contact with people with disability in exemplary ways. However, the overwhelming view was that this remains an individual phenomenon and does not extend to a systematic policing approach. Many examples highlight missed opportunities and an emphasis on procedural matters at the expense of interpersonal support and which extend to deliberate unlawful or improper police behaviour. Specific examples include: either not being given the opportunity to receive legal advice or receiving legal advice not to talk to police but being coerced into an interview by police; the use of recording devices in police cells; and the use of body worn cameras to capture interviews (this is an emerging issue of concern). Overall, police were seen as 'reactive but not responsive' in many of their dealings with people with disability and this is commonly associated with 'unnecessary use of force'.

As noted above, welfare checks were commonly cited as a key concern in police responses to people with disability. An example was provided of a mother calling police to attend to her son who she was concerned was at risk of suicide. Despite asking the police to 'come up with a plan' before going into his premises, the man was assaulted by police and taken into custody,

ending up with a number of charges, ‘the trifecta’ of assaulting police, resisting arrest, and offensive language. As several advocates noted, ‘police do not know how to make people with disability safe; they don’t know how to interact with them’.

Resistance to engaging supports

As a corollary to the failures of police to identify and/or understand a person’s disability, advocates observed police were too often reluctant to identify the need for and call on mandated support people. The presence of support people was seen to have a number of contradictory effects on policing practice with alleged offenders. Advocates in NSW particularly noted the lack of change as surprising in light of the significant efforts of the Intellectual Disability Rights Service over two decades to educate police.

On one hand calling an advocate, support or independent third person may be seen as a ‘tick box’ exercise to enable ordinary police processes. On the other, this call for a support may be perceived as ‘a nuisance’ which is grudgingly tolerated and not used to any significant degree. In a similar vein advocates noted that while calling a support person can be helpful to some extent, it often ‘doesn’t negate the problem’ and in fact can excuse or enable continued poor police practice. One advocate explained:

Once a support person has come into the room it’s as if the police now don’t have to do anything different at all. It’s like they’ve done their bit and now they can just talk in the same language that they would before, treat the person in the same manner as they did before, and it actually excuses anything that’s going to come afterwards because they’ve pulled a support person into the room.

Another matter advocates raised was the problem that if police were willing to contemplate a disability, they focused on the presence or absence of a diagnosis, rather than attempting to understand what the impacts of the disability are. This police procedural adherence – ‘they have identified the disability; they have got a support person there’ – often does not extend to the ways police respond to or take account of the impairment in their subsequent work with the person in their custody. It was also noted that legal advocates are likely to carry more weight in their dealings with police than those from disability support services. Several advocates also observed the potential for legal and disability focused advocacy to overlap and so suggested that clarification is sometimes needed to demarcate the roles to enable them to work together seamlessly.

Advocates commented on the lack of clarity regarding the necessity for police to call a support person if they suspect a person may be vulnerable. States and territories vary in their legislative and procedural guidance related to independent third persons and other support persons and the roles these individuals can play also vary. In practice this may mean that calling for a support person will either be dependent on police recognising and acting on their observations of a person or conditional on the person themselves requesting one. There was overall consensus amongst the advocates that the use of support people for all people with disability should be mandatory and that their functions should be standardised nationally. Alix’s case study below demonstrates the ways that independent supports can be provided to address the numerous issues that compound for people with disability interacting with police.

Alix

'Alix' is 29 years of age and lives in a regional area of NSW. He has an acquired frontal lobe brain injury (ABI) sustained when he was 16 in a car accident. Alix's ABI causes him to have difficulty concentrating for long periods. He lacks understanding of his impact on others, can be verbally aggressive and has trouble controlling his impulses and emotional reactions to challenging situations. Alix requires frequent and intensive support to help him manage his emotional responses. He cites times he has told Police officers about his disability but feels ignored or not believed

Alix explains in the past he has been stopped by Police and Transit officers on suspicion he was intoxicated when he wasn't. When he was seventeen, he spent a 'few days' bail refused in a youth detention centre after being charged with offensive language and resisting arrest.

Alix has been the subject of several Apprehended Personal Violence Orders (APVO) after police were called regularly to Alix's address by neighbours and members of his extended family.

In a recent arrest event, the Custody Manager at the Police station, who recently had completed the Police Custody Manager's course, thought Alix might have a cognitive impairment and referred Alix to JAS. The course includes a component delivered by JAS, on how to recognise indicators of and adjust for a person with cognitive impairment.

A JAS employee supported Alix at the police station and suggested that Police update Alix's COPS record to include an alert about his ABI and the need to call JAS if he came into police custody again. Alix was happy to agree to this.

Two months after the alert was added to Alix's COPS record, JAS received a request from Police to support Alix who was under arrest due to an alleged breach of an APVO. With legal advice provided by the IDRS Ability Rights Service, it became clear that Alix did not fully understand the conditions of his APVO and that this had led to his alleged breach. This interim APVO had been issued by Police without a JAS support person being present, despite the alert on the Computerised Operational Policing System (COPS) system.

Police alleged Alix had breached the condition prohibiting him from attending his local shopping centre where the person in need of protection worked. Alix asserted that he attended the shopping centre to collect a prescription but had not gone near the person in need of protection (PINOP). He thought that was allowed. Police refused bail due to concern for the safety of the neighbour. Alix could not suggest alternative accommodation and there was no available service at the time (2am).

At court the next day, the JAS worker spoke with Alix's Legal Aid solicitor to advise that the lack of suitable accommodation was likely to be a barrier to Alix being released from custody. The JAS worker contacted Alix's NDIS support coordinator to request an amendment to Alix's NDIS plan to include funds for emergency housing. The JAS worker also made numerous enquiries including the Link2Home hotline, a service able to provide emergency accommodation.

A Link2Home representative initially claimed that there was nothing the service could do to help as Alix was in custody. The Justice Advocate made a total of five calls to various Link2Home representatives and received a variety of responses about lack of service capacity to accommodate and support someone with Alix's complex support needs, before eventually negotiating a workable solution for Alix. Link2Home required verbal consent from Alix before the JAS worker was permitted to organise accommodation on Alix's behalf, which Alix gave.

Link2Home were able to offer housing options which were presented to the Court by Alix's legal representative and conditional bail was granted. The Justice Advocate supported Alix to understand his bail conditions as explained by his legal representative and Court staff. Two of the conditions Alix had trouble understanding were the requirement to not approach the PINOP and not go within 500 metres of the PINOP. The Justice Advocate was able to spend time with Alix and explain what the conditions meant in practice and work with him to plan how he could comply with them. A Justice Advocate and Volunteer Support Person have been continuing to support Alix in his ongoing interactions with police and court.

[Case study provided by Intellectual Disability Rights Service]

Alix's case highlights a wide range of the issues that emerge when police do not routinely make a notification on their system to enable them to recognise that a person in custody has previously been identified to have cognitive impairment and that a support person should be arranged. Even with that alert on the system for Alix, the police did not call a support person when Alix was brought to the police station in relation to a personal violence incident. Failure by police to call for a support person when the APVO was made (despite the alert) meant that Alix did not receive a practical explanation of the conditions of the order or a chance to work out with the support person what he needed to change about his habits to comply with it. If a support person had not been called when Alix was arrested for breach of the APVO, it is likely he would have been remanded in custody for an extended period. Alix would have been homeless or in custody had the support person not acted to find alternative accommodation. If a support person had not been called Alix would likely have continued to breach conditions and been incarcerated, due to continued lack of understanding of the conditions of the APVO.

Many advocates mentioned the importance of access to medications for people with disability who have been detained by police and cited examples where this was denied to their clients. Relevant medication includes those for epilepsy, diabetes, for mood stabilisation and other mental health issues. The consequences of denial of medication were noted as potentially extremely serious, ranging from dangers to physical health, to severe physical and behavioural consequences associated with withdrawal from psychotropic medications. Relatedly, advocates spoke of the necessity of support people beyond police interviews. As one advocate described:

Watch houses actually specialise in distancing somebody from all of their supports. That's the whole ... the framework is literally designed to distance somebody from their supports, and for someone with a disability, what they're needing at a time of crisis is a greater access to their supports.

Across the board, advocates in a wide range of jurisdictions recognised that the JAS model in NSW was 'far and away the leader in Australia' in terms of the provision of supports for people with disability in contact with the police. It was explained that this was because of its 'right to protection' approach, which focuses on ensuring that people understand their rights, especially their right to silence and can choose to exercise it. Other schemes such as Victoria's Office of the Public Advocate's Independent Third Person initiative provide similar supports, but without the emphasis on rights protection, and with an emphasis on volunteers supporting communication at police stations, but not at court. Many advocates stressed as 'so important' that the kind of support provided by JAS be available in all jurisdictions across Australia.

Police culture

Aligning with the findings from the literature review, advocates commonly cited the authoritarian 'command and control' nature of policing as a major factor driving negative and harmful police interactions with people with disability, and that is a root cause of the commonly noted problems with escalation in police responses to people with disability. Some advocates spoke of the inherent problems that arise from the prevalent 'us versus them – they're crooks and we're the good guys' culture in the police. For people with disability, the vast majority of whom have histories of extensive trauma, this disposition was noted as being 're-traumatising' and further 'compounds itself in future interactions' with the police. As one advocate put it, 'it is really frustrating seeing the way that police interact with someone who they deem as not worthy of respect'.

'Toxic masculinity', stemming from the 'patriarchal forces in policing' was identified by several advocates as a feature in police culture, again aligning with the findings from the literature review. Police were frequently observed as being 'quite unnecessarily aggressive' toward women with disability who are alleged offenders. A key manifestation of this was seen in the routine strip searching of women with disability who are alleged offenders, a particularly traumatising practice for women with disability who have histories of sexual abuse. Being 'subjected to practices by the state (i.e., strip searching) which are not regarded as abuse, but which mirror the same patterns that their abuse took', disempowers and re-traumatises these women.

Advocates recognised that creating a cultural shift in policing 'is hard'. Some advocates had observed, in their dealings with police, individual officers' own awareness of the 'deeply ingrained hierarchy of the policing institution'. Some reflected on experiences in which individual police reported they 'find it difficult to question their peer officers when they observe that officer doing something that they feel is unfair', further complicated by the 'fear of retribution from their peers'. While many advocates expressed pessimism about the likelihood of changes to police culture, others emphasised it as 'the most important thing'. As one advocate suggested:

It comes down to getting police to change the way they think about themselves and what their job is...their powers must be exercised with great caution, with flexibility, with nuance, with compassion, and all of that is lacking in many cases.

By way of balance, advocates also recognised that while the problem with policing culture was significant, there was also a need to acknowledge that police have become the 'frontline service providers to a whole range of things which are beyond the scope of their real business', tasks that they are 'ill-equipped for' and 'are not trained to occupy'.

4.2.2 Good police practice

Those advocates able to provide examples of good police practice with people with disability stressed it was 'the exception rather than the rule'. Good practice was generally attributable to the exemplary actions of an individual officer. Advocates consistently noted that good police practice was characterised by a police officer being 'humane', treating the person with disability with 'respect and kindness'. Others noted good practice as being characterised by taking a 'holistic view' of the circumstances of alleged offenders with disability, or 'wanting to understand the person and the reason for their offending' and exemplified when a police officer uses their discretion wisely by opting to give the person a caution, rather than pursuing criminal convictions for minor offences. In relation to victims with disability, advocates discussed examples where police had demonstrated good practice by meeting the person in their 'own space' rather than forcing them to go to a police station, and when police clearly communicated to the victim the reasons why an investigation was not able to be pursued.

Widely recognised and endorsed by advocates as a key example of good police practice is when a police officer is able to recognise when the limitations of their training and expertise make it necessary to call on the expertise and skills of an advocate/ support person. One example provided involved the case of a person with disability threatening to blow up a building. The police knew to call the advocate, who had capacity to de-escalate the situation, to keep the person with disability safe, and by extension, to protect the community.

Other specific examples of good practice include recognition of the work of Corey Allen, a senior police officer in Queensland, who has been pivotal in building police awareness of disability and 'shifting culture, underlying values and attitudes' of police in his local area. In Victoria, the sexual offences and child abuse investigation team were noted by one advocate as being 'generally highly skilled and effective in making the process as accessible as possible'. Also in Victoria,

Box Hill police station was noted as having been accredited with the Communication Access Symbol. It was however also noted that this is the only police station in Victoria to receive such an accreditation.

4.2.3 Advocate roles

Advocates reported that they provide a wide range of supports, both tangible and intangible. Supporting the person with disability may include:

- ensuring they understand and obtain their legal and procedural rights
- acting as a communication intermediary between the person and the police
- providing emotional support
- accessing legal representation and advice
- organising supports required for a favourable bail decision
- ensuring medication is available to a client when needed
- being connecting the person with other support, including contacting family, NDIS services, and alternative accommodation providers
- assisting the person to understand and comply with violence protection/intervention orders and bail conditions
- helping all stakeholders (e.g., people with disability who are alleged offenders or victims/witnesses, police, ambulance officers etc.) to understand the roles of different people within the context of their criminal justice contact

Some advocates undertake proactive practices. These include: contacting police to introduce themselves and ensure that their role with a person who may be the subject of warrants or other police action is understood; ensuring their assistance is available throughout the whole process; and providing letters to police outlining the disability supports a client may be receiving. Advocates observed that these types of interventions can mitigate against unfair treatment or in some cases contribute to lessening the seriousness of charges laid against the person.

Advocates also noted the importance of an ongoing pre-emptive role with an individual, beyond direct support in a police incident. This means that the person may be able to ‘make better choices’. In the context of community corrections, the documented involvement of a support and advocacy service can work to reassure police that offenders with disability are less likely to associate with previous negative peer groups and thus less likely to reoffend. In this way, advocates directly assist the person with disability to be less likely to be targeted (or overpoliced)

by police in the community. This in turn helps the person themselves to better understand the consequences of some behaviours that had previously resulted in police contact.

Some advocates noted that often the object of their work is police themselves. Many identified the importance of communicating with police so that they understand the impact of disabilities and others stressed their role in setting an example to police in practice of how to communicate with the person. Specifically, this involves:

Communicating to police what is possible when you are respectful, when you are careful in your interactions and responsive to often very specific different needs that a person with disability may have.

Advocates' work may also include 'mediating', 'buffering', 'being the client's voice' or communicating with police on a client's behalf when they do not have the skills to do that, or supporting them to have their voice heard in the situation.

Advocates noted the critical role they play in providing emotional and moral support, particularly for victims. This process involves 'working with' or 'alongside' the client to try and inform police about the impact of the disability, the need to use appropriate words and ensure that the client can communicate their story. When supporting a victim, advocates often need to reassure the person that they have not done anything wrong, because 'often they're feeling like they're guilty of something, even though they're sitting there as the victim'.

4.2.4 Good practice

Queensland's lauded WWILD (Women with Intellectual and Learning Disability) support service for people with disability who are survivors of crime offers a clear demonstration of the role of the advocate in achieving better outcomes in referring and supporting women and men who may be victims or witnesses, to police. This involves significant work prior to reporting including 'talking people through their rights, supporting decision-making as to whether to report to police and alternative reporting options'. Once a decision is made to report, the advocate role is in assisting people to make a report including making an appointment with police for an interview, explaining the situation to the detective ahead of time, and supporting the person to attend. Support often continues throughout the process whereby the advocate acts as an intermediary to ensure clear communication and retention of information for all parties. In relation to police interview, advocates noted that they may attend to support the person by sitting in the room with them during an interview but that police may be reluctant to allow this on the basis of a concern regarding tainting of evidence to court where the person could be argued to be an influence on the client or the victim. Advocates may also support a person to make a complaint regarding police procedure, but it was noted that many clients are reluctant to do so for fear that 'they won't be treated fairly and in an ongoing way with the investigation, or that it won't be investigated as thoroughly'.

The need for greater investment in programs such as the Cognitive Impairment Diversion Program (CIDP) in NSW was also stressed by several advocates. The CIDP model is premised on holistic, wrap-around support to address the accumulated and complex support needs of alleged offenders with disability as well as the underlying causes of their ‘offending’ behaviour. Advocates also noted as a strength of the CIDP model the critical role advocates play in building relationships of trust with the people they support, that this, being ‘unequivocally on the side of the person they support’. This was seen as pivotal for people with disability who come into contact with the police as they commonly have mistrust and suspicion of authority figures.

Advocates also spoke of the central importance of elevating the voices and lived experiences of the people with disability they advocate for and/or support. Reflecting their extensive knowledge of the confluence of social-structural forms of disadvantage the vast majority of people with disability who come into contact with the police experience, advocates noted the importance of ‘understand(ing) what their experiences have been’. This was critical in informing policy and practice. Regarding policy reform, advocates suggested that, to date, the focus has been on those relatively low number of people ‘on the pointy end’ that is, those who are in indefinite detention. While this was recognised as important, this meant there was little attention given to the voices and experiences of ‘the vast majority of people who have contact with police’ and who ‘don’t come into contact with a disability advocate’. Accordingly, advocates stressed that ‘putting a megaphone’ to the stories of the majority of people with disability with lived experience of police contact is a ‘really effective way of understanding more about this issue’.

4.3 Improving outcomes

The final component of the interviews sought advocates’ views about how to improve police responses to people with disability and about alternatives to the use of police as first responders. This provided the opportunity to draw on advocates’ extensive knowledge of key practice and systemic issues which, if addressed, can yield better outcomes for people with disability who come into contact with the police. The interviews concluded with an invitation to provide additional insights not already discussed.

4.3.1 Improving police responses

Most advocates commented on the ‘significant amount’ of ‘vital’ and ‘critically important’ work required to improve police responses to people with disability. Advocates were unanimous about the need to improve and expand the provision of disability-specific police training. They pointed to the pressing need to mandate and increase capacity for the provision of appropriate support people in all jurisdictions to ensure that people with disability who come into contact with the police realise their fundamental right for access to justice.

Police training

There was consensus amongst advocates about the need for training for police to better identify, understand and interact with people with disability. Advocates were unanimous however that ‘failure of treating people with a level of basic humanity’ or the ‘failure to understand that people with disability are human’ is a fundamental underlying challenge in improving police responses to people with disability. One advocate summed this up:

People with disability who come into contact with the police say that it’s about showing respect. It’s about the micro interactions that are really, really important.....They just want to be treated like a human being at every point of the process and I don’t think that’s too much to ask.

There was agreement that training for police should be underpinned by approaches that ‘stop treating social issues as criminal issues’ and that enable police to ‘divert people from the criminal justice system, rather than funnelling them into it’, because the impulse by police to criminalise ‘is the antithesis of what people need to get the services and supports they require’.

Advocates identified that disability-specific training for police must include:

- the principles of trauma-informed care, including an understanding of the re-traumatisation that occurs from being arrested
- identifying or ‘seeing the signs’ of disability or understanding the impact of impairments on a person with disability premised on the understanding that many
- learning how to communicate effectively and respectfully with people with disability, including awareness of the tendency for people with disability toward gratuitous concurrence or acquiescence
- understanding of the many mitigating factors present for people with disability and relatedly being exposed to the lived experiences/ life stories of people with disability
- improving understanding of the function and importance of police discretion not to charge and when to apply such discretion
- clear guidance about the difference between mental health problems and cognitive disability
- increasing police capability in interviewing including to reframe their questioning styles from ‘do you understand?’ to ‘what is your understanding of that?’
- proactive and reactive skills and techniques required to de-escalate or avoid crises involving people with disability
- the use of ‘universal precautions’ (as is used in health for blood spills) that assumes the majority of people police interact with are experiencing some kind of disability, trauma or crisis that requires the use of simple, non-inflammatory language

Advocates also provided suggestions about improving the timing and delivery of police training. In this regard, advocates stated that training must be regular, facilitated in person and not rely solely on online modes; that all police undergo training, including senior police at the Local Area Command levels and new recruits; and most importantly should be led by people with disability.

Support persons

Advocates were unanimous about the need to improve and expand the provision of support persons for people with disability in their interactions with police. Key insights provided to achieve this aim include: (a) having clear legislation that mandates the provision of a support person in all jurisdictions; (b) improving police awareness and understanding of available supports; (c) improving data capture of the number of people with disability who are engaged with supports by police; and (d) clarification about the nature of a support person's role as one that requires specific training and is distinct from support that may be provided by a family member or a disability support worker.

Other factors

Advocates also provided a range of additional insights about improving police responses to people with disability which ranged from legislative reform to police leadership and practice to the wider social service system. These are:

- investment by police in leadership around disability where a designated person is given responsibility for policy and procedure on disability (as their primary job and not on top of another position) and embedding personnel throughout the police force who have disability expertise to acknowledging that a great proportion of police work is focussed on responding to people with cognitive disability
- implementing a mandatory system of data collection for people with disability who come into contact with police
- legislative changes to the existing complaints mechanisms against police to ensure independent oversight and investigation of police misconduct in relation to disability
- development, implementation and evaluation of a disability screening tool to assist police to identify disability
- development and implementation of a direct linkage to 24/7 support services for the police to divert rather than criminalise people with disability
- collaborative work between police and disability services in a more proactive way, particularly in terms of information sharing
- legislative changes to the use and breaches of violence protection/intervention orders for and against people with disability
- paid employment of people with disability in advisory roles to the police to ensure that lived experience perspectives guide police policy development
- improvements to the disability service and youth residential system to ensure that workers are not calling police for behavioural issues
- development of a nationally consistent approach to disability and policing to advance policy and practice

4.3.2 Alternatives to police

Advocates widely acknowledged that the development and implementation of alternatives to the use of police as first responders was a realistic, viable and achievable option. Reflecting the findings from the literature review, many advocates noted that despite decades of police training, they had observed ‘little change’ in police responses to people with disability. There was general recognition of the numerous benefits of having non-police persons who have the necessary expertise and skills required to be the first responders to people with disability and an ‘obvious solution’ to preventing the increasing criminalisation and other forms of injustice and harm experienced by members of this group.

There is a widely held view amongst advocates that people with disability require 'specialist responders' who understand disability and trauma. The use of civilian first responders was observed to be much more likely to enable avoidance of the escalation many identified as associated with previous poor, harmful, traumatising or frightening experiences with police. Advocates were unanimous that police should be used as the 'last port of call'. It was suggested that this would 'dramatically improve' the trauma people with disability report experiencing in their interactions with police. It was also suggested that specialist responders could limit the criminalisation of social issues that people with disability experience (including the criminalisation of victims with disability), avoid injustices associated with the dichotomisation of victims and offenders with disability, and perhaps most critically, would ensure that 'the underlying causes of a person's offending behaviour' are addressed. Having a multi-disciplinary team as first responders, it was argued, would be 'much more realistic' than other models (e.g., co-responder models) where you have someone who works alongside the police. Two advocates below captured the views of many.

To me it just makes a lot of sense.....[to] get somebody who's trained in mental health, who's trained in disability.....and works in that on a day-to-day [basis] and who's responding to somebody with a disability in a heightened state, then they're going to know so much more and be able to be just much more.....I think it would be wonderful if we could be looking at some more of those alternatives to policing and looking at what really works and make some really strong recommendations about [alternative] first responders.

We must think outside the box to implement initiatives that use alternatives to the police as first responders.

All advocates also highlighted the need for divestment from police to be coupled with greater investment in more comprehensive and available forms of support for their clients. This was seen as important to increase options and strategies for diversion and non-offending pathways and give people choices to connect with the services or support they require. There was a view that there should be 'more services working with these people rather than against them'. Aligning with the findings from the literature review, many advocates noted that divesting funds from the police into funds for specialist responders will remove police from roles they are not trained or equipped to deal with. Some suggested that this would in turn facilitate better partnership between police, disability communities and organisations. Reducing reliance on policing to manage disadvantage and distress was noted by most advocates as a critical component of realising a more fundamentally just society.

4.3.3 Additional insights

Advocates, many of whom have been advocating for changes to policing and criminal justice to realise justice for people with disability who come into contact with the police, for many decades, provided additional insights beyond those sought in the interview questions. Unsurprisingly, most advocates were well aware that the Disability Royal Commission is a once in a generation opportunity to achieve change. Their reflections on the importance of and opportunities enabled by the Royal Commission included the following:

I've worked with people [who]... have disabilities that are committing offences, and I feel like the system is extremely broken. And that's a term that I use quite often is that it is broken. But anything that's broken can always be fixed. And there's always ways to find better strategies to improve it for people. So many people who have a disability [who]... are offending don't get to make choices in their lives.

I'm really hoping that the Royal Commission is going to lead to some really practical sorts of recommendations and pressure on government here. It's easy to make the really big picture identification of the problems but [what is needed is] an identification of really practical solutions and real pressure on governments to act on them.

My hope for the Royal Commission is not only for the Commission to hear from more of the actual direct stories from people themselves. But I think that, in terms of recommendations and moving forward, I think some of that clear architecture across all the systems of what's needed, and what can be done. And I guess then the commitment of governments to implementing those changes.....and we find ways to not keep repeating history in 2021 of the things that should have shifted and should have changed by now.

I'd like to see those recommendations [by the Disability Royal Commission] be really strong and be frank and fearless in addressing the problems that come to light...without fear for the political consequences of speaking out themselves. If people with disability can do so much and be an advocate for themselves...and put themselves at risk, then the Royal Commissioners need to put all their political capital into this.

4.4 Policing First Nations people with disability

Advocates working with First Nations people with disability were in no doubt that, compared to non-Indigenous people with disability, police 'target', demonstrate 'conscious and unconscious bias' and regularly 'discriminate against' First Nations people with disability, because of their Aboriginality. This institutional racism was seen to be 'embedded in policing since the beginning of colonisation' and continues to underpin police responses which are often characterised by police harassment and violence. Advocates also identified many similar issues precipitating police contact as those relevant to non-Indigenous people but invariably noted greater disadvantage, greater frequency of police contact, and some qualitatively different and more complex interactions and impacts for First Nations people with disability.

4.4.1 Context and drivers of police contact

Characteristics

Advocates observed many parallels between the characteristics of the First Nations people with disability and the non-Indigenous people with disability that they advocate for and/or support.

Specifically, these include First Nations people with cognitive impairment who are alleged offenders as the main group of people with disability that come into contact with the police. In particular, fetal alcohol spectrum disorder was noted as a commonly occurring disability diagnosis of the First Nations people. Advocates working in the Northern Territory also identified the common occurrence of the dual diagnoses of cognitive disability, hearing impairment and non-verbal presentations.

Importantly for those who are deaf or non-verbal and do not have an established means of communication, there was recognition of the very high likelihood/risk that they were assumed to be otherwise mentally impaired. Issues of access to communication support in the form of interpreters is particularly complex in this context, given that many people coming into contact with police do not use Auslan, nor their first language, nor English in communication. In these instances, communication supporters are required to go well beyond their roles as interpreters and/or translators to use skills in cross-cultural communication and to start by learning how the person communicates with home signs, community signs, and a mixture of Auslan and gesture. It is recognised that this process is labour intensive and may take many months. Further issues were identified in relation to interpreters more generally including the coverage across community languages and the difficulty of translating legal concepts into Aboriginal language where such concepts do not already exist. As with the general issues in relation to language interpreters, lack of funding significantly curtails the provision of communication supports to First Nations people with disability in their contacts with the justice system, from contact with the police and throughout the legal process.

Differences in police responses

Advocates noted some differences in police responses to First Nations people with disability who are victims/witnesses and offenders although generally there was a view that victims were quite often treated like accused depending on the situation they were trying to report. Victims also often become alleged offenders in instances where, in the course of reporting their victimisation they also admitted to an offence. This commonly occurred when victims did not have support but also occurred when they did, due to, in the advocate's view, the impact of their cognitive impairment in not having a clear understanding of consequences.

Drivers of police contact

Advocates were clear that the continuity of colonial dispossession and repression, particularly in terms of an overall lack of understanding and support for First Nations people with disability in their communities and their families was a central driver of contact with police.

As one advocate explained:

There is a huge lack of access to appropriate help at an early stage, be it education or health or social work and a lack of adaptation towards Indigenous culture.....by mostly white service providers.

Very often advocates were able to identify key ‘touchpoints’ or ‘warning signs’ that communities and families had struggled to deal with challenging behaviours and very high needs for support in an individual. The very limited or wholly absent support services in remote communities often led to community or families resorting to the physical removal and segregation of individuals to outstations to minimise their contact with others in order to ensure their own and the community’s safety. This inevitably resulted in further increasing the isolation and distance from supports for the person with disability. Serious offences such as sexual assault, grievous bodily harm or murder were seen as the ‘inevitable consequence’ of this lack of support. Common experiences of First Nations children who were removed from their families create “a pipeline from removal from home, to escaping abusive foster families, to police.” It was also noted that the presence of complex trauma, social disadvantage and material deprivation tends to mask the presence of disability in many First Nations people with disability.

Advocates unanimously agreed that ‘systemic racism’ in the police is a key driver of police contact with First Nations people with disability. It was noted that when one adds on top of that a person’s cognitive disability, the differential treatment based on race results in a heightened vulnerability of that person. Examples were provided of police harassment of a First Nations person with disability ‘for absolutely no reason’ and from which the person was subsequently charged with an alleged offence. Another example noted was a client who had not committed any offence but was subject to police violence after resisting arrest, simply because ‘the person was frightened of the police’.

The colonial aspects of policing were seen to be very much alive in the Northern Territory and Western Australia. Advocates described a ‘bit of a war zone mentality’ with the police in these jurisdictions. In recognition of the widespread perception of over policing of First Nations communities, one advocate noted that ‘the number of police in the Northern Territory seems to far outweigh the number of citizens’. One First Nations advocate stressed that the problem lies not with disability per se, but rather with the lack of police understanding about cultural processes, observing ‘it is not the disability, it is the racism, it is the entrenched diminishment of us’.

4.4.2 Nature and outcomes of police contact

Police interactions and responses

Advocates identified that on the whole police are ill-equipped to effectively respond to First Nations people with disability. Advocates particularly noted as commonly occurring the escalation of issues resulting from police welfare checks, particularly for First Nations people with disability experiencing homelessness. First Nations people with disability, who with good reason, are fearful of police, often respond to approach and questioning by police with aggression, resulting in multiple charges for offences such as resisting arrest, intimidating police, or assaulting police. Advocates recognised that many First Nations people with disability carry traumatising experiences of previous police harassment and violence (often from a very young age) which shape their reactions and responses to the intense surveillance in their communities and frequent stop and search or street interrogation by police. One advocate referred to this as First Nations

people with disability knowing they are 'marked by the police'. Similarly, those with histories of violence at the hands of others and for which there has been little recognition, intervention, or redress, do not trust that police are willing to address their experiences. This is an experience that is felt inter-generationally, with adverse and negative experiences with the police being a common experience for individuals, families, and communities.

The lack of willingness or capacity on the part of police to recognise and understand the impact of disability, particularly in communication with First Nations people with cognitive disability and particularly in relation to sensory and behavioural issues for people with autism was seen as commonly associated with escalation to charges, either in the community or while in police custody. The issue of access to medication once in police custody was noted as a particularly problematic issue. Advocates suggested that the needs of First Nations people in relation to for example, making medication available, contacting aunties and uncles, addressing a person's cultural needs in police custody or showing cause for bail were much more likely to be taken into account and met when a support person was called to assist. They observed that in the absence of a support person these supports rarely happen.

Advocates noted variability in recognition of and adjustments to policing when disability is present. Disability is commonly 'overlooked', that is, while the presence of disability may be recognised by police, there is often no concomitant adjustment of their practice: 'they know but refuse to see it'. Advocates stressed the importance of working with people who are at risk of or are alleged offenders to teach them to notify police that they should call a third party support service or advocate when in police custody, in recognition that police themselves will seldom recognise or act on the need for this.

Legal representatives for First Nations people with disability suggested that, in the absence of appropriate services and support, the legal system is commonly used as 'a triage point'. This was seen as 'a really poor' mechanism because,

A lot of the damage has already been done and at times, especially as lawyers where you're not necessarily trained in social work, or any of those specific areas, you feel pretty hopeless. A bit disillusioned at times that you're just kind of plugging holes in a system which is completely broken.

Distrust of police

Advocates unanimously agreed that the fear of and distrust in police was widespread for First Nations people with and without disability. As several advocates explained, most of their clients had watched the police harass and discriminate against their parents and their community, they have watched the police taking away their siblings, or their own children, often in violent and deeply traumatic circumstances. As a result, there is a deep distrust of police. As one advocate explained:

The mentality around police in the Aboriginal community especially is that police are bad, you don't talk to police, you don't tell police anything, and you don't go with police because you're not coming back.

These issues are starkly demonstrated in Dylan's experience.

Dylan

Dylan is a 21-year-old First Nations man who lives in a rural town in south-central Queensland. He has an intellectual disability, acquired brain injury and depression, and has recently started taking hard drugs such as speed and ice. Dylan has family support, but his parents require assistance with parenting skills. Getting appropriate support has not been easy for the family. For the past seven months, Dylan has been living with his girlfriend.

Dylan has extensive experience with the criminal justice system. In his teenage years, he spent most of his time cycling in and out of Youth Detention. As a young adult, Dylan has cycled in and out of adult prison. These patterns of moving in and out of detention has meant Dylan has spent approximately a total of 18 months in correctional facilities. Dylan has always smoked marijuana but was exposed to ice and speed while in adult prison.

Dylan moved with his family to his current town to get away from a previous history of criminal offences but now has matters before the court in his new town too. After many adjournments, Dylan was eventually sent to the mental health court for diversion but was deemed fit for trial.

After about 4 years living in his current town and experiencing this protracted legal process, he went back to the mainstream court. By this time, he had approximately 34 charges to be dealt with by the mainstream court.

Dylan's contact with police is closely related to his intellectual disability in various ways. For example, acting as a "cockatoo" for a group of people, who would break into a shop and steal goods, while Dylan watched out for police. Others in the group would run off and Dylan was often left at the crime scene and subsequently arrested. He found it difficult to understand he was being used for this purpose, or that it was an offence. From Dylan's point of view, he hadn't broken into the shop and therefore he believed he had done nothing wrong. Another example is police arresting Dylan for alleged offending which is unplanned. For example, Dylan was accused of stealing money from someone in his extended family and received 3 months in prison. This family member asked Dylan to go down to the teller machine and get money out for them. Dylan got a taxi to fetch the money but couldn't get the teller machine to work. The taxi driver helped Dylan and when Dylan returned to the family member's house, he put the key card and money under the family member's door because he no one opened the door. The family member later reported that he didn't get the money but got the key card. Dylan had not anticipated that things might go wrong by leaving the money under the door.

Dylan has an extensive history of interaction with police, and he and his family are well-known to police in the area. The police have been informed of Dylan's cognitive disability, but the NDIS local area coordinator (LAC) in town feels they have not made appropriate accommodations regarding this. One police officer refused to believe that Dylan had a cognitive disability. Over the years in contact with the police, Dylan has learned not to make a statement of guilt. He has also learned to ask for a solicitor. He will get very angry when police go to arrest him and if he is locked up, he will shut down, not communicate, and get very depressed.

The LAC describes interactions between Dylan and police as very poor. The police are less likely to give cautions to Dylan for minor offences and will pursue charges and take him to the station. The LAC reports that the police target and harass Dylan if a crime happens in town, and the police approach Dylan about this. In these interactions police often putting Dylan down and failing to show him respect. For example, when Dylan is pulled over by the police, the police officer may ask Dylan what his name is, when they already know his name. They have been known to threaten Dylan with incarceration, and their authoritarian approach can trigger Dylan to have a 'meltdown'. When Dylan becomes agitated, it makes it difficult for him to process the information he is given by police.

Dylan has been charged with grievous bodily harm and a domestic violence order in relation to his brother and mother, and is currently on bail-related curfew, living with his girlfriend. During this time, he has been targeted by police for allegedly breaking into the health centre, which the LAC sees as another example where police have unfairly accused Dylan.

Dylan also got sick during his curfew while on bail and did not report to police for 5 days. His solicitor advised him to voluntarily go to police so that he did not receive too many breaches. When he went to the police, the officers locked him up in the watch house, did the paperwork and released him in two hours. When he went to report to the police the next day, they tried to lock him up again, before realising the paperwork had been done. They informed Dylan they would lock him up if he failed to report in the future.

Another time, Dylan was on curfew and the state disability service arranged for him to do some volunteer work on a farm outside the town. Dylan would come to town every fortnight to buy groceries and stay with his mother and father. When he reported to police, the police would say "we're going to lock you up. You step out of trouble; we're going to lock you up. It's only a matter of time..." While at the property, Dylan found out that his cousin died in a car accident. Instead of asking authorities if he could attend the funeral, he shut down and didn't communicate. He then stole a car and guns and tried to attend the funeral, and subsequently got in trouble with the police again.

The LAC believes this poor response to Dylan is due to several factors. It is often new police recruits who are sent to the area who will target Dylan. These new recruits have little experience in responding to people with cognitive disability. There are also more experienced police officers who are often burnt out and are not interested in understanding about cognitive disability or finding ways to improve their interactions. The LAC who has a close relationship to Dylan has never been contacted by police when Dylan is arrested, and often finds out from his parents.

There has been one police officer in the area who has been able to respond effectively and respectfully to Dylan. This officer will take the time to understand Dylan and his perception of events and Dylan. The officer is considered more experienced than others and has a patient approach toward Dylan. Police officers in the area have also recently learnt to give Dylan space, to talk calmly to him to manage situations better. An example of this was when the police went to Dylan's home to arrest him for assaulting his mother. They explained to Dylan that they needed to take him to the police station to talk to him, and Dylan's girlfriend told him 'don't run'. Dylan was able to calmly get into the paddy wagon with no incidents. When police have pushed him and 'man-handled' him, Dylan has been known to become violent.

[Case study provided by Dr Kathy Ellem]

The key issues illustrated in Dylan's story includes his very early contact with criminal justice system as a child and young person, resulting in periods in youth detention. This pathway continues into the adult criminal justice system, including periods of incarceration as a young adult. Exposure to other harms occurs in this custody environment, including access to serious illicit drugs such as 'ice', and this becomes another challenge for Dylan to manage and seek help for in the community, which is not easy. While in the community, Dylan receives no benefit from the court process which is aware of this intellectual disability, which fails to divert him with any positive outcome. The protracted legal process sees more and more charges pile up. Ongoing legal matters travelling through court sees Dylan under police surveillance while on curfew/bail with questions raised about the lawfulness of the police treatment and engagement with Dylan. The NDIS LAC can identify both the breakdown in process and the consequences of police culture, but the mechanisms to achieve better outcomes on the ground are ineffectual.

Good police practice

Advocates recognised that effective police practice draws on the views of First Nations communities in terms of what they know is best for their community. Elders groups or law and justice groups were recognised as having the capacity, authority and skills to lead this. If, for example, law and justice groups were not already present in communities, the provision of resources and supports for their development was seen as an opportunity to invest in better justice responses overall.

The presence of Aboriginal Liaison Officers at police stations was identified as one model that has proven effective in building better relationship between police and First Nations communities which can work to pre-empt or mitigate some of the possible negative consequences for people who are at risk of or have been taken into custody. Advocates also recognised the strengths of police in utilising ‘their good common sense’. In relation to community policing there were clear calls to build on some already good practice focused on building trust and which sees police respectfully engaging and getting to know the families of First Nations people with disability over time so they can be utilised as intermediaries to avoid escalation in police interactions. Similarly, advocates noted that ‘good police know when to go home and come back tomorrow and know when to ask a family member to talk to a person’.

Police capacity and willingness to more readily divert people, and to work with non-police alternatives such as community led night patrols were seen as enablers of better early response and diversion so as to avoid what many saw as the inevitable escalation of police contact. Advocates were however also conscious of the need to recognise and manage the burden that falls on the particular individuals doing this work in the context of their own community and family relationships and mindful of their own historical trauma and potentially precarious lives. There was an emphasis on the need to recognise the specific context for each community and acknowledgment that what works for one community may not work for another.

4.4.3 Improving outcomes

Advocates consistently drew attention to the need for attitude change on the part of police as a crucial first step to underpin better responses to First Nations people with disability. Training and education for police, particularly in relation to cognitive impairment and the ways to communicate more effectively with those who experience this disability was also seen as critically important. In particular, this was seen as a central requirement in reducing the endemic problem of escalation in police contact and the use of physical restraint and instead enable attention to distress and safety and adaption of language. There was recognition that training can have some impact given the example of policing people with mental health issues, which advocates noted police had ‘started to deal with a bit better’.

Advocates widely recognised that improving police responses to First Nations people with disability also rested on the adequate funding and development of capacity for the provision of critical support persons who have cultural knowledge and can effectively communicate with First Nations communities and their members. The presence of third parties or support persons was seen by advocates to be effective in protecting the person’s rights and in ensuring more acceptable and equitable treatment for First Nations people with disability in police interactions. Having an advocate who is a First Nations person and who also has specific knowledge of disability is understood to be the most effective in that they combine cultural knowledge, disability knowledge and deep personal commitment to their communities and individuals within them. Specific mention was also made of the mitigating effects of the presence of someone who knows an alleged offender well in guarding against/responding to false accusations made by

police, in the sense that the advocate could verify an individual's capability to have committed the offence they are accused of. Overall, the presence of an advocate/third party supporter was seen as potentially making the police encounter for First Nations people with disability 'totally different', in that police are more likely to follow procedure and treat the person with respect.

Mention was made of individual policing examples which were 'extraordinarily brave, decent and humane', but overall, there was a view that police have 'the wrong skillset and the wrong mindset' for this work. The predominant command and control approach 'doesn't make sense for people who are cognitively impaired and are just not going to respond'. Advocates were cautious not to undermine the logic of traditional approaches to policing which emphasise command and control driven by risk and safety concerns and recognised the challenges inherent in moving to a different approach, but overall called for what advocates described as a change to police disposition, attitude and behaviour in contexts where there is well understood potential for escalation in contact related to disability issues. Advocates emphasised that the challenges in altering police practice, in recognising that some contexts differ from usual policing are significant but importantly pointed out that 'failing to do so can be catastrophic'. Ultimately many advocates expressed the view that it should not be a police role to be first responders in contexts which may include people who are very mentally unwell or extremely distressed. The difficulties accessing other kinds of response and assistance for people living in remote or very remote locations were well recognised as a highly complicating and chronic barrier to establishing an alternative to policing.

Availability, clarity and transparency of police policy and procedures in relation to work with people with disability was seen by advocates as a pressing priority to enable more effective police responses to First Nations people with disability. Issues identified in relation to this included physical accessibility to police and court buildings. As a subset of police procedure, advocates identified the crucial need for explicit guidelines on interviewing First Nations people as witnesses, especially for those people whose first language is an Aboriginal language and in particular for police interviews of suspects to ensure fairness and awareness of the caution. The Anunga Guidelines which set out requirements for interrogating First Nations people in the Northern Territory were noted as a good example of this approach. These Guidelines require a) an interpreter to be present if the suspect is not fluent in English; b) the presence of a 'prisoner's friend' (someone in whom the Aboriginal has apparent confidence); c) great care in administering the caution (right to silence) and ensuring it is understood; d) the provision of basic refreshments and substitute clothing if needed; e) no questioning while the person is ill, drunk or tired; and f) reasonable steps to obtain legal assistance if requested.⁴⁰³ Advocates saw interpreter services as crucial to ensure that caution is correctly interpreted in language. Advocates also identified an awareness of the risks of gratuitous concurrence (the tendency to agree with a proposition to seem helpful or to leave a difficult situation) as an issue requiring particular attention for policing with First Nations people with disability.

Additional suggestions seen by advocates as central to improving police responses to First Nations people with disability are: (a) changes to the use of police discretion to press charges for minor offences such as abusive language or resist arrest; (b) the need for a specialised disability unit, particularly in the Northern Territory and Western Australia; (c) the development of a national approach to diversion at the point of arrest; and (d) the availability of Easy Read or Plain English statements that fully reflect the diversity of Aboriginal languages used.

Alternatives to police

Advocates agreed that the introduction of divestment from police into funding alternatives to police as responders for First Nations people with disability would be highly advantageous, particularly in terms of providing much needed diversion from the criminal justice system and access to other supports. It was however stressed that it was critical that First Nations communities (particularly those diverse communities in the Northern Territory and Western Australia) are consulted. Community ownership of the solution is critical. Where they exist, advocates advised that functioning law and justice groups must be asked ‘what they want, what supports they want, what are the gaps and who could be the first responder’. Consultation, it was suggested, may result in a variation in initiatives, depending on the needs, capacity and wishes of each community. Advocates also unanimously agreed that the success of such initiatives would rest on the co-occurring investment into services and supports for First Nations people. Again, where possible, these must be Indigenous led and operated. As one advocate put it, ‘I think we’ve got to imagine things differently’.

4.5 Policing young people with disability

4.5.1 Context and drivers of police contact

Some advocates interviewed had specialised expertise in providing supports to young people with disability. While advocates had experience working with young people who had experienced a single discrete category of contact as victim, alleged offender or witness, more commonly they reported seeing all of these experiences present for many young people with disability. Commonly these young people had a number of disability diagnoses, complex trauma, extensive experiences in the child protection system, suicidality and extensive police contact from a very young age.

Advocates observed that the circumstances that lead to police contact for young people with disability may be related to exactly the same kinds of behaviour as seen in young people of equivalent age more generally. Young people with cognitive impairment may have the additional issue of a lower awareness of social norms, be less able to read social cues or social appropriateness. Advocates working with young people with complex support needs noted that the factors that drive police contact often have more to do with the young person ‘struggling with their own behaviour in contained environments such as in residential care settings, or in the classroom or school environment – rather than in more public settings where they are a danger to the community’.

4.5.2 Nature and outcomes of police contact

Once in contact with police young people with cognitive impairment may not understand what is going on and so their behaviour becomes 'heightened', 'anxious' or 'panicked' resulting in responses that are interpreted by police as 'defensive', 'belligerent' or 'aggressive' and who then respond by attempts to curtail or contain them, including physical restraint. This easily escalates into a much more serious incident. In relation to victimisation, one advocate observed that a lot of young people with disability 'don't trust the police....and when they do go to police as victims, they are not heard or believed'. Young people with disability are understood to frequently move from being 'at risk' to being 'the risk'. Advocates observed that police may be less likely to exercise their discretion to use diversionary options or take no action under these circumstances and as a result young people with disability may be more likely to be prosecuted than their peers without disability.

Advocates observed that for a young person who is alleged to have committed an offence, 'police are often not very interested in the existence of their disability, and the challenges that they might have'. Disability is also often not taken into account in police interviewing of a young person even where disability is known and cited instances where police have been known to coerce a young person into interview. Recognising the extreme power differentials in the policing encounter for young people, in concert with the impacts of cognitive impairment, advocates observed that some young people with disability 'feel the need to cooperate and as a result provide answers in police interviews that are adverse to their interests or are about things that couldn't have been within their knowledge'. Advocates also noted the extreme reluctance on the part of young people to make disclosures of poor police treatment.

Similarly in the interview situation advocates suggested that young people with cognitive impairment or other 'invisible disabilities' may 'have more difficulty expressing remorse or empathy in a way that police may want them to' or that they demonstrate insight, or remorse or empathy in a way that police do not recognise. The presence of hearing impairment may also mean that the person is unresponsive to questioning because they do not hear or understand it. This is often taken by police as 'being ignorant', refusing to participate or generally as a 'bad attitude'. Advocates note that this is often recorded in a young person's police file and so then becomes determinative of future police attitudes and responses to that young person.

Even in circumstances where disability is disclosed, police are known to be 'dismissive' of either its presence or its impact. Advocates suggested the police often use the logic that 'the young person had the capacity to be able to steal an item and so they can't really have a disability'. Examples were given where, even in the circumstances where police recognised the lack of capacity in a young person to understand charges or to understand or comply with their bail conditions, police persisted with detaining and charging the young person with breach of bail conditions for being out after curfew. Advocates also noted that police may be hesitant to get advice from others with expertise in disability about how best to proceed, citing one example where police refused to engage social workers who are case managers of a young person with disability, 'even when the young person explicitly requests that support'.

In instances where, as a result of repeat offending, disability issues for a young person are known, advocates remarked that this information does not seem to be available on police administrative data systems in a way that might alert police in the event they come into contact with them. Rather, frequent offending becomes associated with 'badness' rather than being considered a possible marker of disability. Advocates importantly also identified that police may consciously utilise charges and court appearances when they are aware of disability as a mechanism for bringing attention to a young person's support needs. There was significant concern however with this approach where a penal/justice process which is premised on criminalisation of the young person is used in order to prompt a social service response.

4.5.3 Improving outcomes

Advocates identified examples of good practice as characterised by a recognition of the presence of disability and the impact this has for the young person, particularly on their behavioural response in the policing encounter as being 'more than just antisocial'. Good policing practice would see greater willingness and capacity on the part of police to take this into account and respond appropriately, in particular in using their discretion to divert the young person from criminal justice generally. Police practice could be additionally enhanced with the recognition that others including parents or support workers may have a better understanding of the young person's triggers and how best to respond. One advocate summed up the need for alternatives thus:

I would think for a lot of people in society as well as young people with disability, police aren't the appropriate responders...I don't think they have the right training.

Advocates would like to see better use of police data flagging, not only in identifying or alerting to the presence of disability but the availability then of strategies to inform the way police approach young people with disability or alert them to the need to contact a named person or specialist service to assist. Others emphasised 'the need to take time to get a thorough picture to inform their decision-making before proceeding'. There was recognition that information related to the presence of disability may be known to for example the education or residential care setting but is not made known to police and so is a missed opportunity that should be addressed by better information sharing protocols. Advocates acknowledged that in many cases the young person's child protection status overshadows the presence of disability both for their residential provider and for police.

Generally, advocates endorsed alternative models to police as first responders, citing the co-responder trial in Youth Justice in south-east Qld as a good example which could be built upon for young people with disability by ensuring that responders have disability-specific knowledge rather than being more generic youth-justice workers and by providing clear guidance regarding their specific role. Advocates suggested that having social workers or other related professionals as first responders would also assist with facilitating referrals for future support.

4.6 Summary

Interviews with advocates from across Australia revealed remarkable consistency with findings in the literature. Fundamental to people with disability's poor and ongoing contact with police are the systemic and compounding socio-economic and cultural factors of poverty, disadvantage, discrimination, racism and sexism. All agree that there is a widespread absence of, and difficulty accessing appropriate support services and relatedly services being "under-funded and overwhelmed". They agree that police are not the appropriate first or only responders to people with disability who are victims, witnesses or alleged offenders (often all three). Advocates gave many examples of poor and harmful systemic practices in police services across the country but also gave some examples of good practice.

Central to advocates' experiences and observations are that: police should not be the first responder to a person with disability and independent disability responders should be available to all police services when interacting with a person with disability; police who perpetrate violence against people with disability must be held accountable for their actions via independent oversight mechanisms; all police should be trained to recognise indicators that a person might have a disability and training should be by and include people with disability; every police information system should have capacity to note and flag whether someone has a disability; there should be consistent legislation across jurisdictions requiring police to call and have present a disability first responder when a person with disability is interacting with police; examples of good practice and alternatives to the current policing model such as WWILD, JAS, CIDP should be more widely practiced.

5. Summary and conclusions

The evidence assembled in this report demonstrates that police responses to people with disability are, on the whole, inadequate, are frequently damaging to the well-being of people with disability and can significantly negatively impact on their rights to justice. There is unequivocal alignment in the evidence emerging from the literature, the review of current police policy and practice and the views of Australia's leading advocates that while some individual police demonstrate good practices and approaches, on a systemic basis police do not respond effectively to promote safety and protect people with disability who are victims, witnesses and alleged offenders.

Two co-occurring factors emerged from the literature and interviews as fundamental to the causation of, and remedies to, these inadequate and damaging responses: 1) the increasing expansion of policing and the related use of policing as the default institutional response to the social, cultural and economic forms of disadvantage that propel people with disability into contact with the police, and to which police are not the appropriate responders; and 2) the reduction of funding for appropriate social and human services.

The lack of capacity for effective data collection, analysis and reporting about people with disability interacting with police in Australian police databases, poses a significant challenge for an accurate understanding of the nature of police responses to people with disability. Complicating this is the absence of disability diagnoses more generally, particularly for First Nations peoples with disability which would enable an accurate picture to be drawn.

Although these data are almost non-existent, there is enough evidence of significant over-representation of people with cognitive and/or psychosocial disability and the systematic criminalisation of both their victimisation and their behaviour as alleged offending to be confident that this is the case. All the evidence assembled in this report indicates that justice systems across Australia and policing as a key part of these systems enable rather than prevent violence, abuse, neglect and exploitation. The evidence also unambiguously shows that First Nations people with disability experience intensified negative consequences of these failures of policing.

There is agreement that people with disability come into contact with police largely due to their disadvantaged circumstances and the absence of effective social services throughout their life course. The compounding effects of this disadvantage, coupled with lack of recognition of and service response to their disability support needs, sets many onto an inevitable trajectory into police surveillance and management, and a life-long cycle of incarceration. Central to improving police responses to disadvantaged people with disability is recognition that what members of this group require is not a police or criminal justice response. It is rather, a trauma-informed, culturally safe, community-based and holistic social service response.

These responses emerge from the literature and interviews as: increased resourcing to a range of social services such as housing, health and disability-related supports; the expansion of programs such as the Justice Advocacy Service and a related legal mandate for police to use support persons; the pressing need for much greater independent oversight of the police in order to hold police accountable for violence perpetrated by police against people with disability;

the development of diversionary options such as the Cognitive Impairment Diversion Program, and the decolonising of diversion; investing in communities in First Nations-led self-determined local community driven initiatives; the documentation and expansion of progressive models of policing; and the introduction of successful initiatives such as CAHOOTS that invest in programs that provide alternative first responders to police that are well-equipped to respond to the needs of people with disability.

There is significant variability across jurisdictions and very little consistency in regard to strategic approaches to policing and disability and to disability justice more broadly. Some appear to have almost no strategy whilst others have quite a depth of strategy and planning. Very few initiatives though are evaluated with almost nothing available publicly. There is almost no recognition in police strategies and plans of the impact of co-occurring, compounding or intersectoral factors affecting people with disability. Some Police services in Australia are beginning to make inroads into the longstanding inadequacy of police responses to people with disability, but these are not yet practised widely. These efforts are characterised by attempts to generate service wide strategic leadership, enhanced procedural guidance for and enforcement of the use of independent third persons/intermediaries and innovation in models of engagement with First Nation's communities. These are commended in the literature and by advocates.

In considering its recommendations to address the challenges demonstrated by the evidence emerging from this review, there is a clear need for the Royal Commission to consider the breadth and depth of issues reported in relation to policy, practice and research as well as the pockets of good practices.

Policy issues

- Capacity for effective data collection, analysis and reporting
- Proper engagement with people with disability who have lived experience of criminalisation and ineffective policing responses
- Accountability for specific strategic efforts to address disability issues in policing aimed at reducing criminalisation and promoting protection
- National consistency in a strategic approach to disability justice
- Social service system enhancement that specifically addresses timely identification and responsive support to reduce the impact of social disadvantage
- Alignment between disability and other social services and police

Practice Issues

- Coherent and consistent procedural guidance for frontline police in recognising and responding to the presence of disability

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- Mandatory requirements for the use of independent third persons/intermediaries
 - Training for all police in specific knowledge of disability and its impact and in approaches and techniques that prevent escalation of the consequence of police contact in responding particularly to distress or disability-related behavioural issues
 - Promotion of an explicit approach to the exercise of discretion in relation to minor offending

Further research

- Issues for Culturally and linguistically diverse people with disability
- Issues for LGBTQI+ people with disability
- Issues for young people with disability
- Policing is only one part of the justice system and in view of the significant issues experienced by people with disability demonstrated in this review of a single part of the system, a wider review of issue that are specific to courts and corrections

In the words of one Advocate:

We must think outside the box to implement initiatives that use alternatives to the police as first responders

Appendix A

List of case studies and demographics

Prepared by	Pseudonym	Impairment type/s	Cultural background	Gender	Age	State	Location	Nature of police contact
IDRS	1. Andrea	Cognitive Impairment (ABI, FASD) & Hearing impairment	Unspecified	Female	Unspecified	NSW	Regional	Victim/survivor (DV)
	2. Jessica	Down Syndrome & Intellectual Disability	Unspecified	Female	19	NSW	Regional	Victim/ survivor (Sexual assault)
	3. Alix	ABI	Unspecified	Male	29	NSW	Regional	Alleged offender (Breach of APVO)
	4. Joseph	Intellectual disability & Communication difficulties	Unspecified	Male	32	NSW	Metro	Joseph
NEDA	5. Jason	Intellectual Disability	Unspecified	Male	20	NSW	Metro	Alleged offender
	1. Bee	Intellectual Disability	CALD (migrant)	Female	80	NSW	Metro	Inaccurately labelled a victim of violence with an AVO issued against her daughter without Bee's knowledge/ will

Prepared by	Pseudonym	Impairment type/s	Cultural background	Gender	Age	State	Location	Nature of police contact
	2. Daniel	Cerebral Palsy & Hearing impairment	CALD/ Chinese Vietnamese-Australian (refugee)	Male	Late 30s	VIC	Metro	Police harassment
	3. Fiona	Intellectual disability	CALD (migrant)	Female	45	NSW	Metro	Victim (Theft)
	4. John	Intellectual disability	CALD (migrant)	Male	50	Unstated	Unstated	John's sons' allegedly violent murder not investigated but rather ruled as suicide. Police continue not to (re)investigate this case
Legal Aid/ Your Story	1. Michael	Borderline Intellectual Disability	Unspecified	Male	30-40	Unstated	Unstated	Victim/survivor of sexual abuse/ Alleged offender (possession of child abuse material)
	2. Mohamed	Developmental delay	Australian	Male	33	Metro	WA	Witness
	3. Jennifer	Chronic pain condition	Australian	Female	61	Metro	NSW	Alleged offender
	4. AA	Psychosocial disability	Chinese Australian	Male	46-55	Metro	NSW	Victim/ survivor

Prepared by	Pseudonym	Impairment type/s	Cultural background	Gender	Age	State	Location	Nature of police contact
Kathy Ellem	1. BB	Psychosocial disability	Unknown	Female	Unknown	Unstated	Unstated	Victim/ survivor
	2. Jane	Acquired Brain Injury; Anxiety, Eating Disorder; Complex trauma	Caucasian/ Anglo	Female	47	Metro	NSW	Victim/ survivor (DV)
	1. Joel	FASD	Aboriginal	Male	14	Metro	QLD	Alleged offender
Harry Blagg	2. Ash	Congenital Brain Injury; Schizophrenia; Personality disorder	Torres Strait Islander	Transgender	18	Metro	QLD	Congenital Brain Injury; Schizophrenia; Personality disorder
	3. Dylan	Intellectual disability; Acquired Brain Injury; Depression	Aboriginal	Male	21	Rural	QLD	Intellectual disability; Acquired Brain Injury; Depression
	1. GG	Cognitive impairment	Aboriginal	Male	20	Regional	WA	Alleged offender (wrongfully convicted)
Harry Blagg	2. AW	Bipolar disorder	Australian	Male	Unstated	Regional	WA	Bipolar disorder

Appendix B

Alternative Response Models

The CAHOOTS Model

Re-imagining public safety as a compassionate and responsive service

The Crisis Assistance Helping out on the Streets (CAHOOTS) program in Eugene, Oregon is staffed and operated by the White Bird Clinic, a mental health centre based on harm reduction, trauma-informed care and run as a consensus-based collective.⁴⁰⁴ CAHOOTS began in 1989 as a community policing initiative to intervene where a social service response is more appropriate than a police response.⁴⁰⁵ CAHOOTS is an innovative and effective mobile crisis intervention service and human services collaboration that was expanded to neighbouring Springfield in 2015. In recent months, there has been significant discussion of, and replication efforts toward, the CAHOOTS program across the United States, signifying its critical role in the community by offering expert crisis intervention services.

The Model

The program dispatches unarmed two-person civilian teams of crisis intervention workers and medics or nurses, to respond to 911 and non-emergency calls involving people experiencing behavioural health crises related to medical and social service needs⁴⁰⁶—calls that in many other communities are directed to police by default.⁴⁰⁷ CAHOOTS teams can be dispatched in addition to or in lieu of police or ambulance services,⁴⁰⁸ enabling diversion to non-police mental health response at the point of 911 dispatch.⁴⁰⁹

CAHOOTS have three vans that operate 24/7 365 days/year, with 60 service hours/day. More than 60% of CAHOOTS clients are homeless, and 30% live with severe and persistent mental illness⁴¹⁰. The program is equipped to provide a range of interventions and services including: unarmed de-escalation; crisis counselling; suicide prevention; conflict mediation; grief and loss support; welfare checks; substance abuse support; housing crisis; harm reduction; information and referral; first aid and non-emergency medical care.⁴¹¹ Additionally, CAHOOTS offers connections and transportation to medical and social services including hospitals, detoxification centres, service providers and shelters to help support clients' long-term needs.⁴¹²

All services are voluntary⁴¹³, non-coercive⁴¹⁴ and prioritise informed decision-making by the person in crisis.⁴¹⁵ The inclusion of trained civilians with lived experience of behavioural health conditions as crisis workers⁴¹⁶ highlights the importance of peer responders as an effective and accessible crisis intervention strategy. The primary goal

of the CAHOOTS is to create an alternative to police response for people experiencing social service and behavioural health needs whenever possible⁴¹⁷.

The Response Team

The crisis intervention worker is the primary person providing de-escalation intervention. CAHOOTS specifically chooses staff people they consider to be less conventional (not requiring a specific education or license), and these workers may have an undergraduate degree in human services, and/or work experience and/or lived experience that makes them particularly suited to de-escalation in crisis situations.⁴¹⁸ The medic for the CAHOOTS team is an Emergency Medical Technician (EMT) or, in some cases, a nurse. Expansion to include EMTs rather than relying exclusively on more highly trained and higher paid paramedics creates a pathway for more available and less costly medics. This has allowed for a larger, relatively easy-to-recruit, and more diverse pool of employees, potentially including people who can be trained and recruited from most impacted communities. This has also lowered the personnel cost of the program, which allows for a more expansive crisis response system.⁴¹⁹

Close collaboration among government and community partners—including schools, shelters, and behavioural health providers—enables CAHOOTS to respond to a wide variety of situations and to assist police and other agencies with behavioural health emergencies when appropriate.⁴²⁰

CAHOOTS responders receive over 500-600 hours of specialised field training and 30-40 hours in the classroom on de-escalation and crisis intervention while emphasising the safety of first responders. CAHOOTS provides “extensive training in scene awareness and compassionate communication and verbal de-escalation to prevent things from becoming physical,” according to Tim Black, CAHOOTS’ program manager.⁴²¹

CAHOOTS staff carry a police radio that emergency dispatchers use to request their response to people in crisis on a special channel.⁴²² Dispatchers are trained to triage calls so that those deemed to be in a mental health crisis (and that do not involve direct physical assault or weapons) will not reach the police but, rather, go directly to CAHOOTS.⁴²³ With the CAHOOTS program embedded in Eugene’s communications system, Eugene dispatchers are empowered to use this non-police alternative to handle non-police issues.⁴²⁴ In addition, CAHOOTS staff monitor police calls and can intervene to directly divert those calls from the police, or send in CAHOOTS to the scene. CAHOOTS has been able to divert a number of “disorderly conduct” incidents that would otherwise result in jail time through de-escalation, meeting basic needs, and transport to sobering and detoxification centres for public drinking and substance use.⁴²⁵

Over time, CAHOOTS and police have developed strategies for supporting one another as calls evolve on-scene and require real-time, frontline collaboration. If the situation involves a crime in progress, violence, or life-threatening emergencies, police will be dispatched to arrive as primary or co-responders.⁴²⁶

CAHOOTS teams deliver expert, person-centred interventions and make referrals to behavioural health supports and services without the uniforms, sirens, and handcuffs that can exacerbate feelings of distress for people in crisis. They reduce unnecessary police contact and allow police to spend more time on crime-related matters. Eugene police may also request assistance if they arrive on-scene and determine that a CAHOOTS team can help resolve a situation.⁴²⁷

Statistics

The demand for CAHOOTS callouts for service has continued to increase each year since 2014.⁴²⁸ The most common types of calls diverted to CAHOOTS from the police are welfare checks (32.5% of all CAHOOTS calls), public assistance (66.3%), and transportation to services (34.8%).⁴²⁹

Of the estimated 24,000 calls CAHOOTS responded to in 2019, only 250 required police backup,⁴³⁰ and in Eugene, CAHOOTS teams resolved almost 20 percent of all calls coming through the city's public safety communications centre.⁴³¹ Of the 105,000 public safety calls in Eugene in 2020, CAHOOTS responded to approximately 17%. Out of calls CAHOOTS responded to, the police were called to assist on only 311.⁴³²

By freeing up law enforcement, CAHOOTS has calculated that it saves the Eugene and Springfield communities an estimated \$14,000,000 per year on emergency/ambulance treatment and \$8,000,000 per year on public safety.⁴³³ It is estimated that a COHOOTS call out costs \$150,⁴³⁴ with their response costs at \$70/hour compared to \$200-300/hour for police, and more for the fire department.⁴³⁵ In addition, their support services can divert emergency room (ER) visits, thereby saving money for hospital health care and potential expenses to those who would be charged for hospital services.⁴³⁶ CAHOOTS is now funded through the Eugene and Springfield city governments, and various grants, at a cost of approximately \$2 million per year—about 2 percent of their police departments' budgets.⁴³⁷

CAHOOTS' efforts focus on a set of problem areas that otherwise would take up a lot of police time and attention. Police training also doesn't provide adequate preparation for dealing with mental health, homelessness and other front-line social interventions. The CAHOOTS model provides a comprehensive solution that allows the police department to focus on law enforcement issues while ensuring that appropriately trained responders are dispatched for each unique situation.⁴³⁸

Replication

CAHOOTS credits being embedded in the community's emergency communications and public safety infrastructure for much of its impact, while stressing that the program's ultimate objective is to reduce policing's overall footprint. According to Black, the program aims to reduce opportunities for people to become justice-involved and lose their rights.⁴³⁹

White Bird Clinic provides consulting and strategic guidance to communities across the nation that are seeking to replicate CAHOOTS' model. The program's efficacy is dependent on a community's existing human services network, trust of the population and a community culture of care and compassion supporting this kind of response to struggling community members.⁴⁴⁰ It has been adapted and implemented as the Support Team Assisted Response (STAR) program in Denver and the Crisis Response Unit (CRU) in Olympia, Washington. Like CAHOOTS, STAR and CRU dispatch civilian crisis responders for calls related to behavioural health crises, substance use disorders, and other social service needs. Both programs include peer responders who have lived experience with the concerns they are responding to, making them uniquely credible and effective in engaging difficult-to-reach individuals.⁴⁴¹

CAHOOTS-type models can significantly reduce the role and scope of the police.⁴⁴² Because of its longevity, CAHOOTS offers a rare example of a robust community-based mental health response system operating 24/7, with well-established statistics backing up its effectiveness and cost savings. It serves as evidence that other programs can provide these benefits.⁴⁴³

Improving police responses: Toward a model of enhanced police practice. An interview with Superintendent Greg Moore, NSW Police

1. Can you describe the model of community engagement & practice in which you were involved, in Bourke?

My life and policing experience supported by my academic studies underpin my approach on addressing the causes of disadvantage. Witnessing the devastating outcomes associated with extreme disadvantage as a Detective Sergeant, Detective Inspector and Commander working in remote Far-Western NSW from 2003 inspired me to embrace the opportunities associated with community collaboration and the principles of self-determination.

The approach undertaken in Bourke was well supported by representatives from the Bourke Aboriginal Community Working Party from 2003 onwards as it developed. Following my return to Bourke as the Police Commander for the area in 2013, I was encouraged by the progress and support from philanthropic organisations and others under the banner of the Justice Reinvestment Project which led to the commencement of the Maranguka Hub in Mitchell Street Bourke in 2014. I feel privileged to have been working in Bourke during a time of great innovation and experimentation. The formation of the Maranguka hub and staffing from local community representatives served as a physical symbol of the support for community self-determination and a location for service providers to attend and hear from community representatives about their needs and wishes (via the Tribal Council framework).

As a Police Commander I saw value in meeting community representatives on neutral territory and learning about some of the underlying factors contributing to social or crime issues within the community. While the local police were very good at responding to and

disrupting criminal activity, the high rates of recidivism and dysfunction underscored the importance of addressing the social challenges within the community.

While I could easily write a thesis on the altered operational and social factors contributing to the improved community outcomes in Bourke in recent years, I feel a key factor was the breaking down of hostility between Police and community. The increased focus on relationship building, local level problems solving, daily check-in meetings with the community representatives and key agencies, willingness to adapt local service delivery to meet community needs and a whatever it takes approach were pivotal. I have found this approach has also produced excellent outcomes in our communities on the South Coast in recent time and previously when I was working with communities such as Jubullum Village (Tabulam), Coraki, Casino, West Ballina/Cabbage Tree Island.

2. What are the key principles underpinning this model?

- Respect, relationship building
- Self-determination
- Collaboration, collective impact
- Data driven, evidenced based,
- Don't throw the baby out with the bath water, regularly review strategies and modify as required,
- Appropriate consultation and co-designed
- Shared Vision, Shared goals/targets, shared & uniform performance measures
- Good communication
- Efficient and respectful model of service delivery taking account of cultural and community sensitivities, needs.
- Not being afraid to have those hard conversations, listen to the quiet & wise voices, consider the motivation of individuals and their history, sometimes the loudest voices in the room may be projecting self-interest or a personal agenda such as loss of power where positive progress is being made in community.

3. Why did you take up this model?

Addressed in Question 1 preamble.

4. What were the results of this approach for the community, Aboriginal families and children, people with disability?

It is clear from my research and anecdotal experience that any challenged or marginalised cohort, community group or social sub-set has the potential to become over-represented in terms of disadvantage or within the justice system. The 9 Peelian Principles of Policing were developed to define an ethical police force. The ideas are well thought through and underpin

my drive to engage community in developing solutions to address local social issues. The primary duty of police is to the public, not the state and use of force is a last resort.

There are many reasons community members commit crime however we know that the more a community member is alienated from society the more likely they are to feel animosity towards those in authority and potentially leading to involvement with the justice system. By addressing the feeders of alienation and disengagement I have found we can minimise a spiralling phenomenon which often leads to incarceration or self-harm. The task is not simple however if we keep this principle in mind when addressing service delivery options for social planning and policy development, I find the chances of success are far greater. It essential to ensure appropriate consultation and co-design with the community subject of the policy consideration.

My involvement in policy development for each of the specific cohorts listed above has shown positive results by ensuring suitable engagement including during the relationship building, consultation and the co-design stages of the strategy development.

5. What lessons would you draw from working with that model (what worked well, what didn't work so well, what would you do differently next time)?

Heaps! A key learning was to ask for help. I have been fortunate to see our communities benefit from many generous supporters. When I returned to Bourke in 2013, I saw an urgent need to call in favours too numerous to mention. I was fortunate to have spent time volunteering with Fr. Chris Riley (Youth Off The Streets) 20 years earlier in Sydney. Fr. Riley quickly responded to my request and commenced an outreach program in Bourke which continued for 6 years. Drawing on my relationship with Bernie Shakeshaft from Back Track (Armidale) I coordinated a two-day visit to Armidale taking the Bourke High School Principal, Police and community youth workers and Police Aboriginal Community Liaison Officers. The visit allowed us the opportunity to draw of the innovative education framework and develop a similar model in Bourke which commenced the following week and continues to this day.

Aside from the philanthropic support the Bourke Maranguka project and aligned police strategies were largely cost-neutral. This aspect of the program made it easier to sell to government agencies however meant that we needed to be clinical in the framework arrangements put in place ensuring they were meeting the needs of our strategies.

Following a failure to encourage a local representative to take on the delivery of the Bourke Youth Justice Conferences for juvenile offenders I became accredited as the local Youth Justice Convenor. I developed a local form of youth justice conferences that embraced local Aboriginal Lore and other relevant customs. We added value to the local conference delivery by involving appropriate Elders and often included a form of Aboriginal Lore into the conference outcome plan such involving a relevant member of the extended tribal group in mentoring and family support. The approach was akin to a form of legal pluralism and was well received by all involved. I found the extension of the self-determination concept minimised the risk of reoffending.

Be open to researching and cherry-picking ideas and programs developed and functional in similarly challenged communities. These can be adapted and trialled to meet local conditions such as the Back Track and Youth Off The Streets programs.

Many of the initiatives that worked well are summarised above. One essential factor underpinning any systems change is to ensure you are doing your best to bring a stakeholders with you on the journey. To do this it is important to ensure you have a clear vision, communication strategy and measurable performance indicators to keep you on track. Early on in the Bourke project I realised some of the stakeholders, including local police and community members were adversarial to the change in direction. Some quick catch-up was required to avoid the negativity impacting on the operational outcomes. One of the strategies to address this aspect was the appointment of a local Aboriginal Community Police Officer. The position was a locally developed and constructed position. I re-deployed a local Aboriginal Sergeant who was a Ngemba / Bourke local. I remain indebted to this officer who did a tremendous job in breaking down conflict between community and the police and communicating the vision of a cohesive and crime free community.

6. How well was this model embraced by police in the area?

I was fortunate to have arrived in Bourke during a time when there was an openness for a creative approach on government service delivery and well supported by the NSW Police Commissioner and Western Region Commander, Assistant Commissioner Geoff McKechnie. The dramatic failures of more traditional approaches to addressing the social challenges contributing to such high per capita crime rates was not lost on our local officers. I often reassure our communities with the comment that our officers would rather be kicking a footy around with the kids than chasing them over fences. This analogy seemed to highlight the intention of our police to do what it takes to keep our community members safe and well rather than focus on the reactive aspects of the policing role. Clearly the reactive role of the local police was maintained to a high standard with very high detection rates where crimes occurred however with less crime occurring police were freed up to invest in preventative taskings. These outcomes made the revised strategies easier to promote.

7. What kind of training / information etc. do police need to practice in this way?

The NSW Police Commissioner and my Commander support my approach to local level community problem solving and co-design. There is clear evidence to support the effectiveness of the approach. I am in the process of running a scaled-up version drawing on these principles in my current Command. I am sure that this project will provide further evidence to influence government policy and social planning on the merits of a placed based, collective impact approach to addressing the needs of disadvantaged communities.

8. Although it wasn't specifically introduced to improve outcomes for people with disability, especially young people with disability in what ways does this work for PwD?

(Taken from answer to question 4.) There are many reasons community members commit crime however we know that the more a community member is alienated from society the more likely

they are to fill animosity towards those in authority and potentially leading to involvement with the justice system. By addressing the feeders of alienation and disengagement I have found we can minimise spiralling phenomena which often leads to incarceration or self-harm. The task is not simple however if we keep this principle in mind when addressing service delivery options for social planning and policy development then I find the chances of success are far greater. It essential to ensure appropriate consultation and co-design with the community subject of the policy consideration.

My involvement in policy development for each of the specific cohorts listed above has shown positive results by ensuring suitable engagement including during the relationship building, consultation and the co-design stages of the strategy development.

9. What kind of investment is needed for sustainable, successful and structurally supported diversion of people with disability from police and the criminal justice system?

The concepts and principles summarised above are heavily reliant on having appropriately skilled and open-minded managers working on the ground within community. The approach is heavily focussed on placed-based agile service delivery models. The approach could be enhanced and scaled up and energised with a commitment to a clear and well-considered vision at the senior levels of government. As many of the services are State based, this could occur with the Premier committing to a well-structured framework and simple vision statement. The government vision could be incentivised via the Ministers ensuring heads of departments have aligned key performance indicators underpinning the key objectives.

Pockets of success have occurred in many jurisdictions where a unified whole of government / community approach to addressing the feeders of disadvantage in undertaken (e.g. Glasgow Violence Reduction Units – now extended to many UK jurisdictions). Our conditions are primed for the trial of a similar modified local version of a coordinated & co-located multi-stakeholder led response framework.

The branding and terminology used for promoting placed-based & community co-designed approach to addressing social issues is many and varied. The Justice Reinvestment approach in Bourke was effective however there is no magic bullet or model. The idea of investing time, money and energy into addressing the feeders of disadvantage is a no-brainer. The challenge is creating the framework and environment that will empower the powerful forces of community cohesion and problem solving. We should avoid the instinct to attempt to short cut the process by imposing a successful program on an unknowing community without engaging in important steps such as the consultation & co-design phases.

10. Are you being able to use this model in your new South Coast area?

Yes, it's going well. There are hubs such as Nowra, Sanctuary Point, Ulladulla, Batemans Bay and Bega where you can see the process in action.

Appendix C

List of agencies represented in interviews

Organisation	Focus	Jurisdiction
Kinchela Boys Home Aboriginal Corporation	Individual advocacy and support	NSW
RMIT Centre for Innovative Justice (CIJ)	Systemic advocacy	Vic
Australians for Disability Justice (ADJ) & Australian Federation of Disability Organisations	Systemic advocacy	National
Intellectual Disability Rights Service (multiple interviews)	Individual advocacy and support	NSW
NSW Council for Intellectual Disability	Systemic advocacy	NSW
Ability Options	Individual advocacy and support	NSW
Community Restorative Centre	Systemic advocacy	NSW
Office of the Public Advocate in Victoria	Individual advocacy and support	Vic
Queensland Disability Network	Systemic advocacy	Qld
Ethnic Disability Advocacy Centre, WA	Systemic advocacy	WA
Western Australian Association for Mental Health (WAAMH)	Systemic advocacy	WA
NT Legal Aid Commission	Individual advocacy and support	NT
WHOS	Individual advocacy and support	NSW

Organisation	Focus	Jurisdiction
Legal Aid NSW (multiple interviews)	Individual advocacy and support	NSW
The Shop Front Legal	Individual advocacy and support	NSW
Public Interest Advocacy Centre	Systemic advocacy	NSW
Prisoners Legal Service	Individual advocacy and support	NSW
Shopfront Youth Legal Centre	Individual advocacy and support	NSW
Community Living Association	Individual advocacy and support	Qld
Queensland Advocacy Inc.	Individual advocacy and support	Qld
Micah Projects	Individual advocacy and support	Qld
Youth Advocacy Service	Individual advocacy and support	Qld
Women with Intellectual and Learning Disability (WWILD)	Individual advocacy and support	Qld

Appendix D

Semi-Structured Interview Schedules

A. Semi-structured interviews with frontline disability advocates/support persons

Section 1: Background/ Context

1. Are the people with disability that you support, or advocate for, who come into contact with the police most likely to be alleged offenders or victims or witnesses to crime?
2. What circumstances do you see as commonly leading to these types of contact?

Section 2: Outcomes of police interactions & experiences of support

3. In your experience working as an advocate or support person, what are some of the key issues you have seen in terms of police responses to, or interactions with, people with disability?
4. Can you tell us a little about the kind of advocacy or support you have provided to people with disability who come into contact with the police?
5. In your experience of supporting, or advocating for, people with disability who come into contact with police, are you aware of any types of police responses that have been helpful for people with disability?
6. In your experience, are the police aware of, or do they acknowledge the person's disability?
7. Are the support needs of the person with disability addressed by police?

Section 3: Improving outcomes & experiences

8. In what ways do you think police responses to people with disability could be improved?
9. There are growing calls internationally, including in Australia, to expand the development of innovative models or alternatives to police as first responders. Do you have any knowledge of, or thoughts about these ideas?
10. Is there anything you would like to add about your experiences in working with people with disability who come into contact with police?

B. Semi-structured interviews with systemic disability advocates/support persons

Section 1: Background/ Context

1. Are the people with disability that you advocate for who come into contact with the police most likely to be alleged offenders or victims or witnesses to crime?
2. What circumstances do you see as commonly leading to these types of contact?

Section 2: Outcomes of police interactions and experiences of support

3. In your experience as an advocate, what are some of the key issues you have seen in terms of police responses to, or interactions with, people with disability?
4. Are there any particular issues related to different policing policy and practice in different jurisdictions?
5. Can you tell us a little about the kind of advocacy you have provided to people with disability who come into contact with the police?
6. In your experience of advocating for people with disability who come into contact with police, are you aware of any types of police responses that have been helpful?
7. In your experience, are the police generally aware of, or acknowledge the person's disability?
8. In your experience, are the support needs of people with disability usually addressed by police?

Section 3: Improving outcomes and experiences

9. In what ways do you think police responses to people with disability could be improved?
10. There are growing calls in Australia and internationally to expand the development of innovative models or alternatives to police as first responders. Do you have any knowledge of, or thoughts about, these ideas?
11. Is there anything you would like to add about your work as an advocate working with people with disability who come into contact with police?

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Royal Commission
into Violence, Abuse, Neglect and
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