

Access to Justice

November 2025



“It’s hard to understand the proceedings. There’s lots of paperwork and none of it is accessible. A lot of staff in the courts aren’t trained in what people with disabilities need. It’s hard to describe, but I know it, and I can see it. They just have a bad attitude toward you.” - CID project worker

Goal: People with intellectual disability who have contact with the criminal justice system **get fair and equal access to justice.**

What CID wants

- 1. Improved access to skilled support:** The NSW Government should provide more funding for the Justice Advocacy Service (JAS) so that people with intellectual and other cognitive disability get proper, skilled support at police stations, in court, and in legal meetings.
- 2. Expansion of the JAS Diversion Pilot Program:** The NSW Government should expand the current 6 Court pilot of the JAS Diversion Program across the state.
- 3. Training for staff:** The Department of Community and Justice (DCJ) should develop a cross-agency training strategy to address gaps in understanding of the needs of people with intellectual and other cognitive disability.

Where things stand

- People with intellectual disability are overrepresented in the criminal justice system¹. According to the Disability Royal Commission (DRC), up to 40% of people in prison have intellectual disability².
- People with intellectual disability report being treated unfairly by justice staff who lack the skills and understanding to accommodate their support and communication needs.
- The legal system can be confusing and difficult to navigate for people with intellectual disability. Reading is hard for many, and they cannot understand the jargon-heavy language of police, lawyers and magistrates, or the justice system procedures. This makes dealing with police and going to court confusing and overwhelming and results in people not accessing their legal rights. In turn, this often leads to poorer outcomes.
- The Intellectual Disability Rights Service (IDRS) provides support to people who encounter the criminal justice system through the JAS programs, which provide police and court support statewide and a diversion service in six local courts. JAS is funded by the NSW Government.
- The JAS Diversion Pilot Program currently operates in only six out of 150 local courts in NSW. In these six courts, it redirects people from the criminal justice system by addressing the reasons they come in contact with the system. It refers people to services like the NDIS and supports in the community.
- Indigenous Australians with intellectual disability are significantly overrepresented in the criminal justice system. On average, 39% of JAS clients identify as First Nations, while the DRC reported that an estimated “one in four First Nations young people aged 14 to 21 in detention” have an intellectual disability, “compared with one in 12 non-Indigenous people”.
- JAS requires additional funding to meet the high demand for support. Over 600 people referred to the JAS program for police and court support in the 2024- 25 financial year were unable to get support from JAS. When people receive the support they need, they are less likely to reoffend.

¹ NSW Law Reform Commission (2012), Report 135. <https://lawreform.nsw.gov.au/documents/Publications/Reports/Report-135.pdf>

² <https://disability.royalcommission.gov.au/publications/final-report-volume-8-criminal-justice-and-people-disability>

Case study

Fatima, a 23-year-old woman, came before the court after a fight with her family. She was charged with assault and was issued with an Apprehended Violence Order (AVO) which prevents her from living at the family home. She is homeless as a result. Fatima remembers having learning difficulties at school and reports that she is struggling to look after herself and keep herself safe. The Magistrate presiding over Fatima's case referred her to the JAS Diversion program. A Diversion Co-ordinator organised and paid for an assessment which resulted in Fatima being diagnosed with an intellectual disability and autism. With this diagnosis Fatima was able to access NDIS funded housing and psychological supports. The magistrate was pleased that Fatima was engaged with support services and decided not to issue a criminal conviction.

Cane is a 30-year-old First Nations man with a brain injury. As a result of his disability, Cane has memory problems. He forgot to pay some fines, and he didn't realise his license expired, so he was charged with driving without a licence. Cane lost the court paperwork, and he forgot to attend court on the correct date. A solicitor from Aboriginal Legal Services referred him to the JAS program. JAS spent time getting to know Cane and his needs and supported him to remember his court dates. They also supported him to remember what happened in meetings with his solicitor and at court. The JAS advocate referred him to Synapse, a brain injury organisation who helped Cane manage the challenges with his memory.

Lisa is a 45-year-old woman with an intellectual disability. Lisa was assaulted by her ex-partner. She felt confused and frightened by the legal process, so she sought support from JAS to provide a statement to police. When Lisa was informed that she would be required to give evidence in court, she refused because she was scared to see her ex-partner again. The JAS advocate asked if Lisa could give her evidence via video link and to provide her with support during her testimony. The magistrate approved both requests. As a result, Lisa was able to successfully give her evidence to the court.

CID's key achievements

CID's 2021 Justice Matters campaign led to:

- Continued NSW Government funding of the statewide JAS program.
 - Funding the Diversion Pilot within JAS.
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Where to from here

CID will continue to advocate to the State Government for stable and adequate funding for initiatives like the Justice Advocacy Service and the JAS Diversion Pilot Program, which make a significant difference to the lives of people with intellectual disability, so that these initiatives can help the people who need them the most.

“JAS really understands the law and section 14 and what People with disability need. They will help you get into programs rather than jail, and this gives people a chance to improve and get the support they need and live their life to their full potential” - CID Member