

## **ASSAULTS ON MEMBERS OF THE NSW POLICE FORCE**

**Organisation:** Intellectual Disability Rights Service

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Our ref: JC:MM

Wendy Tuckerman  
Chair  
Legislative Assembly Committee on Law and Safety  
Parliament of New South Wales

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4 September 2020

Dear Madam

## **ASSAULTS ON MEMBERS OF THE NSW POLICE FORCE**

We write to inform the Committee about the experiences of our clients living with cognitive impairment when they are accused of committing assaults on police.

### **About IDRS**

The Intellectual Disability Rights Service (IDRS) is a not-for-profit organisation that works with and for people throughout NSW living with cognitive impairment. IDRS auspices the Ability Rights Centre (ARC), a community legal centre that provides legal and related services, including legal advice, representation and community legal education. IDRS also operates a separate non-legal criminal justice support service, the Justice Advocacy Service (JAS), that supports people with cognitive impairment at police stations, court and legal appointments, and connects people to appropriate services. IDRS engages in policy and law reform work with a view to advancing the rights of people with cognitive impairment.

### **1. Clients of IDRS Services**

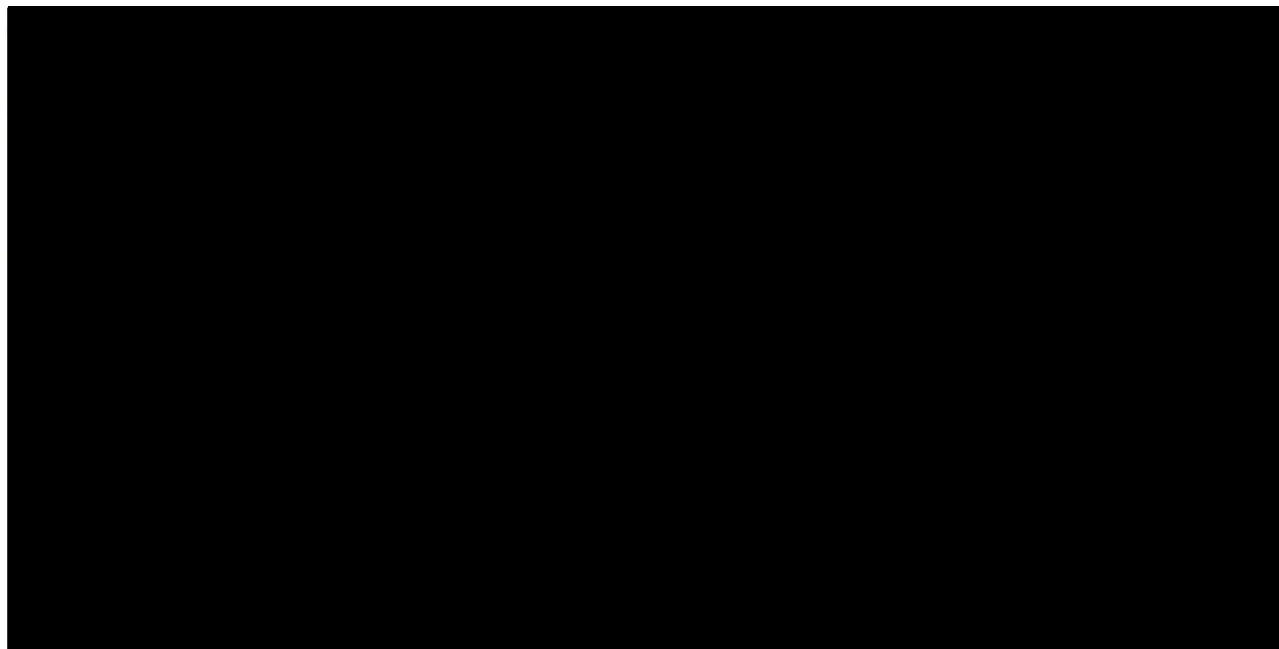
Most clients of IDRS services have been assessed as eligible to receive disability services from service providers that are paid by the National Disability Insurance Agency (NDIA) under the National Disability Insurance Scheme (NDIS). Many of these clients live in Specialist Disability Accommodation (referred to in this submission as 'group homes').

Many clients need support because they have below average intellectual functioning and deficits in areas of adaptive functioning, such as self-care abilities, receptive and expressive language, social skills, and general understanding. Some of them are non-verbal, have physical disabilities in addition to their cognitive impairment, have mental health issues, and/or have challenging behaviours related to their impairments. Unfortunately, a significant number of clients first come to our services with little or no effective support, and as survivors of neglect and abuse experiencing post-traumatic stress.

### **2. Assaults on Police as a Culmination of Events**

Clients commonly come to our services after police have been called to respond to a minor incident, the client has taken fright, and the client's anti-social behaviour has escalated culminating in an assault on the

police who have attempted to intervene. Sometimes a client's adverse reaction to the appearance of police is due to past negative experiences with other police officers.



### 3. Potential Preventative Measures

IDRS and other disability advocacy organisations are involved in providing education for disability services and the NSW Police Force about working effectively with people who live with cognitive impairment. This includes education about the nature and effects of different types of cognitive impairment, how to identify when a person might have a cognitive impairment, and effective communication with and support of people living with cognitive impairment. We believe that better training of disability support staff and management of group homes, increased expert behaviour support for residents of such homes, and organised visits by local police to homes to meet residents at times when there is no incident of anti-social behaviour to be addressed are of benefit in reducing the need for police to be called to respond to incidents in group homes, and the likelihood of residents displaying significant adverse reactions when police are called to intervene. IDRS endorsed the NSW Ombudsman's 2017 'Joint Protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system' <https://disabilityjustice.edu.au/wp-content/uploads/2015/10/Joint-protocol-to-reduce-contact-of-people-with-disability-in-supported-accommodation-with-the-criminal-justice-system.pdf>

As clients whose disabilities contribute to them demonstrating anti-social behaviours are often also victims of crime, including violent crimes such as sexual assaults, improving police's skills in working with victims of crime with cognitive impairment can be expected to assist in modifying adverse reactions to police when they are called to respond to an incident of anti-social behaviour.

IDRS expects that further education of police about cognitive disability will reduce incidences of provoking behaviour on the part of individual officers. Over the years, Ability Rights Centre solicitors have witnessed occasional incidents of police officers making unnecessary approaches and comments to clients which could reasonably be expected to provoke clients with reduced capacity to regulate their emotions and behaviour. For example, a client standing outside court waiting for his case to start was asked by a police officer why he was hanging around, told to move away from the court, told he was not moving fast




enough and that if he did not obey the direction to move away he would be arrested. The police officer made other comments that were critical of the client's attitude, demeanour and replies. This all occurred while the client was with his solicitor. The client reacted appropriately and complied with the officer's directions. However, there was no reason for the officer to have spoken to the client, or to the solicitor, at all. Another client in the same or similar circumstances may not have had the ability or skills to react appropriately.


#### 4. Criminal Justice System Responses

It is the experience of IDRS that many clients with cognitive impairment who have assaulted police have done so in large part due to factors associated with their disabilities. In a significant number of cases, the client's future behaviour and attitudes are more likely to be improved if the client is diverted out of the traditional criminal justice path into a suitably tailored program of support and/or treatment, as can be ordered in Local Court matters pursuant to ss32 and 33 of the *Mental Health (Forensic Provisions) Act*. Fines and goal terms are less likely to result in positive behaviour change for many people with cognitive impairment.

Yours faithfully



Janene Cootes  
Executive Officer  
IDRS



Margot Morris  
Principal Solicitor  
Ability Rights Centre