

# Unfitness to Plead and Human Rights Project Report

## Easy Read Report





## Who wrote this report?

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We are researchers

Researchers look for answers to problems

We work at Melbourne University and University of New South Wales

## What is this report about?



This report is about people with a cognitive disability who need to go to court



They can have trouble understanding their case

They can be treated unfairly by police and courts



Aboriginal people are treated even more unfairly

We looked at this problem and wrote this report

## Words in this report

### Cognitive disability

People can have a cognitive disability because they have



- an intellectual disability
- a brain injury
- a mental illness
- dementia

Sometimes people with a cognitive disability find it hard to

- learn new things
- remember things

### Support person

A support person can help people with a cognitive disability



- understand things
- remember things
- learn things





## Laws

laws are rules that the government makes that say

- what you are allowed to do
- and what you are not allowed to do



breaking the law is when someone breaks the rules



This project is about people with a cognitive disability who need to go to court because the police say they broke the law

The project is also about

a law saying people are unfit to plead

## What does unfit to plead mean?

Unfit to plead is when the judge says

someone can not understand enough to have a normal court case





## **Sandy is unfit to plead**

Sandy has a cognitive disability



The police say Sandy broke the law so she has to go to court

At court the judge's job is to decide if Sandy is guilty or not guilty



Sandy's cognitive disability means she has trouble

- understanding her court case
- and making decisions about what she wants her lawyer to say for her in court



The judge says that Sandy can not understand enough to keep going with her court case

So the judge says Sandy is unfit to plead

## What happens when a judge says someone is unfit to plead?

When a judge says someone is unfit to plead

they do not get a normal court case

Instead...



Some good things can happen to people with a disability who are unfit to plead



- They can get services and supports if they want



- They will not get a criminal record

A criminal record is when the court writes down and remembers if someone broke the law

A criminal record can make it hard for people to

- get a job
- find somewhere to live



Some bad things can happen to people with a disability who are unfit to plead

They might have to live



- in jail
- in a hospital
- or a service where people are watching you all the time



They are not allowed to leave

They do not know when they will be allowed to leave

No one knows when they will be allowed to leave



Sometimes people with a cognitive disability can be forced to live in these places for a long time

This report tells about some of these bad things that can happen to people who are unfit to plead

These bad things happened to a man named Marlon Noble

This is Marlon's story

### **Marlon Noble, a true story**

Marlon Noble is an Aboriginal man

Marlon has a cognitive disability



In 2002 the police said Marlon hurt two girls

Marlon said he did not hurt the girls

Marlon had to go to court



The judge thought Marlon could not understand his court case because of his disability

So the judge said Marlon was unfit to plead



Unfit to plead meant Marlon did not get a normal court case



The judge said Marlon probably did break the law

Marlon was put in jail

No one knew how long Marlon would have to stay in jail



After nearly 10 years the judge let Marlon leave jail

Marlon still has to have someone from the court with him all the time

If Marlon was not 'unfit to plead' he would have only had to go to jail for 3 years

Because Marlon was 'unfit to plead' he had to go to jail for nearly 10 years

## **This project**

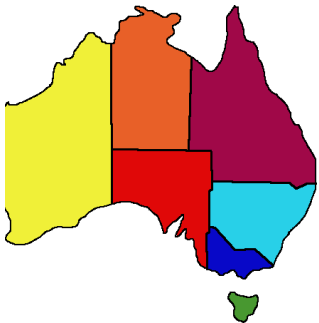
We did this project because of Marlon's story and other stories like his

What happened to Marlon and other people with a cognitive disability is unfair

We did a project to see if we could help people with a cognitive disability get a fair go with the law



## **We did this project to find out**



- What happens to people who are unfit to plead in different places in Australia ?



- Can a support person help people with a cognitive disability to understand their court case?



- Can a support person help people with a cognitive disability get a fair go with the law?

We trained four support people



- Corrina
- Phil
- Jacqui
- Name 4

The support people worked around Australia



The support people worked at lawyer's offices

The support people worked for six months



The support people helped people with a cognitive disability who had to go to court



The support people helped people with a cognitive disability to

- understand their court case
- know their rights and responsibilities
- speak up for themselves
- go to meetings and court appointments
- tell their lawyer what to say in court
- get documents together for court
- get support and services they need



They helped lawyers to

- listen to people with a cognitive disability
- talk to people with a cognitive disability



## **What people said about this project**

Everyone thought the support people did a good job

### **Here are some things people with a disability said**



The lawyer is there to handle your charge, but the support person is there to make you strong enough for court.

She helped me a lot

The support person was really good

He was there for me and gave me a hand with whatever I needed

I have extreme strong anxiety. Him being there with me at court helped me to calm down.

## **The lawyers said**



The support person helped me to talk to the person with a disability

The support person knew when we should take a break

The support person can explain things in a way that was easy to understand

The support person has been very helpful

## **The support people said**



I helped explain things

I helped remind people to be there for court

## What we found out from doing this project



### The bad news

- Bad things can happen to people with a disability if the judge says they are 'unfit to plead'
- It is harder for Aboriginal people with a disability
- Aboriginal people seem to be called unfit to plead more than others



### The good news

a support person can help people with a cognitive disability to

- understand their court case
- take part in their court case
- get a fair go with the law



## Human rights

Human rights are about how people treat each other

Human rights are about making sure everyone has a fair go

Everyone has human rights

For example

- everyone has the right to make their own choices
- everyone has the right to be treated with respect
- everyone has the right to have the same chances

People with a disability have the same rights as everyone else



To make the world a better place for people with a disability, Australia and lots of other countries wrote a list of human rights



This list is called the United Nations Convention on the Rights of Persons with Disabilities

The Australian government promised they would do the things on the list

They promised they would



- make rules and laws to give disabled people their rights
- and change any laws that aren't fair



Australia has lots of different laws that say what should happen to people who are unfit to plead

We wanted to know if these laws were taking away the human rights of people with a cognitive disability

We found out



Bad things that can happen if people are unfit to plead like

- they don't have the same chance to challenge what has been said by police
- staying longer in jail than if they had a normal trial like everybody else

these things are



- taking away peoples human rights
- breaking Australia's promise to give people with a cognitive disability their human rights

## CONTACT

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By the Intellectual Disability Rights Service

