



OFFICE OF THE INSPECTOR
OF CUSTODIAL SERVICES

People in custody with a hearing impairment

October 2023

The Office of the Inspector of Custodial Services acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of this country, and their continuing connection to land, waters, and community throughout Australia. We pay our respects to them and their cultures, and to Elders, be they past or present.

Reviews undertaken as part of the Office of the Inspector of Custodial Services' *Snapshot Series* are designed to provide a brief summary of an issue or trend impacting the Western Australian custodial environment. This review examines how people with hearing impairments are identified and managed in Western Australian custodial facilities.

The information examined for this *Snapshot Series* was obtained from the Department of Justice. The Department has reviewed this report and provided feedback which has been taken into consideration.

People in custody with a hearing impairment

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Inspector's Overview

Identification of hearing impairments in custodial facilities has improved but there is still a long way to go

The establishment of the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* in April 2019 focussed attention on the prevalence of disability in the general community and, more importantly, the experience of people living with disability. The lived experience accounts we heard during the Royal Commission hearings highlighted many of the challenges faced by people with disability in various institutional settings, including prisons and youth detention facilities. A common theme that emerged was the need for organisations to better identify people with disability and make reasonable adjustments to reduce vulnerabilities and allow effective participation.

What we saw and heard from the Royal Commission publications and hearings aligned with many of our previous review and inspection findings which often highlighted difficulties or disadvantages faced by people with disability in custodial environments. Our work has identified: the challenges faced by prisoners with mental illness (OICS 2018), some of the disadvantages faced by older prisoners with disability (OICS, 2021), how use of force is used against disadvantaged prisoners (OICS, 2021), the impact of disability for prisoners requiring protection (OICS, 2022), and how the use of confinement and management regimes impacts people with disability (OICS 2022).

Custodial facilities are sensory environments where day to day living often requires high levels of mobility and the ability to effectively communicate and observe what is happening. Often the physical environment struggles to cater for people with mobility or vision impairments, particularly in older facilities. For people with a hearing impairment, the environment often presents more subtle but no less significant challenges in understanding verbal instructions, hearing loudspeaker announcements or audible alarms and alerts, and generally engaging in routine daily activities.

We undertook this snapshot review to focus on people in custody who have a hearing impairment, examining how well the Department identifies and supports those individuals. The overrepresentation of First Nations people in custody in Western Australia together with the higher prevalence of hearing impairment in these communities adds to the imperative of undertaking this review.

We found that the Department is making progress towards building a methodology and processes to effectively identify hearing impairment in prisoners and detainees. This includes implementing a new functional impairment screening tool and undertaking work to assess options for a hearing screening solution. Despite these positive steps, for a variety of reasons relatively few individuals have been identified with hearing impairments. This is an area of identified need and further work is required.

Once an individual in custody is identified with a hearing impairment there are some supports available in public facilities. These can include access to support services including translators and interpreting services, access to the National Relay Service, specialist referral, and on a few rare occasions assistance with purchasing hearing aids. As the level of identification increases, there will be a need to better resource these follow-up services.

The level of service offered in public facilities contrasts with the service available to prisoners at the privately operated Acacia Prison. Following the identification of a need for audiology services, the contract to operate the prison now includes the provision of a regular audiology service and testing, where eligible prisoners can receive fully subsidised hearing aids.

Access and referral to the National Disability Insurance Scheme (NDIS) continues to be very difficult for people in custody who may be eligible for additional support. There are limited structured resources or processes available within custodial facilities to assist people with disability to access and engage with the NDIS. We occasionally see examples of good practice, but these are often driven by the efforts of individual staff rather than through a structured and adequately resourced service. This is a missed opportunity to provide individuals with disability better care while they are in custody and also referral pathways for when they are released.

ACKNOWLEDGEMENTS

It is important to acknowledge the contribution and assistance we received in undertaking this review from key personnel at the Department of Justice and at Serco, the private operator of Acacia Prison.

I acknowledge the contribution and hard work of the staff in our office who were involved in undertaking this review. I would particularly acknowledge and thank Ryan Quinn for his hard work in leading this review and as principal drafter of this report, and Aimee Singleton for her contribution as a research assistant intern.

Eamon Ryan
Inspector of Custodial Services

17 October 2023

Executive Summary

Background

Around 3.6 million people in Australia experience some form of hearing loss (Department of Health and Aged Care, 2022). Hearing loss may be temporary or permanent. Loss can be experienced as part of the ageing process, may already be present at birth, or may be acquired due to an illness or exposure incident. The severity of loss can also differ from mild to profound.

To reflect this spectrum, the Deafness Forum Australia recommends a range of terms to describe the differing levels of hearing impairment in the community. This includes:

- **deaf (lower-case 'd')** – a general term used to describe the physical condition of not hearing.
- **Hearing impaired** – a term used to describe people who have lost hearing acuity at a stage in their life or lives or over time, such as through the natural ageing process. These people listen and speak with the aid of a hearing device. Some can lip-read and some use sign language.
- **Hard of hearing** – an international phrase used to describe acquired hearing loss.
- **Hearing loss** – an informal term to describe diminishing hearing activity.
- **Deaf (capital 'D')** – most often describes people who identify themselves as culturally Deaf and who communicate principally in sign language (DFA, 2019).

For clarity, throughout this review we use the term 'hearing impaired' to capture the range of hearing loss experienced in the community.

Hearing impairment as a sensory disability

Depending on the severity of loss, a hearing impairment may also be defined as a sensory disability. Under the *Disability Discrimination Act 1992* (Cth) the definition of disability includes any total or partial loss of a person's bodily or mental functions. This includes sensory disabilities such as hearing impairments.

A sensory disability is a disorder that impacts on one or more of the senses. In addition to hearing impairments, this can include any disorder that affects a person's ability to see, taste, smell, touch or be spatially aware. These disorders can impact the daily life of a person, their ability to interact socially, communicate and complete daily tasks (NSW Government, n.d.).

People who are 26 years and older with a permanent hearing impairment of greater than 65 decibels in the better ear may be eligible to join the National Disability Insurance Scheme (NDIS), if evidence demonstrates that the hearing impairment has a disabling effect on their functionality (NDIS, n.d.).

First Nations peoples have high rates of hearing problems

Research has demonstrated higher prevalence rates of hearing impairments in First Nations peoples. The National Aboriginal and Torres Strait Islander Health Survey in 2018-19 estimated:

- 43 per cent of First Nations peoples aged 7 and over had hearing loss in one or both ears.
- 29 per cent of children aged 7 – 14 years had hearing loss in one or both ears. This increased to 40 per cent for children living in remote and very remote areas.
- 82 per cent of First Nations adults aged over 55 years had hearing loss in one or both ears (AIHW, 2021).

The disproportionate prevalence of hearing loss in First Nations communities is understood to be linked to increased middle ear infections (otitis media) during childhood. Research has found First Nations children often experience ear disease that starts earlier, lasts longer and is more chronic (Vanderpoll & Howard, 2011). If left untreated these infections can damage the ear drum and other middle ear structures, which may result in some form of long-term hearing loss (He, et al., 2019).

The prevalence of hearing loss in First Nations communities raises concern about the impact this loss has on their overall health, wellbeing and quality of life.

The link between hearing loss and involvement in the criminal justice system

In recent years there has been increased discussion around the link between hearing loss and involvement in the criminal justice system. Hearing loss can have a negative impact on a young person's learning, self-esteem, and social skills (Senate Community Affairs References Committee, 2010). This can increase the risk of unemployment, low-educational attainment, and alcohol and other substance abuse, which are risk factors that may lead to criminal activity (He, et al., 2019).

Hearing loss can also contribute to communication difficulties during criminal justice processes. This is in addition to linguistic and cultural differences that may impede a First Nations persons understanding of, or demeanour during, court processes (Senate Community Affairs References Committee, 2010). Similarly, hearing difficulties may impede a person's journey through prison – impacting their relationship with other prisoners and staff, and their ability to participate in rehabilitative activities.

Given the overrepresentation of First Nations people in custody in Western Australia, and the prevalence of hearing loss in these communities, it is important the Department of Justice has systems in place to identify and appropriately manage hearing-impaired people.

Key findings

Systems are in place to identify hearing impairments, but identified individuals remain low

The Department has identified relatively few people in custody with a hearing impairment or disability. While processes are generally in place to identify hearing-impaired individuals, various system limitations and process breakdowns have resulted in few being identified. The introduction of a functional impairment screening tool has assisted in identifying more people.

Supports for the hearing-impaired are available

People in custody with a hearing impairment can access relevant hearing services where a need has been established. This includes referrals to specialists and, in some rare cases, assistance to purchase hearing aids. While the Department does not currently fund in-house or third-party audiology services to routinely screen people in custody, they were exploring new technology which may assist with this in the future. Conversely, Serco – the private operator of Acacia Prison – had begun offering fully-subsidised hearing tests and hearing aids to prisoners since August 2021, under their renewed contract with the Department.

Translators and interpreting services are available for custodial and health staff to help communicate with hearing-impaired people. However, we still found instances where staff or other prisoners were used as informal interpreters or where hand-written notes were used instead.

Video communications, including access to the National Relay Service, are available for social and official visits. Though the Department is yet to implement live captioning technology.

Limited adjustments have been made for the hearing-impaired

We found limited evidence that adjustments had been made to assist hearing-impaired people with daily life inside a custodial facility. Policies often do not take into consideration people with impairments or disabilities, and where they do we found limited evidence they were being followed. Technological solutions to assist hearing-impaired people with audible announcements and group-based activities had not been explored by the Department. Though we found classroom teachers and program facilitators were actively considering hearing impairments and providing assistance to those who needed it.

List of Recommendations

Recommendation	Page	DOJ Response
Recommendation 1 Review the findings of the inquest into the death of Mootijah Shillingsworth and consider changes to medical induction processes to improve identification of chronic middle ear infections in at-risk populations.	6	Supported in Principle
Recommendation 2 Review Disability Coordination Team referral processes and address feedback loop error from Health Services.	7	Supported
Recommendation 3 Expedite development of a well-resourced disability services team for adult prisoners.	9	Supported in Principle
Recommendation 4 Develop a policy framework for identifying disabilities in young people who enter custody.	10	Not Supported
Recommendation 5 Examine the cost-benefits of using ShoeBox to screen all people in custody for hearing loss.	13	Not Supported
Recommendation 6 Establish in policy expanded eligibility criteria for providing Department-subsidised hearing aids to people in custody.	15	Not Supported
Recommendation 7 Amend <i>PM15 – Additional Medical Costs and Orthopaedic Appliances</i> to reflect current practice that prisoners are not required to purchase replacement hearing aid batteries at their own expense.	17	Supported
Recommendation 8 Amend custodial policies to encourage staff to consider how a known or suspected impairment or disability may relate to, or partly explain, poor behaviour or misconduct.	21	Supported
Recommendation 9 Introduce sound amplification technology into classrooms and treatment program rooms to improve accessibility for hearing-impaired people in custody.	22	Supported in Principle
Recommendation 10 Explore alternative methods for communicating announcements, instructions and emergency warnings to people in custody with sensory impairments such as hearing loss.	25	Supported in Principle
Recommendation 11 Provide custodial staff with training on hearing health and common behaviours associated with hearing-impaired people in custody.	26	Supported

1 Systems are in place to identify hearing impairments, but identified individuals remain low

The Department has identified few people in custody with hearing impairments or disabilities. While their medical processes include ear examinations and observe for sensory impairments, database limitations and some process breakdowns have prevented the Department from having effective oversight and understanding of the prevalence of hearing loss across the custodial estate. The introduction of a new screening tool has helped bridge this knowledge gap to some extent.

1.1 Few people in custody have been identified as having a hearing disability or impairment

Between 2018 and June 2023, the Department of Justice (the Department) identified 160 unique people in custody as having some form of hearing impairment or disability. This equates to less than 0.6 per cent of all people who entered custody during that time.

The 160 people were identified either through self-identification, information from a previous period of incarceration, connection with the NDIS, or through an observed functional impairment using the Department's recently introduced Functional Impairment Screening Tool (FIST).

Very few hearing disabilities have been identified

Nine people were identified as having a sensory hearing disability. These are people who typically have more than 65 decibels of hearing loss, making them eligible for NDIS support. They were identified either through their participation in the NDIS or through legacy information held by the Department.

The nine people identified with a sensory hearing disability included:



Five people whose hearing loss was their primary disability and four people with hearing impairment listed as their secondary disability.



Seven who were adult males identifying as Aboriginal, one non-Aboriginal adult male and one non-Aboriginal adult female. No young people in detention were identified.



Six who were identified through their participation in the NDIS and three others who were identified through legacy information held by the Department.

Some of these people were profoundly deaf or deaf in one ear. Others were noted as simply having a hearing impairment, with limited specific details. Intellectual, cognitive and neurological disabilities were often listed comorbid disabilities.

The age of these people at the time of their first reception ranged from 19 to 57, with an average of 37 years. No young people in detention were identified as having a hearing disability.

The FIST has identified a further 151 hearing-impaired individuals

The remaining 151 individuals were identified with the assistance of the FIST, introduced in 2021. As of 30 June 2023, 9,219 screenings had been conducted for 7,102 unique people in custody. Of these, 151 (2.1%) were identified as having some form of hearing impairment, but not necessarily a hearing disability. This included:

- 90 people with a minor impairment, with good use of aids (Level 1)
- 42 people with a mild impairment, with some assistance required (Level 2)
- 19 people with a severe impairment and are completely dependent (Level 3).

Of the 151 people identified with a hearing impairment through the FIST:

- Non-Aboriginal males (52.9%) recorded the most hearing impairment
- Aboriginal females (7.2%) recorded the least impairment
- Only one young person in detention was identified as having a mild hearing impairment.

Given the FIST only commenced in 2021, these numbers are dependent on the extent of the rollout at each facility. The use of the FIST has increased in time and the quality of assessments has improved following close monitoring. Still, not every person in custody since 2021 would have received an assessment. Further discussion on the FIST occurs in section 1.5.

It is likely that there are many unidentified hearing-impaired people in custody

The very low rate of hearing impairment identified by the Department does not align with prevalence rates in community or other custodial settings across Australia. For instance:

- Approximately 15 per cent of the general community are known to have some form of hearing loss (HCIA, 2020).
- The rate is higher for First Nations people, with 43 per cent aged over 7 years having some form of hearing difficulty (AIHW, 2021).
- And, as of March 2023, 4.5 per cent of NDIS participants have a hearing impairment as their primary disability (NDIS, 2023).

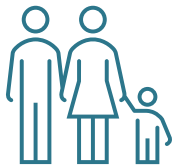
While there is limited research on hearing impairment in Australian custodial settings, it is estimated that rates of impairment are higher than in the community. This is partly driven by the overrepresentation of First Nations people in custody, and the prevalence of hearing loss in their communities.

Table 1: Studies of hearing loss in custodial and non-custodial settings across Australia, with relevant comparisons to departmental data.

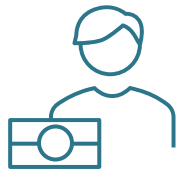
Victoria	A study of First Nations prisoners in Victoria found 6 per cent had mild hearing loss in both ears and 12 per cent had some degree of loss in one ear (Quinn & Rance, 2006).
New South Wales	A New South Wales study confirmed the hearing acuity of prisoners was poor in comparison to community standards (Murray, LePage, & Butler, 2004).
Northern Territory	A study of First Nations prisoners in the Northern Territory found 94 per cent of those tested had significant hearing loss (Vanderpoll & Howard, 2012). Many were unaware of the loss they were experiencing.
Western Australia	O’Leary (2011) conducted a study of Aboriginal women at Bandyup Women’s Prison and found 46 per cent had some form of hearing impairment. In comparison, FIST data shows no Aboriginal women at Bandyup have been identified with a hearing impairment since the screening tool was introduced in 2021. However, as of June 2023 only 100 women at Bandyup had been screened with the FIST.
Western Australia	A 2014 study of Aboriginal prisoners at Roebourne Regional Prison found 69 per cent had some degree of hearing loss (Leidwinger, 2014). Several participants were also found to have scarring on their eardrums, suggesting a history of middle ear infections. Twenty-seven participants were referred to an ENT specialist for further treatments and ten participants were issued hearing aids. In comparison, FIST data shows only five prisoners at Roebourne have been identified as having a mild or moderate hearing impairment. As of June 2023, 438 Roebourne prisoners had been screened.
Western Australia	A Western Australian study also found high rates of hearing loss in Aboriginal children (Timms, Grauaug, & Williams, 2012). The study found nearly 72 per cent of regional and 60 per cent of urban children screened had some level of hearing loss. Four per cent of these were found to have a severe level of loss. As of June 2023, 84 young people had been screened with the Department’s FIST and only one was identified as having a minor hearing impairment.

We also conducted surveys with 203 prisoners at Bunbury Regional Prison and found thirty per cent reported a hearing difficulty. Of these, most (23%) had trouble hearing some of the time and few had difficulties most of the time (4%) and all the time (3%). As of June 2023, 410 prisoners at Bunbury had been screened with the Department's FIST and only four (0.9%) were recorded as having a mild, moderate, or severe hearing impairment.

Bunbury Regional Prison survey results found:



Twenty-seven per cent noted that a friend, family member or doctor had previously told them they had a hearing problem.



Thirty-four per cent with a hearing difficulty identified as Aboriginal.



Only five per cent reported ever having received a hearing test while in prison.



Twenty-eight per cent said they suffered from ringing ears, which may indicate tinnitus.

The results of this survey, and the findings of previous studies, suggest it is highly likely that the number of people entering custody with a hearing impairment is far greater than what the Department has identified in their data.

Limited understanding of the prevalence of hearing impairment for people in custody reduces the Department's awareness of the issue and the ability to effectively allocate resources to help manage and care for those impacted.

1.2 Medical assessments should be identifying ear health and hearing issues, but we cannot test this due to system limitations

The Department's Health Services perform various health assessments on people in custody, providing opportunities for ear health and hearing issues to be identified. This includes:

- initial in-take assessments
- periodic reviews, and
- any ad-hoc appointments requested as health concerns arise.

The initial GP's assessment is a thorough examination, guided by a 'typing template' that (in addition to other matters) directs the doctor to examine the patient's ear health and observe for signs of sensory impairments, such as hearing loss. The suite of health assessments available, anchored by the more thorough initial GP's assessment, provides confidence that the Department's health

processes are sufficiently established to ensure hearing issues are identified while people are in custody.

However, system limitations with the Department's health database prevents us from examining how effective health assessments are at identifying hearing loss. The Department is unable to provide us with data or reports from this system detailing prevalence of hearing loss in patients, referrals to hearing specialists, or the numbers of patients who utilise hearing aids. And, there is no systematic method of examining the proportion of GPs who follow the prescribed typing template and complete the full ear and hearing health examination. Therefore, without a more comprehensive review we cannot be assured that hearing health is adequately being addressed by all GPs.

Lengthy wait times for medical appointments may also hinder the identification of hearing problems. Our inspections frequently highlight delays in initial medical assessments and annual health reviews, typically as a result of staffing shortages (OICS, 2023; OICS, 2022A; OICS, 2022B; OICS, 2021C). Appointments backlogs then add pressure on health staff to conduct assessments quickly, which may result in a less thorough examination.

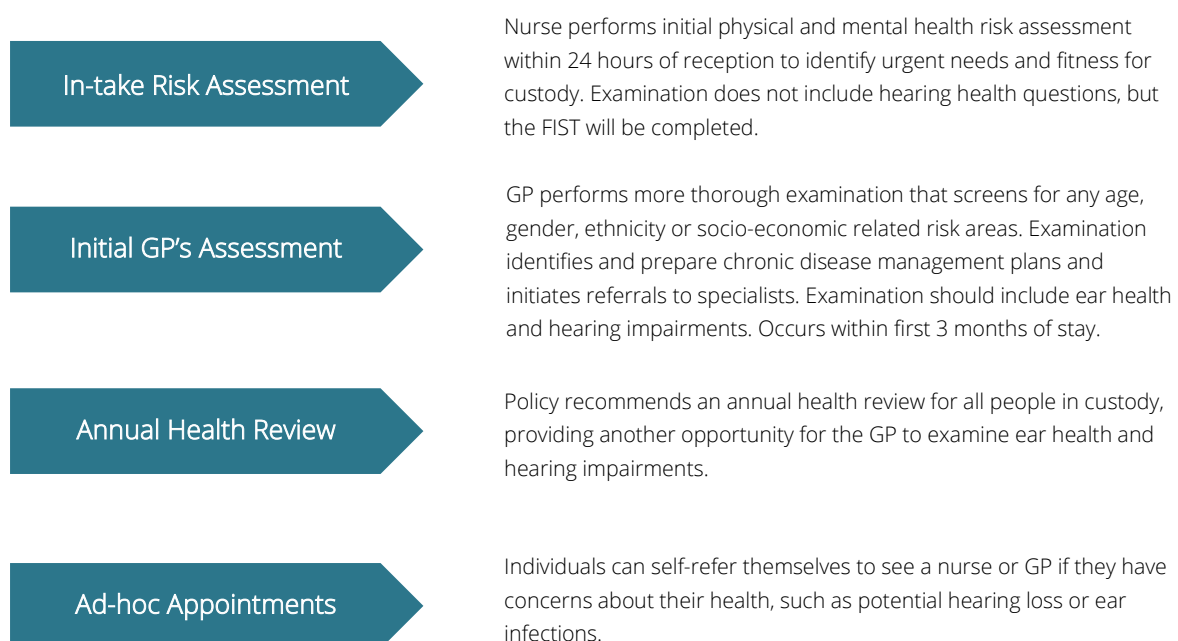


Figure 1: The various health appointments available should be identifying hearing health issues.

There has also been some criticism in other jurisdictions that custodial health processes have had an ineffectual focus on ear health issues and hearing loss (Vanderpoll & Howard, 2012; Baptie, 2022). This includes the recent inquest into the death of Mootijah Shillingsworth, who was found to have died in custody following an untreated middle ear infection (Baptie, 2022). The Coroner recommended explicit hearing health questions be introduced into the medical induction processes to identify chronic middle ear infections more accurately in at-risk populations.

Considering the prevalence of middle ear infections and hearing loss among Aboriginal people, and their over-representation in custody in Western Australia, the Department should consider the findings of the New South Wales coronial report and determine whether any changes to the health in-take assessments are required.

Recommendation 1

Review the findings of the inquest into the death of Mootijah Shillingsworth and consider changes to medical induction processes to improve identification of chronic middle ear infections in at-risk populations.

1.3 Health Services not informing Disability Coordination Team of identified hearing-impaired people

The low number of people in custody identified in the Department's data as having a hearing disability suggests a breakdown in the identification process. The Department's Health Services are responsible for identifying adult prisoners with sensory, physical, and neurological disabilities. When a diagnosis is confirmed, Health Services are required to inform the Department's Disability Coordination Team (DCT) who then conduct a review of information provided. If a disability is confirmed, a disability alert is activated on the individual's profile on the offender database. This alert informs custodial staff of a known disability and is the primary source of data for disability statistics across the adult estate.

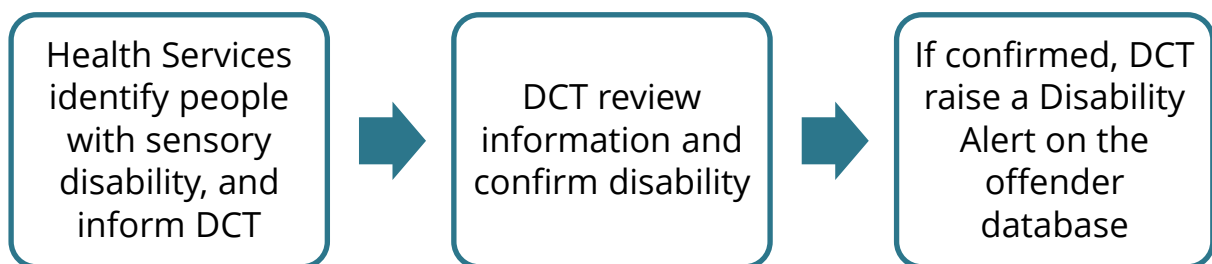


Figure 2: Feedback loop from Health Services to the Disability Coordination Team to raise a disability alert on an offender's profile.

However, both Health Services and the DCT acknowledged to us that this feedback loop was not occurring as intended. We confirmed this through referral data. Between July 2022 and June 2023, the DCT received 1,384 referrals for suspected disabilities. Only ten of these referrals were made from Health Services or clinical staff, and none related to hearing loss.

Despite both Health Services and the DCT recognising this feedback loop error, a resolution had not yet been achieved. Health Services advised that the DCT had been given in-principal approval to obtain access to the Department's health records system. This would enable the DCT to verify a suspected hearing disability by reviewing medical notes, referrals and specialists' reports. But this

does not absolve Health Services' responsibility to inform the DCT, as per the intended process, to initiate the DCT's review process. Health Services need to communicate more effectively with the DCT.

The Department also advised that prior to 2021/22 disability alerts did not identify hearing impairments. This may partly explain the low number of identified individuals. Since then, a new disability module has been created on the offender database that captures hearing impairments (among other disabilities and impairments). This is a positive change.

Recommendation 2

Review Disability Coordination Team referral processes and address feedback loop error from Health Services.

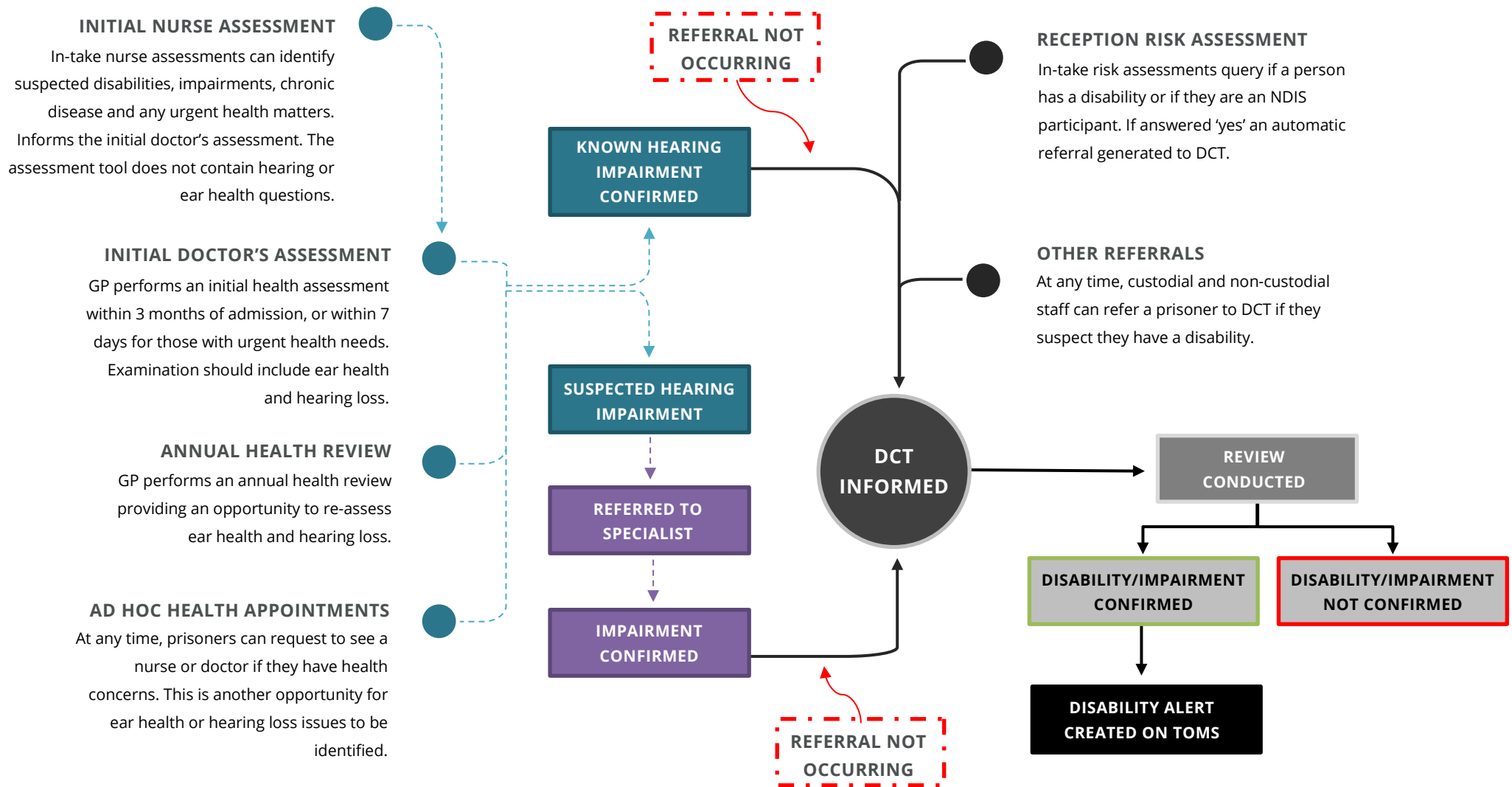


Figure 3: Processes for identifying people in custody with a hearing impairment or disability.

Auto-generated referrals to DCT are inefficient for an under-resourced team

Without notification from Health Services, the DCT rely on less efficient processes to identify people in custody with a disability. This includes referrals from non-clinical staff, or information obtained from family, guardians or external agencies. The DCT also proactively generate reports for at-risk cohorts to manually identify people who may have a disability.

The most prolific non-clinical referral pathways are risk assessments conducted during reception. These referrals are generated automatically during the reception in-take assessment if:

- a person self-reports as having a disability
- acknowledge they are registered with the NDIS
- they are known to receive services from the Department of Communities, Disability Justice Team
- acknowledge they have a guardian (DOJ, 2021).

This reliance on self-reporting can be problematic. Some people may fail to self-report because they are unaware of their impairment or feel uncomfortable disclosing that information (DFA, 2022). In their study of Northern Territory prisoners, Vanderpoll and Howard (2011) found 72 per cent of survey respondents had never disclosed their hearing problems to staff.

The auto-generated referral is also inefficient. Between July 2022 and June 2023, there were 832 reviews completed by the DCT from auto-generated reception referrals. Only 45 per cent of these resulted in a positive confirmation of a disability. But most of these people (58%) already had a disability alert. Only 157 auto-generated referrals (19%) resulted in a new disability alert being raised.

The volume of auto-generated referrals also places pressure on the under-resourced DCT, which consists of two full-time equivalent (FTE) positions and a 0.5 FTE team leader. To assist with the increasing workload, the team leader was temporarily increased to a whole FTE in January 2023.

In recognition of these resourcing pressures, and the growing demand for NDIS services, the Department advised they were exploring alternative models for a disability services unit. Subject to funding, this revised model could include expanded responsibilities in identification, assessment, and case management.

We encourage the Department to expedite the development of an appropriately resourced disability services team for adult prisoners.

Recommendation 3

Expedite development of a well-resourced disability services team for adult prisoners.

1.4 Less coordinated approach to disability identification in youth custody

We found there was a less coordinated approach to identifying disabilities in young people who enter custody. There remains no central coordinating disability team in the Department's Youth Justice Services. And, no information exists in policy or through the Department's intranet about processes for reporting a suspected disability, diagnostic referral pathways, or procedures for adding or reviewing disability alerts. A coordinating team could provide oversight, develop and maintain policy and be a central point of contact on disability matters.

The Department advised that Youth Justice Services use a case management approach. Each young person has a case manager who engages with family and any other relevant agencies, including the NDIS. This individualised approach enables a more robust understanding of each young person's needs. Where a disability is identified, case managers are responsible for raising an alert on the offender database and arranging supports. This individualised approach has some benefits and is not mirrored in the adult estate.

In addition to case managers, the Department advised disabilities can also be identified by young people self-reporting during in-take assessments or by staff reviewing legacy information.

Despite these approaches, the Department did not identify a single young person with a hearing disability between 2018 and June 2023. This would suggest the current process is not effective. Given the prevalence of hearing impairments and other disabilities in young people in custody, a policy framework for disability identification should be developed outlining clear processes and lines of responsibility.

Recommendation 4

Develop a policy framework for identifying disabilities in young people who enter custody.

1.5 New functional impairment screening tool a positive innovation

The introduction of the Functional Impairment Screening Tool (FIST) has helped identify more hearing-impaired people in custody. The FIST was developed by the Department to assess people in custody against ten domains of functional impairment. A scoring system is used to reflect severity of impairment from 0 (nil impairment) to 3 (severe impairment). The assessment occurs as part of the initial medical screening with a nurse or doctor and helps staff identify any impairments to daily functions that may require additional supports or management. Follow-up assessments occur during annual health reviews, providing a point of comparison. In theory, all people entering custody should be screened at some stage.

The FIST fills a data gap on functional impairments, but reliability concerns exist

The minimal reporting functionality of the Department's health database has contributed to their limited awareness of hearing-impaired people in custody. Hearing impairments or chronic ear disease could be identified during medical assessments performed at any time during a person's stay in custody. This information, and any treatment notes or care plans prepared, are stored in the Department's health database. However, system limitations do not allow for this information to be extracted for analysis to determine the prevalence of hearing impairment across the custodial estate. This limits the Department's oversight and ability to provide holistic supports to those in need.

The introduction of the FIST has provided the Department with access to a new source of data. The FIST provides health practitioners a tool to capture the functional abilities of people in custody at that point in time and identify supports or further diagnostic screening required. These results then become a point of comparison when future FIST assessments are undertaken. The data captured can also be extracted for analysis, providing the Department with greater insight into the breadth of impairments across the custodial estate at any given time. Superintendents can also view FIST reports for their facility to understand the spread of functional impairments across living units, allowing for better allocation of resources.

However, there are some limitations with this data. For instance, the data is limited to the screening that has occurred to date at each facility. Not all people in custody have been screened and not every facility is screening people at the same pace. As of 30 June 2023, Wooroloo Prison Farm had only screened 23 unique people. Bandyup Women's Prison had only screened 100 people. And, Acacia Prison, with an average daily population of 1,308 people in 2022, had only screened 478 people. As a result, not all people in custody with a functional impairment are currently captured.

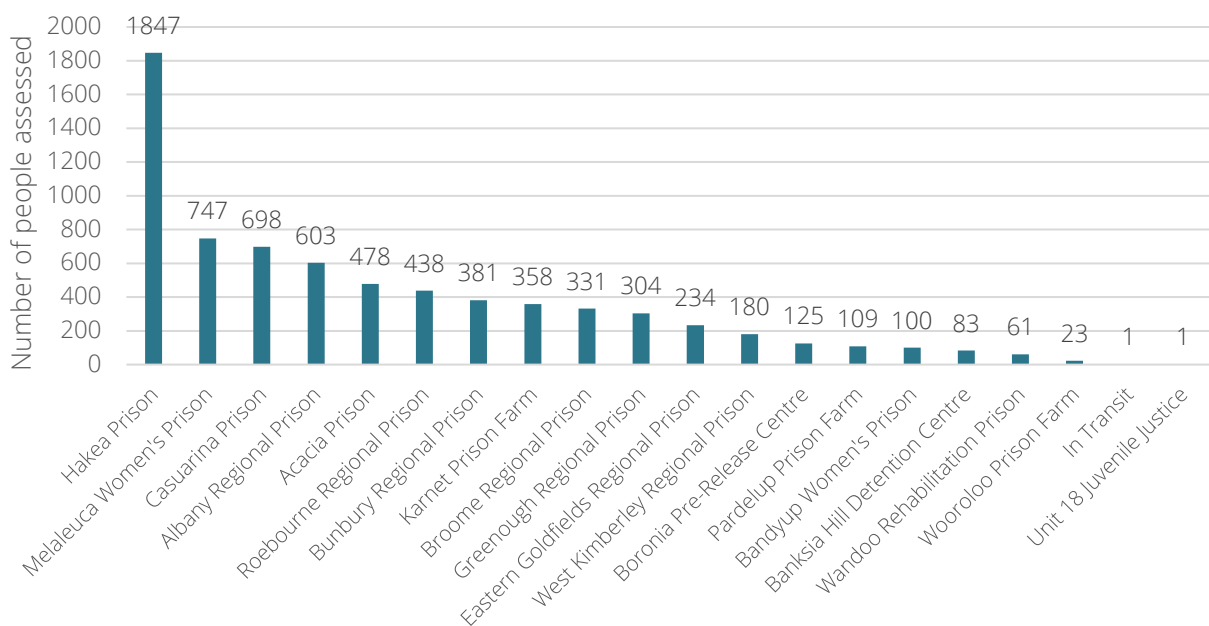


Figure 4: The completion of FIST assessments varies from site to site, reducing awareness of impairments across the custodial estate.

Further, some data control issues exist. The scores are based on the health practitioner's observations, discussions, and interactions rather than an explicit test. This reliance on observation may lead to inconsistent results across practitioners, depending on their experience, knowledge, or rapport with the patient.

Culturally unsafe health assessments or communication may also impact the type of information disclosed by First Nations people in custody. Forty per cent of hearing-impaired people identified with the FIST were Aboriginal. Given the prevalence of hearing loss in First Nations communities, this number may be considered low. This could indicate an issue with cultural safety during medical examinations. The Department advised that health staff are provided with cultural awareness training and Aboriginal healthcare workers are used, where available.

We also identified data input errors. Eleven (58%) of the 19 individuals assessed as having a severe hearing impairment using the FIST appear to be incorrect. Some users had scored their patient as having a severe impairment across all functional domains. Other users had inverted the scoring system – entering a '3' instead of a '1'. The Department advised us they were aware of these data input errors and had sought to clean the data. We requested refreshed data and they still appeared.

We recognise that some teething issues with the FIST are being addressed. The Department is regularly performing data quality testing and has since implemented a traffic light system to warn users when scoring a patient as severe. This should help reduce the error rate.

The Department has also recently included a check box to identify users wearing hearing aids. This will help quantify the number of people in custody with aids and will clarify when a FIST result has taken into consideration the use of an aid when assessing a patient's daily functional capacity.

FIST results are yet to be effectively shared with non-clinical staff

While the FIST has improved the Department's awareness of hearing impairments across the custodial estate, this information has not yet been effectively shared beyond clinical staff. As of June 2023:

- FIST results were not being imported into the offender database or manually recorded alongside each person's medical status on the offender database.
- The Department advised that FIST information was available through disability alerts, although we found no evidence of this. And, the DCT (responsible for adding disability alerts) informed us that they did not have access to an individual's FIST results.
- Positively, a report has been created for prison management to understand the spread of functional capacity across their facility. The report does not identify individuals.

The Department's Health Services acknowledged the benefit the FIST could provide custodial staff in the day-to-day management of people in custody. Knowledge of a person's functional capacity could be used to inform their accommodation needs, support requirements and suitability for placement at other facilities. This aligns with statements Department staff made before the Disability Royal Commission (Disability Royal Commission, 2022).

The Department's Health Services advised it was progressing various options for sharing FIST results on the offender database, including the use of a traffic light system to indicate severity of impairments.

1.6 Trial of an in-house audiometry tool will help identify more hearing-impaired people

The Department advised its intention to trial ShoeBox Audiometry – an in-house audiometry assessment tool – to help identify and provide interventions for hearing-impaired people earlier. The trial at Banksia Hill Detention Centre will enable health staff to perform rapid audiology assessments, which will help identify the extent of hearing loss. Additionally, the use of ShoeBox will:

- Reduce the need for formal audiology referrals, except in exceptional circumstances e.g. if the results from the ShoeBox assessment needed verifying.
- Enable a direct referral to an ear, nose and throat (ENT) specialist for an objective assessment, where required.

If deemed successful, the Department had advised they will consider rolling out the program across the custodial estate, subject to funding. Banksia Hill was chosen as the trial location as the Department recognises young people in custody are an at-risk cohort for having unidentified hearing impairments and being the least likely to self-report their hearing concerns. The Department also recognises that remedied hearing impairments may improve a young person's engagement with rehabilitation and reintegration activities.

Currently, if there are concerns about the hearing of a person in custody, they are referred to an external audiology service for further testing and diagnostic screening. However, reliance on external specialists can be challenging in a custodial environment. For example:

- There may be lengthy wait times to see a specialist
- People in custody may be discharged before their appointment occurs
- External medical appointments are subject to security considerations, and people in custody are required to wear mechanical restraints, which can be demeaning
- Transporting people in custody to external appointments requires advanced scheduling but can then be impacted by staffing shortages on the day.

The commitment to the ShoeBox trial is a positive step for improving the identification of hearing-impaired people in custody. If successful, the Department should consider the cost-benefits of implementing ShoeBox across the custodial estate as an efficient means of conducting systematic estate-wide hearing tests of all people in custody.

Recommendation 5

Examine the cost-benefits of using ShoeBox to screen all people in custody for hearing loss.

2 Supports for the hearing-impaired are available

2.1 People in custody can access hearing tests and aids, where a need is identified

All people in custody are provided access to hearing services where a need has been established through health assessments. As people in custody lose access to Medicare, hearing services are typically provided by public hospitals. However, some may be eligible for government-subsidised services from Hearing Australia, and people can opt to pay to see a private provider.

The Department has not funded in-house or third-party audiology services to routinely screen people in custody, or identified at-risk cohorts, for hearing loss or for the provision of hearing aids.

Government subsidised hearing tests and aids are available to eligible people in custody

Some sentenced and remand people may be eligible to receive subsidised hearing services under the Australian Government's Hearing Service program. The program is available to Australian citizens and permanent residents in custody in the following categories:

- People aged under 26 years
- First Nations people who are:
 - aged over 50 years, or
 - took part in the Community Development Program (formerly known as the Remote Jobs and Communities Program and the Community Development Employment Projects Program), or
 - took part in the Community Development Employment Projects Program from 30 June 2013 and received hearing services from Hearing Australia before they ceased participation.
- People who held a current Hearing Services voucher prior to entering custody. Vouchers are valid for five years. If a voucher expires while the person is in custody, they will need to wait until they are released to re-apply.

This means all young people and eligible adult people in custody may be able to access subsidised hearing services from Hearing Australia.

Further, people in custody with a hearing loss greater than 65dB may qualify for the NDIS (NDIS, n.d.). The Department has assisted some people in custody to apply for NDIS support, which can include fully funded hearing aids.

Department provides limited assistance to cover costs for those not eligible under the Hearing Service program

For those not eligible under the Hearing Service program, the Department will facilitate appointments to external hearing specialists where there is a clinical need. This can be facilitated

through public hospital services, with the cost covered by the Department (DOJ, 2021c). However, the Department advised that wait times can be extensive. Alternatively, a person in custody can request to be seen by a private provider but they are required to cover the cost (DOJ, 2022).

When requested, the Department could not provide any data on how many referrals to public or private specialists had been made since 2018 due to system limitations. As such, we are unable to verify how regularly hearing-impaired people are being referred, the average wait times to see a specialist, and the outcomes of those referrals. However, only five per cent of prisoners we surveyed at Bunbury Regional Prison had ever received a hearing test while incarcerated. As noted earlier, the Department's trial of the ShoeBox audiometric tool may help identify hearing-impaired people in custody more efficiently, and with less need for external referrals.

Similarly, those not eligible under the Hearing Service program are required to cover the cost of hearing aids. However, departmental policy notes that sentenced prisoners may, following a medical assessment and with permission from the Director Health Services, be provided with a hearing aid where they would otherwise be available free of charge in the public health system (DOJ, 2022).

When we enquired about this, the Department clarified that hearing aids are a personal responsibility, but they will consider funding assistance for some people who cannot cover these costs. There are no specific criteria for this, and the Director Health Services assesses each case on its merits. This has previously included:

- Long-term prisoners who are not able to adequately self-fund hearing aids, such as elderly prisoners or those with medical conditions preventing work opportunities.
- Prisoners whose communication and daily functioning is significantly impacted because of their hearing loss. However, in many cases these prisoners will now be covered by the NDIS.

Under this policy, only two people in custody requested and received fully subsidised hearing aids since 2018.

The current policy provides flexibility to ensure those with an impactful level of loss and with no self-funding capacity are adequately catered for and not disadvantaged. Given the costs of hearing aids, we recognise that the Department may not have the resources to offer fully subsidised aids to all people in custody with hearing loss.

However, the Department should clarify the eligibility criteria for subsidised aids and consider broadening the scheme to capture more people. The provision of aids can help hearing-impaired people feel safe, and enable better engagement with others and more effective participation in rehabilitation activities.

Recommendation 6

Establish in policy expanded eligibility criteria for providing Department-subsidised hearing aids to people in custody.

Serco provides fully subsidised hearing tests and aids

In August 2021, Serco – the private operator of Acacia Prison – began offering fully subsidised hearing tests and hearing aids to prisoners with an identified hearing impairment. A private audiologist attends Acacia Prison monthly to undertake hearing tests for prisoners identified by nursing staff as having a suspected hearing impairment. If the screening identifies a clinical need for hearing aids, these are provided at no cost to the prisoner. As of July 2023, 27 prisoners had been fitted with aids under this scheme.

Serco began offering these audiology services in recognition of the clinical need. Health staff had observed prisoners, including many Aboriginal men, presenting with untreated chronic hearing loss. Serco also cited research that recognised First Nations prisoners were more susceptible to hearing loss. They also recognised the ageing prison population trend, which will likely increase the prevalence of hearing loss. As such, Serco incorporated the provision of audiology services into their contract with the Department to help ensure they were meeting the needs of their patients. Both the screening test and the hearing aids are now provided to the prisoner fully subsidised.

Serco advised they will soon implement eligibility criteria to ensure services are targeted to those with the highest need. This includes:

- an annual hearing test (or at least once every two years) recommended for all adults from age of 60 years with a minimum of nine months remaining on their sentence
- anyone identified with a change in hearing ability with a minimum of nine months remaining on their sentence
- all First Nations prisoners with a minimum of nine months remaining on their sentence
- annual hearing tests recommended for all existing hearing aid users.

Serco's proactive decision to incorporate audiology services and subsidised hearing aids into their contract, in recognition of the clinical need, is commendable. This level of service compares starkly to the resourcing of audiology services provided by the Department in publicly operated prisons.

Department does not enforce policy requiring prisoners to pay for replacement hearing aid batteries

The Department currently operates a battery exchange system for hearing aids. Batteries are provided by hearing aid providers and when required prisoners can request replacements from the Department's Health Services. This is in contradiction to the Health Services' policy, which states prisoners are required to purchase replacement batteries through the prison canteen (DOJ, 2022).

The Department advised that for the past decade it has not enforced this policy requirement as there were self-harm risks and safety concerns raised by prisoners being in possession of batteries purchased through the canteen.

Given the change in practice, and the importance of hearing aids as a communication tool, the Department should remove this policy requirement permanently to ensure there are no impediments to prisoners using their aids in custody.

Recommendation 7

Amend *PM15 – Additional Medical Costs and Orthopaedic Appliances* to reflect current practice that prisoners are not required to purchase replacement hearing aid batteries at their own expense.

2.2 Translators and interpreting services are available, but no evidence they are being used for the hearing-impaired

Translators and interpreting services are available for custodial and health staff to help communicate with hearing-impaired people in custody. With approval from the Superintendent, services can be obtained from a range of approved providers which include Aboriginal Interpreting Western Australia and Access Plus WA Deaf. Translation and interpreting services are recommended to be used during reception and orientation processes, interviews, assessment processes and health appointments (DOJ, 2021a; DOJ, 2020; DOJ, 2021d).

However, in practice the uptake of formal translators and interpreting services is unclear. The Department could not inform us how frequently interpreter services were utilised for hearing-impaired people. When we reviewed various assessment documents for people known to have a hearing impairment, we could not identify a single instance where an interpreter or translation service was documented as being used.

Instead, we found prisoners and staff often relied on other techniques such as writing notes, lip-reading, or using hand gestures. For instance, a profoundly deaf Aboriginal man was received into a regional prison. He had been in custody before, and various assessments noted that he was generally well known to staff. During the reception in-take risk assessment, the reception officer noted that an interpreting service was not required and commented:

[Prisoner] is known to [prison] staff and has been received into [prison] on numerous occasions. He was able to communicate by writing notes and sign language.

The officer concluded that the prisoner 'appeared well' but noted the limited communication skills was a barrier to completing the assessment.

Similarly, we identified circumstances where custodial staff or other prisoners were used as informal interpreters. The use of other prisoners was particularly common for Aboriginal people from regional or remote areas with locally specific languages or hand gestures. For instance, during an interview of a deaf, mute, and illiterate Aboriginal prisoner it was noted that the:

... co-accused was used as an interpreter in the completion of this report.

[Prisoner] resides in [redacted], the same community as [redacted]. They have known each other for a few years and communicate using different forms of sign and body language.

The Australian Sign Language Interpreters' Association has highlighted the challenge of identifying qualified interpreting services for local Aboriginal languages (ASLIA, 2021). First Nations people may also be familiar with various languages through cultural and kinship connections, but not fluent in any one. The challenge this presents for interpreters was raised during the Disability Royal Commission:

... if you're a Deaf First Nations person and you just have acquired a little bit of a variety of languages, it is very hard to integrate them into a whole and have a communication system that works, that you can use to communicate, which can be extremely difficult. And for people who are trying to communicate with that individual, if you don't know those individual sign languages, it can be extremely difficult to communicate with them (Disability Royal Commission , 2022, p. 161).

While we recognise that accessing interpreters may not always be logistically possible, their expertise and impartiality are important. Using prison officers or other prisoners as informal interpreters may increase the vulnerability of hearing-impaired people by introducing a reliance on others, creating, or emphasising existing power imbalances, or by breaching confidentiality in the information shared.

The Department recently updated its policy to note that peer support prisoners may provide communication assistance where interpreting or translation services cannot be engaged, and when both prisoners agree (DOJ, 2022). We encourage the Department to prioritise the engagement of qualified interpreters to minimise the use of peer support prisoners.

2.3 Access to video communications is available at all facilities

Video communications for social and official visits and court appearances are now available at all custodial facilities in Western Australia. Social and official visitor video communications – known as e-visits – are available at no cost to the user. All e-visit and court video-link facilities have volume control that can be adjusted for the hearing-impaired, and headphones are generally available. Live captioning is not currently being utilised by the Department.



Photo 1: Social e-visits installed at Hakea Prison.



Photo 2: A court video-link room at Hakea Prison.

Custodial staff can also assist hearing-impaired people in custody with video communications. The Department advised us that they also inform the courts when a person has a known or suspected hearing impairment. The courts may then grant permission for other staff or personnel (such as lawyers) to be present during a video-link court session for additional support. This re-emphasises the need for custodial staff to be informed of hearing impairments identified by Health Services.

Video communications is particularly important for those who lip read or use sign language and may often be their only opportunity to engage in conversation. It also assists in maintaining connections with friends and family, and lawyers or advocates in relation to legal matters.

The Department also advised that people in custody can request access to the National Relay Service (NRS) through their unit manager. Despite this, Serco advised that the service is not available at Acacia Prison. An Independent Visitor also reported that the service was not made available to a person in custody at Hakea Prison. We raised these concerns, and the Department advised it would remind facilities that the NRS was available and provide details about how it can be accessed. The Department should also consider including access to the NRS in prisoner induction booklets.

What is the National Relay Service?

The NRS allows people who are deaf or find it hard to hear or speak with others on a phone, to communicate with a hearing person through a Relay Officer.

The Relay Officer changes voice to text or text to voice, and AUSLAN to English or English to AUSLAN.

The NRS would be useful for people in custody with hearing impairments, or those trying to speak with people on the outside with a hearing impairment.

3 Limited adjustments are made for the hearing-impaired

We found limited adjustments had been made for hearing-impaired people across the various aspects of daily life in custody. Policies – such as those on behaviour management and discipline – often do not consider known or suspected impairments and disabilities. And, where policies do make consideration – such as cell placements – we found little evidence they were being actively considered. Technological solutions to improve accessibility to audible announcements and group-based activities have not been considered or introduced. Though we were pleased to find education and treatment program staff assess for functional impairments and make some simple adjustments in classrooms.

3.1 Behaviour policies should consider known and suspected impairments

Behaviour management and disciplinary policies rarely consider known or suspected disabilities or impairments. The Department's behaviour management policy for adult prisoners notes that a Superintendent may withdraw certain privileges if there has been poor behaviour or misconduct (DOJ, 2022). But the policy does not guide decision-makers to consider how a known or suspected impairment or disability may relate to, or partly explain, the misconduct.

We examined the notes of one prisoner with a known hearing disability. We found some custodial staff had developed a good relationship with the prisoner and appeared to have a good understanding of how to communicate effectively with them. For instance:

[Prisoner] is currently the Unit 2 Wing Cleaner. He works to the best of his ability, noting that he has a significant hearing impairment which means he often does not hear calls to work and needs to be approached directly to complete his tasks.

Still, we found there were recorded instances of alleged misconduct which may have been a misinterpretation of behaviour relating to his hearing loss. One officer noted:

NEGATIVE: [Prisoner] after receiving his LOP rec this morning for not being at his door on time for lock up muster, [Prisoner] has disobeyed an order to return to his door today on time for the lunch time muster. [Prisoner] continued to make his hot drink before returning to his cell.

It's unclear whether the prisoner was aware of the instructions or what steps the officers had taken to ensure the prisoner had comprehended the instructions. Policy should encourage staff to reflect on unusual, poor, or defiant behaviour and how it may relate to a known or potential impairment or disability.

Similarly, a person's disability is not considered in policy relating to prison offences and charges (DOJ, 2021a). However, Superintendents and Visiting Justices can appoint a person to represent a prisoner where they cannot understand English. This helps assure a degree of procedural fairness for those with a hearing impairment that rely on AUSLAN or other forms of communication.

There are also limited references to people with disabilities in youth custodial behaviour management policies. There is only one reference to disability in the Banksia Hill Detention Centre policy on behaviour management, and there are no references to disability in their procedures for dealing with offences and charges (DOJ, 2021; DOJ, 2021).

Recommendation 8

Amend custodial policies to encourage staff to consider how a known or suspected impairment or disability may relate to, or partly explain, poor behaviour or misconduct.

Poor data means we have limited evidence that hearing impairment is linked to misconduct incidents

Statistically we found limited evidence to suggest that people in custody with a hearing impairment were disproportionately involved in misconduct incidents. In 2022, only 1 per cent (n = 129) of people in custody were identified as having a hearing impairment. In the same year, there were 1,222 incidents throughout the adult custodial estate relating to prisoners disobeying orders. Of these, 1.6 per cent included reference to 14 individuals with some level of hearing impairment, ranging from deafness to a mild impairment. These results suggest there is not a concerning over-representation of hearing-impaired prisoners involved in misconduct incidents.

There is also limited evidence to suggest hearing-impaired people in custody are disproportionately penalised for perceived misconduct or poor behaviour. Throughout 2022, there were 2,417 adult and young people in custody who received a total of 5,893 'loss of privilege' (LOP) punishments following a misconduct incident. Typically given following verbal warnings, these punishments remove certain privileges from people in custody such as their access to the telephones or canteen spends. Only 20 (0.83%) of the people issued a LOP were known to have some level of hearing impairment. And, hearing-impaired people received on average 1.9 LOPs throughout the year compared to 2.4 for those without a hearing impairment.

These findings suggest that hearing-impaired people in custody are not more likely to find themselves involved in or punished for a misconduct incident than those without a hearing impairment.

However, these results need to be understood in the context of the Department's limited awareness of hearing loss within adult and youth custody. Our analysis is limited to the data the Department can provide us on people with an identified hearing impairment. What remains unknown and unquantifiable is how people with a yet to be identified or recorded hearing impairment are behaving, how this behaviour is being interpreted by custodial staff or other people in custody, and what forms of punishments are being given. Minor behavioural issues may also be managed informally by staff and not reported.

Additionally, some prisoners expressed a perception that their hearing loss was being interpreted as misbehaviour. During our survey at Bunbury Regional Prison, some respondents stated that they

'Get in trouble coz they think they being ignored' or that 'People take it the wrong way'. This aligns with research that has found the non-compliant or perceived belligerent behaviour of hearing-impaired people in custody can be misinterpreted by others as intentional (DFA, 2022).

3.2 Some adjustments are made to improve access to treatment programs and education

Treatment assessments screen for impairments that may affect a person's engagement and participation in a program. Facilitators also conduct an assessment before a program starts to determine what support services or adjustments are required. This may include seating the participant closer to the facilitators, checking comprehension levels, buddying up with other prisoners, or using additional written or visual materials. During COVID-19 restrictions, facilitators were also allowed to remove their face masks for hearing-impaired prisoners who rely on lip reading.

We reviewed several treatment assessments for known adult hearing-impaired prisoners and found evidence their impairment was being considered. For example:

[Prisoner] has a known hearing impairment and was assessed as having cognitive challenges and poor verbal skills. In her report, [assessor] stated, "Case management should take his poor cognitive skills into account and he is likely to find group and mainstream programs to be too difficult for him to hear and understand. It is therefore recommended that he be provided an individual intervention so that he is able to have a program tailored to his comprehension levels".

Education assessments also screen for potential barriers to learning. This includes language, auditory or speech impairments. Similar adjustments are made to encourage participation, including providing individual support, using written and visual materials, and allowing students to work at their own pace.

However, technological solutions, such as sound amplification systems, are not used in Western Australian correctional facilities. In their study of Northern Territory prisoners, Vanderpoll and Howard (2011) noted the immediate impact sound amplification devices had on participation by hearing-impaired prisoners. They described one prisoner shifting from non-responsive and disengaged in the classroom before using the device, to asking questions and becoming more engaged once the device was used. This improved level of engagement helps contribute to their rehabilitation, positively impacts their wellbeing, and reduces their isolation while in custody.

Recommendation 9

Introduce sound amplification technology into classrooms and treatment program rooms to improve accessibility for hearing-impaired people in custody.

Unremedied hearing loss may prevent the completion of treatment and education assessments

A person's unremedied hearing impairment may prevent their assessments from being completed at all. If a person requires aids or an interpreter but does not have access to them, it limits their ability to meaningfully engage with assessors.

In some cases, the assessors persist. We identified assessment reports where the authors used prison officers as informal interpreters, used hand-written notes, or removed their face-mask to allow the prisoner to lip read.

In other cases, the assessor may find it too difficult to continue or the prisoner may refuse to engage. For instance:

... this assessment was unable to be completed thoroughly due to [prisoner's] hearing impairment and the non-availability of correctly functioning hearing aids. The assessor's recommendation was to attempt a re-assessment at a later date if [prisoner] was able to rectify/replace his hearing limitations. Given the limited time frame available prior to [prisoner's] earliest date of release, a re-assessment and/or booking for program participation is unlikely to occur.

When treatment or education assessments are not completed the person will have limited access to rehabilitation supports. This can reduce their likelihood of receiving parole and increase their risk of re-offending.

3.3 Impairments should be considered when determining cell placement, but little evidence this has occurred

Policy requires custodial staff to consider known disabilities when determining an adult prisoner's cell placement, in addition to other factors (DOJ, 2021). A risk assessment is also conducted on arrival into custody to determine a person's suitability for sharing a cell with others. This provides an opportunity for staff to identify potential risks or the individual to raise any concerns they may have. If the person already has a disability alert on the offender database, this will also be flagged for consideration.

Factors to consider with cell placements:



Safety



Health &
Wellbeing



Gender
Identity



Legal Status



Ethnicity



Associations

However, when reviewing the nine hearing-impaired prisoners with a disability alert we found:

- their hearing loss was either not mentioned in their risk assessment, or
- the alert had not been raised at the time the assessment occurred.

There are also no specific questions relating to disability or impairments to prompt a discussion about how these may impact a person's cell placement.

In youth custody there are no policy requirements to consider disability when allocating a young person to a cell or unit (DOJ, 2020).

Co-locating deaf prisoners or detainees together can help improve social and emotional wellbeing. Placing people together who use the same or similar visual languages or hand gestures can help reduce isolation and improve their sense of safety. This was expressed by Alen – a profoundly deaf person – during the Disability Royal Commission:

... Yes, I was finally able to communicate with someone in AUSLAN. So, for that one month, I was able to have a chat, and then after he got moved, that was it. I was alone again.

Quote from Alen during Disability Royal Commission (2022, p.156)

Prison management should place greater emphasis on co-locating deaf or hard of hearing people together where practicable. This would be made easier by informing custodial staff earlier of any known or suspected impairments or disabilities.

Disability is also considered when assessing which prison a person should be placed in. Where a proposed placement cannot be achieved, policy requires custodial staff to implement reasonable adjustments to ensure the prisoner's safety and health needs are met (DOJ, 2021).

3.4 Adjustments have not been made to the delivery of announcements, instructions or emergency warnings

The Department has not made any adjustments to the delivery of audible announcements, instructions, or emergency warnings to assist people in custody with a hearing impairment.

Audible communication techniques are common to daily life in custodial settings. Public announcement systems and verbal instructions are regularly made by custodial staff to instruct prisoners to prepare for the daily count, to collect their meal, return to their cells, attend recreation or the library, or to prepare for the delivery of medications. Cell-call systems are installed in most cells in case of an emergency, for instance during the evening lock-up, but require a two-way conversation. And, in most cases emergency warnings are delivered audibly rather than visually with flashing alarms.

In response to a hearing study performed at Bandyup Women's Prison, audiologist Anne O'Leary commented:

A huge amount of them commented that they had been getting into trouble for not coming when they were called, which is a bit tragic because they actually can't hear over the PA systems or when someone's calling them (O'Leary cited in Dingle, 2010).

Prisoners at Bunbury Regional Prison expressed similar frustrations. Several noted that they have difficulty hearing announcements over the 'public announcement' (PA) system and that they don't hear officers when their name is being called. Of those who self-identified as having difficulty hearing, 32 per cent answered they could not hear instructions from prison officers.

There's no visual information that's provided for inmates ... There may be a lot of noises coming from random directions, instructions being given. And often Deaf or hard of hearing people who are in detention or in prisons are following other people blindly without knowing what's going on and that can become a little frightening for them.

Quote from Disability Royal Commission (2022, p.160)

In the United States, some prisons have commenced installing alternative communication practices, such as vibrating wristwatch alarms and electronic bulletin boards for announcements (NDRN, 2020). A report prepared for Corrections Victoria discussed the importance of acoustics in common areas, reducing reverberation and background noise. Sound field amplification systems were also recommended in rooms used for education or treatment programs, to ensure hearing impaired people can fully participate (Quinn & Rance, 2006).

The Department notes that, in most cases, people in custody who are profoundly deaf will have a prison carer to assist them with daily living, which includes the communication of announcements, instructions and emergency warnings. We also recognise that generally prisoners share cells with others, mitigating the risk that a deaf prisoner or detainee will not be informed of any relevant communication. However, this does increase the hearing-impaired person's reliance on others, which increases their vulnerability and reduces their level of independence.

Further, it is likely that there many people in custody with some form of unidentified hearing impairment who would not have a personal carer to help them. Communicating important information in a range of formats will help ensure such information is accessible to people with varying abilities, including those yet to be identified by the Department.

Recommendation 10

Explore alternative methods for communicating announcements, instructions, and emergency warnings to people in custody with sensory impairments such as hearing loss.

3.5 Custodial staff are not provided any specific training on hearing health

Custodial staff across the youth and adult estates are not provided with specific training on hearing health issues and how these may present in a custodial environment. An initial 1.5-hour disability awareness training session is provided to all entry level custodial staff to provide a general guide on managing people with disabilities in the criminal justice system. There is no refresher training provided.

Training can help custodial staff better understand the behavioural signs of a hearing-impaired person in custody. For example, Deafness Forum Australia notes that hearing-impaired people 'may appear confused or defiant, speak too loudly or at the wrong time, respond inappropriately to questions, appear to be non-compliant or withdraw into themselves' (DFA, 2022, p. 9). A study in British Columbia also found staff were five times more likely to perceive the behavioural traits of hearing-impaired people as deviance, rather than it being indicative of a hearing problem (Dahl, 1995).

The doors open and the memory goes back: some prisoners seemed to be not talking to you, ignoring what you're saying. You understand now that he's got a hearing problem, no wonder he couldn't hear what I was saying.

... If you don't know about it then you may just think that the prisoner is being ignorant or rude in not responding to something that you've said.

Quote from Superintendent of Darwin Correctional Centre (Miller cited in Lopez, 2017)

Additional training for custodial staff will help improve their understanding of the behavioural symptoms of hearing loss and may improve the identification of hearing-impaired people in custody. Training should also include common signs of chronic middle ear infections, particularly in First Nations peoples, to help ensure treatments are provided in a timely manner.

Recommendation 11

Provide custodial staff with training on hearing health and common behaviours associated with hearing-impaired people in custody.

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Appendix B Acronyms

Term	Expansion of Abbreviation
AIHW	Australian Institute Health and Welfare
ASLIA	Australian Sign Language Interpreters' Association
Cth	Commonwealth of Australia
DCT	Disability Coordination Team
DFA	Deafness Forum Australia
DOJ	Department of Justice
ENT	Ear, nose and throat
FIST	Functional Impairment Screening Tool
FTE	Full-time Equivalent
HCIA	Hearing Care Industry Association
LOP	Loss of privilege
NDIS	National Disability Insurance Scheme
NRS	National Relay Service
OICS	Office of the Inspector of Custodial Services
PA	Public announcement



Government of **Western Australia**
Department of **Justice**
Corrective Services

Response to Review:

***Snapshot Series: People in Custody with a
Hearing Impairment***

October 2023

Version 1.0

Response Overview

Introduction

The Snapshot Series Review into *People in Custody with a Hearing Impairment* (the Hearing Impairment Review) was announced by the Office of the Inspector of Custodial Services (OICS) on 20 March 2023. A wide range of documentation, statistics and access to systems, policies, processes, custodial facilities including staff and prisoners were made available to OICS upon request for the purpose of the review.

On 20 July 2023, OICS provided a debrief on the Hearing Impairment Review findings and on 28 August 2023, the Department of Justice (the Department) received the draft report for review and comment. The draft report highlighted the key findings and made 11 recommendations. The Department has reviewed the draft report and provides further context, comments, and responses to the recommendations.

Review Comments

The Department recognises the importance of hearing as a fundamental method in how we communicate with each other, interact with our surroundings, and function in our day-to-day lives. The Department welcomes the findings of the OICS Hearing Impairment Review which highlights the progress the Department has made towards addressing hearing impairment issues for people in custody, whilst noting the challenges to ensuring all people in custody receive an appropriate level of care and treatment in respect to ear and hearing health.

The Department has recently implemented a number of initiatives to assist in identifying hearing impairments in people in custody. In 2021, the Department introduced functional impairment screening by clinical staff to identify potential impairments in people across various health domains, including hearing. The screening is not a formal diagnostic tool, but a mechanism that assists clinical staff in identifying potential impairments through general observation and interaction, which subsequently allows for formal referrals to be made for audiology services where hearing issues are apparent.

As acknowledged in the Hearing Impairment Review findings, the screening has helped identify more hearing-impaired people in custody. Some data inconsistencies have been identified since the launch of the screening, resulting in the Department introducing controls to address these issues. Health Services conducts audits of the data to identify and correct inconsistencies, and regularly liaises with facility-based clinical staff to encourage the use of screening and reinforce its correct application.

As at September 2023, approximately 70 per cent of the current adult and youth custodial population had received the screening, demonstrating the Department's commitment to the successful rollout of the tool and the identification of prisoners with health impairments including hearing.

It is the Department's intention to undertake screening for all persons upon reception into custody. In addition, the Department continues to promote other mechanisms in place to identify hearing impairments. These include encouraging self-reporting, through annual health assessments, and general health awareness campaigns.

Given young people in custody are identified as at high risk of having unidentified hearing impairments, the Department commenced a pilot program at Banksia Hill Detention Centre for audiology screening, delivered by Shoebox Audiometry. This service has since been determined as unsuitable for rollout, with other screening tools now being considered.

The Department is currently assessing the feasibility of two alternative screening solutions; 1) an online screening tool delivered by audiology service *SoundScouts*, which is currently undergoing assessment for suitability and funding approval; and 2) an in-reach service delivered by *Amplifon Australia*, which currently provides in-reach audiology at Acacia Prison.

It was pleasing to note OICS' findings in relation to the adjustments made to improve access to treatment and education programs. Facilitators conducted assessments to determine what supports were required for hearing impaired participants prior to commencing programs. The Department recognises this as an important practice.

Planning is also underway for long-term infrastructure and technology improvements across the custodial estate that will help provide solutions for supporting people in custody with hearing impairments. The Department has prepared a budget submission for the 2023/24 Mid-Year Budget Review seeking funding to commence the implementation of an Offender Digital Services Platform (ODSP). Through the ODSP, the Department proposes to install a new prisoner communication system and associated infrastructure, which will include potential solutions for how prisoners with hearing impairments are communicated with within a custodial environment.

It is anticipated that the planned co-location of Health Services and the Disability Co-ordination Team (DCT) will improve information exchange and communication channels, resulting in a greater and efficient exchange of offender health-related information.

The findings of the OICS Hearing Impairment Review will be considered as part of the current review of the Commissioner's Operating Policy and Procedure (COPP) 4.8: *Prisoners with Disability*. The Operational Policy team will assist custodial facilities in localising policy amendments to ensure all facilities have up-to-date procedures in managing prisoners with disabilities, including hearing impairments.

Response to Recommendations

1 Review the findings of the inquest into the death of Mootijah Shillingsworth and consider changes to medical induction processes to improve identification of chronic middle-ear infections in at-risk populations.

Level of Acceptance:	Supported in Principle
Responsible Division:	Corrective Services
Responsible Directorate:	Offender Services

Response:

The Department has conducted an initial review of the findings arising from the inquest into the death of Mootijah Shillingsworth. There are multiple differences in medical induction processes from NSW in comparison to Western Australia and the Department has not identified any practice changes for implementation. Of note, all persons within the Department's care are scheduled for review by a General Practitioner within 90 days of reception. This reception assessment is comprehensive and includes but is not limited to the following:

1. ear examinations;
2. enquiries as to whether the person in custody is experiencing ear issues (e.g. pain, discomfort or other symptoms indicative of an infection);
3. enquiries relating to whether the person has received any care from specialists within the community and whether they are on any waitlists in relation to their ear issues; and
4. questions pertaining to whether the person has any family history of ear issues.

The current process the Department has in place is distinguished from the process at the time in NSW whereby reception assessments were only done by nurses and GP referrals were "as required" rather than as a matter of course.

A further distinction is that at the time of the death of Mr Shillingsworth, NSW had paper-based medical records in comparison to the electronic medical record system the Department has in place, which enables nursing and medical staff to access both current and historic health information.

Further, persons that present with ear complaints whilst in the Department's care are reviewed by members of the health team and all health centres are equipped with auroscopes and equipment for conducting ear examinations, and CT scans to detect middle-ear infections are facilitated via public hospitals when required.

2 Review Disability Co-ordination Team referral processes and address the feedback loop error from Health Services.

Level of Acceptance:	Supported
Responsible Division:	Corrective Services
Responsible Directorate:	Offender Services

Response:

It is anticipated that the planned co-location of Health Services and the Disability Co-ordination Team (DCT) will improve information exchange of health-related information between the respective business areas and mitigate the possibility of the DCT not being notified when a diagnosis occurs.

3 Expedite development of a well-resourced disability services team for adult prisoners.

Level of Acceptance: Supported in Principle
Responsible Division: Corrective Services
Responsible Directorate: Offender Services

Response:

The Department is developing a proposal to expand the DCT, which will inform future budget submissions.

4 Develop a policy framework for identifying disabilities in young people who enter custody.

Level of Acceptance: Not Supported
Responsible Division: Corrective Services
Responsible Directorate: Women and Young People

Response:

The following mechanisms are in place to (1) identify disabilities in young people; and (2) to manage young people with disabilities:

1. Youth Justice Services (YJS) community staff are the primary case managers for all sentenced young people, and are responsible for creating and updating disability alerts on the Total Offender Management Solution (TOMS) for all young people who are clients of community YJS (including young people in detention). In addition all sentenced young people have a Youth Justice Officer (YJO) assigned to them.
2. Those who do not have an assigned YJO are case managed by a Senior Case Manager, who assume the responsibility for the creation and updating of disability alerts.
3. The Disability Alert on TOMS is accessible to all centre staff and includes any confirmed diagnoses, or areas of significant deficits, and whether the young person is registered with National Disability Insurance Scheme (NDIS). The alert also includes an explanation of the young person's deficits in non-psychological language, as well as strategies that can be used by staff to inform their approach, interactions, supervision, support and management of young people with a disability.
4. Where concerns are identified regarding a young person's level of cognitive functioning, a request can be made by the Courts for a full neuropsychological, or neurodevelopmental report to be completed.
5. A NDIS Justice Liaison Officer is co-located at Banksia Hill to support referrals and engagement of NDIS funded services.

In addition, the Department is in the process of establishing a multidisciplinary team comprising of a Neuropsychologist, Speech Pathologist, Occupational Therapist, Psychiatrist and Paediatrician to provide assessment and intervention services for those young people identified as having neurocognitive deficits. In view of the abovementioned practices, it is considered that a formal policy is not required.

5 Examine the cost-benefits of using ShoeBox to screen all people in custody for hearing loss.

Level of Acceptance: Not Supported
Responsible Division: Corrective Services
Responsible Directorate: Offender Services

Response:

The Department has determined the use of Shoebox as unsuitable for rollout across the custodial estate and is currently considering two alternative audiology screening solutions as follows:

- 1) An online screening tool delivered by *SoundScouts*. The Department is in the process of determining the funding requirements for this tool and investigating its compatibility with the Department's systems.
- 2) In-reach audiology services delivered by *Amplifon Australia*. The Department is looking at the possibility of Amplifon delivering in-reach services at public custodial facilities. The engagement of Amplifon would bring the Department in line with Acacia Prison's audiology services, which are currently being serviced by Amplifon through an agreement with Serco.

6 Establish in policy expanded eligibility criteria for providing Department-subsidised hearing aids to people in custody.

Level of Acceptance: Not Supported
Responsible Division: Corrective Services
Responsible Directorate: Offender Services

Response:

The Department does not support this recommendation on the basis that the Health Services policy is in line with community equivalence and standards and the Department ensures that all funding sources available to a person in custody are considered when sourcing hearing aids. In the event a person in custody does not qualify for funding, the Department will consider each case individually for funding by the Department.

7 Amend PM15 – *Additional Medical Costs and Orthopaedic Appliances* to reflect current practice that prisoners are not required to purchase replacement hearing aid batteries at their own expense.

Level of Acceptance: Supported
Responsible Division: Corrective Services
Responsible Directorate: Offender Services

Response:

The Department's Health Services will amend PM15 – *Additional Medical Costs and Orthopaedic Appliances* to remove the requirement for prisoners to purchase hearing aid batteries at their own expense. This amendment will reflect the current practice of exchanging batteries via health centres.

8 Amend custodial policies to encourage staff to consider how a known or suspected impairment or disability may relate to, or partly explain, poor behaviour or misconduct.

Level of Acceptance: Supported
Responsible Division: Corrective Services
Responsible Directorate: Operational Support

Response:

COPP 4.8 *Prisoners with Disability* contains processes for prisoners who have difficulty communicating or understanding information being presented to them. This COPP is currently being reviewed and in consultation with stakeholders, consideration shall be given to consider the impact an impairment may have on a prisoner's behaviour. The review will also see the alignment of COPP 4.8 to other operational policies, such as COPP 10.1 – *Prisoner Behaviour Management*, COPP 10.5 – *Prison Offences and Charges*, and COPP 11.3 – *Use of Force and Restraints*.

9 Introduce sound amplification technology into classrooms and treatment program rooms to improve accessibility for hearing-impaired people in custody.

Level of Acceptance: Supported in Principle
Responsible Division: Corrective Services
Responsible Directorate: Offender Services

Response:

The Department supports in principle the use of sound amplification technology in classrooms and treatment program rooms and is currently exploring the feasibility of trialling the technology, pending funding availability and identification of a trial facility.

10 Explore alternative methods for communicating announcements, instructions and emergency warnings to people in custody with sensory impairments such as hearing loss.

Level of Acceptance: Supported in Principle
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

Adult Male Prisons will collaborate with business areas and custodial facilities to ensure that where necessary, alternative communication techniques are implemented to provide announcements, instructions and emergency warnings beyond the current support mechanisms for prisoners with hearing impairments.

This will also be explored through the scope of the ODSP project, which ties in with the Department's Long-Term Custodial Technology Strategy that will support the modernisation and digital transformation of prison Information and Communications Technology services and infrastructure.

11 Provide custodial staff with training on hearing health and common behaviours associated with hearing-impaired people in custody.

Level of Acceptance: Supported
Responsible Division: Corrective Services
Responsible Directorate: Operational Support

Response:

A review of the current *Disability Awareness Training* and *Effective Communication* training currently provided to Prison Officers and Youth Custodial Officers will be conducted to determine suitable additional information relating to hearing impairment.

The added training information will assist officers in their understanding of the behaviours associated with hearing impairments and how these may be misconceived as poor behaviours, whilst enabling staff to assist in supporting better communication and de-escalation techniques within the Corrective Services setting.

Appendix D Methodology

Data sets for this review were obtained from the Department of Justice's (the Department's) offender database through a series of extractions using SQL Server Management Studio. We also used a series of pre-constructed reports from the Department's Reporting Framework and from the offender database and data provided to us by the Department. We examined data between 2018 and 2023.

We examined Western Australian legislation and departmental documentation including policy, strategy documents, and evaluations. We also conducted site visits to Acacia Prison, Bandyup Women's Prison, Banksia Hill Detention Centre, Bunbury Regional Prison, Casuarina Prison, Eastern Goldfields Regional Prison, Hakea Prison, Wandoo Rehabilitation Prison, and West Kimberley Regional Prison.

We also designed and conducted a survey with prisoners at Bunbury Regional Prison. The survey asked prisoners to self-report any hearing loss or other hearing health issues they were experiencing, and then gauged the impact of that impairment on their experience in custody. There were 203 responses to the survey.

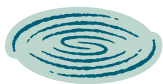
In July 2023 the Department was presented with a key-findings briefing, providing an initial opportunity for feedback or clarification.

A draft version of this report was then sent to the Department and Serco in August for comment and to respond to recommendations. A formal response was received from the Department in October 2023, as shown in Appendix C.

Serco advised that the provision of effective services to the cohort of prisoners with disabilities is a key part of their Offender Management Strategy. Serco noted they were generally supportive of all eleven recommendations, noting that recommendations 8, 9, 10 and 11 were most applicable for site level consideration and had commenced considering these recommendations to improve their service delivery. Serco stated that they will be guided by the Department of Justice on the implementation of those recommendations which require an infrastructure change.

This report was a review of a custodial service in accordance with Section 22 of the *Inspector of Custodial Services Act 2003*.

Key dates	
Review announced	20 March 2023
Key findings briefing to Department of Justice	20 July 2023
Draft report sent to Department of Justice and Serco	28 August 2023
Response received from Department of Justice	6 October 2023
Response received from Serco	6 October 2023
Declaration of prepared report	17 October 2023



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