

3. Indefinite detention of people with disability

This is a plain English summary of Australia's 2019 CRPD Factsheet 3

Indefinite detention

Indefinite detention is when someone is held in prison or a medical facility and do not know when they will be let out.

Unfit for trial

People with disability can be considered **unfit** to stand trial.

You can be unfit to stand trial if you

- Do not understand what you have been charged for
- Do not understand how courts work
- Cannot explain things to the court

People who are unfit for a trial can be held in indefinite detention without being found guilty of a crime.

In detention people with disability are at risk of abuse and isolation.



Laws

There are issues with our laws that mean people with disability are often held in indefinite detention.

This happens even more to

- Indigenous people with disability
- People with intellectual disability
- People with psychosocial disability

What we recommend

Stop using prisons to manage people with disability who have not been convicted of a crime.

Make laws and systems in line with the CRPD so people with disability can have liberty and freedom.

Look at systems and programs that work well like Section 32 Mental Health Forensic Procedures Act in NSW and IDRS's justice support.

Talk to people with disability about the Draft National Statement of Principles Relating to Persons Unfit to Plead and find out what we think.

Bring in the recommendations from

- 2016 Senate Inquiry into the Indefinite Detention of People with Disability
- National Inquiry into the Incarceration Rate of Indigenous People