

# Evaluation of the Justice Advocacy Service

Department of Communities and  
Justice

Final Report

4 February 2021

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Ernst & Young was engaged on the instructions of the Department of Communities and Justice ("**Client**") to undertake an evaluation of the Justice Advocacy Service ("**Project**"), in accordance with the engagement agreement dated 11 June 2019.

The results of Ernst & Young's work, including the assumptions and qualifications made in preparing the report, are set out in Ernst & Young's report dated 4 February 2021 ("**Report**"). The Report should be read in its entirety including the transmittal letter, the applicable scope of the work and any limitations. A reference to the Report includes any part of the Report. No further work has been undertaken by Ernst & Young since the date of the Report to update it.

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4 February 2021

Ms Pia van de Zandt  
Director  
Office of Community Safety and Cohesion  
Department of Communities and Justice  
Parramatta Justice Precinct, 160 Marsden St, Parramatta NSW 2150

## **Evaluation of the Justice Advocacy Service**

Dear Pia,

In accordance with our Engagement Agreement dated 11 June 2019 (“Agreement”), Ernst & Young (“we” or “EY”) has been engaged by the Department of Communities and Justice (“you”, “the Department” or the “Client”) to undertake an evaluation of the Justice Advocacy Service (the “Services”).

The enclosed report (the “Report”) sets out the outcomes of our work. You should read the Report in its entirety. A reference to the report includes any part of the Report.

### **Purpose of our Report and restrictions on its use**

Please refer to a copy of the Agreement for the restrictions relating to the use of our Report. We understand that the deliverable by EY will be used to record the evaluation findings and recommendations of the Justice Advocacy Service and to inform future decision-making (the “Purpose”).

This Report was prepared on the specific instructions of the Department solely for the Purpose and should not be used or relied upon for any other purpose.

This Report and its contents may not be quoted, referred to or shown to any other parties except as provided in the Agreement. We accept no responsibility or liability to any person other than to the Department or to such party to whom we have agreed in writing to accept a duty of care in respect of this Report, and accordingly if such other persons choose to rely upon any of the contents of this Report they do so at their own risk.

### **Nature and scope of our work**

The scope of our work, including the basis and limitations, are detailed in our Agreement and in this Report.

Our work commenced on 11 June 2019 and was completed on 18 January 2021. Therefore, our Report does not take account of events or circumstances arising after 18 January 2021 and we have no responsibility to update the Report for such events or circumstances.

In preparing this Report we have considered and relied upon information from a range of sources believed after due enquiry to be reliable and accurate. We have no reason to believe that any information supplied to us, or obtained from public sources, was false or that any material information has been withheld from us.

We do not imply and it should not be construed that we have verified any of the information provided to us, or that our enquiries could have identified any matter that a more extensive examination might disclose. However, we have evaluated the information provided to us by the Department as well as other parties through enquiry, analysis and review and nothing has come to

our attention to indicate the information provided was materially mis-stated or would not afford reasonable grounds upon which to base our Report.

This letter should be read in conjunction with our Report, which is attached.

Thank you for the opportunity to work on this project for you. Should you wish to discuss any aspect of this Report, please do not hesitate to contact myself on +61 422 009 718 or Dr. Melissa Kaltner by email at [melissa.kaltner@au.ey.com](mailto:melissa.kaltner@au.ey.com).

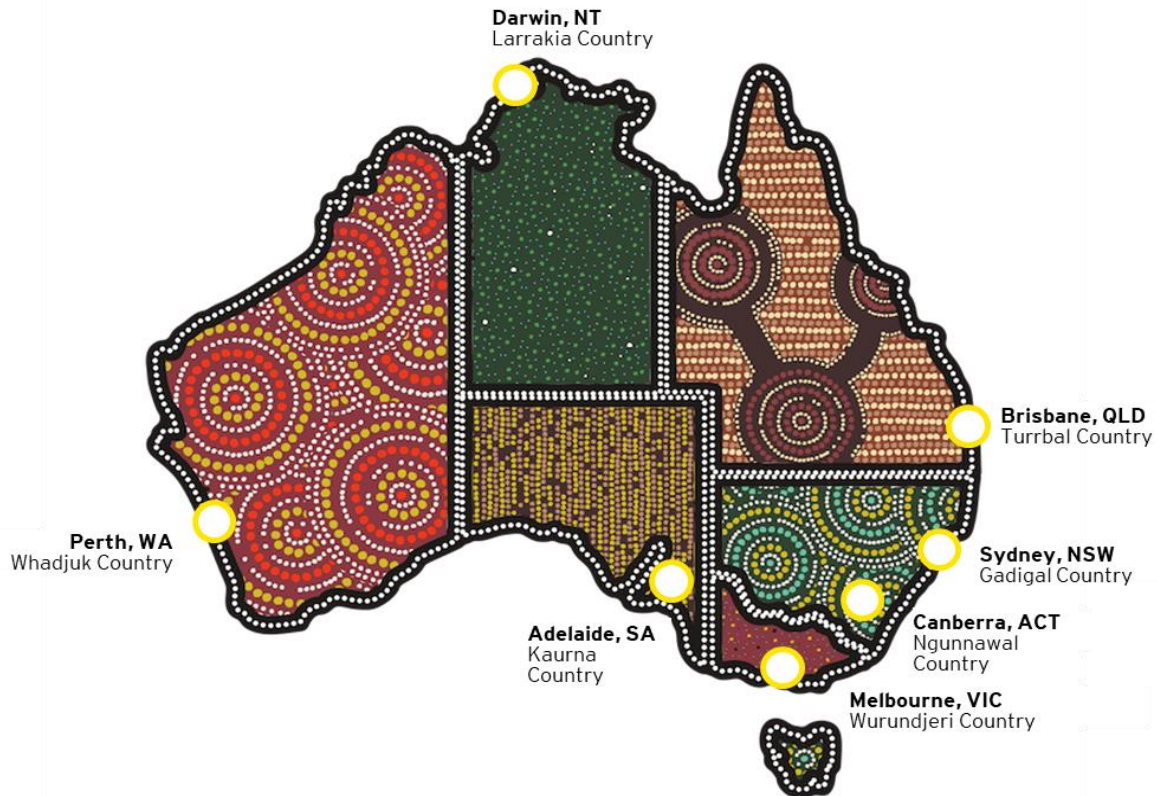
Yours sincerely,



Mark Galvin

Partner, Oceania Program Evaluation Practice Lead

## Acknowledgment of Country



EY acknowledges Aboriginal and Torres Strait Islander people as the first peoples of Australia and Traditional Custodians of this land its waters. We pay our respects to Elders, knowledge holders and leaders both past and present.

We respectfully acknowledge Traditional Owners whose country EY's offices are located including Turrbal, Gadigal, Ngunuawal, Wurundjeri, Karuna, Whajuk, and Larrakia Nations.

We respect Traditional Owners' relationship, connection and association to "country" and that it is an integral part of their identity and cultural expression.

We understand and respect that Country is sacred, and we will work diligently and culturally responsively in partnership to build a strong future for the People and Country.

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## Glossary of Acronyms

The table below presents a list of acronyms used throughout this report:

Acronym	Meaning
ABS	Australian Bureau of Statistics
AH&MRC	Aboriginal Health and Medical Research Council
ALS	Aboriginal Legal Service
AVL	Audio-visual link
AVO	Apprehended Violence Order (a.k.a. restraining order or protection order) - two types ADVO and APVO (domestic and personal)
BCR	Benefit-cost ratio
BOCSAR	NSW Bureau of Crime Statistics and Research
CBA	Cost-benefit analysis
CCTV	Closed-circuit television
CIDP	Cognitive Impairment Diversion Program
CLC	Community Legal Centre
COPS	Computerised Operational Policing System
DCJ	NSW Department of Communities and Justice
FPDN	First Peoples' Disability Network
HREC	Human Research Ethics Committee
IDRS	Intellectual Disability Rights Service
ISR	Integrated Service Response
JAS	Justice Advocacy Service
LEPRA	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
LMS	Learning Management System
MOU	Memorandum of Understanding
NDIS	National Disability Insurance Scheme
NGO	Non-Government Organisation
PINOP	Person in need of protection
ROD	Reoffending Database
SDS	Statewide Disability Services
SPRC	The University of New South Wales Social Policy Research Centre
TNA	Training Needs Analysis
YLA	Youth Law Australia

## 1. Executive Summary

### 1.1 Introduction

The Department of Communities and Justice (DCJ) engaged a consortium led by EY to undertake an evaluation of the Justice Advocacy Service (JAS), aligned to the NSW Government Program Evaluation Guidelines (2016).<sup>1</sup> The consortium features members from:

- ▶ EY
- ▶ The University of New South Wales Social Policy Research Centre (SPRC)
- ▶ First Peoples' Disability Network (FPDN)
- ▶ Youth Law Australia (YLA)

The objective of this evaluation was to assess the efficacy of the service within its first year of operation and inform decisions for potential continuation. The evaluation applied a mixed-methods approach that drew on both quantitative and qualitative evidence to address a series of evaluation questions aimed at examining the following aspects of the program:

- ▶ Process - to make informed judgements on process issues in operation, and highlight any key implementation issues arising during program rollout
- ▶ Outcomes - a comprehensive overview of the outcomes arising from the programs, derived from data and analysis
- ▶ Economic - a qualitative and quantitative assessment of the extent to which the economic benefits of the investments exceed their costs

Ethical approval was sought from the NSW Aboriginal Health and Medical Research ethics committee (AHMRC) in late 2019. Final approval was obtained in February 2020 (HREC Reference number: 1571/19).

### 1.2 The Justice Advocacy Service

JAS is a support service to victims, witnesses and defendants with cognitive impairment which aims to facilitate clients' ability to exercise their rights and participation in criminal justice processes. Eligible individuals are supported by a support person when they are in contact with police, courts and legal representatives. JAS is an extension of the Criminal Justice Support Network which has been systematically supporting people with cognitive impairment for over two decades.

The key objectives of the program are to:

- ▶ Ensure that suspects/defendants can exercise their rights in police custody
- ▶ Ensure that suspects/defendants can access legal advice via phone while in police custody
- ▶ Ensure that victims and witnesses can effectively report crime to police

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<sup>1</sup> NSW Treasury, NSW Government Program Evaluation Guidelines (2016).



- ▶ Ensure that victims, witnesses and defendants attending court are able to understand and participate in their criminal matter
- ▶ Ensure that victims, witnesses and suspects/defendants are able to effectively instruct (suspects/defendants only) and communicate with legal representatives
- ▶ Improve knowledge and understanding among Justice agencies to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues they experience
- ▶ Victims, witnesses, suspects/defendants and their family members and informal supports understand criminal justice system processes, agencies and the types of supports and services that are available

Commencing on 1 July 2019, JAS has been delivered by the Intellectual Disability Rights Service (IDRS) across NSW. In October 2019, JAS expanded its scope to a 24- hour service for people who are in police custody across the state.

### 1.3 Evaluation Methodology

The evaluation was guided by a set of overarching evaluation questions developed through co-design:

- ▶ **Process**
  - Was the service implemented and delivered as intended?
  - What were the barriers to implementation and delivery?
  - What are the facilitators to implementation and delivery?
- ▶ **Outcomes**
  - Did the service achieve its stated objectives and aims?
  - Were better outcomes achieved at different locations and/or regions?
  - Did outcomes differ across sites?
- ▶ **Economic**
  - Did supply meet demand for the service across the state and at various sites?
  - How did the cost of the program compare to the benefits delivered?

Data was sourced from the following groups of stakeholders:

- ▶ JAS clients
- ▶ JAS staff and volunteers
- ▶ Stakeholders (Government, legal services/lawyers, magistrates and courts, police, services/NGOs)

- ▶ Administrative databases (service delivery data collected by IDRS and BOCSAR datasets)

## 1.4 Key Limitations

Throughout the evaluation period, there were a range of unanticipated limitations which impacted on JAS service implementation, and in turn on the evaluation of the service. These are discussed in more detail in the report, and included:

- ▶ Impact of bushfires on JAS operations and outcomes
- ▶ Impact of COVID-19 on JAS operations, outcomes and evaluation data collection
- ▶ Reduction in evaluation timeframes

The evaluation applied analysis techniques to support identification of the likely benefits of JAS with reflection on these key limitations to both JAS service provision and the evaluation data collection in order to provide a nuanced view of the impact of JAS.

## 1.5 Key Findings

### 1.5.1 Process Findings

The key process evaluation findings are as follows:

Evaluation question	Key findings
<p><b>Was the service implemented and delivered as intended?</b></p>	<ul style="list-style-type: none"> <li>▶ Overall, the JAS program has been implemented and delivered as intended, providing support to people with cognitive impairment who interact with the NSW criminal justice system</li> <li>▶ There was a significant impact of COVID-19 during the evaluation period on justice operations generally, which flowed to implementation impacts for JAS</li> <li>▶ Despite the impact of COVID-19, JAS has undergone rapid expansion and is building its client base throughout NSW, providing 3,227 support activities across 1,691 cases</li> <li>▶ Suspects/defendants made up 87% of all JAS clients while victims accounted for only 12% of JAS clients with witnesses making up the remaining 1%</li> <li>▶ 78% of all supports were for people appearing at court either in person or via audio-visual link while police supports were provided to around a third of JAS cases</li> <li>▶ It is highly likely that there is a significant number of people who are eligible for JAS services but who are not making use of the services</li> <li>▶ Key cohorts identified by stakeholders as requiring further support by JAS are witnesses, victims and Aboriginal people, as well as and children and young people with a cognitive</li> </ul>

	<p>impairment, who are currently over-represented in the youth offender population</p>
<p><b>What were the barriers to implementation and delivery?</b></p>	<ul style="list-style-type: none"> <li>▶ The bushfires of 2019/2020 impacted on JAS workers and clients, in particular the ability for staff to attend their office and supports</li> <li>▶ While the COVID-19 pandemic and relevant restrictions had minimal impact on the number of new cases for JAS, it has impacted on both the number of support activities planned and the proportion of support activities that were able to go ahead as planned, in particular supports relating to court appearances</li> <li>▶ Despite availability of online and face-to-face training modules available to JAS staff, there is indication that some JAS workers may not be skilled or experienced enough to provide adequate support and that there is demand for further training to be provided</li> <li>▶ Referrals were inhibited in some areas which appeared to be due to other agencies, in particular police, being unable to recognise people with cognitive impairment or being unaware of JAS</li> <li>▶ The program experienced challenges in a number of regional and remote areas relating to recruitment of JAS staff and volunteers, as well as building trust and referral networks in communities</li> <li>▶ While provision of case management and wrap-around supports is not a funded service of JAS, this was a gap in service provision which was repeatedly identified by stakeholders</li> </ul>
<p><b>What are the facilitators to implementation and delivery?</b></p>	<ul style="list-style-type: none"> <li>▶ The program's geographic coverage, high availability service model and use of volunteers allowed it to meet current demand for JAS supports, with minimal percentage of supports being cancelled by JAS</li> <li>▶ The training and capacity building component provided by JAS is facilitating a greater understanding of how to recognise cognitive impairment and the need to access support services for persons with cognitive impairment among justice agency staff, resulting in increasing referrals</li> <li>▶ The program has benefited from good development of networks and referral pathways and the ability to work effectively with other services, particularly Legal Aid and courts</li> <li>▶ Although JAS is not a service that is funded to provide casework, at times, and based on the level of experience of justice advocates, incidental casework and wrap-around support occurs and appears valued by stakeholders</li> </ul>

## 1.5.2 Outcomes Findings

The key outcome evaluation findings are:

Evaluation question	Key findings
<p><b>Did the service achieve its stated objectives and aims?</b></p>	<ul style="list-style-type: none"> <li>▶ The JAS program enabled clients to have a voice and supported their understanding of their rights in the legal process, with 89% of JAS staff and volunteers and 73% of non-JAS professionals agreeing that JAS enabled clients to better express their views and exercise their rights</li> <li>▶ Individuals who received JAS support were also more likely to understand and follow court orders, although ongoing casework was identified as a key area of improvement required to support clients</li> <li>▶ For support provided to clients during police interactions, positive outcomes were achieved with most suspects following the legal advice received and a majority understanding cautions and bail conditions, while victims and witnesses were successfully supported to appropriately present their story</li> <li>▶ For support provided to clients in courts, suspects/defendants with a cognitive impairment and supported by JAS were less likely to be found guilty and more likely to receive a section 32 diversion order, with sentences for those found guilty likely to be of a higher severity when compared to the outcomes for all NSW defendants, adjusting for the difference in the mix of offences</li> <li>▶ While JAS has delivered a range of training modules and established a Training and Capacity Building team, as well as a Capacity Building Strategy for Justice Agencies, there are opportunities for improvement in outcomes through further training opportunities for JAS staff/volunteers and staff in the broader criminal justice system in supporting and interacting with people with cognitive impairment</li> <li>▶ Overall, JAS clients felt that the service has had a significant impact on the outcomes they have in interacting with the criminal justice system</li> </ul>
<p><b>Were better outcomes achieved at different locations and/or regions?</b></p>	<ul style="list-style-type: none"> <li>▶ The pattern of supports, cases, clients and outcomes is relatively consistent across each police region and court region, with the greatest variation experienced in section 32 orders and guilty verdicts</li> <li>▶ Achievement of outcomes in regional areas was impacted by local service deficit and challenges building networks in the community</li> </ul>

<p><b>Did outcomes differ across sites?</b></p>	<ul style="list-style-type: none"> <li>▶ Overall, there was less support, understanding and allowance for people with cognitive impairment at police stations compared to courts. JAS staff and volunteers expressed that they worked best with courts and lawyers, while 72% stated that they only worked well with police sometimes</li> <li>▶ The proportion of JAS cases with a guilty outcome is higher in the district court compared to the local court</li> </ul>
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### 1.5.3 Economic Findings

The key economic analysis findings are as follows:

Evaluation question	Key findings
<p><b>Did supply meet demand for the service across the state and at various sites?</b></p>	<ul style="list-style-type: none"> <li>▶ The supply of JAS services is meeting the current demand across different regions of NSW, with no significant variation in the quantity or quality of service being delivered</li> <li>▶ There is a significant potential demand for JAS services that is not currently presenting to JAS. Should this potential demand be realised through increased awareness of and referral to JAS Services, then it may exceed the current capacity of JAS to provide these services</li> </ul>
<p><b>How did the cost of the program compare to the benefits delivered?</b></p>	<ul style="list-style-type: none"> <li>▶ Considering the value of both financial and non-financial benefits and adjusted for the impact of COVID-19 on case volumes, for every \$1 invested in the program, it is estimated that \$1.11 in return is achieved by JAS</li> <li>▶ If the program was to be delivered at the full capacity of the current JAS staff and volunteer numbers with a broad range of benefits captured, every \$1 invested in the program would deliver \$3.37 in return</li> <li>▶ The program's benefits to individuals were found to be highest (44%), followed by benefits to government (40%) and benefits to society (16%).</li> <li>▶ The two largest economic benefits were increased efficiency in cases (51%) and reduction in offending (29%)</li> </ul>

## 1.6 Key Recommendations

Key recommendations arising from the evaluation were as follows:

- ▶ **A demand study be undertaken to assess the likely unmet demand for JAS services and to inform future investment needs** - Further investment may be required to establish a greater understanding of the service user population to enable equity in resource allocation and support more equitable service provision. Such a study should focus on known underserved cognitive impairment cohorts in the criminal justice system, including witnesses, victims, Aboriginal and Torres Strait Islander people, and children and young people.
- ▶ **A review of the JAS referrals process be undertaken to identify pathways, referral impediments and opportunities for improvement on a sector by sector basis** - A formal review process which maps referral pathways and identifies current barriers would support JAS access for those with cognitive impairment. Such a review should encompass both client referrals pathways to JAS, alongside referrals from JAS to other support services, highlighting opportunities for strengthening client supports across the client journey.
- ▶ **Targeted investment in service promotion alongside knowledge and awareness training be delivered to specific key stakeholder cohorts** - It is recommended that continued efforts to support promotion of JAS are invested in. Additional investment in targeted knowledge and awareness campaigns, particularly with police, to ensure adequate knowledge of cognitive impairment and of JAS supports to enable increased referrals will support service uptake. There should also be ongoing targeted promotion of JAS to key justice stakeholder groups working with under-represented JAS client groups.
- ▶ **DCJ to lead a review of holistic case management responsibilities and services as they pertain to JAS clients** - It is recommended that a review be undertaken to highlight areas of need, providing evidence on service gaps and enable a focus on additional resourcing allocation where necessary to support expansion of JAS to provide these services if the review suggests they are relevant and appropriate for JAS delivery.
- ▶ **DCJ to work with BOCSAR and key data custodians to develop administrative data system capacity to better identify and capture indicators of cognitive impairment, enabling ongoing research and evaluation** - The evaluation navigated a range of hurdles in the ability to identify comparator data which highlighted deficits in the identification and recording of cognitive impairment indicators in administrative datasets. These could be addressed through supporting capacity of administrative datasets to capture relevant indicators to this end

A range of additional recommendations in relation to JAS implementation, service model, outcomes and data and systemic factors arising from the evaluation are presented within the recommendations section of this report.

## 1.7 Report Structure

The following sections of this report detail the JAS evaluation activities and findings, including:

- ▶ A general background to the program alongside a broad description of the program and evaluation objectives
- ▶ Evaluation methodology including the co-design process, data collection and analysis and cost-benefit modelling

- ▶ Key process evaluation, outcomes evaluation and cost-benefit analysis findings aligned to evaluation questions
- ▶ Key process, outcomes and cost-benefit recommendations to support continuous improvement of JAS and inform future decision-making

## 2. Background

### 2.1 Introduction and Overview

The Justice Advocacy Service (JAS) is a support service to victims, witnesses and defendants with cognitive impairment which aims to facilitate clients' ability to exercise their rights and participation in criminal justice processes. Eligible individuals are supported by a JAS support person when they are in contact with police, courts and legal representatives.

The service has seven core functions:

1. Supports for suspects with cognitive impairment in police custody
2. Supports for victims and witnesses with cognitive impairment when interacting with police
3. Supports for victims, witnesses and defendants with cognitive impairment attending court
4. Supports for victims, witnesses and defendants with cognitive impairment attending legal appointments
5. Training for justice agency staff on working with people with cognitive impairment in contact with the criminal justice system
6. Capacity building and peer mentoring for people with cognitive impairment in contact with the criminal justice system
7. Free legal advice from a trained solicitor for suspects with cognitive impairment in police custody

JAS is available to victims, witnesses and suspects/defendants in contact with the NSW criminal justice system who may have a cognitive impairment. A potential client does not need to provide evidence of cognitive impairment to access the service. If police, court or legal representatives believe the person may have a cognitive impairment, a referral can be made by calling JAS.

JAS is based on the successful implementation of the Justice Support Network (originally known as the Criminal Justice Support Network), that had been operated by Intellectual Disability Rights Service (IDRS) since 2004. The Justice Support Network demonstrated significant economic and social benefits by providing appropriate support for people with intellectual disability in the criminal justice system.<sup>2</sup>

Commencing on 1 July 2019, JAS has been delivered by the IDRS across NSW over two years. In October 2019 JAS expanded its scope to a 24- hour service for people who are in police custody across the state. JAS consists of NSW-wide justice advocates and volunteer support persons. The role of the volunteer support person is to provide communication and emotional support during a court or police station support and during legal meetings. The volunteer support person then provides information back to the justice advocate during debriefing that may inform the person's needs and referral and advocacy opportunities. The role of the justice advocate is to and provide advocacy and referrals to 'wrap-around supports' from the support sector. JAS employees and

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<sup>2</sup> Reeve, R., McCausland, R., Dowse, L. & Trofimovs J. 'Economic Evaluation of the Criminal Justice Support Network' (2017) ([https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network\\_2017.pdf](https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf)).



volunteers require criminal process knowledge but are not expected to have expert legal knowledge.

In October 2019 JAS expanded its scope to a 24- hour service for people who are in police custody across the state. IDRS's Custody Legal Advice Service provides free legal advice from a trained solicitor for suspects with cognitive impairment in police custody. The telephone custody legal service is delivered 24 hours every day of the year by the IDRS' community legal centre, the Ability Rights Centre. Staff solicitors are rostered to provide advice during business hours while a mix of staff and volunteer legal practitioners provide legal advice overnight and on weekends. These solicitors work in partnership with the police station support persons. Legal advice is an essential adjunct to providing police station support.

In May 2020, a Training Needs Analysis (TNA) of JAS was undertaken by ARTD. A dedicated Training and Capacity Building Team is currently working with identified key stakeholders and service delivery partners to deliver training to stakeholders in the justice sector.

In mid-2019, the Department of Communities and Justice (DCJ) engaged a consortium led by EY to undertake an evaluation of JAS, aligned to the NSW Government Program Evaluation Guidelines (2016).<sup>3</sup> The consortium featured members from:

- ▶ EY
- ▶ The University of New South Wales Social Policy Research Centre (SPRC)
- ▶ First Peoples' Disability Network (FPDN)
- ▶ Youth Law Australia (YLA)

The evaluation applied a mixed-methods approach that drew on both quantitative and qualitative evidence to address a series of evaluation questions aimed at examining the following aspects of the program:

- ▶ Process - to make informed judgements on process issued in operation, and highlight any key implementation issues arising during program rollout;
- ▶ Outcomes - a comprehensive overview of the outcomes arising from the programs, derived from data and analysis; and
- ▶ Economic - a qualitative and quantitative assessment of the extent to which the economic benefits of the investments exceed their costs

The evaluation was conducted between June 2019 and January 2021.

### 2.1.1 Program Objectives

JAS supports victims, witnesses and defendants with cognitive impairment who are in contact with the criminal justice system, with a primary focus on enabling access to legal rights to support equality of access, including those consistent with the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA).

JAS has a number of specific objectives as detailed below:

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<sup>3</sup> NSW Treasury, NSW Government Program Evaluation Guidelines (2016).

- ▶ Ensure that suspects/defendants can exercise their rights in police custody
- ▶ Ensure that suspects/defendants can access legal advice via phone while in police custody
- ▶ Ensure that victims and witnesses can effectively report crime to police
- ▶ Ensure that victims, witnesses and defendants attending court are able to understand and participate in their criminal matter
- ▶ Ensure that victims, witnesses and suspects/defendants are able to effectively instruct (suspects/defendants only) and communicate with legal representatives
- ▶ Improve knowledge and understanding among Justice agencies to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them
- ▶ Victims, witnesses, suspects/defendants and their family members and informal supports understand criminal justice system processes, agencies and the types of supports and services that are available

The program logic is a schematic representation that describes how a program is intended to deliver outcomes by linking activities with outputs and short to long term outcomes, including those articulated above (refer to Appendix A). The evaluation objectives were aligned to the anticipated outcomes of JAS and were refined via co-design with key stakeholders as described below.

## 2.2 Evaluation Objectives

The objective of this evaluation was to assess the efficacy of the service within its first year of operation and inform decisions for potential continuation. The evaluation examined the JAS program through a range of process, outcomes and cost-benefit considerations.

## 2.3 Core Evaluation Questions

The evaluation was guided by a set of overarching evaluation questions developed through co-design and described below.

Table 1: Core evaluation questions

Indicator Type	Question
<p style="text-align: center;"><b>Process</b></p>	<ul style="list-style-type: none"> <li>▶ Was the service implemented and delivered as intended?</li> <li>▶ What were the barriers to implementation and delivery?</li> <li>▶ What are the facilitators to implementation and delivery?</li> </ul>
<p style="text-align: center;"><b>Outcomes</b></p>	<ul style="list-style-type: none"> <li>▶ Did the service achieve its stated objectives and aims?</li> </ul>

Indicator Type	Question
	<ul style="list-style-type: none"> <li>▶ Were better outcomes achieved at different locations and/or regions?</li> <li>▶ Did outcomes differ across sites?</li> </ul>
Economic	<ul style="list-style-type: none"> <li>▶ Did supply meet demand for the service across the state and at various sites?</li> <li>▶ How did the cost of the program compare to the benefits delivered?</li> </ul>

## 2.4 Evaluation Methodology

### 2.4.1 Co-design

The evaluation consortium applied a co-design process to develop the JAS evaluation framework, working closely with DCJ, IDRS and relevant NSW Government stakeholders as identified by DCJ. This ensured the leveraging of existing data, internal knowledge and capability. The co-design process focused on working in partnership with stakeholders to refine:

- ▶ Evaluation questions, informed through JAS' pre-existing program logic
- ▶ Outcome, process and economic indicators necessary to address the evaluation questions
- ▶ Mapping of data and information requirements to address these indicators and comparison groups
- ▶ Data collection methods and evaluation tools
- ▶ Analysis plans for process, outcome and economic evaluation components.

A co-design workshop was facilitated with key stakeholders across a range of relevant sectors in mid-2019. This workshop explored the factors that constituted service success in the eyes of a range of key professional stakeholders, thus ensuring a wide spectrum of outcomes were considered within the evaluation methodology to develop a nuanced view of the impact of JAS.

Following this workshop, the evaluation framework was developed, tested and refined with DCJ and IDRS. Alongside this, the evaluation consortium consulted closely with IDRS to support them in refining their JAS data collection processes to ensure that captured data would have utility for future evaluation efforts.

### 2.4.2 Approach

The resulting JAS evaluation methodology encompassed the following key activities which are described in more detail in the next sections of this report:

- ▶ Process evaluation, to understand the implementation of JAS in its first year
- ▶ Outcome evaluation, focused on identifying the benefits attributed to the programs, who has benefited and any unintended outcomes

- ▶ Economic analysis, including cost and benefit modelling to inform value for money considerations regarding the implementation of JAS.

The approach encompassed a mixed methods quasi-experimental design in which qualitative and quantitative data were triangulated to provide the most robust analysis of the implementation, outcomes and benefits of JAS.

Data was sourced from the following groups of stakeholders:

1. JAS clients
2. JAS staff and volunteers
3. Stakeholders (Government, legal services/lawyers, magistrates and courts, police, services/non-government organisations (NGOS))
4. Administrative databases (service delivery data collected by IDRS and BOCSAR datasets)

Figure 1: Evaluation data sources



### 2.4.3 Ethics

Ethical approval was sought from the NSW Aboriginal Health and Medical Research ethics committee (AHMRC) in late 2019. The AHMRC was chosen as (1) it could provide approval for the project in its entirety; (2) there were a high percentage of Aboriginal clients in the JAS program; (3) the evaluation team was required to report on outcomes for Aboriginal people separately. Final approval was obtained in February 2020 (HREC Reference number: 1571/19).

Post COVID-19 commencement, consistent with AHMRC requirements, a variation to ethical approval was sought to enable remote data capture via phone and video calls, as described in subsequent sections of this report.

### 2.4.4 Aboriginal stakeholders and clients

Throughout the evaluation, consistent with EY's dedication to Aboriginal leadership in evaluation, FPDN conducted and led all data collection with Aboriginal people including key stakeholders and

clients. As an evaluation consortium, the team worked closely to design evaluation data collection tools which were then utilised by FPDN as they worked with Aboriginal professional and client stakeholders.

This included a targeted focus group which was undertaken with Aboriginal stakeholders, alongside targeted Aboriginal JAS client interviews.

### 2.4.5 Surveys

The evaluation team administered two surveys:

- ▶ Survey of JAS staff and volunteers
- ▶ Survey of other stakeholders (police, lawyers, court staff, magistrates, Department of Communities and Justice, NGOs, etc.)

These were designed using the Qualtrics platform and were administered online. The surveys consisted mainly of questions seeking a quantitative response, but also included a small number of open text questions. The evaluation team received 88 responses for the JAS staff and volunteers survey and 72 responses for the stakeholder survey. The survey results are integrated throughout this report. Please refer to Appendix B for details of the full survey results.

### 2.4.6 Interviews and focus groups

Focus groups and stakeholder interviews were conducted with:

- ▶ Stakeholders - lawyers (drawn from Legal Aid, private practice barristers and solicitors), police, court staff, Justice Health, magistrates, NGOs (n = 13 individual interviews and n = 2 people in 1 focus group)
- ▶ Aboriginal Stakeholders - Aboriginal Legal Service (ALS) (n = 4 across individual interviews and one focus group)
- ▶ JAS staff and volunteers (n = 12 individual interviews and n = 14 people across 4 focus groups)

Despite initial intentions to conduct more focus groups and fewer individual interviews, demands of participants' time and seniority of interviewees meant that in practice a higher number of individual interviews were conducted than originally planned.

Individual interviews were also conducted with 11 JAS clients across NSW over telephone. 10 of these clients were non-Aboriginal and 1 identified as Aboriginal, although this was not known until the interview was underway as this data was not reflected in the client information management system. An additional 1 Aboriginal client consented to interview through FPDN. Where clients were contacted and agreed to be interviewed, they often wished to undertake the interview immediately, thus after obtaining verbal consent (which was audio-recorded), the interview was then performed straight away. As agreed via ethical clearance, all clients were posted a \$30 gift voucher to provide reimbursement for their time.

The evaluation team also leveraged data collected by IDRS through JAS exit interviews collected over 1 July 2019 - 2 November 2020 period, n = 208 (438 exit surveys attempted, only 208 completed).

## 2.4.7 JAS program administrative data

The evaluation made use of data collected by IDRS in the course of delivering services under the JAS program. This administrative data supported the quantitative analysis component of the process evaluation, outcomes evaluation and the economic analysis.

The data collected included information about individuals who are referred for JAS support, information about each case of support for these individuals, and the activities provided by JAS to support eligible individuals throughout a case. This data was collected and entered into the administration database by JAS volunteers and IDRS staff at the conclusion of each support activity. For the purposes of the evaluation, a de-identified extract of JAS program administrative data, covering the period between 1 October 2019 and 31 August 2020 inclusive, was provided.

In addition, an extract of identifying information for all individuals receiving support activities over the same time period was provided to BOCSAR for matching in the extract of BOCSAR reoffending data. Identifying information was deleted by BOCSAR after use and no personally identifiable information was provided to the evaluation team.

The following table summarises the administrative data available which was incorporated into the evaluation.

Table 2: Administrative data available to the evaluation

Element	Administrative data recorded
<b>Individual</b>	<ul style="list-style-type: none"> <li>▶ Supporting JAS location/office</li> <li>▶ JAS support eligibility</li> <li>▶ Name, date of birth, and other identifying information<sup>4</sup></li> <li>▶ Type of cognitive impairment and any co-morbidities</li> <li>▶ Accommodation type</li> <li>▶ Whether the individual is Aboriginal or Torres Strait Islander</li> <li>▶ Cultural background and language</li> <li>▶ Notes on risks and support needs</li> </ul>
<b>Case</b>	<ul style="list-style-type: none"> <li>▶ Assigned advocate (JAS support coordinator)</li> <li>▶ Referral and next support dates</li> <li>▶ Type of client (suspect/defendant, victim, witness)</li> <li>▶ Offence details</li> <li>▶ Domestic violence and AVO indicators</li> <li>▶ Case status at referral and at present</li> <li>▶ Client JAS eligibility details</li> <li>▶ Past history of referrals, section 32 findings and imprisonment</li> <li>▶ Case outcomes (sentence types)</li> </ul>
<b>Support - All supports</b>	<ul style="list-style-type: none"> <li>▶ Planned and actual date, time and duration of support activity</li> <li>▶ Details of current advocate</li> </ul>

<sup>4</sup> Note that all identifying information was removed from extracts provided to the evaluation team for the purposes of this evaluation. This data was only supplied to BOCSAR for the purpose of linkage, and was subsequently deleted.

	<ul style="list-style-type: none"> <li>▶ Details of the support worker/volunteer who provided the support</li> <li>▶ Notes on risks and support needs</li> <li>▶ Open text description of what happened during the support</li> <li>▶ Open text comments/feedback on the support</li> <li>▶ Open text notes on matters requiring follow up</li> </ul>
<b>Support - Police Support</b>	<ul style="list-style-type: none"> <li>▶ Status at time of support (whether or not under arrest, whether attended voluntarily)</li> <li>▶ Whether support provided in person or over the phone</li> <li>▶ Whether the support person provided assistance that allowed the client to adequately tell their story to the police</li> <li>▶ Charge details</li> <li>▶ Whether the individual understood a caution (if made)</li> <li>▶ Whether legal advice was provided and by whom</li> <li>▶ Details of bail, including reasons for bail denied if that occurred and whether the client understood the bail conditions</li> <li>▶ Whether forensic procedures were carried out</li> <li>▶ Whether there were any concerns about the interview</li> </ul>
<b>Support - Conferencing/Mediation</b>	<ul style="list-style-type: none"> <li>▶ Open text description of meeting purpose</li> </ul>
<b>Support - Legal Meeting</b>	<ul style="list-style-type: none"> <li>▶ Details of the legal representative</li> </ul>
<b>Support - Court Support</b>	<ul style="list-style-type: none"> <li>▶ Whether the client agreed to have a support person</li> <li>▶ Court type</li> <li>▶ Custody status</li> <li>▶ Legal representative details</li> <li>▶ Whether access to a safe room was provided</li> <li>▶ Whether the opportunity to give evidence from a remote witness room was provided</li> <li>▶ Charge</li> </ul>
<b>Support - Audio-visual Link Court Support</b>	<ul style="list-style-type: none"> <li>▶ Whether the client agreed to have a support person</li> <li>▶ Court type</li> <li>▶ Custody status</li> <li>▶ Legal representative details</li> <li>▶ Whether access to a safe room was provided</li> <li>▶ Whether the opportunity to give evidence from a remote witness room was provided</li> <li>▶ Charge</li> </ul>

## 2.4.8 BOCSAR reoffending data

A de-identified extract of unit record data from BOCSAR's Reoffending Database (ROD) was used to support the outcomes evaluation. This extract included details of finalised court appearances for individuals who received supports from JAS in the period between 1 October 2019 and 31 August 2020 and whose details were able to be matched to the ROD.

This extract was used to provide details of court outcomes for cases supported by JAS. While this was also captured in the administrative data set, the data was incomplete as it is only captured for those individuals who receive a JAS support during their court appearance.

## 2.4.9 Publicly available aggregate data

Various publicly available, aggregate data sources were used in the quantitative analysis, including:

- ▶ **BOCSAR Criminal Court Statistics** - Details of the characteristics of defendants dealt with by NSW criminal courts. This included information on the offences, case outcomes and sentences associated with those defendants
- ▶ **BOCSAR Re-offending statistics for NSW** - 12 month reoffending rate statistics for adults and juveniles convicted and receiving a prison or non-prison sentence
- ▶ **Productivity Commission Report on Government Services** - Reported costs associated with aspects of running the NSW criminal justice system (cost of incarceration, cost of supervision sentences, etc)
- ▶ **NZ Treasury CBAX Tool** - Social cost-benefit analysis tool with a database of social benefit unit values

## 2.4.10 Cost-benefit analysis

A cost-benefit analysis (CBA) was completed based on NSW's economic appraisal guidelines. The CBA assessed the impact of the program on the economic welfare of people of NSW.

As the JAS program commenced on 1 July 2019, there was limited data available to inform an assessment of long term benefits of the JAS program. As such, the CBA undertaken compared the expected benefits of the program against the annual costs of the program for one year. The start-up costs of the program have been excluded from the current CBA as they are not expected to be incurred in subsequent years of program operation.

The CBA considered the benefits and ongoing costs to three stakeholder groups - individuals, government and society.

The quantified benefits to these stakeholder groups can be broadly categorised in the following:

- ▶ **Diversion benefits:** Benefits arising from increased use of diversion options such as section 32 orders
- ▶ **Increased efficiency benefits:** Benefits from increased efficiency in managing individuals with cognitive impairment through the legal process
- ▶ **Reduction in re-offending benefits:** Benefits due to reduced re-offending
- ▶ **Miscellaneous benefits:** Other benefits of the program, such as an improved wellbeing for JAS volunteers participating in the program.



The annual costs of the program were provided by DCJ as input to the CBA.

While COVID-19 has had an impact on the number of clients utilising JAS which is explored further in the outcomes section of this report, this is likely to be a temporary impact. As such, the CBA included results showing a separate benefit-cost ratio (BCR) with numbers adjusted for COVID-19. To reflect expectations that the demand for the program would increase as the program becomes more recognised and known, a BCR which involves the program providing support to a caseload that is 50% higher (i.e. 1.5 times the number of clients observed) has also been presented.

While the CBA has made use of empirical data where this is available, assumptions were made where the evaluation was unable to source data for the CBA. Some of the more significant assumptions include:

- ▶ **Additional available capacity under current JAS resourcing:** as noted above, it has been assumed that under the current resourcing for JAS, there is potential to handle a caseload 50% higher than the caseload observed over the evaluation period
- ▶ **Increased case efficiency when supported by JAS:** for the benefits related to the increased efficiency, it has been assumed a 25% reduction in time required for activities related to the case under best estimate. Values of 5% and 50% were used for the low and high estimates
- ▶ **Reduction in reoffending when supported by JAS:** for the reduction in reoffending benefits, the evaluation team leveraged research from the NZ Ministry of Justice on the impact of specialised mental health courts on reoffending. These achieve a 25% reduction in reoffending which has been taken as best estimate. Values of 12.5% and 30% has been used for the low and high estimates

Further details on the CBA methodology and assumptions can be found in Appendix C and D.

## 2.5 Limitations

Throughout the evaluation period, there were a range of unanticipated limitations which impacted on JAS service implementation, and in turn on the evaluation of the service during the evaluation period. Alongside this, some general limitations were encountered within the evaluation which are described below.

### 2.5.1 Impact of bushfires on JAS operations and outcomes

There were anecdotal impacts of bushfires on the ability of JAS services to be delivered in impacted areas during the late 2019 and early 2020 period. These are explored further in service administrative data analysis presented in subsequent sections of this report. It appears likely that the impact of bushfires contributed to reduced delivery of JAS services during the evaluation period.

### 2.5.2 Impact of COVID-19 on JAS operations and outcomes

In response to the outbreak of COVID-19 in NSW, between 23 March 2020 to 30 June 2020, JAS services were provided to people with cognitive impairment by phone or video meeting only. There was a temporary dip in the number of client contacts which is explored in the administrative data analysis presented in this report.

The preferred form of contact for delivery of services throughout this period was telephone, which may have further impacted on outcomes for service delivery. JAS also assisted clients over audio-

visual link (AVL) in court and custody situations where possible. Whilst the IDRS and the JAS team moved quickly to adjust service provision within the context of JAS, the data presented herein demonstrates a significant impact of COVID-19 on service provision, which is likely to have flowed to client outcomes more generally.

For example, the majority of in-person court activity stopped during the more restrictive phase of the pandemic. Most legal representatives ceased providing in person legal advice and representation, switching to audio visual link (AVL). This impacted on referral numbers and the understanding and support needs of persons with cognitive impairment.

The evaluation analysis has explored this impact and provided further analysis where possible to support interpretation of the outcomes of JAS without undue impact of COVID-19. Despite these efforts, we note that there is likely to remain significant impact arising from the pandemic on the JAS program and the evaluation data presented herein.

### **2.5.3 Implications of COVID-19 for evaluation data collection**

COVID-19 lockdowns commenced weeks before planned consultation activities for the evaluation data collection. The COVID-19 response from the AHMRC ethics committee included a blanket ban on face-to-face data collection which extended throughout the data collection period. This necessitated the evaluation transitioning to remote collection, which presented significant limitations for collection of data, particularly in Aboriginal and Torres Strait Islander stakeholder and client groups.

The evaluation team was able to conduct a few in-person meetings with IDRS prior to the onset of the pandemic, however due to pandemic health restrictions, all focus groups and interviews with JAS staff and volunteers and stakeholders were conducted online using platforms such as Microsoft Teams and Zoom. This allowed the team to engage with stakeholders and clients visually as well as verbally, providing some semblance of face-to-face focus groups.

The desired sample size was achieved in most instances, with the exception of police stakeholders, who proved difficult to engage for reasons outlined below. Whilst this transition was made with relative ease, it is noted that online platforms do not easily enable the same level of interpersonal connection and rapport building as face-to-face contact affords. There is also a risk of response bias which may emerge as a result of the use of this form of data collection for qualitative consultations.

Due to the geographical spread of JAS clients throughout NSW, the pandemic and subsequent ethical guidance received from the approving committee, all JAS clients were interviewed via telephone. This was consistent with IDRS's advice that telephone was the preferred communication method for JAS clients, given that for people with cognitive impairment, audio-visual platforms like Zoom can be difficult to access and navigate. Not having visual cues and the ability to easily establish rapport which face-to-face interviewing would usually achieve led to some interviews being shorter in length and less in-depth than they may have otherwise been.

While 11 interviews were conducted with JAS clients, this was less than the targeted sample size of 30 despite significant attempts to bolster recruitment, with reasons for this discussed further in the next section of this report. In the evaluation team's view, much of the lower than anticipated sample size was likely due to general difficulties in engaging with this particular cohort post service provision, as opposed to the impact of the pandemic specifically, though both likely played a role in lower than anticipated sample size.

Alongside difficulties in engaging with the general JAS cohort, there were specific difficulties encountered by FPDN in engagement of Aboriginal stakeholders and clients as a result of COVID-19. Initially, many Aboriginal stakeholder groups indicated that they were not in a position to partake in data collection activities, as their energy was directed towards supporting Aboriginal communities through the pandemic and in modifying their own services to meet client needs. This contributed to lower than anticipated Aboriginal service stakeholder engagement.

For JAS clients contacted by FPDN during the evaluation period, there was a range of hurdles faced using telephone mode of contact. As explained by evaluation consortium's Aboriginal stakeholder consultation lead from FPDN, *"For many Aboriginal people, it is not culturally relational to speak to a stranger over the phone about your personal business and this is why I found it hard to get past the first call to the individuals. Aboriginal people need to read people's faces culturally to engage and in other times (e.g. during no COVID-19) it would have been best face to face to develop a relationship first"*.

A range of strategies was employed to address participation and reduce bias in sampling, including random selection, repeated follow ups and the offering of modest incentives for participation, consistent with ethical approvals. Noting the limitations in consultation data, analysis has been undertaken with reflection on both qualitative and quantitative data to provide a nuanced view of the outcomes for the service during the evaluation period, noting significant unpredicted limitations posed to both the service and the evaluation during this period.

## 2.5.4 General limitations

### Timeframes

The evaluation timeframe posed a key limitation on the identification of outcomes of JAS. Whilst the evaluation had initially been scoped to occur over a two year period, this was adjusted to align with the funding requirements of the JAS service. As such, this necessitated a reduction in the period between commencement of full rollout of JAS and evaluation data collection.

The evaluation consortium timed data collection efforts to enable maximum observation periods post-JAS implementation, but given unforeseen impacts of bushfires and the pandemic as described previously, this period is unlikely to have allowed for full operation of JAS service at its total capacity. This limitation has been addressed in data analysis presented in this report, with efforts made to adjust for these impacts in CBA analysis to explore likely potential of JAS when it reaches full operational capacity.

### Stakeholder Engagement

A key limitation in the evaluation collection of qualitative data included difficulties engaging with police stakeholders. Whilst a range of related stakeholders was approached for participation in focus groups, some stakeholder groups proved difficult to recruit to this end. Police contacts were challenging to secure engagement with, indicated they were likely to have had a number of competing priorities. This may be reflective of a more general issue in stakeholder engagement in JAS with this group, which is explored further in subsequent sections of this report.

Despite the lower than desired stakeholder involvement in focus groups, there was police participation in the stakeholder survey and in the one on one interview process which enabled the evaluation team to draw insights from this stakeholder group, albeit with less participation in evaluation activities than other stakeholder groups.

## Client Engagement

The evaluation team was provided with contact lists of consenting JAS clients by IDRS, and sought to recruit from these lists. Of the desired sample size (30), the team interviewed 10 of the identified 20 non-Aboriginal clients and 2 out of the identified 10 Aboriginal clients (one of whom was not identified as Aboriginal in the JAS client data base, but verbally self-identified to the interviewer as such).

A 35-40% success rate was achieved for non-Aboriginal clients, with this being less so for Aboriginal clients. FPDN undertook Aboriginal client contacts as previously described. In a number of cases, previous clients indicated they were happy to speak to the FPDN evaluator informally, but did not consent to providing their data for the purpose of the evaluation itself.

Alongside the previously described COVID-19 impacts, there were a number of reasons for the lower than planned number of JAS client participants, including:

- ▶ The phone number was disconnected
- ▶ The client did not answer or call back despite three contact attempts (voicemail was left)
- ▶ The client was in gaol
- ▶ The client's carer expressed that they may not want to be interviewed/were inclined to get aggressive/upset
- ▶ The client actively declined
- ▶ The client passively declined - that is set an interview time/date, but then did not answer the phone at the appointed time/date.

As per ethics requirements, after three contact attempts, the evaluators desisted attempting contact.

### 3. Process Evaluation

The following process evaluation questions were considered during the evaluation:

- ▶ Was the service implemented and delivered as intended?
- ▶ What were the barriers to implementation and delivery?
- ▶ What are the facilitators to implementation and delivery?

The table below summarises the key findings for the process analysis of the implementation of JAS:

Table 3: Key findings for JAS process evaluation

Evaluation question	Key findings
<b>Was the service implemented and delivered as intended?</b>	<ul style="list-style-type: none"> <li>▶ Overall, the JAS program has been implemented and delivered as intended, providing support to people with cognitive impairment who interact with the NSW criminal justice system</li> <li>▶ There was a significant impact of COVID-19 during the evaluation period on justice operations generally, which flowed to implementation impacts for JAS</li> <li>▶ Despite the impact of COVID-19, JAS has undergone rapid expansion and is building its client base throughout NSW, providing 3,227 support activities across 1,691 cases</li> <li>▶ Suspects/defendants made up 87% of all JAS clients while victims accounted for only 12% of JAS clients with witnesses making up the remaining 1%</li> <li>▶ 78% of all supports were for people appearing at court either in person or via audio-visual link while police supports were provided to around a third of JAS cases</li> <li>▶ It is highly likely that there is a significant number of people who are eligible for JAS services but who are not making use of the services</li> <li>▶ Key cohorts identified by stakeholders as requiring further support by JAS are witnesses, victims and Aboriginal people, as well as and children and young people with a cognitive impairment, who are currently over-represented in the youth offender population</li> </ul>
<b>What were the barriers to implementation and delivery?</b>	<ul style="list-style-type: none"> <li>▶ The bushfires of 2019/2020 impacted on JAS workers and clients, in particular the ability for staff to attend their office and supports</li> <li>▶ While the COVID-19 pandemic and relevant restrictions had minimal impact on the number of new cases for JAS, it has</li> </ul>

	<p>impacted on both the number of support activities planned and the proportion of support activities that were able to go ahead as planned, in particular supports relating to court appearances</p> <ul style="list-style-type: none"> <li>▶ Despite availability of online and face-to-face training modules available to JAS staff, there is indication that some JAS workers may not be skilled or experienced enough to provide adequate support and that there is demand for further training to be provided</li> <li>▶ Referrals were inhibited in some areas which appeared to be due to other agencies, in particular police, being unable to recognise people with cognitive impairment or being unaware of JAS</li> <li>▶ The program experienced challenges in a number of regional and remote areas relating to recruitment of JAS staff and volunteers, as well as building trust and referral networks in communities</li> <li>▶ While provision of case management and wrap-around supports is not a funded service of JAS, this was a gap repeatedly identified by stakeholders</li> </ul>
<p><b>What are the facilitators to implementation and delivery?</b></p>	<ul style="list-style-type: none"> <li>▶ The program’s geographic coverage, high availability service model and use of volunteers allowed it to meet current demand for JAS supports, with minimal percentage of supports being cancelled by JAS</li> <li>▶ The training and capacity building component provided by JAS is facilitating a greater understanding of how to recognise cognitive impairment and the need to access support services for persons with cognitive impairment among justice agency staff, resulting in increasing referrals</li> <li>▶ The program has benefited from good development of networks and referral pathways and the ability to work effectively with other services, particularly Legal Aid and courts</li> <li>▶ Although JAS is not a service that is funded to provide casework, at times, and based on the level of experience of justice advocates, incidental casework and wrap-around support occurs and appears valued by stakeholders</li> </ul>

The following section of this chapter explores the key findings in regard to the process evaluation questions through qualitative data, survey and administrative data.

## 3.1 Was the service implemented and delivered as intended?

### 3.1.1 Understanding of the role and aims of JAS

Consultation with stakeholders highlighted that JAS' key aims of supporting those with cognitive impairment to have equality of access to their legal rights was well understood by staff and volunteers:

*"The bottom line is, how can we ensure that our clients have access to, equally have access to, the law and to support them in that endeavour?" (IDRS/JAS staff)*

JAS staff and volunteers saw their role as providing people with cognitive impairment with support to enable them to have their rights upheld throughout the criminal justice system, and also, importantly, to refer them to other sources of support, such as the National Disability Insurance Scheme (NDIS):

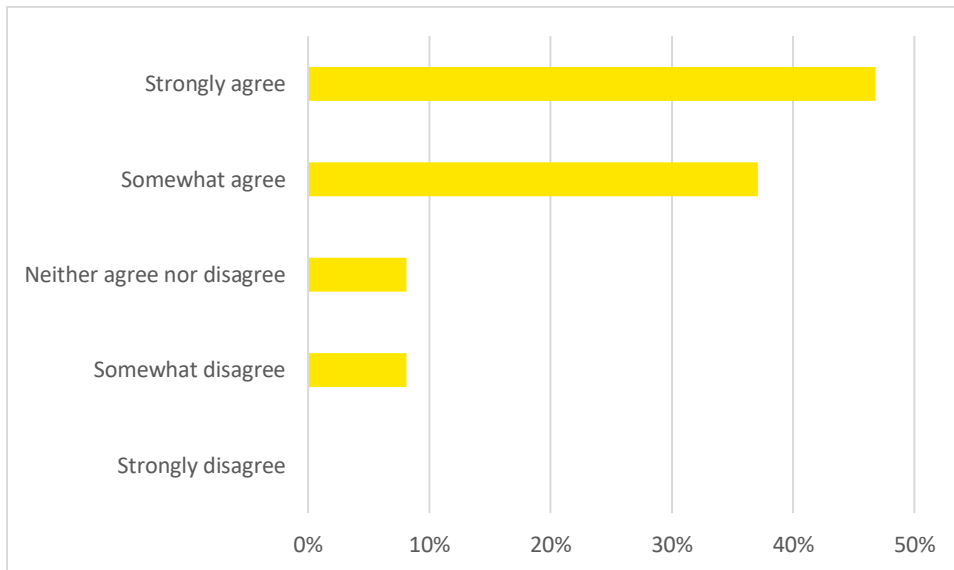
*"Well, my understanding is to support people with cognitive impairment on their journey through the criminal justice system, to ensure that the voice is heard, that their rights are upheld to ensure they're understanding communication and that they are aware of process and conditions of whatever may be imposed by the court. So it's victims, suspects, defendants and victims... Also a major part of our role is advocacy on behalf of those clients. Quite often, they have very few supports in place, or they're not aware that they're entitled to support, for instance, through the NDIS. So I find a large part of my role is not only providing that in-person support, but advocating for ... and connecting people with services, referrals and advocacies is a big chunk of what we do."*  
(JAS staff/volunteer)

The key role of the support person in interactions with police was often reported by stakeholders to be to 'slow the process down', so that the client had time to process information about their rights, their situation and make informed decisions. This requires a slow sequenced process of gaining information so people with a cognitive impairment can tell their story. Thematic analysis of qualitative data suggests the program is very successful in this regard.

The support JAS provides was perceived as both 'practical' - that is, arranging for access to legal advice, informing someone about their rights, and supporting them to attend court- as well as emotional, supporting, empathising, understanding, and listening to clients. Volunteers also outlined that support often extended to other people such as client family members and other client support persons.

Stakeholders indicated that a key function of JAS was to act as an advocate and ensure that clients have referrals to services that can wrap around their needs. Stakeholders highlighted that wrap-around supports such as those coordinated by JAS advocates are considered by magistrates in their sentencing and that those people with strong wrap-around supports, where a 'support plan' or 'treatment plan' can be demonstrated, have better outcomes in both sentencing and quality of life. Stakeholder survey data suggested that overall, JAS staff and volunteers believed that the program had been implemented and delivered as intended, with 84% of survey respondents either strongly or somewhat agreeing to this.

Figure 2: Survey of JAS staff and volunteers, Q13: The Justice Advocacy Service has been implemented and delivered as intended.



### 3.1.2 Reaching target cohort

Over the period covered by the evaluation data (1 October 2019 through 31 August 2020 inclusive), for those individuals who consented to sharing their information in the evaluation data, JAS provided 1,486 support activities across 715 cases involving 511 individuals with a cognitive impairment. The individuals who consented to sharing their information in the evaluation data account for 42% of cases and 46% of supports. When all cases are considered, JAS provided 3,227 support activities across 1,691 cases in the period from 1 October 2019 through 31 August 2020.

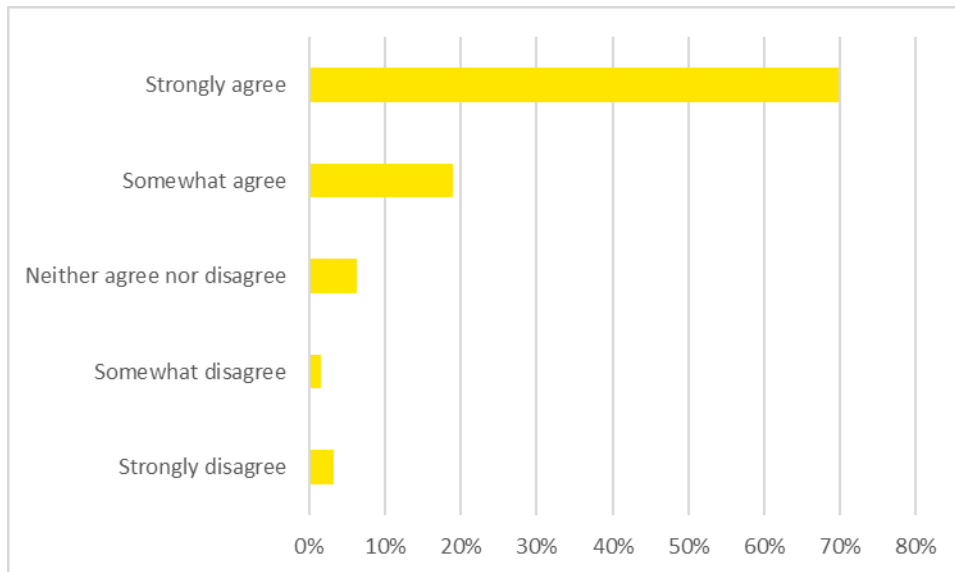
The cohort supported by JAS was dominated by younger adults with 62% of people supported by JAS aged between 18 and 39. Relatively few JAS clients were younger with only 7% of individuals supported by JAS aged under 18. This pattern of use was similar across suspects/defendants, victims and witnesses.

Only 2 individuals from the 511 individuals who received JAS support were deemed to be ineligible for JAS support, however closer inspection of these cases revealed that both of these individuals had multiple cases with JAS, and they had been deemed eligible for JAS in some of these cases where support was provided.

Overall, 89% of JAS staff and volunteers responding to the stakeholder survey believed that people with cognitive impairment are getting the support that they need from JAS, as shown in the figure below.

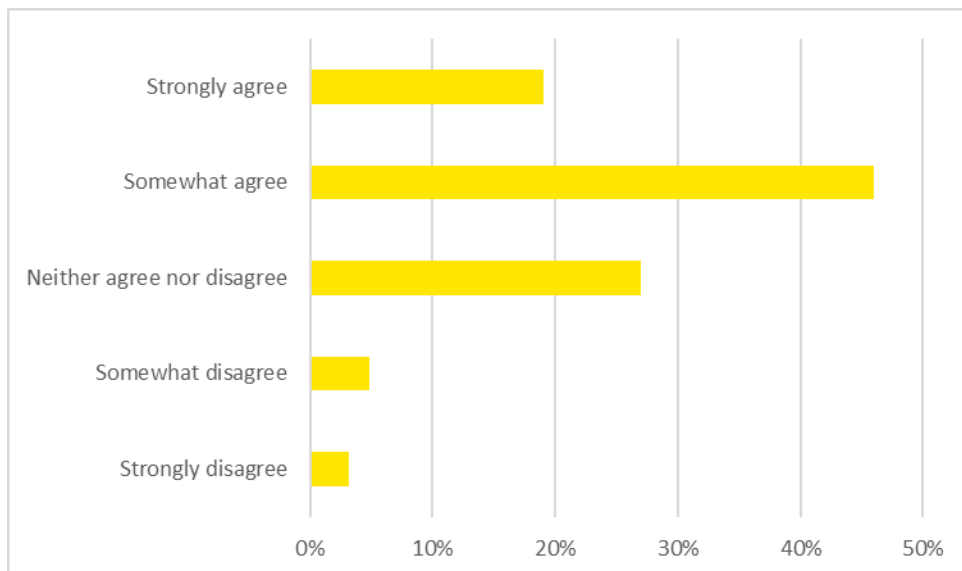


Figure 3: Survey of JAS staff and volunteers, Q6: People with cognitive impairments are getting the support they need from JAS.



The stakeholder survey conducted with non-JAS professional stakeholders found a slightly lower rate of 65% of participants who either somewhat agreed or strongly agreed that people with cognitive impairments are getting the support they need from JAS, as shown in the figure below.

Figure 4: Survey of JAS stakeholders, Q8: People with cognitive impairments are getting the support they need from JAS.

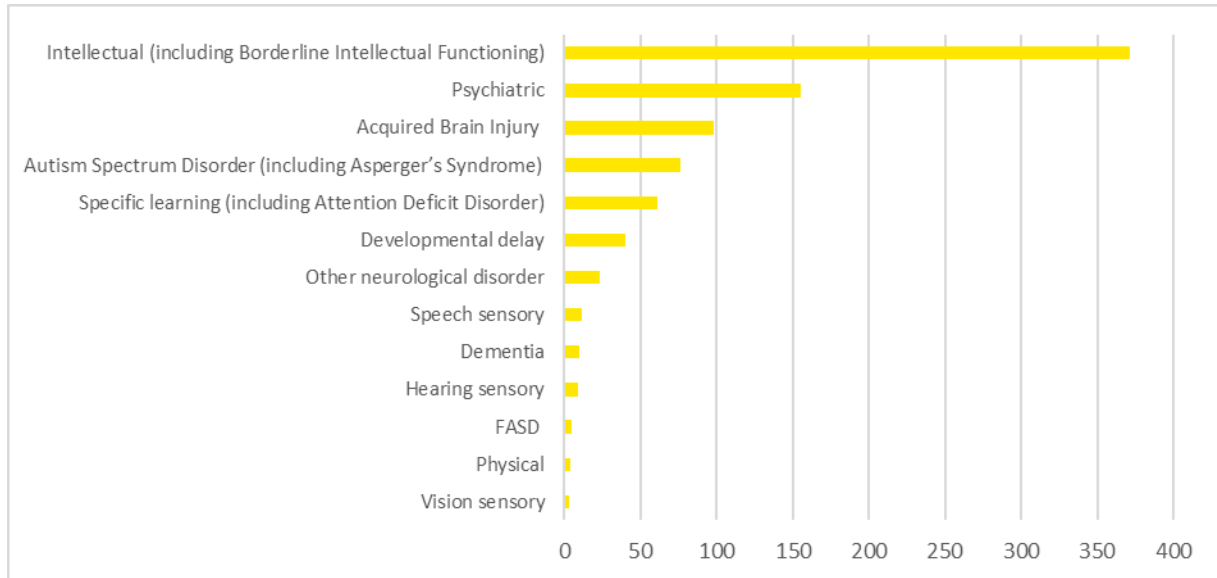


While evaluation data suggests that JAS has been targeting the right clients, it appears likely that there exists a significant number of other people interacting with the NSW criminal justice system who are eligible for JAS support but who are not using the service.

Figure 5, below, shows the different types of cognitive impairment and other disabilities that JAS recipients had. In many cases, JAS recipients had more than one cognitive impairment or disability. Intellectual disability, including borderline intellectual functioning, was present in 371 individuals which equated to 73% of all JAS recipients during this period. Psychiatric disability acquired brain

injury and autism spectrum disorders are the next most common conditions with prevalence amongst JAS recipients of 30%, 19% and 15% respectively.

Figure 5: Number of people with different types of Cognitive Impairment or Disability receiving JAS support between 1 October 2019 and 31 August 2020. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



While definitive data on the prevalence of cognitive impairment amongst individuals interacting with the NSW criminal justice system does not exist, there are a number of sources which can be used to estimate prevalence. These suggest that there is likely to be a significant number of people who are eligible for JAS support but who are not yet using the service.

The ABS estimate from their 2018 survey of disability, ageing and carers that 17.7% of Australians have some form of disability and that 23.2% of these individuals reported a mental or behavioural disorder as their main condition.<sup>5</sup> This amounts to a prevalence of 4.1% for mental or behavioural disorders in the general population.

In table 4.5 of their report number 135, "People with cognitive and mental health impairments in the criminal justice system - Diversion",<sup>6</sup> the NSW Law Reform Commission present the results of a two phase study into intellectual disability in the NSW Local Court. While the fieldwork in this study is not particularly recent, dating from 1993 and 1996, it did look specifically at defendants appearing in a sample of local courts chosen to be representative of the broader system and achieved a 98% coverage of persons listed for court appearances. Although the study did not make use of multiple diagnostic instruments as would be required to diagnose intellectual disability in a clinical setting, it did make use of a standardised measure, the Kaufman Brief Intelligence Test.

The 1993 phase of the study examined a sample chosen to be representative of NSW local courts in general and found 14.2% prevalence of possible intellectual disability and a further 8.8% prevalence of possible borderline intellectual disability. The 1996 phase focussed on defendants in two rural courts with a high representation of Aboriginal and Torres Strait Islander defendants and found a

<sup>5</sup> Australian Bureau of Statistics, 'Disability, Ageing and Carers, Australia: Summary of Findings' (2018) (<https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release>).

<sup>6</sup> New South Wales Law Reform Commission, *People with cognitive and mental health impairments in the criminal justice system*, Report No 135 (2012) (<https://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report-135.pdf>).

36% prevalence of possible intellectual disability and a further 20.9% prevalence of possible borderline intellectual disability.

The results of this study suggest a much higher prevalence of cognitive impairment amongst individuals interacting with the NSW criminal justice system than amongst the broader population. This is consistent with other studies<sup>7</sup> that have shown a high prevalence of cognitive impairment amongst the NSW prison population.

Table 4, below, applies two of these cognitive impairment prevalence estimates to various cohorts of people who are victims of crime, proceeded against by police or appearing in NSW courts. While there is a variation between these estimates, even the most conservative estimates that uses the overall population prevalence of cognitive impairment shows that there is a significantly larger number of people eligible to use JAS services than are currently accessing JAS.

*Table 4: Estimated number of people in JAS target cohorts with cognitive impairment under different assumptions of prevalence of cognitive impairment*

Cohort	Total number in cohort	Estimated number with cognitive impairment at population prevalence of 4.1%	Estimated number with cognitive impairment at court defendant prevalence of 23%
Victims of selected crimes as recorded by police in 2019 <sup>8</sup>	147,921	6,065	34,022
Offenders proceeded against by Police in 2019 <sup>9</sup>	245,432	10,063	56,449
Local court defendants with a finalised court appearance in 2019 <sup>10</sup>	127,371	5,222	29,295
District court defendants with a finalised court appearance in 2019 <sup>11</sup>	4,736	194	1,089
Supreme court defendants with a finalised court appearance in 2019 <sup>12</sup>	102	4	23

<sup>7</sup> Such as research undertaken by Baldry et al on Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System Project (<https://www.mhcd.unsw.edu.au/indigenous-australians-mhcd-cjs-project.html>).

<sup>8</sup> BOCSAR crime statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_crime\\_stats/bocsar\\_lgaexceltables.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_crime_stats/bocsar_lgaexceltables.aspx)).

<sup>9</sup> BOCSAR crime statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_crime\\_stats/bocsar\\_lgaexceltables.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_crime_stats/bocsar_lgaexceltables.aspx)).

<sup>10</sup> BOCSAR court statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_publication/Pub\\_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx)).

<sup>11</sup> BOCSAR court statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_publication/Pub\\_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx)).

<sup>12</sup> BOCSAR court statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_publication/Pub\\_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx)).

Children's court defendants with a finalised court appearance in 2019 <sup>13</sup>	6,006	246	1,381
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In part, it is likely that the lower than anticipated number of JAS clients, based on population statistics, is related to a lack of identification of cognitive impairment in the broader community. Stakeholders expressed that while the program has very good screening tools to identify clients, it is the inability of other agencies, such as police, to recognise people with cognitive impairment that has somewhat inhibited referrals of the target population in some areas in NSW.

Recent changes to cognitive impairment definitions in the *Mental Health (Forensic Provisions) Act* define cognitive impairment expansively. Cognitive impairment is defined as "ongoing impairment of a person's comprehension, reasoning, adaptive functioning, judgment, learning or memory that materially affects the person's ability to function in daily life and is the result of damage to, or dysfunction, developmental delay or deterioration of, the person's brain or mind, and includes (without limitation) any of the following:

- (a) intellectual disability,
- (b) borderline intellectual functioning,
- (c) dementia,
- (d) acquired brain injury,
- (e) drug or alcohol related brain damage, including foetal alcohol spectrum disorder,
- (f) autism spectrum disorder. " (s. 32(6), *NSW Mental Health (Forensic Provisions) Act*).

This expansive definition of cognitive impairment may yet to be known to police and in part explain why their understanding of cognitive impairment is often limited to intellectual disability alone. In addition, LEPR currently does not have a definition of cognitive impairment. A narrow understanding of what cognitive impairment is may limit willingness to refer persons in custody to JAS.

For some individuals, it may not be visibly apparent that they have a cognitive impairment, while others may be mistaken as having a mental illness or being drug-affected. In these situations, stakeholders suggested that a police officer or other service provider may not realise they are a person that JAS could potentially assist. A JAS staff member working in a regional area relayed the impact of persons not having been recognised as requiring assistance due to a cognitive impairment:

*"He [the defendant] shouldn't have been in there in the first place, but because JAS wasn't there when he went in, he just got ... he had no support, so the magistrate said, "I didn't even know what was going on," and it wasn't until JAS was there and we got everybody together that he got released." (JAS staff member)*

<sup>13</sup> BOCSAR court statistics ([https://www.bocsar.nsw.gov.au/Pages/bocsar\\_publication/Pub\\_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CCS-Annual/Criminal-Court-Statistics-Dec-2019.aspx)).

This is discussed in more detail below in the section on barriers to service delivery. Following the JAS TNA, part of training and capacity building work of JAS are strategies to address this by facilitating a broader understanding of what cognitive impairment is and how to recognise it to justice agency staff.

### 3.1.3 Support for Aboriginal people

Aboriginal people are a significant cohort supported by JAS. Of the individuals supported by JAS in the evaluation data, 34% were recorded as being Aboriginal or Torres Strait Islander, and the number may be higher as this data was not recorded for 11% of individuals.

Amongst suspects/defendants supported by JAS, the proportion of Aboriginal people was slightly higher at 37% and it is notable that this is substantially higher than the proportion of Aboriginal people who are defendants in all NSW criminal court cases, which is 22%. Amongst victims and witnesses supported by JAS, the proportion of Aboriginal people is lower but still significant at 32% and 20% respectively.

Overall, Aboriginal people supported by JAS used a similar mix of support types as other JAS clients. However, police supports as a proportion of all supports provided was noticeably lower for Aboriginal people at 9%, compared to 15% for non-Aboriginal people.

### 3.1.4 Geographic Coverage

JAS was intended to provide access to support across all regions of NSW. Consistent with qualitative evidence from stakeholders, administrative data analysis indicates that the services were quickly implemented across a large number of locations that provide coverage across NSW, and that this has resulted in relatively similar levels of usage of JAS services across NSW and consistent levels of service delivery across the state.

Table 5 below shows the number of supports provided at each JAS location across the four quarters of activity included in the data used for the evaluation. It indicates that almost half of the JAS locations, representing significantly more than half of the JAS support volume, were operating in the first quarter of the evaluation data from October to December 2019, and that most locations were in operation and delivering supports from the beginning of 2020. The shading in the table is reflective of the number of supports provided in each location, with darker shades of red representing higher numbers.

*Table 5: Number of supports provided per quarter by JAS office location. Note that the figures presented for July 2020-August 2020 have been adjusted to a 3 month equivalent figure to allow for ease of comparison.*

Number of supports delivered by JAS Location	Oct-19 to Dec-19	Jan-20 to Mar-20	Apr-20 to Jun-20	Jul-20 to Aug-20 (adj.)
Central Sydney	207	250	301	282
South Western Sydney	148	165	185	171
Newcastle	165	249	219	243
Western Sydney	135	156	188	309
Tamworth	96	138	118	114

Lismore	63	67	98	108
Wollongong	83	94	71	81
Moree	32	48	41	45
Orange	49	64	60	102
Albury	22	28	32	33
Wagga Wagga	23	33	29	30
Port Macquarie	27	36	49	60
Gosford	18	22	45	120
Dubbo	11	34	38	81
Goulburn	18	26	24	33
Broken Hill	5	18	17	54
Coffs Harbour	15	16	25	39
Singleton	0	3	35	78
Griffith	2	2	14	33
Bourke	3	6	7	24
Bateman's Bay	2	4	2	0

### 3.1.5 Client support type

JAS is intended to provide a range of targeted supports to several varying groups of people with cognitive impairment interacting with the NSW criminal justice system. Table 6, below, shows the number of each support type across each of these JAS client groups that occurred during the evaluation data period from October 2019 until August 2020:

- ▶ Most JAS clients are suspects/defendants, accounting for around 87% of all JAS clients during the evaluation period. Victims are the next most numerous type of JAS client at around 12%, while witnesses make up only 1% of JAS clients. These figures suggest there may be significant scope to increase the level of support provided to victims and witnesses with a cognitive impairment
- ▶ Court supports are the most numerous type of JAS support, accounting for around 71% of all supports provided. This increases to around 78% when AVL supports are included. This amounts to around 3.2 court supports and 0.3 AVL supports per JAS client. Part of the explanation for this may be the number of court appearances that can be associated with a single JAS case, whereas activities like police interviews may only happen once in a case

- ▶ Police supports are the next most numerous type of support, after court supports, at 12% of all supports. It is notable that the number of police supports is less than the number of clients and this suggests that there may be an issue with police supports not being sufficiently provided
- ▶ The remaining types of support - legal meeting and conferencing/mediation - have relatively small numbers and may not have been required for all cases

*Table 6: Number of supports provided by support type and client type. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

Support type/ Client type	Court Support	AVL Support	Legal Meeting	Police Support	Conferencing/ Mediation	All supports	Clients
Suspect/ Defendant	1667	168	175	257	45	2312	475
Victim	87	4	23	36	11	161	63
Witness	11	0	2	2	0	15	6
All clients	1765	172	200	295	56	2488	544

Table 7, below, presents a different view of the mix of supports provided, indicating the percentage of cases which have one or more of each of the different support types. This presentation provides a view of the extent to which cases are receiving coverage of each of the different service types offered by JAS. Patterns observed in this analysis included:

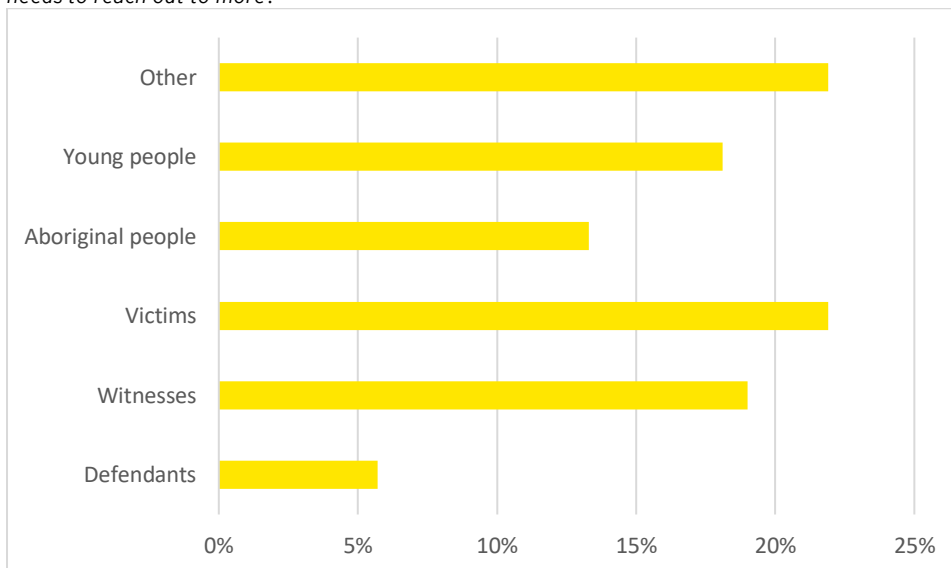
- ▶ Coverage of Court and AVL support across cases was high. The data show that most suspects/defendants and most witnesses receive support from JAS for court appearances whether in person or by AVL. Court coverage is less for cases involving victims supported by JAS, however this may be on account of not all victims having to appear at court
- ▶ There is a relatively low coverage of supports during police interviews across all categories of JAS recipients. While some of this may be attributable to not all cases requiring this form of support, the proportions are relatively low and highlight issues in police awareness which were described in qualitative consultations
- ▶ Coverage for legal meeting and conferencing/mediation supports was also low, however this is likely to be on account of not all cases requiring these types of support

Table 7: Proportion of cases have one or more supports of a given type, shown for each type of JAS client. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.

Support type/ Client type	Court Support	AVL Support	Legal Meeting	Police Support	Conferencing/ Mediation
Suspect/ Defendant	88%	13%	18%	37%	3%
Victim	51%	3%	18%	36%	9%
Witness	83%	0%	33%	33%	0%
All	84%	12%	18%	37%	4%

The administrative data was supported by consultation and survey data, with stakeholders noting that while JAS offers support to the defendants, witnesses and victims with cognitive impairments, whether juvenile or adult, and is currently operating across all of its target groups, most clients to date were adult defendants. As shown in the figure below, JAS staff and volunteers believed that a number of cohorts are currently not receiving enough support from JAS. The main cohorts identified as requiring additional support are victims, witnesses, young people and Aboriginal people.

Figure 6: Survey of JAS staff and volunteers, Q16: Are there any groups that JAS is not currently supporting enough or needs to reach out to more?



The key concern identified by stakeholders relating to young people with cognitive impairment in the detention system is that young people are not receiving the resources they need early enough to support the prevention of recidivism. A youth justice staff member highlighted that there is an over-representation of young people with intellectual disability, past head injuries, psychological disorders and/or below average function language skills in the youth offender population, suggesting there may be opportunities for increased JAS provision in young cohorts. However, other stakeholders indicated that for some other cohorts, including Aboriginal people and juveniles,



there are mandatory referral processes in place and other services are on hand which may negate the need for JAS to provide service, for example Victims Services, the Youth Hotline and Custody Notification Service.

In relation to Aboriginal clients, client demographic data indicates that JAS is supporting this cohort effectively. 34.4% of JAS clients are Aboriginal and/or Torres Strait Islander compared to 21.8% of NSW suspects with finalised court cases who are Aboriginal or Torres Strait Islander. Further, from 1 July 2020 IDRS employed an Aboriginal Engagement Worker, whose work is primarily (75%) focussed on JAS and is aimed at developing collaborative relationships between Aboriginal communities and organisations and JAS. In addition, 25% of casual police station support staff employed prior to July 2020 were Aboriginal or Torres Strait Islander people.

## 3.2 What were the barriers to implementation and delivery?

There have been a number of challenges facing the service - the bushfires of 2019/2020, the COVID-19 pandemic, difficulties in recruitment of staff, and lack of referrals in some areas.

### 3.2.1 Bushfires

The evaluation found that JAS employees and clients were impacted by the bushfires as previously discussed. Stakeholders reported that bushfires started to impact JAS service delivery from late October 2019 when advocates living in bushfire affected areas were at times unavailable. Closure of some roads impacted on employees being able to attend their JAS office and some supports. Decisions to engage volunteer or casual staff were risk-assessed prior to confirming the provision of in-person support. Travel bans in evacuation zones prevented JAS from providing services in some locations. In addition, some DCJ operations (e.g. correctional centres and courts) were temporarily shut down, impacting clients and service provision.

### 3.2.2 COVID-19 pandemic

From 23 March 2020 to 30 June 2020, all JAS employees were directed to work from home. During this period, JAS services to people with cognitive impairment were provided by phone or video meeting. Urgent need for in-person supports were assessed on a case-by-case basis before proceedings. Stakeholders suggested that transition from in-person legal meetings between client and lawyer resulted in some clients not being afforded the support of JAS during telephone consultations with their lawyer despite requests.

For a period of time, in-person support was also not possible within police stations despite being vastly preferable in the perception of stakeholders when assisting persons with cognitive impairment. In addition, localised in-person stakeholder engagement opportunities were limited following the closure of many services to the public including the ALS, Legal Aid NSW offices and some disability services, which stakeholders perceived has also contributed to slower than anticipated service growth.

In particular, consultation with the ALS indicated the COVID-19 had accentuated the structural inaccessibility encountered by Aboriginal and Torres Strait Islander people with cognitive disability. Stakeholders recounted that pandemic has caused Aboriginal organisations to recalibrate their practice model which has stretched their organisational resources and reduced their capacity to participate in the evaluation. They also noted that COVID-19 has changed the access arrangements for JAS clients:

*“Well, I think this is more just sort of COVID-related, but the JAS support workers not being able to get into the gaols and be in the AVL suites...I think that has been difficult in terms of the JAS advocates for some of my clients could only do the telephone conference and things like that. I think*

*especially when our clients are appearing via AVL in the courtroom, having a support person who is actually with them... Because you can't really speak to them if they're on the screen."* (ALS Solicitor)

In-person supports resumed from 1 July 2020 while employees remained working from home. Risk assessments were required to be completed to support decisions about provision of in-person supports. All active employees and volunteers completed online training developed by the Department of Health (Commonwealth) on COVID-19 infection control protocols and personal safety equipment was provided. However, a number of volunteers have been unavailable due to elevated risk of contracting COVID-19 as a result of age, underlying health conditions or electing to reduce risk of exposure to the virus. There have also been examples highlighted by stakeholders in interview where sheriffs refused JAS entry to courts and correctional centres due to COVID-19 protocols.

Supporting qualitative reports from JAS staff, administrative data suggests that while the pandemic appears to have had a relatively minor impact on the inflow of new cases, it has had and continues to have an impact on support activities provided by JAS. At the end of the evaluation data collection period, most of the ongoing impacts of the pandemic appeared to be from ongoing impacts in the broader criminal justice system, and not from ongoing limitations to JAS service delivery.

Figure 7, below, provides an overview of how the COVID-19 pandemic impact the operations of JAS. It shows the number of new cases, planned support activities and support activities that happened as planned by month over the period covered by the evaluation data. The dip in all three series at the end of the graph is likely due to delays in data being reported and recorded rather than actual service decline. It was observed that:

- ▶ The number of new cases per month has remained relatively steady over time, with a minor dip in the number of new cases occurring during April 2020 when the COVID-19 restrictions were most stringent
- ▶ There was a significant drop in the number of support activities planned during the peak period of COVID-19 restrictions in April 2020. After that time, the number of support activities planned appears to have quickly climbed back to its original growth trend
- ▶ The drop in the number of support activities that happened as planned has persisted longer after the peak COVID-19 pandemic restriction months. As can be seen in Figure 8, COVID-19 accounted for large proportions of all support activity cancellations for several months after the peak restriction month of April 2020

Figure 7: Number of new JAS cases, planned support activities and support activities that happened as planned by month. Values in this graph have been rescaled to correct for the cases and supports excluded from our data due to the individual concerned not consenting to their data being shared. This rescaling may produce some distortions to the time trends.

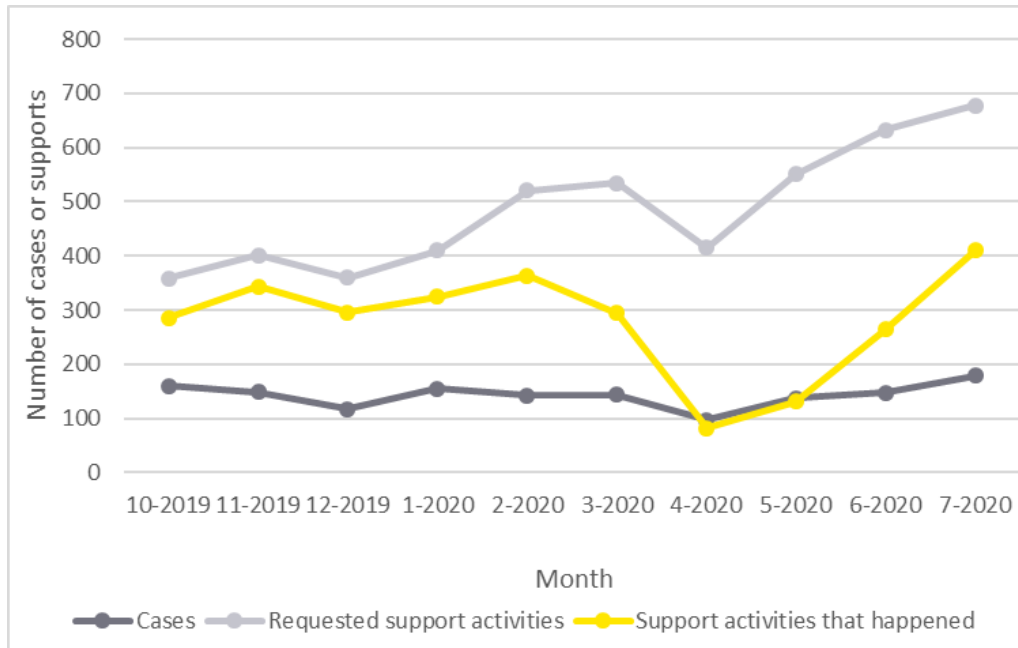


Table 8, below, analyse this further. It provides a breakdown of the number of supports that happened as planned, or didn't happen as planned, split by the type of support and the time period relative to the period of tightest COVID-19 restrictions. It was observed that:

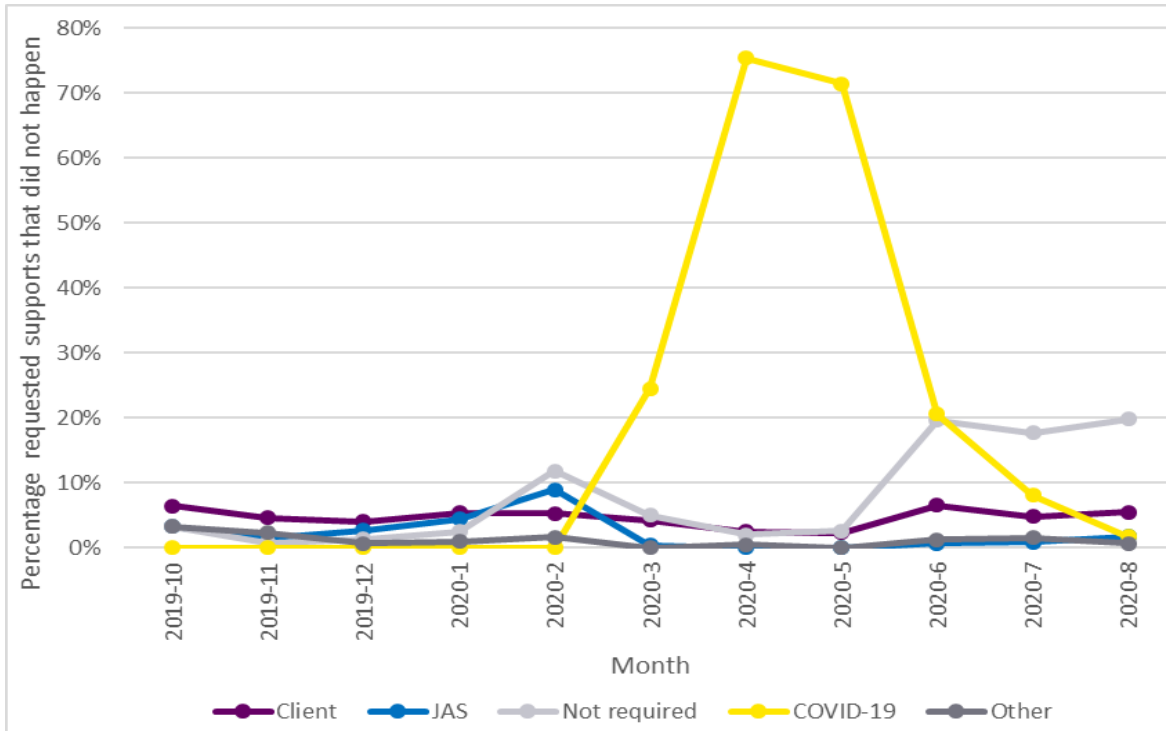
- ▶ Prior to the COVID-19 restrictions, between 1 October 2019 and 19 March 2020, a relatively small percentage of supports did not happen as planned. AVL supports had a slightly higher rate of non-occurrence which is likely to be explained on account of other logistic challenges associated with AVL supports
- ▶ From 20 March 2020 until 30 June 2020, when the tightest COVID-19 restrictions were in force, most types of support were impacted with higher percentages of support not occurring with the exception of conferencing and mediation supports. However, court supports and AVL supports were substantially more impacted. This likely reflects the significant restrictions in court operations due to COVID-19 restrictions
- ▶ After the period of tightest restrictions, all types of support recovered. However court supports, AVL supports and legal meeting supports did not return to the low percentages of supports not happening that were seen prior to the COVID-19 pandemic.

Table 8: Supports that did and did not happen as planned by type of support and time period relative to COVID-19 restrictions.

Support type/ Number supports	Court Support	AVL Support	Legal Meeting	Police Support	Conferencing /Mediation
<b>Pre-COVID (1 October 2019 - 19 March 2020)</b>					
Number happened	1318	54	173	288	37
Number did not happen	431	52	27	38	6
Percentage did not happen	25%	49%	14%	12%	14%
<b>During tightest COVID restrictions (20 March 2020 - 30 June 2020)</b>					
Number happened	208	6	107	162	32
Number did not happen	1001	166	37	37	2
Percentage did not happen	83%	97%	26%	19%	6%
<b>After tightest restrictions (1 July 2020 - 31 July 2020)</b>					
Number happened	289	23	44	52	3
Number did not happen	205	47	16	1	0
Percentage did not happen	41%	63%	27%	2%	0%

Figure 8, below, shows the percentage of requested JAS supports that did not happen by month and by the reason for the support not occurring. While the most significant feature of this graph is the peak of supports not happening on account of COVID-19, a pattern can also be seen for the percentage of supports not happening on account of JAS cancelling the support. While this percentage has been reasonably low throughout the evaluation period, it can be seen that since the COVID-19 restrictions peak, these proportion of supports cancelled by JAS has dropped to a negligible level. This suggests that JAS has been established in a manner that is sufficient to handle the current demand for supports.

Figure 8: Percentage of requested JAS supports that did not happen by month and reason for the support not happening. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



As described above, ARTD completed a TNA for JAS in May 2020 and a dedicated Training and Capacity Building Team is currently working with identified key stakeholders and service delivery partners. However, alongside COVID-19 impacts on services to clients, the progress in 2020 of the JAS-led Justice Agency Training has been and continues to be significantly impacted by COVID-19 restrictions. The sudden cancellation of all face-to-face training across all agencies had an initial two-fold impact in the eyes of JAS staff and stakeholders. The first was the loss of opportunity to engage directly with key frontline workers and the second was the loss of momentum that had been steadily building prior to the lockdown. In the view of JAS and IDRS staff, these impacts cascaded into a series of ongoing challenges that required a shift in the training strategy and a reasonable time investment to reorganise training that would meet the needs of a drastically changed training landscape.

All traditional face-to-face training for volunteers was re-packaged to be deliverable in the format of digital workshops and, where possible, JAS delivered Justice Agency Training in this format as well (an example being webinars for Legal Aid and Sheriff Senior Leadership). JAS and IDRS reported that time and financial investments were also made in eLearning to enable JAS to remain flexible and technologically responsive. This has now progressed to a blended learning volunteer package providing eLearning modules supplemented by face-to-face practical workshops where COVID-safe and a staff training package.

### 3.2.3 JAS internal governance and capacity

The rapid expansion of JAS throughout NSW and into a 24-hour service has led to additions to the Board, bringing new skillsets. One person stated in relation to Board capacity:

*“There’s no contingency because we’ve just always been small. So this has really challenged us in terms of looking at our risk because we are so much bigger and there’s so many more resources to*

*manage... We've recruited three new, very whizz bang Board members who are helping with the Finance Audit and Risk Committee. We've established a new sub-committee which is a future funding committee." (Board member)*

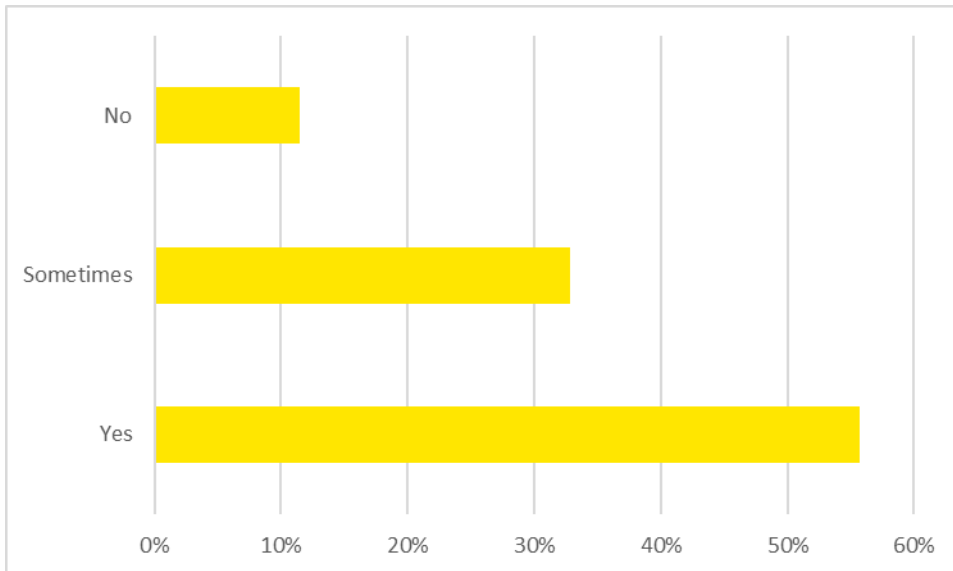
In expanding the JAS program, IDRS undertook an extensive recruitment process for roles in multiple locations in addition to retaining existing staff, resulting in a mix of staff from various backgrounds. These staff cover large areas and are augmented by volunteers.

Stakeholders suggested that an ongoing workforce issue is that the volunteers have very different employment histories and personal/professional styles. Participants interviewed could be divided into two distinct categories: those with long work experience in highly structured rules-based organisations, and those with experience in welfare/advocacy-based organisations. This appeared to have led to quite different approaches to JAS work.

The former appeared to more frequently report feeling confident in interacting with police and lawyers but less well placed to identify the wrap-around supports needed for clients. Training and development of this volunteer workforce needs to take into account these different disciplinary heritages and address skills gaps accordingly.

Volunteers in focus groups indicated they wanted more interaction with each other, and more access to ongoing training, despite availability of online and face-to-face training modules available for volunteers. This qualitative evidence was supported by survey data collected from JAS staff and volunteers, where only 56% agreed that they had access to professional development and training and 12% expressed that they did not have access to training. The evaluation team was advised that JAS plans to expand volunteer training.

Figure 9: Survey of JAS staff and volunteers, Q4: Do you have access to professional development and training?



While the vast majority of lawyers participating in the evaluation supported the JAS program and valued support provided by JAS staff and volunteers to persons with cognitive impairment in the criminal justice system, a minority were critical, feeling that the JAS person was not skilled enough to support the client adequately, or had poor understanding of referral processes (for example to the NDIS).

A lawyer also suggested that the JAS worker was less “hands on” with the client in some circumstances.

*“I mean, I see the numbers of how many people they’re helping, and it’s not a great deal. So I would think... I would want to know that they’re working more efficiently, but I don’t know how that happens.” (Lawyer)*

An analysis of the themes presented in free text responses to the exit survey completed by JAS clients or their representatives revealed that they were generally supportive of JAS and valued the support provided that JAS staff and volunteers can bring to the police station and court, as well as follow up work and referrals. A small number of lawyers consulted suggested that a lack of legal knowledge amongst JAS staff and volunteers may have been a barrier to implementation and delivery in some cases. However, it should be noted that while JAS staff and volunteers require criminal process knowledge, they are not expected to have expert legal knowledge. Their role is to assist in assessing whether the person with cognitive impairment has understood the advice given by the legal representative and assist the person to question or clarify the information. In addition, the rapid expansion of JAS has meant that there are many new workers in positions where they are meant to be building volunteer networks and training volunteers but have little experience themselves. These new staff have needed to be involved in direct service delivery to build their own understanding of what supports volunteers require in their local area:

*“In order to increase referrals, we need to be delivering content to on-the-ground staff and their enabling managers. This has been a very long and slow process that is very easily derailed by key persons taking leave, moving departments, delaying communications etc...” (IDRS staff)*

One of the key skills and attributes identified by informants as essential in JAS workers is their understanding of local service systems. Where they are able to link clients into broader supports, the advocacy program works well. As one legal aid lawyer noted:

*“Those workers that are well connected locally and well connected with different organisations can be very useful. But somebody just to come to court to hold somebody’s hand has very limited usefulness.” (Lawyer)*

This was a minority view of a lawyer who felt that there were already a range of legal and other services involved and that to a great extent lawyers could handle most clients, and situations, themselves. This contrasted with views of the majority of lawyer participants, who valued the supportive role of JAS, particularly when they had a number of matters and were busy.

Evaluation consultation data suggested that in some areas where JAS volunteers are needed, there are ageing demographics and there may not be a culture of volunteering, with some stakeholders suggesting that the nature of JAS provides a further barrier to volunteering given it is relatively complex work. In some geographic areas, recruitment of volunteers was reported to be particularly challenging:

*“So, and again, the whole program is supposed to be, you know, the underpinning of the program, is volunteers. Well I’ve yet to have a volunteer in Broken Hill. Regional communities, Broken Hill is an ageing demographic.” (JAS staff, western NSW)*

### 3.2.4 Lack of referrals and knowledge of JAS

Stakeholders highlighted that failure to recognise cognitive impairment prevents more referrals and, as such, is a key barrier to the implementation, uptake and expansion of JAS. This was described as a “chicken and egg” situation by a senior staff member; JAS can expand to undertake

further advocacy and awareness raising if it receives more calls and referrals, which are unlikely to occur in the absence of identification of cognitive impairment in the community and key stakeholders.

IDRS stakeholders highlighted that people with a cognitive impairment are not specifically identified at key data collection points within the criminal justice system. This not only contributes to challenges in accessing a range of legal safeguards, processes and procedures which exist for the protection of their rights, but is also a barrier to the recognition of prevalence and evaluation of outcomes for this cohort.

In particular, the police as potential referral points was much-discussed by interviewees. The police have a crucial role to play as they can call in JAS if they recognise someone has a cognitive impairment. Police are a major service delivery partner and gateway to the criminal justice system. Increased early support of both victims of crime and suspects at the police stage of proceedings has significant potential to improve outcomes for people with cognitive impairment and deliver substantial cost benefit. Support at this early stage could avoid problems which are much more difficult to address later in the process.

Stakeholders highlighted that police may not be alert to what cognitive impairment looks like:

*“So people that [who] are coming to police notice, that their past behaviour or their offending history may not be - you know, the cognitive impairment is overlooked... And that behaviour or you know, history with police is considered and people are dealt with according to that particular lens. Not through a lens of this person may have a cognitive impairment.” (IDRS/JAS staff)*

Qualitative data indicated that interactions with JAS and police were ‘mixed’, and this often depended on who the officer was and what their understanding of cognitive impairment was, as well as attitude and years of experience.

*“We've had some difficulty with the police. Our education team has been there out there, especially with my regions. It's very hit and miss, young or old. They don't have the understanding. I was at court last Friday. [The police officer] said, "I knew he had a disability, an ID [intellectual disability], but I didn't understand how, because he presents so well.” (JAS staff/volunteer)*

Another JAS worker explained that police may only see a cognitive impairment in ‘obvious’ cases:

*“If they [the arrested person] come in bedraggled and filthy dirty, and not understanding, they [the police] get it. Then they'll start understanding it. But if they don't, if they come in presenting well, police just think they're fine.” (JAS staff /volunteer)*

This was reinforced by a lawyer working with Aboriginal clients who noted that police may not be given training on cognitive impairment and had a difficult job to do. People with cognitive impairment may present in ways that make them appear alcohol- and drug-affected, so it may be easy for police to miss the signs of cognitive impairment.

*“It might be difficult for them to know what that presentation is showing them; whether it's cognitive impairment, a difficulty, a mental illness, or drug induced, or alcohol induced, or whatever it is.” (Lawyer)*

ALS stakeholders consulted suggested that access to a more definitive diagnosis of intellectual disability may be one way of addressing potential challenges in accessing JAS supports.



A regional JAS worker recounted active refusal to institute systems for referral, for example, a flag in the Computerised Operational Policing System (COPS).

*“The police? No. The police aren’t interested. I went in there and asked them if they could do what everyone else has asked. Give an alert up on the COPS system if someone’s got a cognitive impairment?” - “No.” (JAS staff/volunteer)*

As previously noted, there was some difficulty in accessing police for interview and focus group participation for the evaluation, which in and of itself may point to a lack of engagement with JAS. An interview with a police officer and a number of survey responses from police indicated that while some police officers were aware of JAS, overall there was very minimal awareness of the service.

*“We probably don’t uptake it as much as we should, so maybe just more around the education about what they actually do. And like I said I had to, I’m aware that they exist, but I had to look up just to remind myself exactly what and where they fit in. So it probably wouldn’t hurt if they could look at from a police point of view when we come across victims with or people with impairment and disability, make us aware that they’re out there and what they can do to assist victims and offenders.” (Police Crime Manager)*

It was also reported that there were situations where a JAS client would suddenly appear on a court listing, meaning that they were at the police station but no-one had contacted JAS. JAS staff suggested consistent referral protocols be used to ensure that JAS clients are flagged on the COPS database, and in complementary fashion, when JAS has a client referred to them, they will alert the Crime Prevention Officer at the local police station.

Another issue identified in the evaluation was that police were often *“pushed for time”*, as noted by a JAS staff member, and it was a challenge to slow police procedures down. In general, police understood that they had to follow the correct procedures and that any admissions that came as a result of coercion within police stations can be dismissed in court. Magistrates consulted by the evaluation team also reinforced this. However, a lawyer expressed:

*“I know a lot of police will still be trying to interview clients who we think do have cognitive impairments, and we’ll be telling them that they shouldn’t, and sometimes there is pushback to that.” (Lawyer)*

This was also mentioned by other lawyers and JAS staff and volunteers.

In addition, stakeholders noted that police sometimes tried to *“just have a chat”* with their clients, who may not understand the right to silence or have access to support or legal advice. A Legal Aid lawyer observed:

*“I can’t say that I see a lot of allowance for that just from reading the factsheets. I see plenty of conversations described on a factsheet between a cognitively impaired person and a police officer. I don’t often see that there’s been an attempt to not obtain admissions from someone if they’re cognitively impaired and they don’t have a support person with them. So I don’t see a huge difference in how a cognitively impaired person is treated from someone who’s not by the police.” (Lawyer)*

While volunteers provided examples of referral to JAS, as well as humane and sensitive treatment of their clients by police in the main, some particular police/police stations being singled out as less helpful. A magistrate expressed that there are likely limited examples of *“rogue”* police being hostile to JAS and that police are mainly supportive of the presence of JAS. On the other hand, a survey respondent mentioned that:

*“Police do not appear to respect the legal safeguards designed to protect people with cognitive disability. They pay lip service to the concept of a custody manager being independent from an investigation. In practice, this structure of oversight provided internally by NSW police via a custody manager is completely ineffective. I have not once seen a custody manager halt an interview/forensic procedure to ensure a person with a disability is supported properly.” (Lawyer)*

To assist police to recognise cognitive impairment and increase referrals, JAS staff reported that the service has been proactive in developing screening tools to be used by police including observations of behaviour and question responses that can assist police to determine if extra support is needed. JAS has also undertaken ‘marketing’ with police, by providing posters with phone numbers of JAS staff and volunteers. In addition, JAS has included people with cognitive impairment as part of the training for police as identified through the TNA and the JAS Capacity Building Strategy for justice agencies. JAS continues to deliver specialised training to police officers and advocate for further systemic changes.

A long term IDRS/JAS staff member commented that she had seen improvement in police treatment of vulnerable people in police custody over the past ten years because police are now more “educated”. There was a sense that while clients who present with a very low IQ or overt signs of cognitive impairment were recognisable to police and courts, those with closer to a typical range of cognitive function were often poorly serviced:

*“It’s often the clients who have a borderline intellectual functioning who just slip through the cracks.” (JAS staff/volunteer)*

Overall, interviewees indicated that more investment in promotion and education is necessary to enable JAS to be involved with clients at the police station and for educative work to be done with police so they can recognise cognitive impairment and contact JAS. Specifically this may include:

- ▶ embedding training on cognitive impairment across the suite of NSW police training
- ▶ strengthening operational requirements to require NSW police officers to notify JAS whenever they suspect a suspect, victim of crime or witness has cognitive impairment
- ▶ advocacy to amend the definition of impaired intellectual functioning in LEPR to specifically include the range of cognitive impairment

Furthermore, it was noted that while the JAS program was ‘on the radar’ of many Legal Aid lawyers, it is not well known among private lawyers, barristers or all magistrates, limiting the program’s reach.

### 3.2.5 Expanding to regional and remote areas

The qualitative evaluation found that while Sydney networks were already established, implementation and delivery of JAS was more difficult in regional and remote areas. Provision of services for people with disability was generally perceived by stakeholders as inadequate in regional and especially in remote communities. It was noted that building trust was a slow process in many of these communities. In some regional communities, stakeholders perceived that long-standing networks were preferred to newer programs like JAS.

While some regions were suggested to still require additional engagement efforts, JAS staff and volunteers reported a steadily increasing workload over the previous year and a half. However, a

number of volunteers felt underutilised in some areas. One volunteer expressed feeling slightly disconnected from JAS:

*“There is not much to do in my area or I’m not informed of when I should actually go for those sessions, court sessions, and support. Nobody calls me up from JAS.” (Volunteer)*

In contrast, a number of staff in remote areas are effectively ‘sole operators’ and have to create networks on their own, often covering large geographical areas. This means that there are specific demands of the job whereby a lot of autonomy and resilience may be required, as well as the resources to undertake the job.

*“I just don’t feel like there is an understanding of regional communities. And I just think all... not just this program, any government funded program, that is to be rolled out into regional Australia, I think there needs to be some really serious education for people, that are getting that money and taking on those projects. They need to know what to expect. They need to know those sorts of things.” (JAS staff/volunteer)*

Stakeholders expressed that given the funding pattern for programs in NSW which often sees programs starting up and then disappearing after a few years, there can be some reluctance for services in some areas to interact with a new program, and thus it can be challenging to build up trust and referral networks:

*“And services can be very - and people can be very sceptical about yet another program landing in town that says look, our funding expires next June... So you know, in terms of emotionally investing in a particular program and that they’ve seen programs come and go.” (IDRS/JAS staff)*

Despite these challenges, consistent with administrative data presented in this evaluation, staff reported they felt referrals were “picking up” and outlined network building activities they were undertaking to support this.

### 3.2.6 Wrap-around support, service co-ordination and casework

As noted earlier in the report, wrap-around supports were viewed by stakeholders as essential to enable positive outcomes for JAS clients. A smaller pilot program delivered by IDRS, the Cognitive Impairment Diversion Program (CIDP), provided strong case management and attention to wrap-around services. This was funded as a pilot and was delivered in only two locations - Penrith and Gosford local courts. Another example of a case management wrap-around model was the Integrated Service Response (ISR) run by NSW Health. Both the CIDP and ISR have been defunded. However, despite the positive views of this function by stakeholders, JAS is not currently funded to deliver this function and it is not a key objective for the service.

For key stakeholders with experience of the CIDP, the adequacy of JAS support was found wanting. They expressed high regard for the CIDP and noted its success was in part because of its highly trained staff and tight case management. One mental health professional who advises courts reflected:

*“I’ve worked, as I said, for a long time, and I can remember when I first started, trying to get people referred to [former department of NSW Communities and Justice] - there’d be an 18-month waiting list. When CIDP came on, I had somebody I could refer these people to, and some of the outcomes were just so refreshing... for an old mental health dinosaur. CIDP’s case management support was quite rigid, I think there was probably a better understanding... I’m really disappointed they’re gone, to be honest... Sometimes we did double interviews, to see if there were comorbid mental illnesses*

*as well as a cognitive impairment. So the psychologist and I would discuss in regards to what could be of assistance, and the enthusiasm of those support workers ... as I said, you see somebody that keeps coming in with a criminal history as long as your arm and then suddenly, when she was able to navigate and get all the supports, and she gets a little job in Gloria Jeans and she's got a unit. You go, "Wow." It's fabulous".* (NSW Health staff)

The perennial challenge of service co-ordination was perceived as central to JAS client outcomes. A private solicitor noted:

*"Actually, I think there probably is services - there are services available all over the place for people with intellectual disabilities. I think the real problem is coordination between all the services. I mean that itself is a nightmare trying to - if you've got someone who's got intellectual disabilities who's also got a drug problem, are homeless, need to fill in Legal Aid forms what really - maybe I'm just being naïve about it but what really needs to be done is to have them case managed."* (Lawyer)

It is important to note that while the evaluation noted that JAS is not funded to do ongoing casework, this was generally perceived as needed by stakeholders.

Consultation with the ALS also revealed that a key issue specific to the Aboriginal and Torres Strait Islander legal sector is the program's interface with the Custody Notification Service that refers clients to the ALS.

A few respondents noted that there was often an oversupply of advocates and specialists in the courts and insufficient casework to bring the different supports together in a comprehensive package tailored to individual needs. An experienced Legal Aid lawyer expressed a view that the field could be too crowded and that JAS may not add that much value in some cases:

*"We don't really need somebody standing between ourselves and the client to translate for them. And many of us have many more years' experience in doing that than the people working for the Justice Advocacy Service. [In relation to a client] ...so she organises accommodation which involves another organisation... and so there's someone from that organisation. And then there's me and who else is there? Who else is there? So now we've got three organisations. And then we've got a person from the Justice Advocacy Service. There's bloody busloads of people - a lot of activity and it is probably overload in some cases."* (Lawyer)

Some stakeholders expressed that boundaries and coordination across the roles of lawyers and JAS workers can be difficult to navigate. As lawyers are often rushed in their interactions with clients, at times it was reported that JAS workers or volunteers stepped in and explained the law incorrectly.

However, the majority of lawyers consulted did not hold this view and believed that the presence of JAS presence added value for the client, especially where Legal Aid lawyers were changing from one court appearance to the next. The JAS workers, on the other hand, were suggested to provide more continuity and were perceived as having more time to talk to the client.

JAS staff and volunteers were aware of the need for ongoing casework for their clients to bring all of the service delivery and wrap-around support together. Furthermore, a number of key stakeholders noted that specialist drug and alcohol services, mental health services, and Koori courts were all perceived to be underfunded in the current system and these are the types of organisations that make a real difference in the lives of clients with cognitive impairment.

One of the strengths of the JAS program that was noted by some respondents was the value for money of a volunteer labour force and thus the ability to maintain a consistent presence.

*“It’s comprised in large part of volunteers and it’s incredibly good value for money for the government. It’s such good value for money, you know in funding the program the basic sort of you know the infrastructure of the program so that’s you know, there can be staff employed to do the coordination and the training or whatever. The fact that they are actually harnessing you know the time and the skills of all of these volunteers, you know it’s amazing value for money.” (Lawyer)*

As presented in the table below, surveys with JAS staff and volunteers suggested that they felt they worked most effectively with courts, with over half of respondents expressing that they always worked well together. A slightly lower percentage felt they always worked well with lawyers. Approximately 70% of respondents described that they only worked well with NDIS and police sometimes, with police ranked lowest in the services articulated in the survey.

Table 9: Survey of JAS staff and volunteers, Q9-12: JAS and other services work well together

	Always	Sometimes	Never
Courts	57%	43%	0%
Lawyers	47%	52%	2%
NDIS	28%	72%	0%
Police	26%	70%	3%

### 3.2.7 Gaps in current JAS service coverage

Various gaps in the current JAS service of a temporal and spatial nature were noted by JAS stakeholders, staff and clients. For example, weekend bail court hearings were suggested as posing a challenge for service delivery. Audio-visual links to people in custody were also reported to be difficult but were necessitated by the pandemic.

Numerous JAS staff felt they could do more in the Children’s Court space with young people with cognitive impairment:

*“We would like certainly to be able to extend our reach further into Children’s Court. You know, we’ve been trying to get a meeting with the president of the Children’s Court now for some time but again, I think COVID and everything else has proved a bit of a challenge. So just trying to get justice and courts to arrange them on our behalf. They’re taking on board some of that.” (IDRS/JAS staff)*

Some clients expressed that there was a lack of psychosocial support for their clients:

*“So I think the companionship; a lot of them say how lonely they are and they don’t have any friends, especially the younger ones. I’m finding that quite a lot now, very much so, that there’s no companionship groups for them to go to, especially with intellectual disability.” (JAS staff/volunteers)*

While service coordination and casework are not assigned functions of JAS, this is a gap which was repeatedly identified by stakeholders and may warrant attention:

*“Case management is another huge gap. Who do you ring to be able to pull all this together?” (JAS staff/volunteers)*

*“So, that’s the only thing that I know that helps, is that somebody, an advocate who is assigned to do case work for somebody for a longer period of time. That’s it, and you know it changes people’s lives when they finally get over a few humps and they know “oh, okay this house is gonna be mine and I’ll only be, my court case is finished” and they can see perhaps at the future.” (IDRS/JAS staff)*

*“Case work. Case work is I think a key really... some of our clients but not all of them of course, but the complex ones, [is] the only thing that works... We had the CIDP program and I totally understand that it’s an expensive thing... it’s very expensive I guess to have one person walking alongside that person, making sure they get to their appointments, making sure they you know turn up at court, making sure they go to Housing. Yes, it’s gonna take 4 hours in a line, I’ll wait with you we will talk about something else while we’re there. The frustration levels and the rejection.” (IDRS/JAS staff)*

Case management was a recurring theme. This included holistic release planning, especially in relation to housing:

*“Who is there that we can refer to, to give the people that have been released the supports they need to assimilate back into... There’s a paucity of those services.” (JAS staff/volunteers)*

Likewise, while JAS staff refer clients to other services, for example to the NDIS, it is not possible to simply ‘refer’ and then leave the client to manage the process. Accessing the NDIS is complex and requires a high level of client support that is, in effect, case management.

It is important to note that JAS advocates do engage in service co-ordination and go above and beyond their role, despite not being funded to do so.

Stakeholders also suggested that remote and regional areas often lacked services, especially specialist health and mental health:

*“Another gap is access to psychological and psychiatric assessments. It’s really hard to access a psychiatrist and for a lot of people that are on a ... if a solicitor is seeking an Ss32, Schedule 32 [sic - section 32] for the mental health pathway, our only avenue to get access to a psychiatrist out here is through community mental health, and that’s really difficult because there’s a paucity of mental health workers.” (JAS staff/volunteers)*

*“Access to these services is very important because solicitors need mental health assessments to be able to argue the case for their clients - for example, if they are not fit to plead. The advent of telehealth means that increasingly remote areas can access specialists over Zoom and other platforms via agreement with a health service, “and that’s the only way we would get them [the assessments] done.” (JAS worker/volunteer)*

Within the criminal justice system, stakeholders felt there was limited capacity of specialist staff working with offenders with cognitive impairment and disability:

*“There’s only five disability people ... Statewide Disability Services (SDS) in the prison at Long Bay to cover the whole of New South Wales. Yeah, so we are actually working very closely with them, but once those people leave prison, and if they reoffend when they leave prison, we actually are the ones that pick them up and contact SDS and say, “Well, this has happened again.” (JAS staff/volunteer)*

Staff highlighted that JAS clients typically have a high prevalence of drug and alcohol issues. The availability of adequate drug and alcohol services to support clients was also raised as a gap in service delivery which impacts on JAS’ efficacy.

### 3.3 What are the facilitators to implementation and delivery?

Despite significant unexpected hurdles in the form of both natural disaster and pandemic, stakeholder consultations and administrative data evidenced positive trends in the implementation of JAS over time, including the previously presented occasions of service. It is important to note that in the view of the evaluators, given these unexpected modifications to planned JAS implementation schedule, the service's implementation is ongoing and its activity as evaluated is unlikely to represent full operational capacity.

A range of key facilitators were identified by stakeholders, many of which have been previously discussed. Stakeholders suggested that good referral pathways ensured more clients coming into JAS and therefore, greater reach of JAS as a service. Perceived to be key to this was educative work amongst police, courts and service providers. In addition, the advent of the NDIS was an important resource and referral point for JAS. Stakeholders also noted that while JAS is not a service that is funded to provide casework, incidental casework and wrap-around support occurs at times, depending on the level of experience of justice advocates.

Having effective working relationships with other services, particularly Legal Aid, was felt to be critical for facilitating implementation as JAS advocates often work with legal professionals to get the best outcome for the client. Consultation suggested that, in general, lawyers valued the work of JAS and were eager to work collaboratively with the service.

Stakeholders indicated that the extensive geographic coverage, high availability service model, and the use of volunteers in addition to paid JAS staff members to deliver the JAS service all appear to have contributed to delivering a JAS service that is building in reach:

*"I've had a few referrals now. We're being able to get some runs on the board. Community are seeing the work that we can do... It takes different strategies to break through." (JAS staff/volunteer)*

## 4. Outcome Evaluation

The following outcome evaluation questions were examined through qualitative and quantitative analysis:

- ▶ Did the service achieve its stated objectives and aims?
- ▶ Were better outcomes achieved at different locations and/or regions?
- ▶ Did outcomes differ across sites?

The table below summarises the key findings for the outcome evaluation of JAS:

Table 10: Key findings for JAS outcome evaluation

Evaluation question	Key findings
<p><b>Did the service achieve its stated objectives and aims?</b></p>	<ul style="list-style-type: none"> <li>▶ The JAS program enabled clients to have a voice and supported their understanding of their rights in the legal process, with 89% of JAS staff and volunteers and 73% of non-JAS professionals agreeing that JAS enabled clients to better express their views and exercise their rights</li> <li>▶ Individuals who received JAS support were also more likely to understand and follow court orders, although ongoing casework was identified as a key area of improvement required to support clients</li> <li>▶ For support provided to clients during police interactions, positive outcomes were achieved with most suspects following the legal advice received and a majority understanding cautions and bail conditions, while victims and witnesses were successfully supported to appropriately present their story</li> <li>▶ For support provided to clients in courts, suspects/defendants with a cognitive impairment and supported by JAS were less likely to be found guilty and more likely to receive a section 32 diversion order, with sentences for those found guilty likely to be of a higher severity when compared to the outcomes for all NSW defendants, adjusting for the difference in the mix of offences</li> <li>▶ While JAS has delivered a range of training modules and established a Training and Capacity Building team, as well as a Capacity Building Strategy for Justice Agencies, there are opportunities for improvement in outcomes through further training opportunities for JAS staff/volunteers and staff in the broader criminal justice system in supporting and interacting with people with cognitive impairment</li> </ul>



	<ul style="list-style-type: none"> <li>▶ Overall, JAS clients felt that the service has had a significant impact on the outcomes they have in interacting with the criminal justice system</li> </ul>
<p><b>Were better outcomes achieved at different locations and/or regions?</b></p>	<ul style="list-style-type: none"> <li>▶ The pattern of supports, cases, clients and outcomes is relatively consistent across each police region and court region, with the greatest variation experienced in section 32 orders and guilty verdicts</li> <li>▶ Achievement of outcomes in regional areas was impacted by local service deficit and challenges building networks in the community</li> </ul>
<p><b>Did outcomes differ across sites?</b></p>	<ul style="list-style-type: none"> <li>▶ Overall, there was less support, understanding and allowance for people with cognitive impairment at police stations compared to courts. JAS staff and volunteers expressed that they worked best with courts and lawyers, while 72% stated that they only worked well with police sometimes</li> <li>▶ The proportion of JAS cases with a guilty outcome is higher in the district court compared to the local court.</li> </ul>

## 4.1 Did the service achieve its stated objectives and aims?

### 4.1.1 Clients able to exercise rights/voice

The evaluation found that JAS enables voice, interpretation and support in legal process. Stakeholders suggested that most JAS clients have little understanding of legal processes and/or a feeling of powerlessness in legal processes, finding it confusing or bewildering. JAS staff and volunteers work to enable the client to understand what is happening and to exercise their rights.

*“Well they put it to you in plain English instead of the double Dutch which they use... you know what I mean?” (JAS client)*

*“I am continually reminded that knowledge is power - when JAS clients understand what is happening and why, what the rules of Law are and what they can expect from the Law, and what their rights and responsibilities are within in the Law.” (JAS volunteer)*

The *Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA)* is designed to support people with cognitive impairment in the legal system. However, stakeholders suggested the Act is worded in a way that is unfamiliar and indecipherable to many JAS clients. While a lawyer’s role is to ensure that the Act is properly applied and that the person is informed of their rights, JAS workers felt that their role was to ensure that the person understands what they are being told. For example, JAS staff noted that some clients may have already had legal advice before they arrived at the police station, but they may still not understand their right to silence and instead agree with suggestions put to them:

*“There's different sorts of things about how... people with a disability react. One is, they just want to get the hell out of there, so without guidance or the support, they will say anything they can to get themselves out of that situation. And if that means “yes I did it”, they will do that because... they’ve*

*had a lifetime of people rejecting them, people putting them in positions where they're ignored... they know this from an early age... they consider themselves not as important and they're terrified of being in trouble. So, they will say anything they can to get out of that situation, which is where we come in to protect their rights that way." (IDRS/JAS staff)*

The JAS support person can check for understanding by using prompting questions, with interviewees suggesting that this can lead to the client changing their mind and taking up their right to silence. JAS workers reported being trained in 'breaking things down' for the client, and in ensuring that the client has a break if they need it, as per the provisions of LEPRA. While not able to diagnose an individual with a cognitive impairment, volunteers and staff can undertake cognitive checking, and ensure that a client has understood of what they have been told:

*"[We] fully understanding the LEPRA is a challenge for anybody, but we try and get an understanding of how well did the client understand the LEPRA... Often it's a yes confirmation [if you ask], "Did you understand that?" and quite often nearly everyone is deciding, trying to sneak under the radar so you always say, "Yes." So we try and enable them to express themselves of, "Can you explain to me what you understood from the LEPRA?" and if they're challenged on that, then we either get legal advice to support them and probably challenge to the police of, "I'm not sure if this person's understood it. Is there something else we can do to support this person with it?"" (JAS staff/volunteer)*

JAS staff and volunteers interviewed reported that they had a good understanding of LEPRA (which is part of their training) and operationalised this in police stations:

*"Being aware of how they may behave when feeling pressure or anxious and responding to that and checking with them whether they would like a break, whether they would like a question repeated. You know, how are they feeling? So, it is really about being quite aware and vigilant. Getting to know them. Getting to understand their responses and then supporting them to maintain and understand what is happening to them." (IDRS/JAS staff)*

This included using visual tools:

*"It may be just showing them some pictures of things. I know we've had someone that had to have ... we've sat down and we've done pictures and let them point to the pictures and say do they understand that or do they understand this, "What does this picture mean?" They explain to us and then we go back to explain that is what the police are trying to say to them." (JAS staff/volunteer)*

JAS clients expressed that they valued the assistance by the program in supporting them to navigate the legal system:

*"She helped me out heaps because I am. I'm just a bit lost when it comes to all the words and stuff like that, you know?" (JAS client)*

*"So all I can say, the ones from JAS they were damn good and they actually did support you, they understood what I was saying you know. So I can't complain about them at all." (JAS client)*

*"But no, I can't complain about JAS at all, damn good people... And anybody who says something against them they better start running." (JAS client)*

JAS clients suggested that JAS staff can explain the 'jargon' in a language that their clients understand. This 'translation' or 'interpretation' function appeared as a recurring theme, whether this was in the police station, or when sitting with a lawyer and ensuring the client understood the

legal advice, sometimes emanating from busy Legal Aid lawyers or private solicitors who were suggested to be often pressed for time, or through explaining a court order. The presence of JAS was suggested to support client comprehension, as well as their ability to exercise their rights.

*“The reason why we’re there is to prevent them from doing that if we can and to guide them to the legal advice, to help them understand that they have a perfect right to say no, they have the same rights as you and I do.” (IDRS/JAS staff)*

JAS improved the comprehensibility of the court process. One magistrate characterised their role as of assistance to the client and to the court.

*“Look... definitely support, but also a sense of fairness and I can see some people come into the court process being completely intimidated and having no idea what’s going on. And what I can see when there’s a JAS worker supporting them, I can really see - in some ways it is almost an interpreter in a funny way... the court system would be seriously lacking and therefore people’s rights and access to justice and all of that would be you know, not well served if it wasn’t for the very valuable service that JAS provides.” (Magistrate)*

Consultation with the ALS, however, indicated that further efforts in making sure that a JAS client could comprehend the legal process is needed. This includes adopting a more proactive approach that goes over and beyond being physically present to support the client. However, overall, ALS stakeholders stated that they have observed JAS acting as a support person for Aboriginal and Torres Strait Islander people with cognitive impairment, including providing support letters on occasion, which has been valuable in their representation of clients.

Support in the legal process also extends to making sure all authorities are aware and continually reminded of the person’s rights under LEPR. Stakeholders indicated that JAS staff not only support people with a cognitive impairment to understand proceedings, but that their presence was also suggested to make cognitive impairment more broadly visible.

*“It’s helpful with the magistrate because they realise much more clearly that this is a person with an identified intellectual disability...an adjournment to sentencing or to a hearing down the track, extension of bail, or there may be a decision there and then either to dismiss it or perhaps a fine or whatever else.” (IDRS)*

#### 4.1.2 Enhancing client understanding of court orders

Interviewees emphasised that lack of comprehension of court orders by people with cognitive impairment can contribute to breaches. Once a non-custodial order has been made, for example an Apprehended Violence Order (AVO) or bail, stakeholders highlighted that many people with cognitive impairment do not fully understand what they can or cannot do, and this presents a risk for inadvertent breach of such orders. JAS workers reported being able to spend time with clients so they fully understand the rules they are under in such orders, and what the consequences of breaking those rules are. For example, a person may not understand the meaning of a court order and contact someone who is a person in need of protection, as a barrister noted:

*“A person who is the subject of an Apprehended Violence Order (AVO) who is ordered not to contact the person in need of protection (PINOP) will have breached the Court Orders by constantly telephoning the PINOP. It may have a bearing on the way a magistrate deals with this matter if the magistrate is aware that this is a person with a cognitive impairment who may not fully understand the Court Orders and even if at the time, they do understand the Orders they may not have the cognitive ability to abide by the Orders. It is imperative that the court is informed that this is a*

*person who is cognitively impaired and not a person who has deliberately and defiantly breached Court Orders. There is a difference.” (Barrister)*

The same barrister continued, emphasising the need for ongoing casework:

*“The reality is that this is an ongoing problem for those with cognitive impairment. Court Orders can be explained today but are forgotten tomorrow. Often you will hear “but they contacted me” or “I just had to tell them something” they do not have the capacity to understand every nuance of the Court Order. What is needed is a case manager - someone who will be there on an ongoing basis to support the accused person when needed, someone who can link the accused person to the services needed and re-establish connections in the community.” (Barrister)*

JAS staff highlighted that some people with cognitive impairment do not remember the rules they are subject to in an order and what they are not supposed to do. To this end, JAS workers and volunteers expressed that they frequently talk through consequences with their clients and emphasised that *“no - this is serious”* (JAS staff/volunteer), supporting clients to conceptualise consequences.

Overall, however, JAS staff believed *“absolutely”* that their intervention made a difference to outcomes. The evaluation team was provided with a number of examples where a JAS client defendant received a non-custodial court order or outcome that diverted them from gaol. JAS clients also explained that they believed the service had helped them express themselves, make more informed decisions and kept them out of custody in some instances. One JAS client recounted that he was ‘not guilty’ but that he believed he was being pressured to plead guilty by a defence lawyer. He did not agree and JAS supported him and he decided to plead not guilty. The court found in his favour.

*Interviewee: “I said bang. Why should I plead to something that I did not do, you know? And [JAS worker name] was straight there with it. She had my back. She was supportive and she’s looking at me and we’re looking at these solicitors and she looked at me and she just went, “what?” You know? Yeah. I could have got shafted. Like, I could have got shafted...But hey, yeah. Thank Christ for her, you know?”*

*Facilitator: “So with her support and you know, knowing your rights a bit better, you did plead not guilty?”*

*Interviewee: “I did. I pleaded not guilty. Yep, I did... And hey, my case got dismissed.”*

*Facilitator: “So the advice you got from [the defence lawyer] was plead and we’ll try and get this reduced but...”*

*Interviewee: “Yeah. That’s what they wanted. They wanted me to plead for something that I did not do. And she was - she said “no, no. we’re not doing this”...she was awesome.”*

#### **4.1.3 Reoffending, bail and support services**

Whilst noting that the aims of JAS are focused on enablement of client access to legal rights rather than reoffending reduction per se, stakeholder views on the likely impact of the service on reoffending were discussed during some interviews. With regards to preventing re-offending, a magistrate explained that despite a collective effort to find non-custodial options, this did not always work out in the medium to long-term.

*“They wouldn’t have him back so the choice was he either stayed in gaol or we found him another placement and he spent quite a long time in gaol until we finally found him a placement. So that was really with the cooperation of everyone to try and find him a place other than custody because he had a number of very serious issues to manage and he just couldn’t be bailed on his own sort of undertaking because of the risk involved. I remember that one particularly because he’d spent quite a bit of time in custody and then finally got a placement. But sadly that placement didn’t work either so he ended up back in custody.” (Magistrate)*

A number of stakeholders suggested that the lack of support, in particular appropriate housing, can be a factor in the likelihood of re-offending. In some circumstances, the care (e.g. shelter, food and a bed) provided by the NSW criminal justice system can be seen as the ‘best’ option at the time for some people. Stakeholders described that a lack of housing and homelessness can encourage people commit a petty offence so they can return to the familiar environment of gaol, where their basic needs for food and shelter are met:

*“I had one at the courthouse this morning, who was in gaol. He went and robbed money from the city pool because he was homeless and had nowhere to live and would rather be in gaol where he’s got a roof over his head. And he said that outright.” (JAS staff)*

Stable housing is critically important for court and custody outcomes and was suggested to be a significant problem for JAS clients. Without stable housing, stakeholders indicated that courts are reluctant to release people on bail:

*“A big gap in services is housing and accommodation, especially for women. We’ve got clients in custody and they’re going to do a bail application and they’ve got no housing support. They need a housing application overnight for a bail application.” (JAS staff)*

Some JAS support staff held the view that unstable living conditions often meant Aboriginal clients were disproportionately denied bail.

#### **4.1.4 Supporting suspects with cognitive impairment while in police custody**

Where JAS has provided support to suspects with cognitive impairment while in police custody, stakeholders felt that it was successful in assisting JAS clients to understand cautions, understand bail conditions and follow legal advice given. However, as noted earlier in the process evaluation section, the proportion of cases for suspects / defendants receiving support from JAS in police custody is relatively low, with only 37% of these cases receiving this type of support.

Access to legal advice is an important part of the support required by suspects with cognitive impairment while in police custody, and JAS has been effective in supporting this access. In the evaluation data, 71% of individuals supported by JAS in police custody required some form of legal advice, with 20% not requiring legal advice and 9% refusing legal advice. Of those that required legal advice, 93% were able to access legal advice.

A 24-hour custody legal service is provided as part of the JAS service. This provides free legal advice from a trained solicitor for suspects with cognitive impairment in police custody. This service is well utilised and provided legal advice in 58% of the cases, indicating that this is an important component of the JAS service. JAS does not promote the custody legal service where there are other more appropriate services, for instance in 26% of cases, individuals in police custody supported by JAS received legal advice from the Aboriginal Legal Service.

Table 11, below, summarises the extent to which suspects supported by JAS met the outcomes of following legal advice, understanding cautions given, and understanding bail conditions when in police custody. Not every outcome was applicable to each occasion of support. It should be noted that the outcomes presented herein were as assessed by JAS staff and volunteers and recorded in JAS administrative data.

The table clearly shows that most suspects supported by JAS when in police custody followed the legal advice given. Slightly more than 50% of JAS supported suspects were assessed as understanding the requirements for cautions and bail conditions, with a relatively small number clearly not understanding (12% and 3% respectively). For these two outcomes there was a relatively large minority of people for whom the JAS staff and volunteers were unable to be certain of their level of understanding of the caution or bail conditions.

*Table 11: Outcomes for suspects with cognitive impairment supported by JAS while in police custody. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

	Follow legal advice	Understand caution	Understand bail condition
Number of applicable supports	163	214	116
Supports where JAS client was able to follow/understand	150 (92%)	111 (51%)	66 (57%)
Supports where JAS client was unable to follow/understand	13 (8%)	26 (12%)	3 (3%)

#### 4.1.5 Supporting victims and witnesses with cognitive impairment when in contact with police

The number of victims and witnesses supported by JAS is low compared to other cohorts, with 63 victims and 6 witnesses receiving support from JAS between October 2019 and August 2020, and of these numbers only 36% of cases for victims and 33% of cases for witnesses received supports from JAS when interacting with police. However, in the view of JAS staff, in cases where JAS has provided supports to witnesses and victims, the majority were perceived as being able to effectively tell their story, as evident in Table 12, below.

*Table 12: Victims and witnesses supported by JAS who were perceived as able to tell their story when interacting with police. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

	Victims	Witnesses
Number of supports when interacting with police	36	2
Number of supports where victim/witness was able to adequately tell their story	29 (81%)	2 (100%)
Number of supports where victim/witness was not able to adequately tell their story	2 (6%)	0 (0%)

#### 4.1.6 Supporting people with cognitive impairment attending court

For suspects/defendants and for witnesses, JAS provides court or AVL supports to over 90% of cases. For victims the rates are lower with only 56% of cases having received either a court or AVL support by the time the case is closed, however this is likely on account of the lower levels of court attendance for this group. Amongst people receiving court or AVL supports from JAS, 35% are Aboriginal people, 7% are aged under 18 and 5% are from a culturally or linguistically diverse background.

The evaluation analysis suggests that JAS is effective in reducing the proportion of suspects/defendants who are found guilty and increasing the proportion who are diverted from the corrections system through the use of section 32 orders. However for those suspects/defendants who are found guilty, the sentences imposed are likely to be of a higher severity than those imposed on the broader NSW defendant population, even after allowing for the differences in the profile of offence types.

It should be noted that care is required in the interpretation of these results as the data used in the evaluation does not separate the impact of cognitive impairment on an individual's outcomes from the impact of the JAS services. The exception is that for some measures, such as the use of section 32 orders, the evaluation team has been able to separately estimate the use outside of the JAS context.

Table 13, below, presents the number and proportion of JAS clients receiving either a court support or an AVL support by client type. It presents these figures for all cases present in the evaluation data set, as well as for that subset of cases that are closed, however the patterns seen across both groups are largely identical.

For suspects/defendants and witnesses supported by JAS, over 90% of closed cases received either court supports, AVL supports or both. This suggests that the JAS service is effective in providing support to these groups of individuals when they attend court.

For victims supported by JAS the rates are substantially lower, with only 56% of closed cases having received either a court support, AVL support, or both. However this may be explicable on account of victims not necessarily needing to attend court for the matters in which they were a victim.

The results of a study of victims of crime in 2014 suggest that a significant proportion of victims don't attend court, supporting the conclusion that the low rates of court and AVL support for victims represents a lower rate of this group of JAS clients attending court, rather than a limitation of the JAS service. This study of the participation of victims of crime in NSW court processes was commissioned by Victims Services NSW and conducted by UNSW in 2014.<sup>14</sup> It surveyed victims of crime and included a question as to their involvement in the court case. The proportion of victims participating in the court case across the various different forms of participation surveyed ranged from 3.85% for giving evidence via closed-circuit television (CCTV) through to 47.44% who attended court as an observer.

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<sup>14</sup> Tyrone Kirchengast, 'Participation of Victims of Crime in New South Wales Court Processes' (2014) ([https://web.archive.org/web/20200316102230/https://www.victimsclearinghouse.nsw.gov.au/Documents/Kirchengast\\_Victim%20Participation%20Study%20Final%20Report.pdf](https://web.archive.org/web/20200316102230/https://www.victimsclearinghouse.nsw.gov.au/Documents/Kirchengast_Victim%20Participation%20Study%20Final%20Report.pdf)).

Table 13: JAS clients receiving court or AVL support by type of support, client type and whether the case was closed during the period covered by the evaluation data. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.

	All cases with supports between 1-Oct-2019 and 31-Aug-2020			Cases closed between 1-Oct-2019 and 31-Aug-2020		
	Suspects/Defendants	Victims	Witnesses	Suspects/Defendants	Victims	Witnesses
Number of cases	635	74	6	168	25	1
Number of cases with at least one court support	558 (88%)	38 (51%)	5 (83%)	147 (88%)	13 (52%)	1 (100%)
Number of cases with at least one AVL support	85 (13%)	2 (3%)	0 (0%)	11 (7%)	1 (4%)	0 (0%)
Number of cases with at least one AVL or court support	584 (92%)	40 (54%)	5 (83%)	152 (90%)	14 (56%)	1 (100%)

Table 14, below, presents the outcomes at court for JAS suspects/defendants compared to those for all suspects/defendants with finalised NSW court appearances in 2019. As the profile of offence types for JAS suspects/defendants is different to the profile for the broader population of defendants in NSW courts (see Figure 10, below), the table includes an additional column with the results for the broader NSW defendant cohort after weighting the results to match the offence profile of the JAS suspect/defendant cohort.

In considering the results presented in Table 14, it is important to note that it does not include a column representative of outcomes for suspects/defendants with a cognitive impairment who did not receive JAS support, and these results cannot distinguish between the impact of cognitive impairment and the impact of JAS support on outcomes for suspects/defendants. The results in this table help to understand the extent to which JAS has been able to assist suspects/defendants with cognitive impairment to achieve comparable outcomes to other suspects/defendants. Differences between JAS suspects/defendants and other suspects/defendants in this table are the net result of the poorer outcomes for people with cognitive impairment in the criminal justice system and the improvements in these outcomes from support provided by JAS.

The evaluation team note that:

- ▶ The proportion of JAS suspects/defendants found guilty at court is substantially lower at 51% than the comparable figure for the broader population of 77%. There are at least two possible explanations for this. The first is that the people with a cognitive impairment are more likely to find themselves unnecessarily charged with an offence and appearing before



a court than the broader population. The second is that the JAS service is assisting suspects/defendants with a cognitive impairment to be fairly represented in court resulting in a lower conviction rate. Both effects are likely to be present and without an effective comparison group these effects were unable to be further separated. Qualitative evidence suggested that the latter was likely, with JAS support perceived as achieving this aim in some cases.

- ▶ The profile of sentences imposed on those JAS suspects/defendants who are found guilty tends towards those sentences with a higher severity than for the broader defendant population

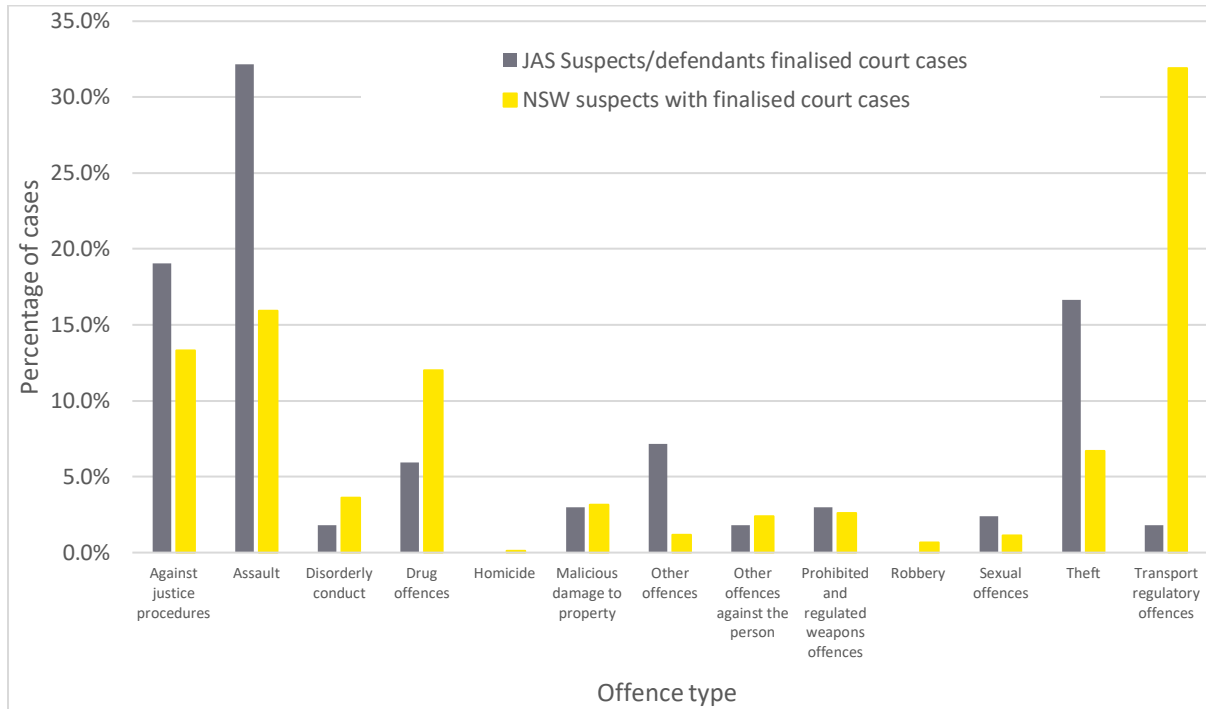
Table 14: Outcomes at court for JAS suspects/defendants compared with outcomes for all suspects/defendants with finalised NSW court appearances in 2019. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.

	JAS Suspects / Defendants	NSW Suspects / Defendants with finalised court appearances in 2019, matched to JAS offence profile	NSW Suspects / Defendants with finalised court appearances in 2019
Guilty finding <sup>15</sup>	51%	77%	85%
<b>Sentence outcomes for suspects/defendants found guilty</b>			
Imprisonment	15%	15%	10%
Youth Conviction <sup>16</sup>	5%	2%	1%
ICO	9%	7%	7%
CCO	33%	25%	20%
CSO	3%	1%	1%
CRO with conviction	6%	6%	4%
CRO without conviction	2%	12%	13%
Fine	14%	24%	34%

<sup>15</sup> For JAS suspects/defendants, a guilty finding was inferred from the outcomes recorded by JAS against the associated case. A case with one or more of the following outcomes recorded was classified as a guilty finding: Fine, Section 10, Section 20bq, Undertakings given, AVO order made, Conditional release order, with or without conviction recorded, Community corrections order, Intensive corrections order, Imprisonment, Juvenile good behaviour bond, Juvenile suspended sentence, Juvenile detention, Community supervision, Youth caution.

<sup>16</sup> Youth conviction is an aggregated category that includes juvenile good behaviour bonds, juvenile probation, juvenile suspended sentences, juvenile detention, and youth cautions.

Figure 10: Distribution of offence categories for JAS suspects/defendants with finalised court cases compared to the distribution for all NSW defendants with finalised court cases in 2019. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



Section 32 of the *Mental Health (Forensic Provisions) Act 1990* allows for a magistrate to make a non-custodial order in relation to persons with cognitive impairment and the support services required to demonstrate a 'treatment plan' is in place. Legal counsel, with JAS support in accessing supports for the client, or an accused person representing themselves, can pursue a section 32 order. Of the cases for JAS suspects/defendants closed during the evaluation data period, 12.1% of these cases were diverted with a section 32 order. It was estimated that the comparable figure for defendants with a cognitive impairment without JAS support is approximately 5%-6% based on previously published estimates for the prevalence of cognitive impairment in court defendants and the use of section 32 orders. This suggests that JAS is being successful in promoting the use of section 32 orders where appropriate for suspects/defendants, a theme that was also found in the qualitative research.

Qualitative consultation suggested that application of section 32 appears to be highly variable and dependent on the magistrate, with some courts seen as not granting these as often as others. One explanation put forward by one experienced lawyer was that some magistrates were tired of seeing section 32 applications abused. Participants noted that there are magistrates who 'hear' applications under section 32 but seldom use it to make orders, whereas others did make orders under the section:

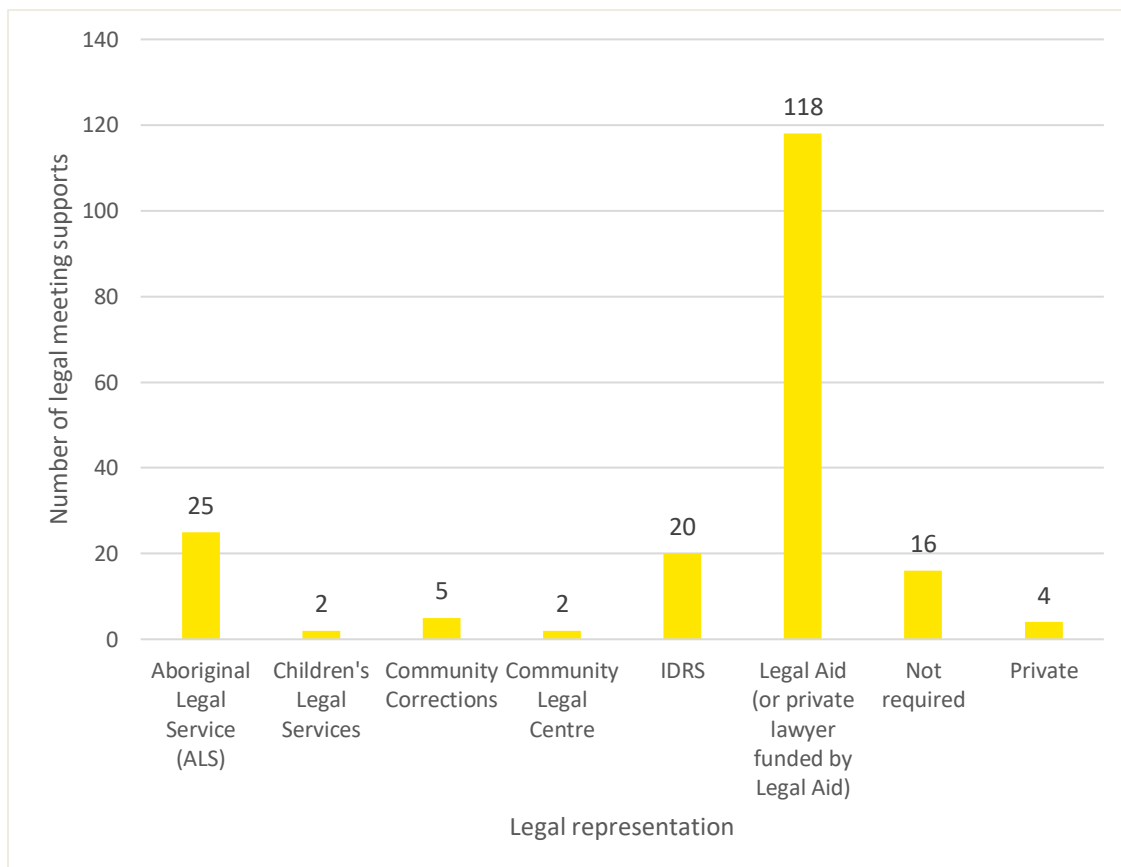
*"I think that some magistrates who, you know, you hear offhand from solicitors and other legal personnel that a particular court never gives a Section 32 ever, which is pretty disheartening for us... I think with some courts, you say, "Okay. Well, we're obviously going to, you know, the instructions is to apply for a Section 32." The legal rep is doing it and you're doubtful if that's going to happen. So yeah, that can be a barrier as well. They deny it sometimes, yeah, even though there's a huge amount of evidence for that application... It will often be that the treatment plan isn't adequate, so the treatment plan doesn't adequately, I guess link, to the offending behaviour." (JAS staff)*

Despite differences in utilisation by magistrates, section 32 was a key avenue used by JAS support workers with their clients, with one describing it as a “godsend”. Supporting people with cognitive impairment in legal meetings and conferences/mediations

As seen in Table 6 in Section 3.1.4, legal meeting and conference supports were relatively infrequent compared to other forms of support, with only 200 legal meeting supports and 56 conferencing/mediation supports appearing during the evaluation administrative data analysis period. The evaluation data contains minimal further detail on either of these support types, however qualitative data suggested that these supports were effective when provided.

Figure 11, below, shows the distribution of legal meeting supports across the different organisations providing legal representation to JAS clients. Legal Aid was the predominant provider providing or funding 61% of legal representation.

Figure 11: Distribution of legal meeting supports across the different organisations providing legal representation to JAS clients. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



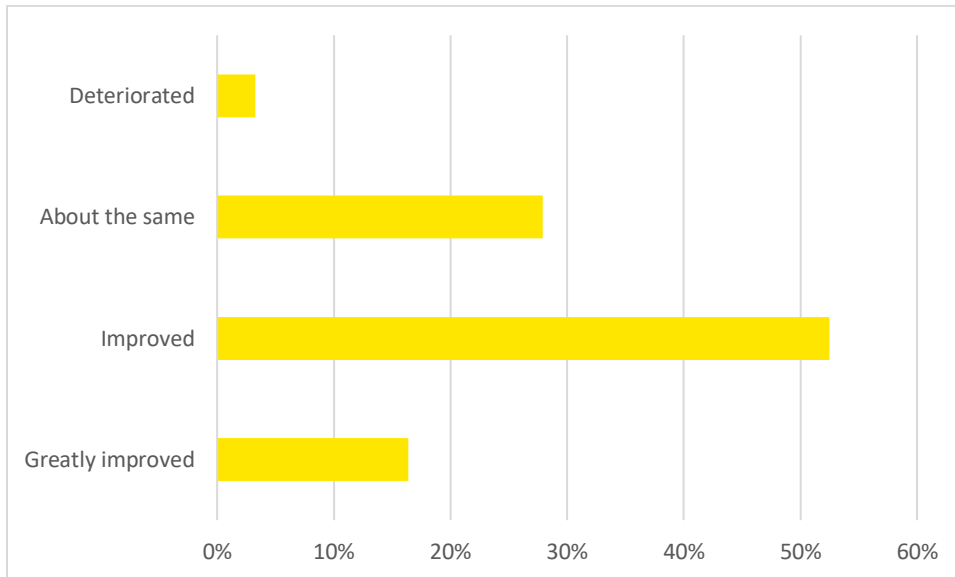
#### 4.1.7 Training and awareness

JAS has a number of relevant Training and Awareness core functions which include:

- ▶ Training for justice agency staff on working with people with cognitive impairment in contact with the criminal justice system
- ▶ Capacity building and peer mentoring for people with cognitive impairment in contact with the criminal justice system

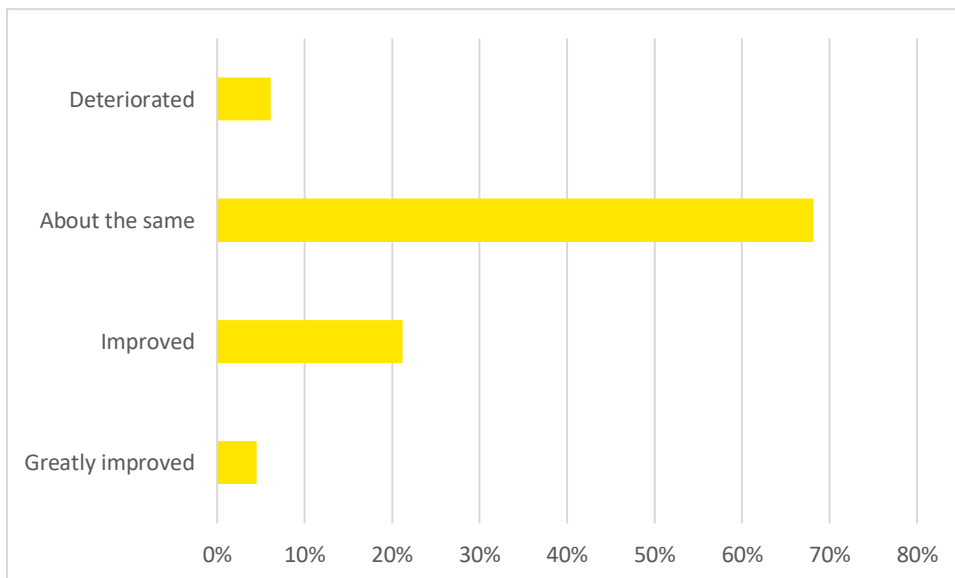
On the issue of knowledge and awareness for those working with people with cognitive impairment, stakeholder surveys indicated that 69% of JAS staff and volunteers believed that the criminal justice system had either improved or greatly improved its approach to people with cognitive impairment over the past year, while 28% thought it was about the same and 3% thought it had deteriorated, as demonstrated in the figure below.

Figure 12: Survey of JAS staff and volunteers, Q19: How has the criminal justice system changed in its response to people with cognitive impairment in the past year?



In comparison, only 26% of non-JAS professionals thought that the criminal justice system had changed in its response to people with cognitive impairment in the past year, with the majority (68%) believing to be about the same, and 6% believing that it had deteriorated.

Figure 13: Survey of JAS stakeholders, Q12: How has the criminal justice system changed in its response to people with cognitive impairment in the past year?



Stakeholders highlighted that many non-JAS professionals in the system do not have the skills in identifying and working with people with cognitive impairment (including police - see section above discussing differential experiences with police and how they deal with people with cognitive impairment). Training of justice agency staff is complex to deliver because it involves raising awareness and competence of many people with specialist training, for example in law or policing, across different organisational structures and cultures:

*“There has been a significant amount of retracing steps and at times lack of willingness from some stakeholders to move forward. The levels of hierarchy and red tape that some agencies have is very complicated to navigate.” (IDRS/JAS staff)*

Following a Training Needs Analysis in May 2020, JAS now has a dedicated Training and Capacity Building team that are currently working with the identified key stakeholders and service delivery partners. IDRS has purchased an online Learning Management System (LMS) which went live on 5 August 2020. The LMS will strengthen capability for the administration, documentation, tracking, reporting, automation, and delivery of internal and external training programs and or learning and development programs.

IDRS reports that implementation of the JAS Capacity Building Strategy for Justice Agencies is progressing and will incorporate the use of eLearning through the LMS as well as contributions to the LMS of various Justice Agencies and a full suite of training packages including content, facilitator manuals and resources. Training demand is increasing significantly as COVID restrictions ease and 2021 training calendars are being actively explored with justice agencies. Further details of training activities can be found in Appendix E. It is likely that this training will support addressing the need identified in the current evaluation to some extent.

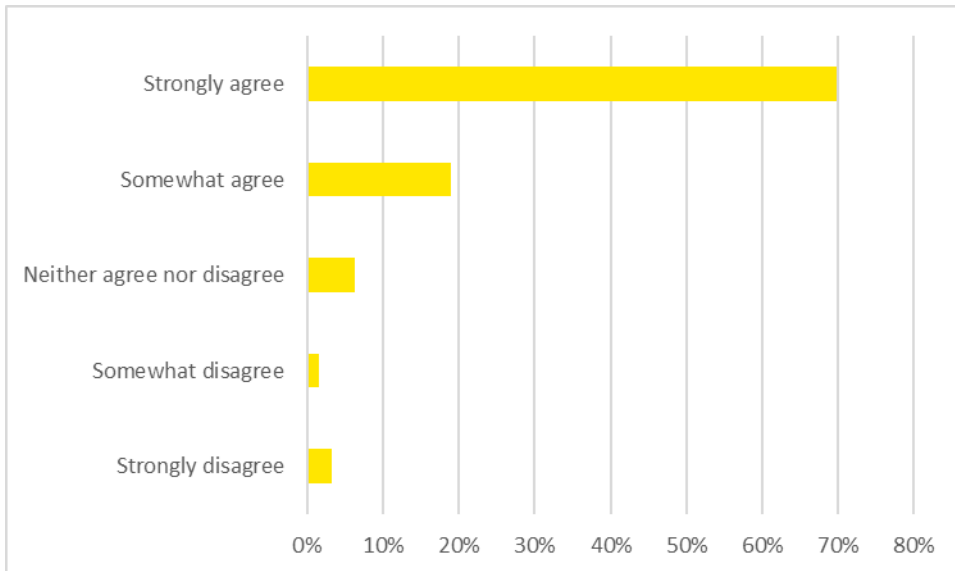
While JAS continues to carry out training activities with justice agency staff and demand has increased given the relaxing of restrictions related to the pandemic, the evaluation identified ongoing training as crucial for building the capacity and confidence of staff across the criminal justice system to support people with cognitive impairment.

#### **4.1.8 Overall outcomes perceived by JAS staff, volunteers and stakeholders**

Overall, both JAS staff and non-JAS professionals believed that JAS supports clients to achieve positive outcomes, though JAS staff and volunteers indicated this belief more strongly than did non-JAS professionals.

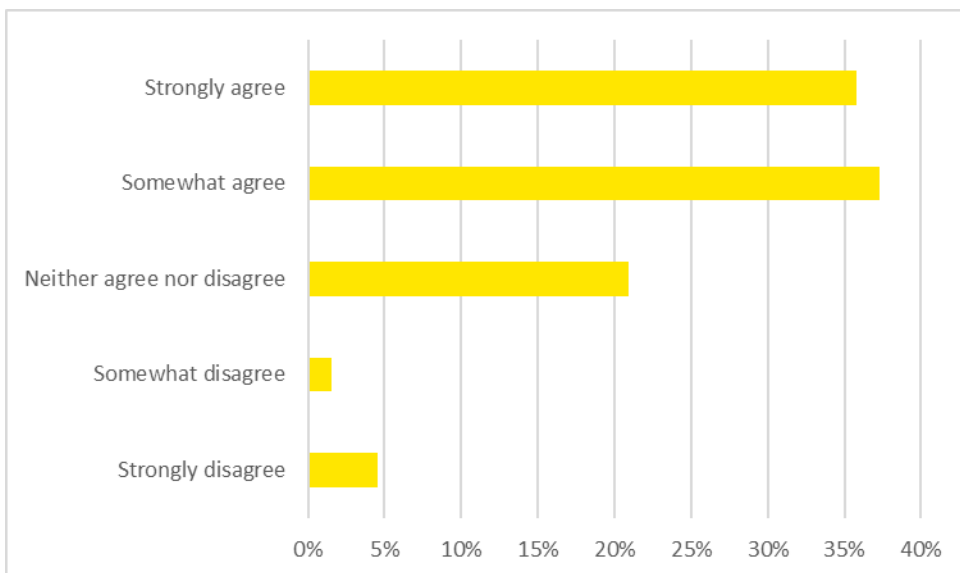
89% of JAS staff and volunteers agreed that JAS enables clients to better express their views and exercise their rights, as shown in the figure below.

Figure 14: Survey of JAS staff and volunteers, Q7: JAS enables clients to better express their views and exercise their rights.



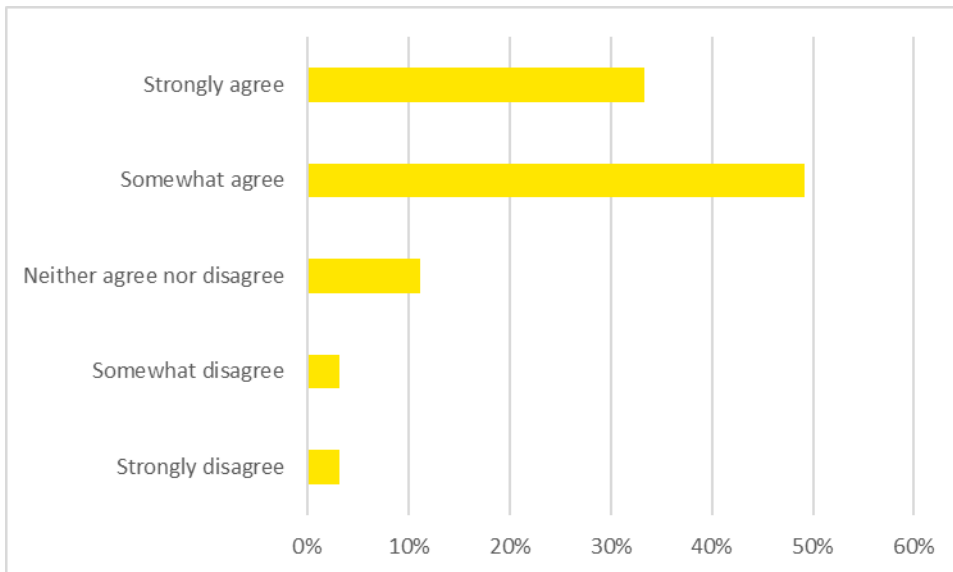
Similarly, 73% of non-JAS professionals strongly agreed or somewhat agreed that JAS enables clients to better express their views and exercise their rights, as shown in Figure 15.

Figure 15: Survey of JAS stakeholders, Q9: JAS enables clients to better express their views and exercise their rights.



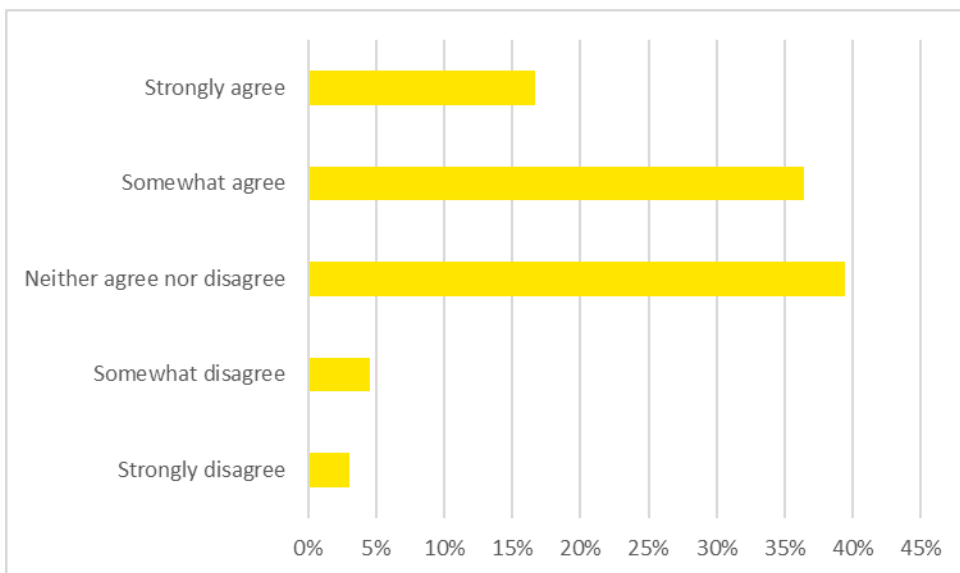
Approximately 55% of JAS staff and volunteers strongly agreed or somewhat agreed that other services work well with JAS staff and volunteers so that JAS clients can access the other services that they need, as demonstrated in the figure below.

Figure 16: Survey of JAS staff and volunteers, Q8: Other services work well with JAS staff and volunteers so that JAS clients can access the other services that they need.



Similarly, 53% of non-JAS professionals stated that they either somewhat or strongly agreed that other services work well with JAS support persons and JAS clients can access the other services that they need, as shown in Figure 17.

Figure 17: Survey of JAS stakeholders, Q10: Other services work well with JAS support persons and JAS clients can access the other services that they need.



Qualitative evidence suggested that JAS staff and volunteers believed that JAS was most effective in achieving the following goals for defendants:

- ▶ Helping clients exercise their rights, including the right to silence and having adjustments made
- ▶ Helping clients feel supported

- ▶ Helping clients understand legal advice

They also believed that JAS was most effective in achieving the following goals for witnesses and victims of crime:

- ▶ Helping clients feel supported
- ▶ Helping clients appear in court
- ▶ Helping clients exercise their rights, including having adjustments made
- ▶ Helping clients have their voices heard

#### 4.1.9 Overall outcomes perceived by JAS clients

IDRS attempts to contact all JAS clients shortly after their case has been closed to conduct an exit survey. This exit survey provides a good assessment of JAS client's perspective on the outcomes that the JAS service is delivering. IDRS is able to successfully contact around 40% of clients to participate in the exit survey.

Figure 18, below, summarises the responses to the multiple choice questions in the JAS exit survey. The responses to the six multiple choice questions are almost uniformly positive. This indicates that JAS clients largely see the JAS service as being effective in how it is delivered ("JAS was easy to use", "My JAS support person treated me with respect", "My JAS support person listened to me") and in the immediate outcomes it provides to JAS recipients ("My JAS support person helped me understand my legal problem", "My JAS support person helped me to get what I wanted", "My JAS support person helped me to understand my rights").



Figure 18: Responses to multiple choice questions on the JAS exit survey

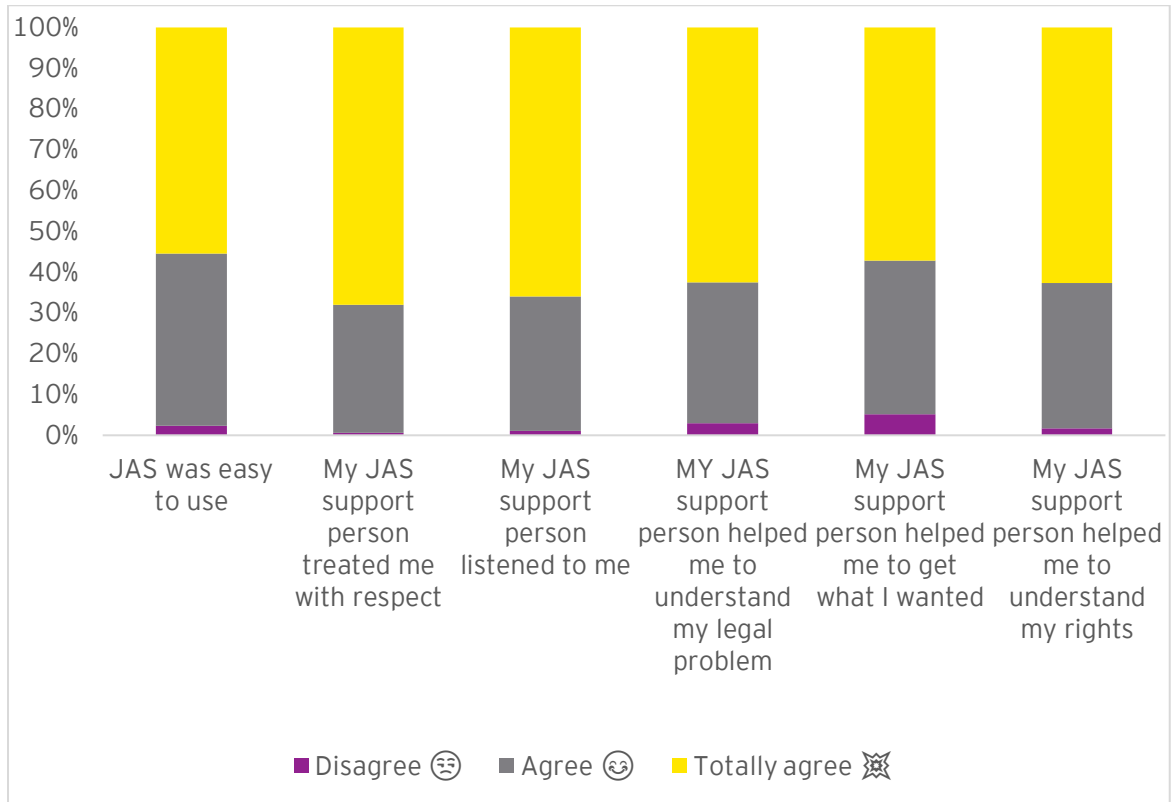


Figure 19, below, summarises the responses to the first open ended response question in the exit survey, “How much difference did JAS make to your outcome?”. The results are presented categorised by evaluator assessment of whether the sentiment in the response was positive, negative or mixed and split by age group. Consistent with the Likert-item findings, the pattern is overwhelmingly positive, suggesting that JAS clients feel that the service has a significant impact on the outcomes they have in dealing with the criminal justice system. A slight trend was noted towards negative responses with increasing age, which is likely to relate to perception on outcomes and may be correlated with multiple interactions with the criminal justice system for older clients.

Figure 19: Responses to open ended question “How much difference did JAS make to your outcome?”, by age and our assessment of whether the response was overall positive, negative or mixed in sentiment

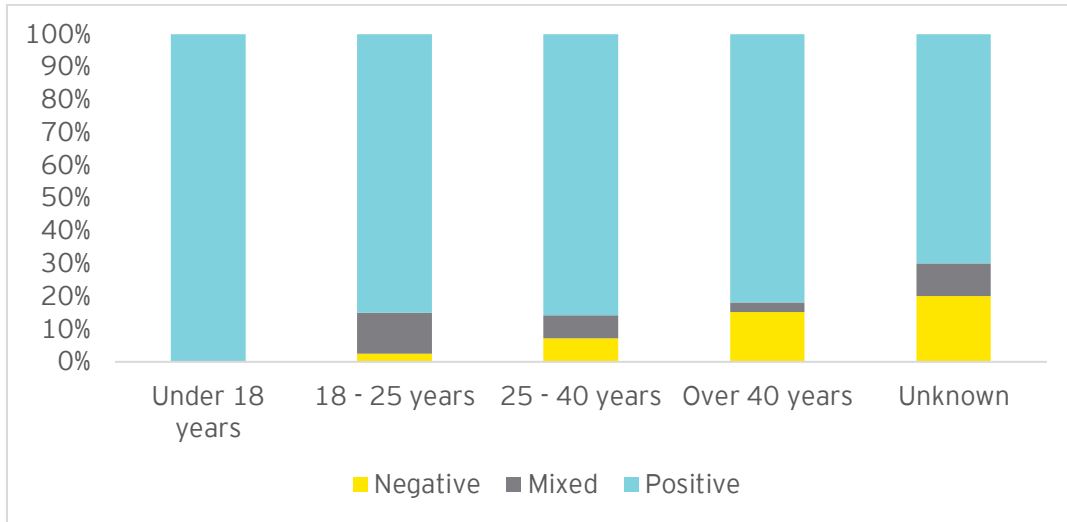
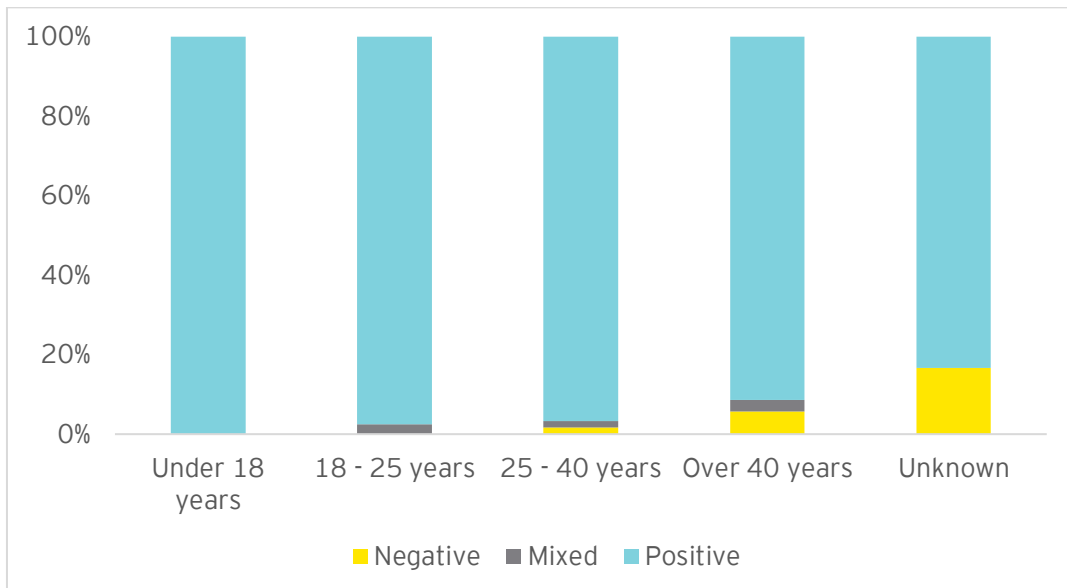


Figure 20, below, summarises the responses to the second open ended response question in the exit survey, “Did you get the help you needed from JAS?”. The results below are presented categorised by the evaluator’s assessment of whether the sentiment in the response was positive, negative or mixed, and are presented split by age group. Once again, the pattern is overwhelmingly positive, suggesting that JAS clients feel that the service has been able to provide the help required. A slight trend towards negative responses with increasing client age was also observed in this item.

Figure 20: Responses to open ended question “Did you get the help you needed from JAS?”, by age and our assessment of whether the response was overall positive, negative or mixed in sentiment



In addition to assessing the overall sentiment in the open ended questions via categorisation, the evaluation team reviewed the free-text responses to identify common themes. A large number of clients referenced the various types of support that JAS was able to provide:

- ▶ Assistance with logistics - transport, bail, etc
- ▶ Emotional support
- ▶ Legal support
- ▶ Support understanding the process
- ▶ Support providing solutions, options
- ▶ Support communicating at court
- ▶ Support to achieve a section 32 order
- ▶ Support accessing other services such as NDIS and health services.

There were also a number of comments that related to the provision of legal advice. Some respondents indicated that they felt their JAS support person provided them with suitable legal support, while others found that their support people didn't necessarily understand enough of the legal context or weren't able to provide the advice desired.

The holistic, wrap-round support of JAS was discussed by clients at interview. This regionally-based JAS client had left a difficult situation in the town and articulated the various ways in which JAS had assisted:

*"Like just I've been an alcoholic and she's helped me with that one too, you know? So man. She is a lifesaver that girl. Honestly. Honestly, she is a lifesaver. Yep. So yeah, and I was seriously thinking about doing myself in. [His living situation] It is like a granny flat at the back of like the [house]. And I'm out of town and like - yeah. Which is good. And she helped me with that shit too." (JAS client)*

He also explained that without the support of JAS, he believed that he would have ended up in gaol.

*Facilitator: "So in terms of what happened with the court case, do you think the - I don't know what the result was but do you think it could have been worse?"*

*Interviewee: "Oh, way worse. Way worse. I could be inside living the stripy sunlight right now, you know?"*

#### 4.1.10 Overall societal benefits perceived by stakeholders

Interview and focus group participants were almost unanimously positive about the societal benefits of JAS; this was consistent across magistrates, lawyers and NGOs, as well as the JAS workers/volunteers. Participants and JAS clients gave anecdotal accounts of better outcomes for JAS clients. These included:

- ▶ Getting the support for a client in place such that a section 32 order could be made by showing there were supports in place, thus diverting the person from a custodial sentence;
- ▶ Explaining bail conditions or conditions of a court order such as an AVO, so that the client understood what the order meant and what a breach of the order was, and the likely consequences;
- ▶ Empowering clients to plead not guilty if they believed they should do so;

- ▶ Providing practical and emotional support to clients which facilitated court appearances, and kept the client calm;
- ▶ Assisting clients to find housing options;
- ▶ Referring clients to support services to allow their lives to change for the better in the longer term.

Quantifying many of the benefits provided by JAS as discussed by stakeholders is explored in the CBA presented in the following section of this report.

## 4.2 Were better outcomes achieved at different locations and/or regions?

Table 15, below, compares a number of metrics and outcomes related to JAS across the different police regions that the JAS offices are located in. The pattern of supports, cases and clients is roughly the same across each region, with obvious variations in the volume of support provided in different regions.

The mix of different client types follows the same basic pattern, with the majority of clients being suspects/defendants and very few clients being witnesses. It is notable that the percentages presented herein sum to more than 100, due to the fact that clients who are victims in one case are at times also be suspects/defendants in other cases. It can be observed that the South West Metropolitan police region has a noticeably higher proportion of JAS clients who are victims than other regions.

Considering the pattern of different support types by region, patterns of support provision were generally similar across regions. The South West Metropolitan region and Central Metropolitan region stand out as having slightly different profiles from that of other geographies. These two regions both had a lower proportion of court supports and a higher proportion of police supports evident during the evaluation period. In addition, the South West Metropolitan region had the highest proportion of legal meeting supports. It is notable that these were also the regions where JAS victims and witnesses were reported in survey data as feeling least able to adequately tell their story.

The pattern of guilty verdicts and use of section 32 orders varies quite substantially between each police region. This may reflect the diversity of cases in different regions, but does suggest that further investigation of the causes may be warranted, particularly when taken in light of qualitative feedback on variable use of section 32 presented previously.

*Table 15: Selected outcomes and measures by police region based on the office location managing the JAS case. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

Measure / Outcome	Metropolitan Police Regions			Regional Police Regions		
	Central	North West	South West	Northern	Western	Southern
Number of supports	424	344	250	623	590	257
Number of cases	142	112	60	165	163	73

Number of clients	107	74	44	128	118	64
Proportion of clients who are suspects/defendants	97%	100%	80%	92%	91%	94%
Proportion of clients who are witnesses	2%	1%	0%	1%	2%	0%
Proportion of clients who are victims	10%	5%	23%	13%	14%	8%
Proportion of supports that are court supports	67%	73%	65%	72%	72%	77%
Proportion of supports that are AVL supports	10%	9%	2%	8%	5%	4%
Proportion of supports that are police supports	16%	11%	15%	10%	10%	11%
Proportion of supports that are legal meeting supports	5%	7%	14%	8%	9%	6%
Proportion of supports that are conferencing /mediation supports	2%	0%	4%	2%	3%	2%
Proportion of police supports for	75%	86%	73%	100%	83%	100%

victims and witnesses where adequately told story						
Proportion of closed suspect/defendant cases with Section 32 order	13%	8%	26%	9%	6%	17%
Proportion of closed suspect/defendant cases with a guilty verdict	48%	35%	53%	48%	34%	61%

Table 16, below, compares a number of metrics and outcomes related to JAS across the different court regions that the JAS offices are located in.

Again, it was observed that the pattern of supports, cases and clients was roughly the same across each region, with some regional variation. The pattern of outcomes, particularly for items on the ability to adequately tell your story to police, the use of section 32 orders, and the proportion of cases with a guilty verdict were again where there is greatest variation between the different regions is observed.

Table 16: Selected outcomes and measures by court region based on the office location managing the JAS case. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.

Measure / Outcome	Court Region				
	Metro	Greater Metro	Hunter/ North	West/ South West	Illawarra/ South
Number of supports	424	594	977	361	132
Number of cases	142	172	262	101	38
Number of clients	107	115	203	75	32
Proportion of clients who are suspects/defendants	97%	92%	92%	91%	94%
Proportion of clients who are witnesses	2%	1%	1%	0%	0%
Proportion of clients who are victims	10%	12%	13%	13%	9%
Proportion of supports that are court supports	67%	69%	72%	71%	80%
Proportion of supports that are AVL supports	10%	6%	7%	4%	3%
Proportion of supports that are police supports	16%	13%	10%	12%	8%
Proportion of supports that are legal meeting supports	5%	10%	8%	9%	9%
Proportion of supports that are conferencing/mediation supports	2%	2%	3%	3%	0%
Proportion of police supports for victims and witnesses where adequately told story	75%	78%	86%	100%	100%
Proportion of closed suspect/defendant cases with Section 32 order	13%	16%	5%	14%	21%
Proportion of closed suspect/defendant cases with a guilty verdict	48%	42%	40%	50%	64%

Supporting the administrative evidence on regional variation, consultation with JAS staff and volunteers indicated that delivery in some remote and regional areas presented challenges, including the availability of other services like health specialists and NDIS:

*“The further west you go, the more remote you are, the more difficult it is to access those services.”  
(JAS staff/volunteer)*

Stakeholders reported that there were often long waiting lists of health/mental health clinicians in some remote and regional areas which impacted on referrals, alongside in court cases whereby a treatment plan needed to be demonstrated when applying for section 32 orders. It is therefore likely that service availability may play a role in the data trends by geography to this end.

JAS staff in remote areas discussed their efforts to reach out to the community and build networks, including relationship building with local Aboriginal organisations. They highlighted a range of challenges:

*“Personally, being out you know, say you were stuck in like Moree or Bourke or something and you gotta pick yourself up, keep that office running, make all your own networks, really hard.” (JAS staff/volunteer)*

Despite these challenges, client demographic data indicates that JAS is supporting the Aboriginal client cohort effectively.

### 4.3 Did outcomes differ across sites?

Table 17, below, compares the proportion of closed cases with a section 32 order and the proportion with a guilty verdict across different types of court. The proportion of cases with a guilty verdict was noted to be higher in the district court compared to the local court. There was relatively little difference in the rate at which section 32 orders were used between the local court and the district court. It was noted that the District Court does not have jurisdiction to make section 32 orders except as part of an appeal from the Local Court. This suggests that JAS is having a similar level of success supporting this option in both types of court. However, as noted earlier in the report, stakeholders have highlighted that the application of section 32 can be dependent on the magistrate at individual courts.

*Table 17: Selected outcomes by court type. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

Court type	Number of cases	Proportion of closed suspect/defendant cases with Section 32 order	Proportion of closed suspect/defendant cases with a guilty verdict
Local court	498	14%	50%
District court	31	13%	63%
Children's court	26	0%	67%
Other	6	0%	0%



Table 18, below, compares the mix of JAS client types across the different NSW remoteness regions. The pattern observed was similar across all regions with the majority of clients being suspects/defendants and the proportion of victims and witnesses being progressively smaller.

*Table 18: Proportion of JAS clients by client type, split by NSW remoteness region. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

Region/ Client type	Suspect/ Defendant	Victim	Witness
Major cities of Australia	94.5%	5.0%	0.5%
Inner Regional Australia	91.2%	7.9%	1.0%
Outer Regional Australia	87.6%	12.0%	0.4%
Very Remote Australia	100.0%	0.0%	0.0%

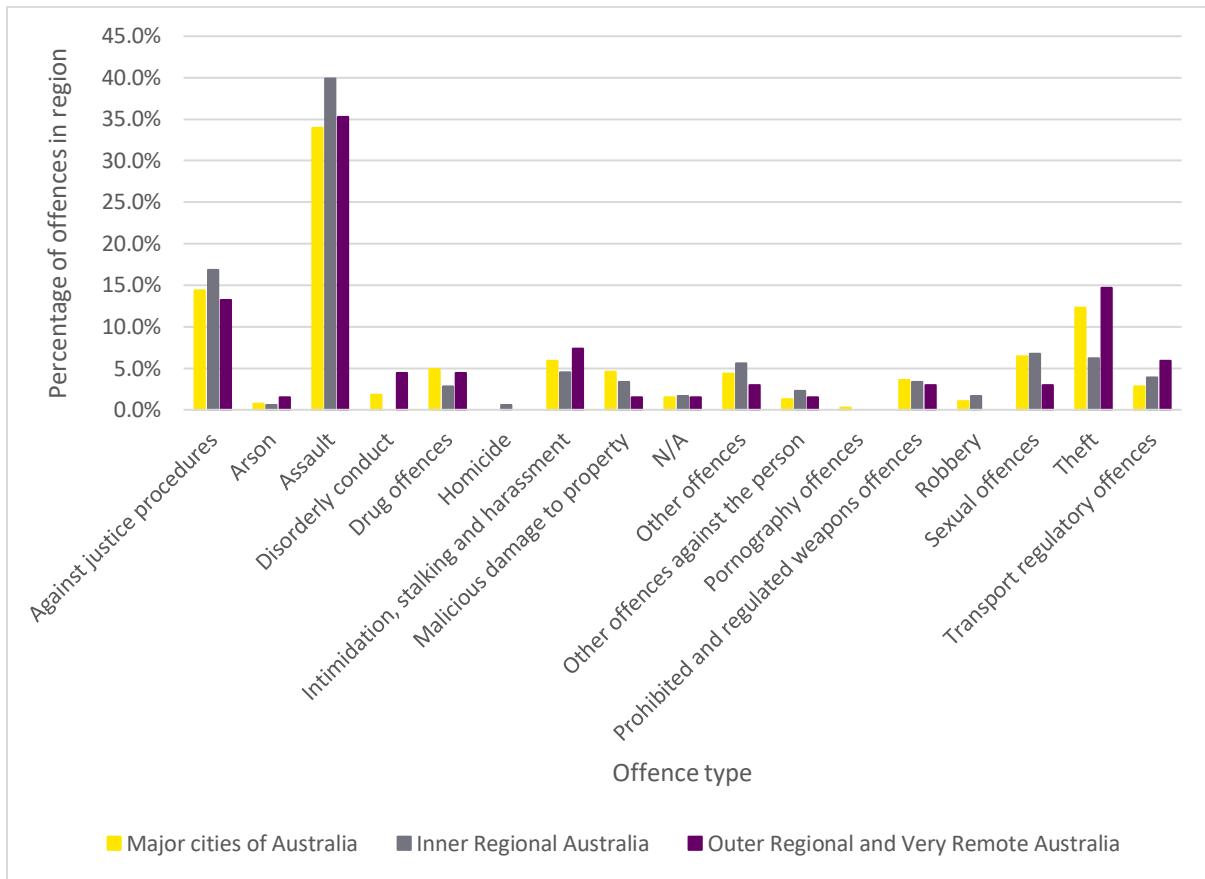
Table 19, below, compares the mix of JAS support types across the different NSW remoteness regions. The pattern observed is relatively similar across most regions, with the exception of “Very Remote Australia”. Within this item, there was a reduction in the proportion of court supports and an increase in the proportion of AVL supports (court supports provided when the suspect/defendant appears via an Audio-Visual Link) and legal meetings. These patterns may be somewhat distorted on account of the relatively small number of supports in this region, but the higher use of AVL supports was consistent with difficulties of travelling long distances to court for these most remote regions that were articulated by some of the JAS staff interviewed.

*Table 19: Proportion of JAS supports by support type, split by NSW remoteness region. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.*

Region/ Support type	Court Support	AVL Support	Legal Meeting	Police Support	Conferencing/Mediation
Major cities of Australia	70%	7%	8%	13%	1%
Inner Regional Australia	71%	7%	7%	9%	5%
Outer Regional Australia	76%	3%	9%	11%	1%
Very Remote Australia	43%	19%	24%	14%	0%

Figure 21, below, provides a comparison across the different remoteness regions of NSW, highlighting the mix of offence types for suspects and defendants receiving support from JAS by remoteness region. While there was some variation, the overall pattern of types of offending was similar across the different remoteness regions, suggesting that the pattern of demand across the regions was likely to be fairly similar.

Figure 21: Proportion of JAS cases for suspects/defendants by offence type and NSW remoteness region. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



## 5. Economic Analysis

The evaluation examined the following economic analysis questions:

- ▶ Did supply meet demand for the service across the state and at various sites?
- ▶ How did the cost of the program compare to the benefits delivered?

The table below summarises the key findings for the economic analysis of the implementation of JAS:

Table 20: Key findings for JAS economic analysis

Evaluation question	Key findings
<p><b>Did supply meet demand for the service across the state and at various sites?</b></p>	<ul style="list-style-type: none"> <li>▶ The supply of JAS services is meeting the current demand across different regions of NSW, with no significant variation in the quantity or quality of service being delivered</li> <li>▶ There is a significant potential demand for JAS services that is not currently presenting to JAS. Should this potential demand be realised through increased awareness of and referral to JAS Services, then it may exceed the current capacity of JAS to provide these services</li> </ul>
<p><b>How did the cost of the program compare to the benefits delivered?</b></p>	<ul style="list-style-type: none"> <li>▶ Considering the value of both financial and non-financial benefits and adjusted for the impact of COVID-19 on case volumes, for every \$1 invested in the program, it is estimated that \$1.11 in return is achieved by JAS</li> <li>▶ If the program was to be delivered at the full capacity of the current JAS staff and volunteer numbers with a broad range of benefits captured, every \$1 invested in the program would deliver \$3.37 in return</li> <li>▶ The economic analysis suggests the benefits to individuals are highest (44%), followed by benefits to government (40%) and benefits to society (16%).</li> <li>▶ The two largest economic benefits were increased efficiency in cases (51%) and reduction in offending (30%)</li> </ul>

## 5.1 Did supply meet demand for the service across the state and at various sites?

As previously discussed within earlier sections of this report, the total potential demand for JAS services is challenging to quantify as there is very limited data available on either the true prevalence of cognitive impairment amongst the population of individuals interacting with the NSW criminal justice system. Further complicating this analysis is the unknown extent to which individuals who are eligible for JAS wish to use its services.

These issues were discussed earlier in section 3.1 where, using a number of different bases, the evaluation suggested that the potential demand for JAS services remains much higher than the level of service actually delivered.

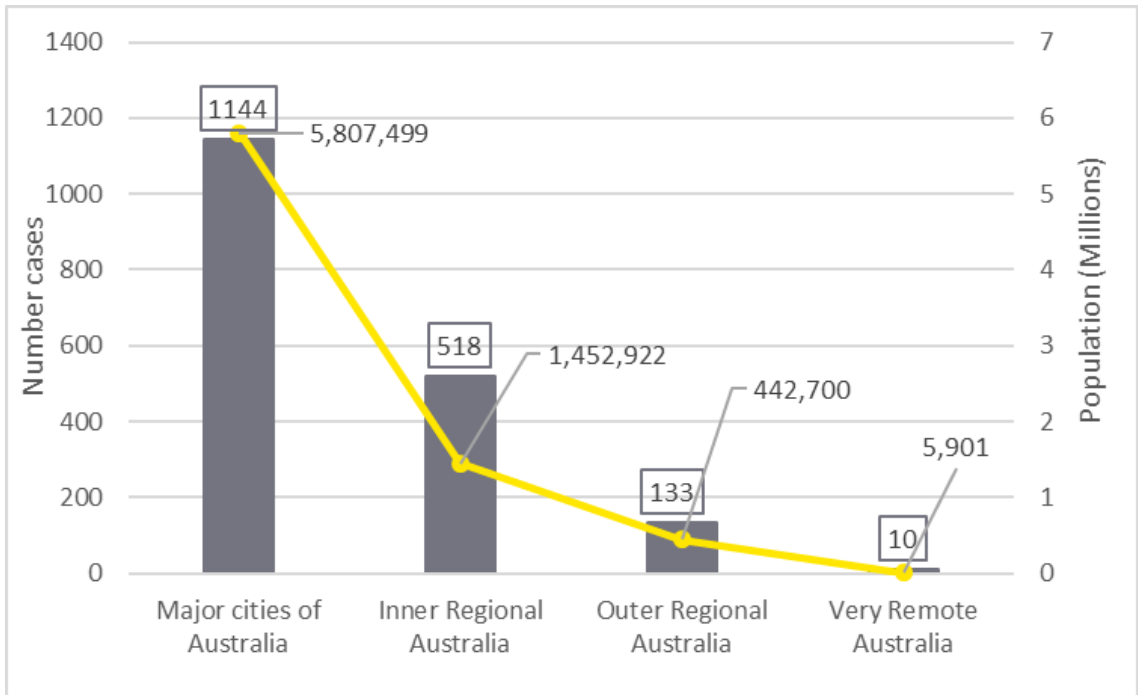
The qualitative research activities provided mixed views on the extent to which supply met demand. Some JAS volunteers indicated that they were not fully utilised and would be able to provide more support than they were currently; this is consistent with evidence that promotion of the service, particularly in some stakeholder groups such as police, would likely increase service activity.

In the absence of information on the true underlying demand, the evaluation has compared the JAS service across different areas in NSW to determine whether a similar quantity and quality of service is delivered across these locations. This analysis revealed minimal difference between regions, suggesting that supply is meeting demand to a similar extent across the different regions.

This consistency in service delivery across regions does not appear to be significantly impacted by the differences in the demographics of JAS clients across these remoteness regions. Only 4% of JAS clients in major cities are young people under 18, but this number grows to 11% in regional and remote areas. Aboriginal people make up an increasing proportion of JAS clients as remoteness increases. Aboriginal people are only 25% of JAS clients in major cities, but they are 42% of JAS clients in Inner Regional Australia, 66% of JAS clients in Outer Regional Australia and 75% of clients in Very Remote Australia. JAS clients from a cultural and linguistically diverse background made up 9% of JAS clients in Major Cities of Australia and 6% of clients in Inner Regional Australia, but were not present in the more remote regions.

Figure 22, below, compares the number of cases supported by JAS between October 2019 and August 2020 with the underlying population, grouped by remoteness regions in NSW. The two series show a similar trend, with the number of cases supported per head of population being highest in inner and outer regional Australia. This finding suggests that the more remote areas of the state are receiving an equivalent, if not increased, level of service than are the major metropolitan areas.

Figure 22: Number of JAS cases and population by NSW remoteness region.



Overall, as discussed in Section 3.2.2, JAS appears to be meeting the current demand for supports. While there was a small percentage of supports that were cancelled by JAS earlier in the evaluation data, this dropped to near zero in March 2020. This data suggests that JAS is now operating at a level where it has the capacity to meet the current demand for supports, noting that the implementation hurdles discussed previously suggest that additional capacity may be achievable as the service implementation continues to gain momentum.

Figure 23, below, investigates the trends around the fraction of JAS support activities that happen as planned across the different remoteness regions in NSW. While there was clearly a substantial difference in the volume of supports being provided in each region, the proportion of supports that occur in each region was largely consistent. This indicates that the service was delivering a consistent quality of service across the different geographic remoteness areas.

Figure 23: Proportion of JAS support activities that happened as planned by NSW remoteness region.

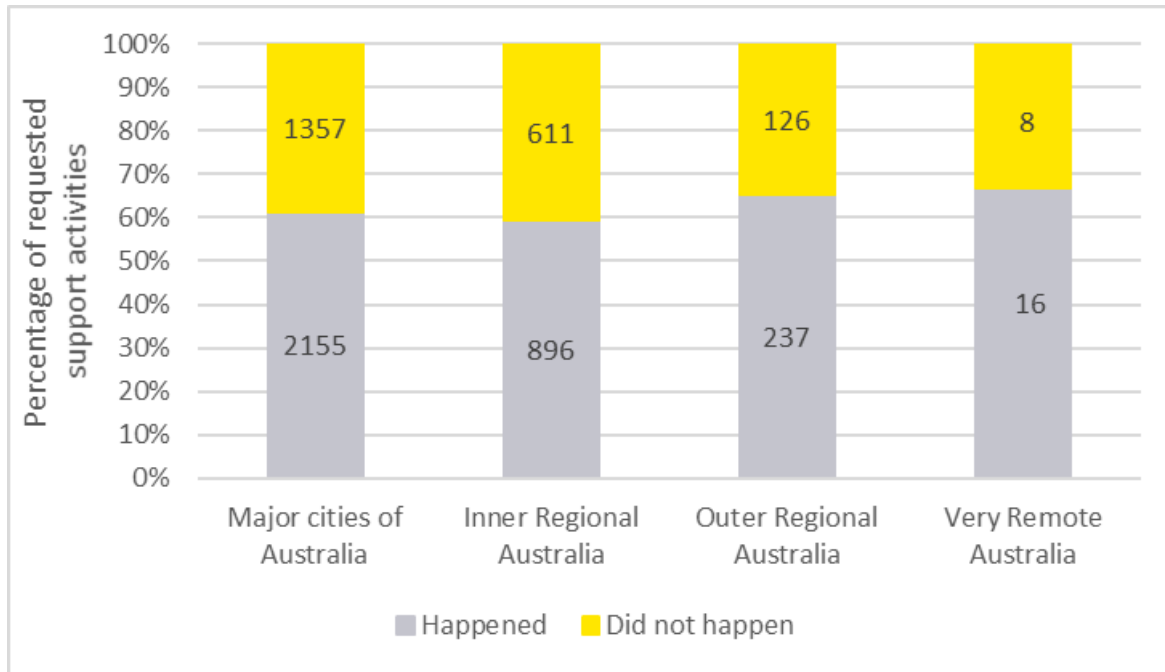


Table 21, below, compares the mix of JAS supports by client types across the different NSW remoteness regions. The pattern observed was similar across all regions with the majority of supports being for suspects/defendants and the proportion of supports for victims and witnesses being progressively smaller.

Table 21: Proportion of JAS supports by client type, split by NSW remoteness region. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.

Region/ Client type	Suspect/ Defendant	Victim	Witness
Major cities of Australia	94.5%	5.0%	0.5%
Inner Regional Australia	91.2%	7.9%	1.0%
Outer Regional Australia	87.6%	12.0%	0.4%
Very Remote Australia	100.0%	0.0%	0.0%

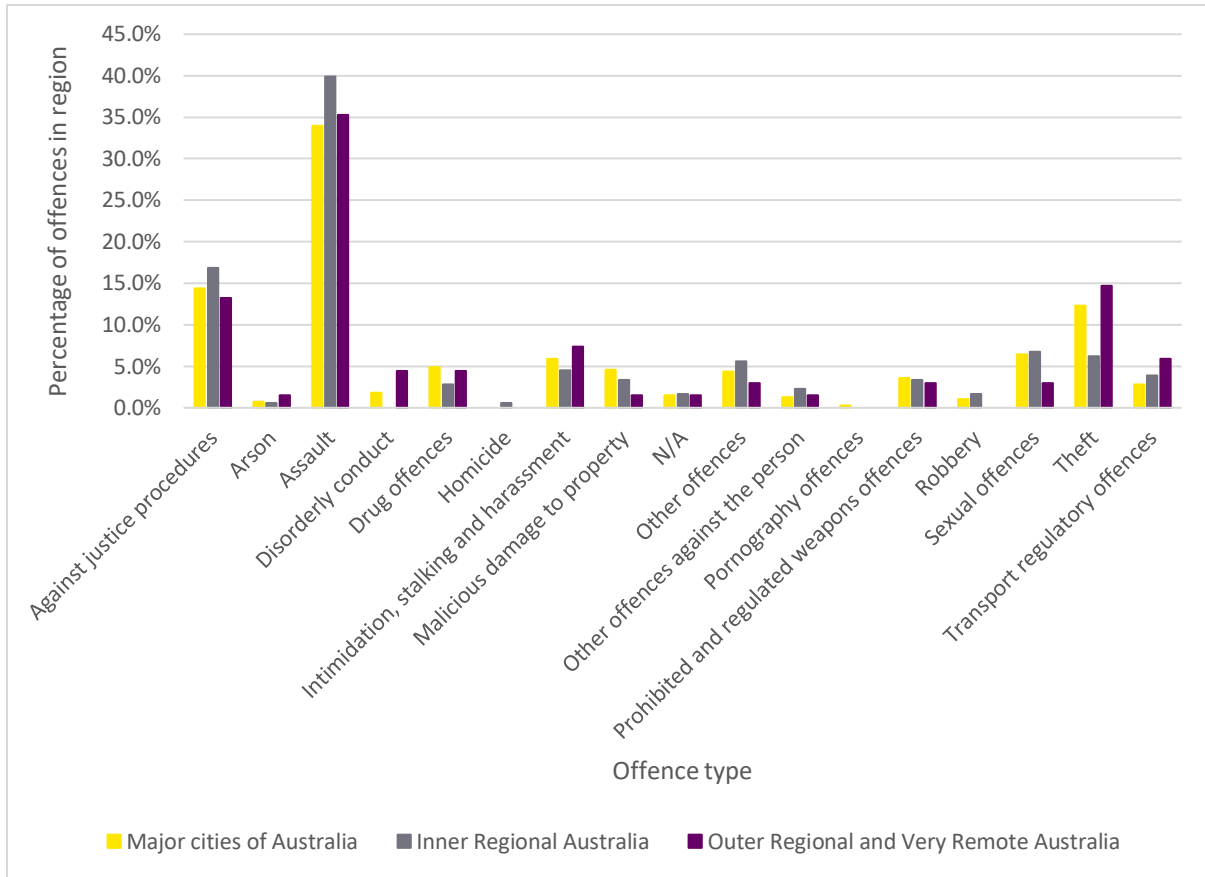
Table 22, below, compares the mix of JAS support types across the different NSW remoteness regions. The pattern observed was relatively similar across most regions, with the exception of "Very Remote Australia". In this category, there was a reduction in the proportion of court supports and an increase in the proportion of AVL supports and legal meetings. While these patterns may have been somewhat distorted on account of the relatively small number of supports in this region, the higher use of AVL supports was consistent with qualitative evidence around the difficulties JAS staff face in travelling to court for these most remote regions.

Table 22: Proportion of JAS supports by support type, split by NSW remoteness region

Region/ Support type	Court Support	AVL Support	Legal Meeting	Police Support	Conferencing/Mediation
Major cities of Australia	70%	7%	8%	13%	1%
Inner Regional Australia	71%	7%	7%	9%	5%
Outer Regional Australia	76%	3%	9%	11%	1%
Very Remote Australia	43%	19%	24%	14%	0%

Figure 24, below, provides a comparison across the different remoteness regions of NSW, showing the mix of different offence types for suspects/defendants receiving support from JAS by remoteness region. While there was some variation noted, the overall pattern of types of offending was similar across the different remoteness regions, suggesting that the pattern of demand across the regions was likely to be fairly similar.

Figure 24: Proportion of JAS cases for suspects/defendants by offence type and NSW remoteness region. Excludes data from individuals who did not consent to sharing their data with the JAS program evaluator.



## 5.2 Did the program’s benefits exceed its costs?

The evaluation team performed a Cost Benefit Analysis (CBA) of the JAS program using the data available at the time of the evaluation. CBAs, whilst useful, have limitations when used for assessing programs like JAS, and the following aspects should be considered when using the results of this analysis:

- ▶ The program is still in its infancy, with ongoing implementation anticipated as previously described, and as such it is likely that the benefits of the program will evolve over time
- ▶ The JAS program provides benefits that were not quantifiable at the time of the analysis and some of these benefits may not ever be able to be quantified. Although these benefits have not been quantified, they are nonetheless real, and should be considered in addition to the CBA in any decision making. Specific benefits that we have noted that were not able to be quantified include:
  - ▶ Benefits arising from the training delivered by JAS
  - ▶ Improved wellbeing for victims of crime supported by JAS



The tables below show the results of the CBA for four scenarios and also a low-end, best estimate and upper-end BCR for each scenario. The low-end and upper-end show the expected range the total benefits under each scenario measured.

The scenarios which were considered within the calculation of the CBA are described in further detail below:

Table 23: CBA scenarios

Element	Volume	Benefits considered
Current state as evaluated	▶ Per JAS case data presented from October 2019 to August 2020, and converted to an annual volume	▶ Direct benefits of the program only
Correction for reduced capacity due to COVID-19	▶ Per JAS case data presented from October 2019 to August 2020, excluding cases with supports in April and May 2020, converted to an annual volume	▶ Direct benefits of the program only
Include estimated value of all benefits	▶ Per JAS case data presented from October 2019 to August 2020, excluding cases with supports in April and May 2020, converted to an annual volume	▶ All benefits of the program
Increase number of clients service to limits of currently funded activity	▶ Per JAS case data presented from October 2019 to August 2020, excluding cases with supports in April and May 2020, converted to an annual volume multiplied by 50% to represent full capacity of the program	▶ All benefits of the program

The economic appraisal results are based on the following key inputs:

- ▶ BOCSAR criminal court statistics
- ▶ BOSCAR re-offending statistics
- ▶ JAS recipient outcomes data
- ▶ Report of Government Services

The total two year delivery costs inclusive of start-up costs of the JAS program are \$9,744,992 exclusive of GST. The start-up costs account for a small proportion of JAS' total two year costs and are considered as a necessary costs to establish the program. They have been excluded from the CBA presented herein, as they will not be incurred again in subsequent years. As a result, the program's annual recurrent costs have been compared against the annual benefits of the program.

The economic methodology adopted in this report is based on a number of underlying assumptions agreed with DCJ. The assumptions and their sources are detailed in Appendix D. The results of this analysis are presented below.

Table 24: Economic results

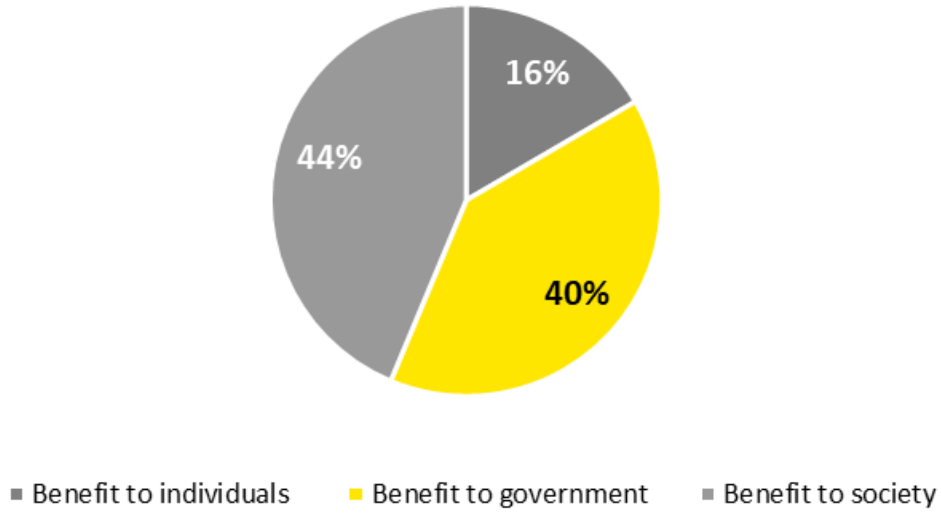
		Low end	Best estimate	Upper end
<b>Annual Cost</b>		<b>\$4,872,496</b>		
<b>Current state as evaluated</b>				
Case volume, as evaluated	Benefit	\$4,562,260	\$4,833,835	\$5,721,786
Directly quantified benefits	BCR	0.94	0.99	1.17
<b>Correction for reduced capacity due COVID-19</b>				
Case volume, corrected for COVID-19	Benefit	\$5,083,542	\$5,417,206	\$6,448,267
Directly quantifiable benefits	BCR	1.04	1.11	1.32
<b>Include estimated value of all benefits</b>				
Case volume, corrected for COVID-19	Benefit	\$5,865,395	\$12,496,207	\$25,759,170
All benefits considered	BCR	1.20	2.56	5.29
<b>Increase number of clients serviced to limits of currently funded activity</b>				
Full capacity volume	Benefit	\$7,655,603	\$16,426,705	\$33,990,268
All benefits considered	BCR	1.57	3.37	6.98

Considering the direct benefits of the program, the economic analysis suggests the program is currently delivering \$0.99 of economic benefits for every \$1 invested into the program. However, due to the outbreak of COVID-19 in NSW, there was a significant dip in the number of in support activities provided in April and May 2020 as previously discussed. An adjusted economic analysis was completed to consider this impact, making a correction for the reduced capacity due to COVID-19. This analysis suggests that the program delivers \$1.11 in economic benefits for every \$1 invested into the program.

There are a number of benefits that JAS delivers that are less directly quantifiable. A scenario was developed to account for these benefits, whereby a best estimate was made to quantify the benefits that will occur due the program but are more difficult to quantify, such as an increase in the number of cases where bail is granted by the court. This analysis suggested the program delivers \$2.56 in economic benefits for every \$1 invested into the program. Furthermore, it is anticipated the program will engage with a wider audience as the program becomes better known and established as previously described. It is expected once the program increases the number of clients it services towards its capacity, the program will deliver \$3.37 in economic benefits for every \$1 invested.

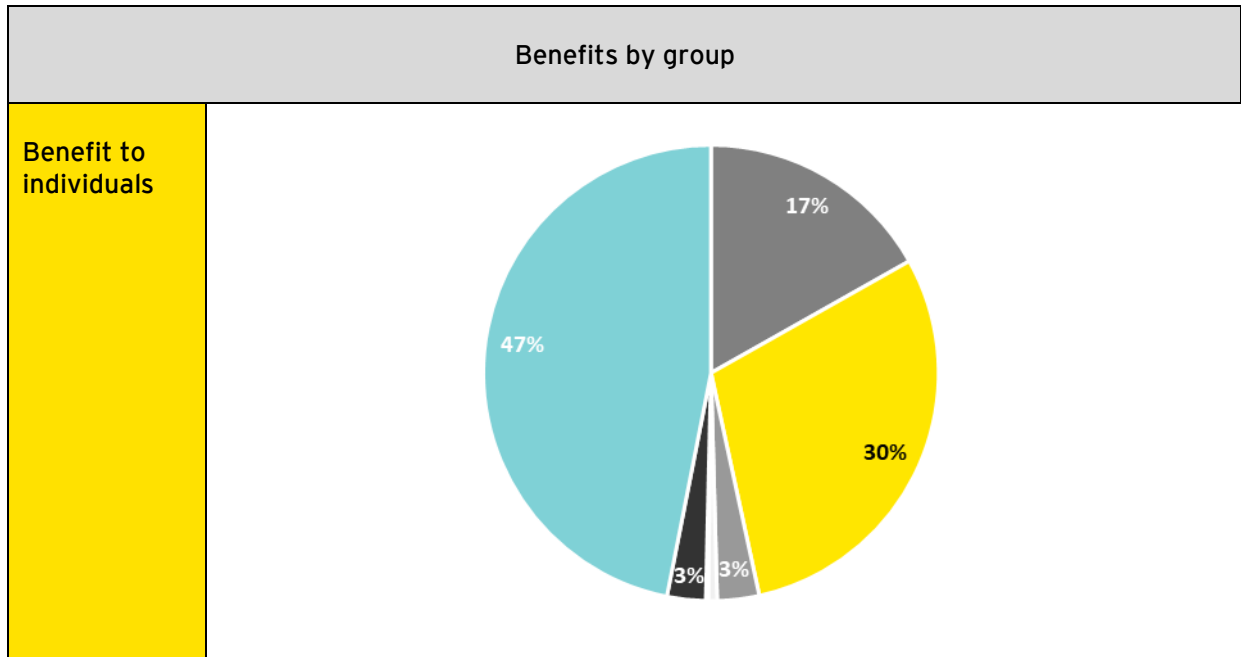
The charts below show the breakdown of all the economic benefits accruing to individual groups and a breakdown benefits.

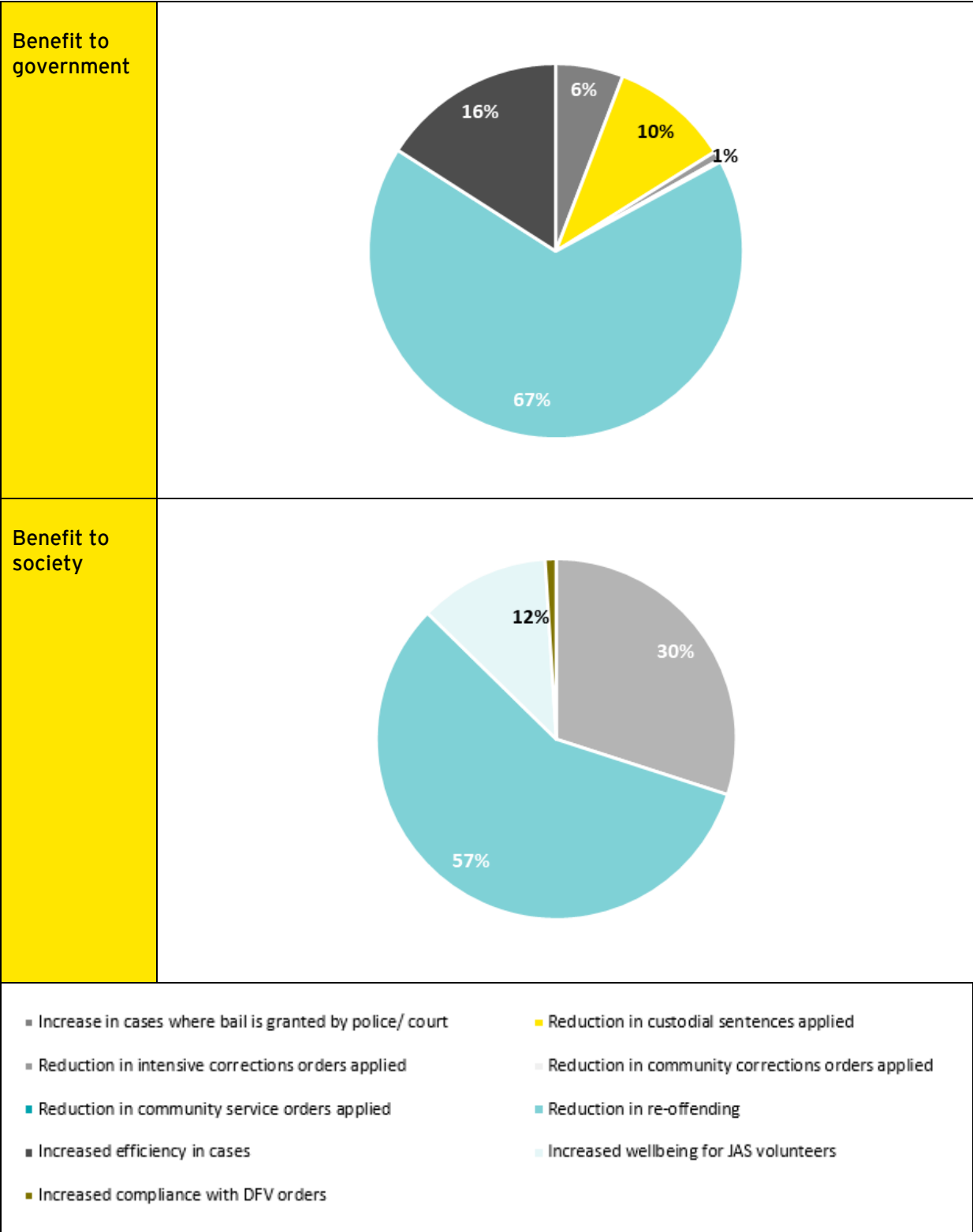
Figure 25: Estimated value of all benefits split by group



The economic analysis suggests the benefits to individuals are highest (44%), followed by benefits to government (40%) and benefits to society (16%). Further detail on what these benefits are comprised of are shown in the key and figure below.

Figure 26: Estimated value of all benefits split by group and benefits





The increased efficiency in cases represents the largest economic benefit is represents 51% of all benefits. It is largely driven by the efficiency gains that arise from having professionals specifically trained to manage matters involving individuals with cognitive impairment. For the stakeholder

groups benefiting from increased efficiency, the benefits accruing to government are the greatest and represent 84% of these benefits.

The reduction in offending represents the second largest economic benefit of the program and accounts for 30% of all benefits. The reduction in re-offending is driven by a 25% reduction of recidivism in suspects. There is a significant economic benefit to individuals, government and society from reduced re-offending. The cost benefit analysis suggests the stakeholder group that benefits the most from reduced re-offending is society. As the program evolves and more data is gathered, the program should target its expenditure towards areas where demand is greatest.

## 6. Conclusion and Key Recommendations

### 6.1 Conclusion

The evaluation has found that JAS is a key component of the NSW criminal justice system. JAS successfully provides support to people with cognitive impairment in contact with the criminal justice system and facilitates change in the justice system itself to better accommodate people with cognitive impairment.

JAS has undergone rapid expansion and is building its client base throughout NSW. The rapid expansion created a number of challenges for IDRS, particularly as the rollout of JAS coincided with both the bushfires and COVID-19. Despite the state-wide roll out of JAS, there remain gaps in the provision of services to people with cognitive impairment. JAS operates in a difficult environment and the response of the criminal justice system to people with cognitive impairment is variable. In particular, responses to JAS by police were found to be particularly variable despite investment in promotion by the service with this cohort. While some police officers were very enthusiastic about JAS, many police officers were reported to have difficulties people with cognitive impairment and referral data alongside stakeholder feedback suggested that police were either unaware of JAS or reluctant to refer clients to JAS.

Despite these challenges, overall the program has successfully developed good networks and referral pathways and has demonstrated an ability to work effectively with other services, particularly Legal Aid and courts. Further work on training and information for the various components of the criminal justice system, in particular police, will support greater knowledge of and engagement with JAS.

The JAS model of combining volunteers with paid staff is an effective approach, offering flexibility of response in different contexts. As the volunteer pool was very diverse, this posed some challenges to IDRS in terms of training and workload for volunteers.

JAS was effective in reaching out to a wide range of people involved in the criminal justice system, and was particularly successful in providing access to Aboriginal people, although further work could be done to facilitate access to this cohort. There remain a significant number of people who would be eligible for JAS but who are not making use of the services. These include witnesses, victims and young people.

JAS was effective in achieving its objectives of helping clients better understand the criminal justice system and their options, and to support diversion from custodial sentences. While JAS has delivered a range of training modules to both staff and justice agencies, there are opportunities for improvement in outcomes through further training opportunities for JAS staff/volunteers and staff in the broader criminal justice system in supporting and interacting with people with cognitive impairment. Overall, JAS clients felt that the service has had a significant impact on the outcomes they have in interacting with the criminal justice system. The positive outcomes were achieved across NSW, however, in some regional areas, this was impacted by local service deficit and challenges relating to building networks in the community.

Overall, the evaluation has found that JAS plays an essential role in ensuring that people with cognitive impairment who are in contact with the criminal justice system are adequately supported within the system, that their rights are upheld and that they are able to understand the process and make appropriate decisions about their involvement. Without a service such as JAS, this population, which is overrepresented in the criminal justice system, is likely to have more intensive involvement in the system, lower rates of diversion from prison and longer sentences. The evaluation has identified some areas of improvement for JAS, but has found that the business

model is appropriate and fit for purpose, and provides a cost-effective approach to achieving the objectives of the program.

## 6.2 Key Recommendations

The evaluation findings highlight a range of areas for strengthening JAS to meet client need. These are presented below in relation to JAS implementation and service model, data and outcomes measurement, as well as systemic factors.

### 6.2.1 JAS implementation

#### 1. A demand study be undertaken to assess the likely unmet demand for JAS services and to inform future investment needs.

The evaluation highlighted the difficulties in establishing true service need within the NSW community. Further investment is necessary to establish a greater understanding of the service user population to enable equity in resource allocation and support more equitable service provision.

Such a study should focus on known underserved cognitive impairment cohorts in the criminal justice system, including witnesses, victims, Aboriginal and Torres Strait Islander people, and children and young people. This demand survey would build on the estimates of population demand presented within the current evaluation to support a more comprehensive understanding of true JAS need.

#### 2. A review of the JAS referrals process be undertaken to identify pathways, referral impediments and opportunities for improvement on a sector by sector basis.

JAS referrals arise from multiple sources with specific issues identified in some referral cohorts. A formal review process which maps referral pathways and identifies current barriers would support JAS access for those with cognitive impairment.

Such a review should encompass both client referrals pathways to JAS, alongside referrals from JAS to other support services, highlighting opportunities for strengthening client supports across the client journey. This review would consider the role of JAS in facilitating client access to external services including housing and homelessness services and other key services for improving client outcomes.

#### 3. DCJ to work with key stakeholder groups to review the current definition of cognitive impairment used in practice.

This would include developing and/or updating agreed definitions of cognitive impairment with key stakeholder groups including Police through drawing on LEPRA, and would influence more consistent use of screening tools for the identification of cognitive impairment in people interfacing with the criminal justice system. Such agreement would enable a more standardised approach to client identification and referral, and support earlier JAS involvement.

#### 4. Development of Memoranda of Understanding (MOUs) or formal agreements with other key services containing guiding principles regarding the respective roles and responsibilities.

In a similar manner to agreed definitions, formalised and well-articulated processes will support clarity with respect of the respective roles in the provision of advice on the criminal justice process and in the provision legal advice. Establishment of clear MOUs with relevant interfacing services, alongside messaging which includes clear articulation of JAS' role, would support both referral processes and role clarity.

#### **5. Develop a specific strategy for building JAS awareness, referral networks and recruitment pathways in regional areas**

This would encompass provision of support to JAS staff and volunteers in relationship building with key stakeholders in their communities of operation to build trust and referral networks. Building recruitment pathways and investment in program promotion is also necessary to address volunteer shortages noted in some regional and rural locations.

#### **6. Targeted investment in promotion of section 32 usage with particular courts and geographic areas.**

The evaluation highlighted that there are particular geographic/court areas with low usage of section 32 where continued targeting of awareness and training efforts would be of benefit to support greater access to legal rights for people with cognitive impairment.

### **6.2.2 JAS service model**

#### **7. Continued investment in development of training and resources for JAS staff and volunteers**

This includes ongoing training and education to support consistent and equitable service provision and outcomes across JAS staff and volunteers, noting that these activities are currently being delivered and expanded by JAS, but that additional support to enable increasing this activity appears warranted by the evaluation findings.

#### **8. Targeted investment in service promotion alongside knowledge and awareness training be delivered to specific key stakeholder cohorts.**

It is recommended that continued efforts to support promotion of JAS are invested in, given the likelihood of additional service need within the community for which referrals are not yet being received. Such unmet demand would be highlighted by the demand study referenced above. Knowledge and awareness promotion efforts should build on the work already being delivered by JAS in this regard, with close monitoring of identification and referral data for the purposes of better targeting and tailoring supports where they are required.

Additional investment in targeted knowledge and awareness campaigns, particularly with police, to ensure adequate knowledge of cognitive impairment and of JAS supports to enable increased referrals will support service uptake. Ongoing targeted promotion of JAS to key justice stakeholder groups working with under-represented JAS client groups, including those specific to young people, witnesses and victims, and Aboriginal people, to support increased referrals and JAS service provision for these client groups, on the basis of the aforementioned demand study outcomes, would also support JAS in expanding target cohort reach.

#### **9. DCJ to lead a review of holistic case management responsibilities and services as they pertain to JAS clients.**

Such a review would encompass review of exceptions in which case management services are currently provided by JAS, noting that these are not current formalised components of JAS, as well as consideration of service gaps (for example, where clients are ineligible for NDIS support). The review would highlight areas of need, providing evidence on service gaps and enable a focus on additional resourcing allocation where necessary to support expansion of JAS to provide these services if the review suggests they are relevant and appropriate for JAS delivery.

### **6.2.3 Data and outcomes measurement**



**10. DCJ to work with BOCSAR and key data custodians to develop administrative data system capacity to better identify and capture indicators of cognitive impairment, enabling ongoing research and evaluation.**

The evaluation navigated a range of hurdles in the ability to identify comparator data which highlighted deficits in the identification and recording of cognitive impairment indicators in administrative datasets. These could be addressed through supporting capacity of administrative datasets to capture relevant indicators to this end.

**11. Invest in additional iterations of JAS evaluation data collection and analysis to explore long-term JAS client outcomes and access to legal rights.**

This would involve developing a set of indicators and methods for measuring the impacts of JAS in improving clients' understanding of their rights in the criminal justice process. Such ongoing analysis should include a range of metrics such as use of section 32 in JAS clients, alongside client-focused measures including assessment of self-reported understanding of legal processes, and the use of validated well-being survey tools to capture short- and long- term outcomes.

Such investment would involve consideration of the development of comparator groups as data collection processes are improved, alongside further efforts to engage with Aboriginal and Torres Strait Islander clients to ensure JAS is supporting their access to legal rights.

## **6.2.4 Systemic factors**

**12. Continued DCJ advocacy to elevate legislative and policy emphasis for issues faced by those with cognitive impairment accessing the criminal justice system.**

There is a need for continued promotion given the need for increased cross-sector awareness demonstrated by the current evaluation, coupled with the absence of direct references to improvement of outcomes for people with cognitive impairment in relevant strategic policies which may be addressed through continued advocacy efforts.<sup>17</sup>

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<sup>17</sup> For example, the absence of specific cognitive impairment outcomes in the NSW Disability Inclusion Action Plan and NSW Premier's Priorities.

## Appendix A JAS Program Logic

Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system									
Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
Suspects/defendants are vulnerable while in police custody <i>*Refer to Program Logic Guide for more details</i>	Ensure that suspects/defendants can exercise their rights in police custody <i>*Refer to guide</i>  Ensure that suspects/defendants can access legal advice via phone while in police custody	Supports for suspects/defendants when in police custody  Legal advice via phone to suspects/defendants in police custody  Training strategy for police is developed  Information for police is developed	A support person is provided in police custody  Legal advice via phone is provided in police custody  Training for police is provided  Information for police is provided	Suspects/defendants receive specialist support while in police custody  Suspects/defendants receive legal advice via phone while in police custody  Police receive training  Police receive information	1. Suspects/defendants use support people while in police custody	1. JAS database: total number of enquiries, total number of referrals, total number of fulfilled referral 2. As above (1)	1. Increased geographical coverage of JAS (across the state of NSW) 2. Increased use of legal advice via phone (across the state of NSW)	1. JAS database 2. As above (1)	Safer communities  Breaking the cycle of reoffending  Effective and efficient resolution of legal disputes Maintain rights and records
					2. Suspects/defendants use legal advice via phone while in police custody				

Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
						ability to exercise their rights following interaction with JAS			
					4. Increased capacity for JAS response (either a support person or referrals for legal advice via phone) including increased enquiries from stakeholders, increased number of referrals made, increased number of fulfilled referrals.	4. As above (1)	5. Increased understanding of their legal matter, including concepts such as AVO, ADVO, bail / bail refused, bail conditions, charged, interview, court proceedings. detained under certain legislation, transferred to another location.	5. Evaluation: survey of people receiving JAS, JAS support staff and stakeholders to determine whether they have increased understanding of their legal matter	

**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
					5. Increased referrals to disability and mainstream services	5. JAS database: number of referrals made to disability and mainstream services	6. Reduced vulnerability while in police custody	6. Evaluation: survey of people receiving JAS, JAS support staff and stakeholders to determine whether vulnerability is reduced	
Victims or witnesses have barriers to reporting crime to police <i>*Refer to guide</i>	Ensure that victims and witnesses can effectively report crime to police	Supports for victims and witnesses reporting crime  Training and recruitment strategy for JAS staff and volunteers is developed  Accessible information for victims and witnesses is developed (website, printed)  Information for stakeholders is developed	Support people provided to victims and witnesses when reporting to police  Staff and volunteers are recruited  Training is provided to staff and volunteers  Accessible information is provided to victims and witnesses  Information is provided to stakeholders	Victims and witnesses receive specialist support when reporting to police  Victims and witnesses receive accessible information  Stakeholders have access to information	1. Victims and witnesses use support people when in contact with police	1. JAS database	1. Barriers that relate to victims and witnesses reporting crime will be reduced	1. Evaluation: survey of people receiving JAS, JAS support staff and stakeholders to determine whether identified barriers have been reduced	
					2. Increased capacity for JAS response	2. As above (1)			
					3. Increased understanding among victims and witnesses about how to report a crime	3. Evaluation: survey of people receiving JAS, JAS support staff and stakeholders to determine whether a victim or witness receiving JAS has an increased understanding about	2. Increased referrals to disability and mainstream services for victims, and where necessary referral to services that can assist with NDIS access and advocacy	2. JAS database	

**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
						how to report a crime			
Victims, witnesses and defendants have barriers to effectively participate in the court process <i>*Refer to guide</i>	Ensure that victims, witnesses and defendants attending court are able to understand and participate in their criminal matter <i>*Refer to guide</i>	<p>Supports for victims, witnesses and defendants attending court</p> <p>Training and recruitment strategy for JAS staff and volunteers is developed</p> <p>Accessible information for victims, witnesses and defendants is developed (website, printed)</p> <p>Information for stakeholders is developed</p>	<p>A support person is provided to victims, witnesses and defendants attending court for criminal matters</p> <p>Staff and volunteers are recruited</p> <p>Accessible information is provided to victims, witnesses and defendants</p> <p>Information is provided to</p>	<p>Victims, witnesses and defendants receive specialist support while attending court</p> <p>Victims, witnesses and receive accessible information</p> <p>Stakeholders receive information</p>	1. Victims, witnesses and defendants use support people while attending court for criminal matters	1. JAS database	1. Reduced number of victims, witnesses and defendants who fail to appear at court	1. JAS database: monitor attendance rates	
					2. Increased participation and understanding among victims, witnesses and defendants when attending court for criminal matters	2. Evaluation: survey of people receiving JAS supports, JAS support staff and stakeholders to determine whether a person receiving JAS has increased participation and	2. Increased number of applications made for a s32 diversion order for defendants	2. NSWPF/BOCSAR data	

Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
			stakeholders			understanding about their criminal matter following contact with JAS			
					3. Increased capacity for JAS response	3. As above (1)	4. Increased client engagement during legal appointments and court appearances	4. JAS database: monitor client engagement (e.g., from start to finalisation of matter)	
				5. Barriers that relate to victims, witnesses and defendants effectively participating in the court process are reduced			5. Evaluation: survey of people receiving JAS, JAS support staff and stakeholders to determine whether identified barriers have been reduced		
				6. Reduce the seriousness of offending			6. JAS database/BOCSA R data		

**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
<p>Victims, witnesses and suspects/defendants have barriers to effectively instruct and communicate with legal representatives  <i>*Only suspects/defendants provide instructions to legal representatives</i>  <i>*Refer to guide</i></p>	<p>Ensure that victims, witnesses and suspects/defendants are able to effectively instruct (suspects/defendants only) and communicate with legal representatives  <i>*Refer to guide</i></p>	<p>Supports for victims, witnesses and suspects/defendants attending legal appointments</p>	<p>Support people provided to victims, witnesses and suspects/defendants attending legal appointments, both at court and in other locations</p>	<p>Victims, witnesses and suspects/defendants receive specialist support while attending legal appointments both at court and in other locations</p>	<p>1. Victims, witnesses and suspects/defendants use support people while attending legal appointments both at court and in other locations</p>	<p>1. JAS database</p>	<p>1. Suspects/defendants have increased ability to provide instructions to legal representatives                   2. Victims and witnesses are able to effectively communicate with their legal representative                   3. Reduce the seriousness and frequency of offending</p>	<p>1. Evaluation: survey of people receiving JAS supports and survey of legal practitioners to assess whether suspects/defendants have increased ability to provide instructions to legal representatives                   2. Evaluation: survey of people receiving JAS supports and survey of legal practitioners to assess whether victims and witnesses are able to effectively communicate with their legal representative                   3. NSWP/BOCSAR data / JAS Database (filter and report on frequency and seriousness of offending)</p>	

**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
					2. Increased understanding among victims, witnesses and suspects/defendants when communicating with legal representatives	2. Evaluation: survey of people receiving JAS supports, JAS support staff and stakeholders to assess whether a person receiving JAS has increased understanding when communicating with legal representatives	4. Increased number of applications made for a s32 diversion orders for defendants	4. NSWPF/BOCSAR data	
					3. Increased capacity for JAS response	3. As above (1)			
Justice agencies need improved knowledge and understanding of victims, witnesses and suspects/defendants with cognitive impairment including how to identify and recognise people with cognitive impairment and	Improved knowledge and understanding among Justice agencies to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them	Training and capacity building for justice agencies on how to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them when they are in contact with the criminal justice system, including the types of supports and services that are available	Training and capacity building strategy developed  Information about JAS is made available to Justice Agencies.	Staff in justice agencies have access to information and training on how to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them when they are in	1. Justice agencies have improved knowledge and understanding of how to identify and recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them	1. Evaluation: pre and post training survey to assess whether Justice agency staff have improved knowledge of how to identify and	1. Improved understanding amongst Justice agency staff to link JAS and other relevant services, supports, legal safeguards, processes and procedures to	1. Evaluation: pre and post training survey to determine the capacity of Justice agency staff to link JAS, and other relevant services, supports, legal safeguards, processes and procedures to the concept of equitable access	



**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
the issues affecting them. This will assist Justice agencies to actively respond to the persons rights and support needs and therefore result in equitable access to the criminal justice system *Refer to guide		Training and capacity building strategy is developed  Information for stakeholders is developed		contact with the criminal justice system, including the types of supports and services that are available	including the types of support and services they require access to	recognise victims, witnesses and suspects/defendants with cognitive impairment and the issues affecting them including the types of support and services they require access to	the concept of equitable access to the criminal justice system for victims, witnesses and suspects/defendants with cognitive impairment  2. Improved capacity and ability for Police to investigate and follow up on crime reported by victims and witnesses with cognitive impairment	to the criminal justice system for victims, witnesses and suspects/defendants with cognitive impairment  2. Evaluation: pre and post training survey to determine the capacity of Police to investigate and follow up on crime reported by victims and witnesses with cognitive impairment	
					2. Justice agencies are able to actively respond to the persons rights and support needs	2. Evaluation: pre and post training survey to assess whether Justice agency staff can actively respond to the persons rights and support needs			
					3. Increased capacity for JAS response	3. JAS database			
Victims, witnesses, suspects/defendants	Victims, witnesses, suspects/defendants and their family members and	Accessible information is developed for victims, witnesses, suspects/defendants	Accessible information is provided to victims,	Victims, witnesses, suspects/defendants and	1. Information is made available (website and hardcopy	1. Project plan to determine whether	1. Victims, witnesses, suspects/defendants	1. Evaluation: survey of people receiving JAS supports to	

**Aim: people with cognitive impairment have effective access to justice and are able to exercise their rights when in contact with the criminal justice system**

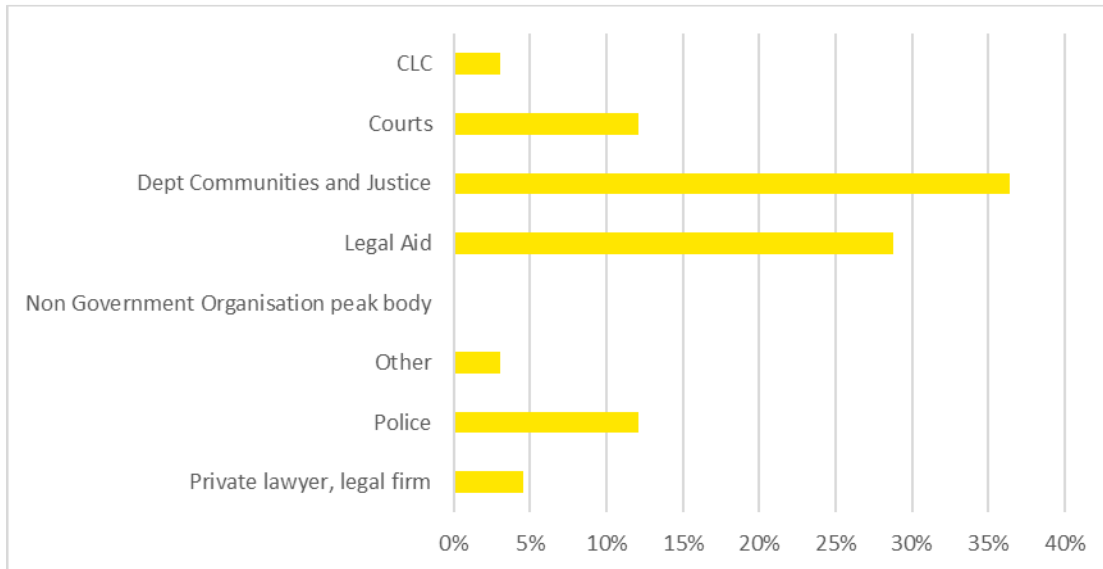
Issue	Objective	Inputs	Activities	Outputs	Short term outcomes (6 months)	Data	Medium term outcomes (18 months)	Data	NSW Govt. state outcomes
and their family members and informal supports need increased understanding of CJS processes, agencies and the types of supports and services that are available	informal supports understand CJS processes, agencies and the types of supports and services that are available	and their family members and informal supports  Capacity building and peer support programs are developed	witnesses, suspects/defendants and their family members and informal supports  Capacity building and peer support programs are provided to victims, witnesses, suspects/defendants and their family members and informal supports	their family members and informal supports receive accessible information  Victims, witnesses, suspects/defendants and their family members and informal supports have access to capacity building and peer support programs that cover the criminal justice system	distribution)	milestone achieved	and their family members and informal supports understand CJS processes, agencies and the types of supports and services that are available	determine whether they have increased understanding about CJS processes, agencies and the types of supports and services that are available to them (e.g., they know that they can access JAS when they get arrested or need to report a crime).	

## Appendix B Survey Results

### JAS Stakeholder Agencies Survey (Full Results)

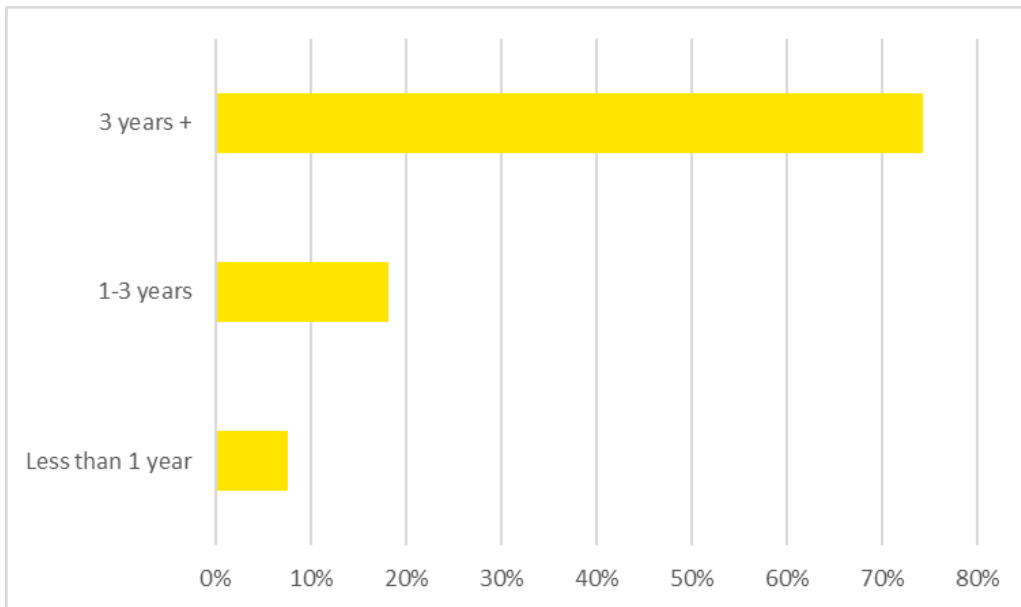
Q1 - Consent

Q2 - What agency do you work for?



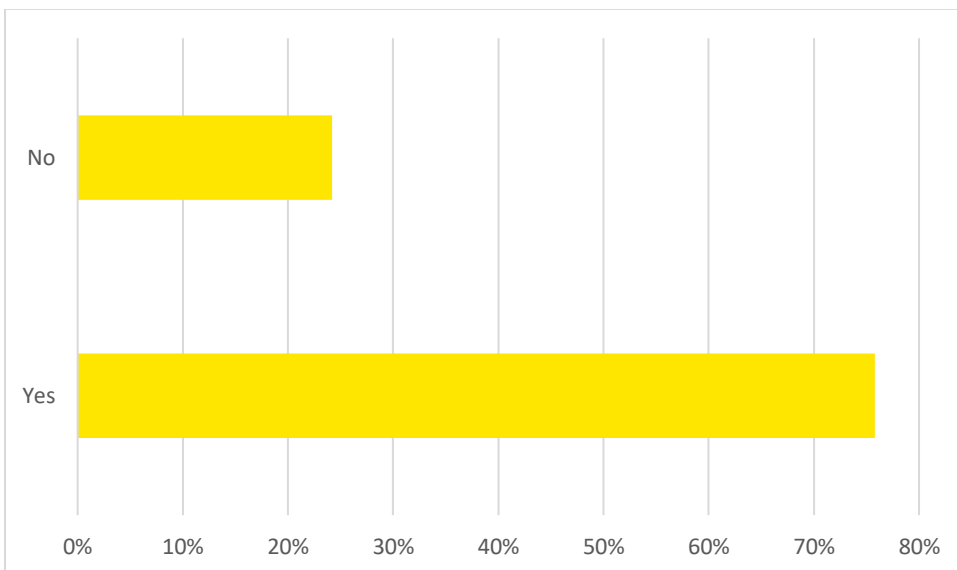
#	Answer	%	Count
1	Dept Communities and Justice	36.40%	24
2	Police	12.10%	8
3	Legal Aid	28.80%	19
4	CLC	3.00%	2
5	Aboriginal Legal Service	0.00%	0
6	Private lawyer, legal firm	4.50%	3
7	Courts	12.10%	8
8	Non-Government Organisation Peak Body	0.00%	0
9	Other	3.00%	2
	<b>Total</b>	<b>100%</b>	<b>66</b>

Q3 - How long have you worked in your current position?



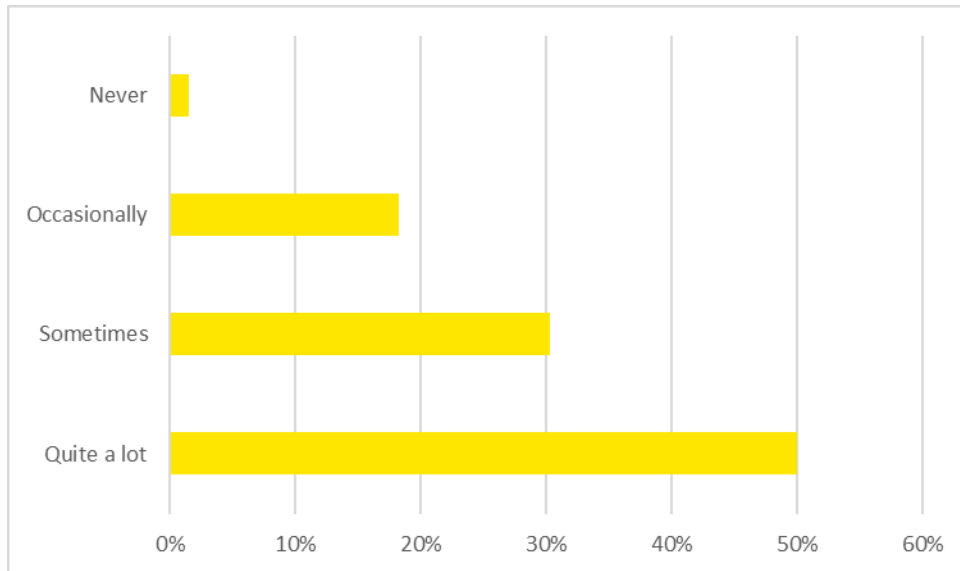
#	Answer	%	Count
1	Less than 1 year	7.58%	5
2	1-3 years	18.18%	12
3	3 years +	74.24%	49
	Total	100%	66

Q4 - As part of your professional development, have you ever undertaken training about the needs of people with cognitive disabilities involved in the criminal justice system?



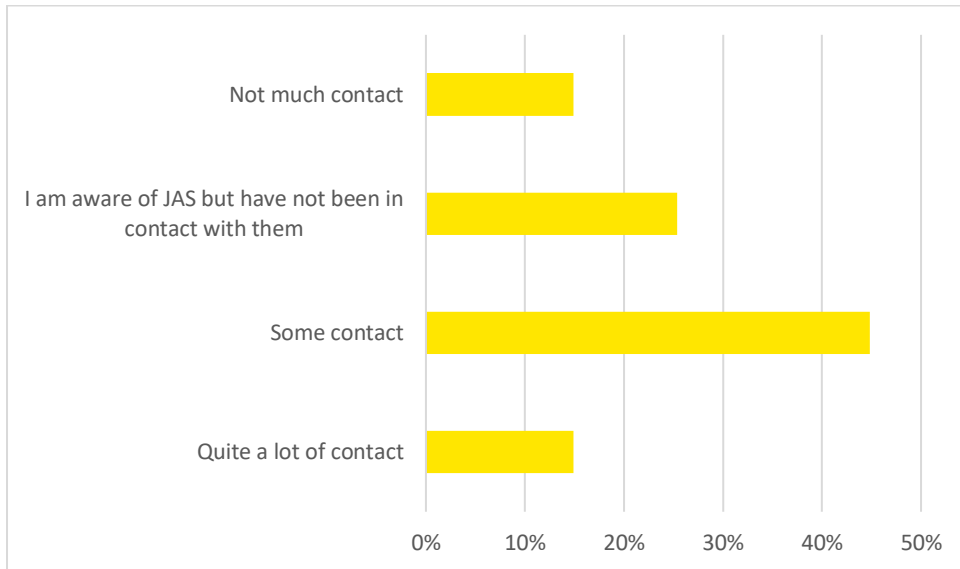
#	Answer	%	Count
1	Yes	75.76%	50
2	No	24.24%	16
	<b>Total</b>	<b>100%</b>	<b>66</b>

Q5 - What is the degree of contact you have with persons with cognitive impairment who are involved in the criminal justice system as defendants, witnesses or victims?



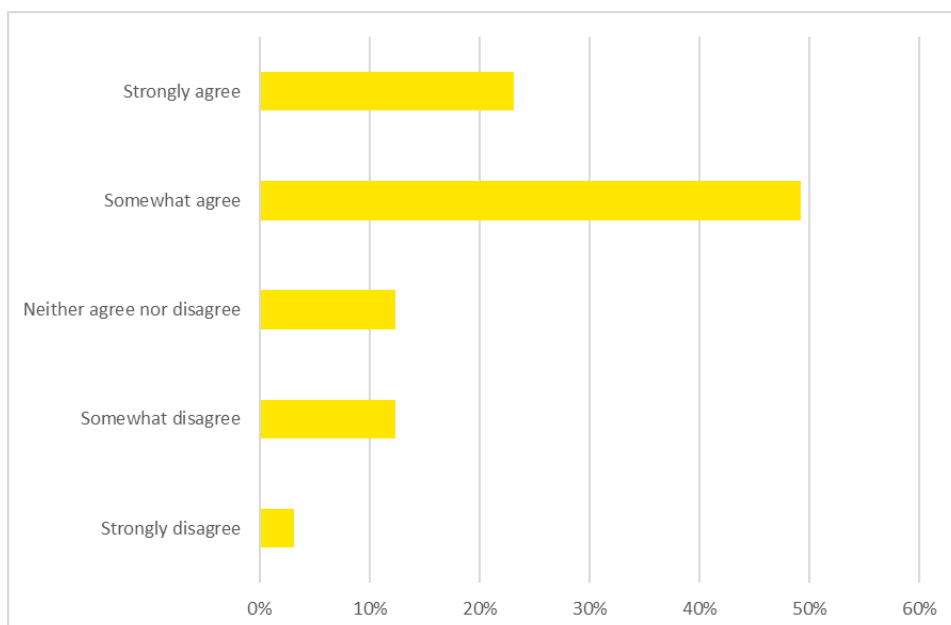
#	Answer	%	Count
1	Quite a lot	50.00%	33
2	Sometimes	30.30%	20
3	Occasionally	18.18%	12
4	Never	1.52%	1
	<b>Total</b>	<b>100%</b>	<b>66</b>

Q6 - What is the degree of contact you have with the Justice Advocacy Service? You can choose more than one.



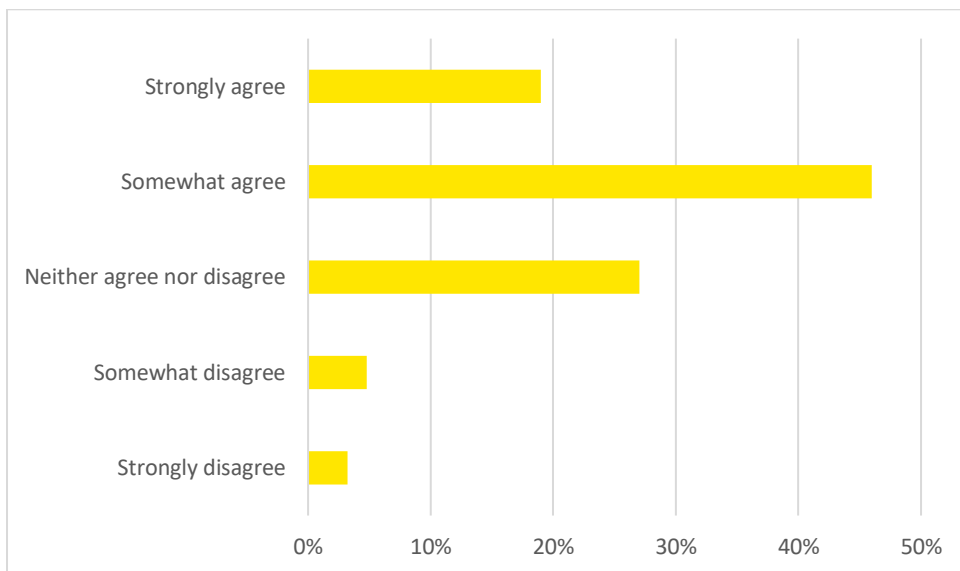
#	Answer	%	Count
1	Quite a lot of contact	14.93%	10
2	Some contact	44.78%	30
3	I am aware of JAS but have not been in contact with them	25.37%	17
5	Not much contact	14.93%	10
	<b>Total</b>	<b>100%</b>	<b>67</b>

Q7 - Please indicate your level of agreement or disagreement for the following statement: "I have a good understanding of the adjustments allowable for persons with cognitive impairments under the Law Enforcement Powers and Responsibilities Act."



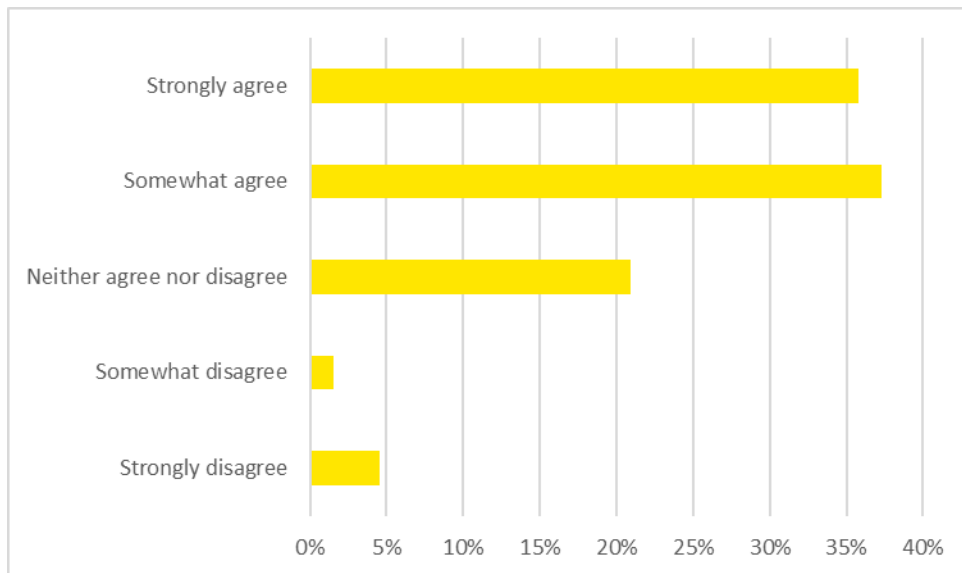
#	Answer	%	Count
1	Strongly disagree	3.08%	2
2	Somewhat disagree	12.31%	8
3	Neither agree nor disagree	12.31%	8
4	Somewhat agree	49.23%	32
5	Strongly agree	23.08%	15
	<b>Total</b>	<b>100%</b>	<b>65</b>

Q8 - Please indicate your level of agreement or disagreement for the following statement:  
 "People with cognitive impairments are getting the support they need from JAS."



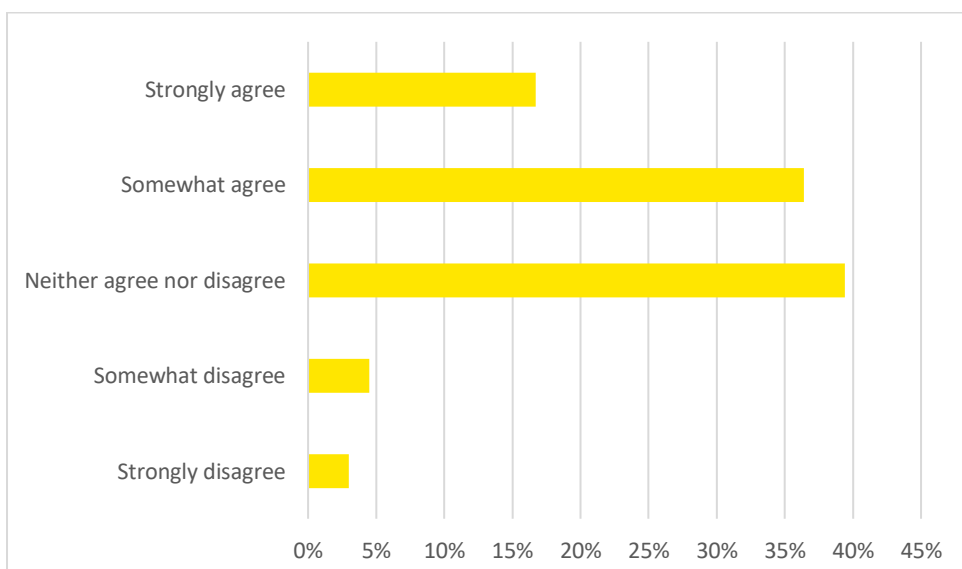
#	Answer	%	Count
1	Strongly disagree	3.17%	2
2	Somewhat disagree	4.76%	3
3	Neither agree nor disagree	26.98%	17
4	Somewhat agree	46.03%	29
5	Strongly agree	19.05%	12
	<b>Total</b>	<b>100%</b>	<b>63</b>

Q9 - Please indicate your level of agreement or disagreement for the following statement: "JAS enables clients to better express their views and exercise their rights."



#	Answer	%	Count
1	Strongly disagree	4.48%	3
2	Somewhat disagree	1.49%	1
3	Neither agree nor disagree	20.90%	14
4	Somewhat agree	37.31%	25
5	Strongly agree	35.82%	24
	<b>Total</b>	<b>100%</b>	<b>67</b>

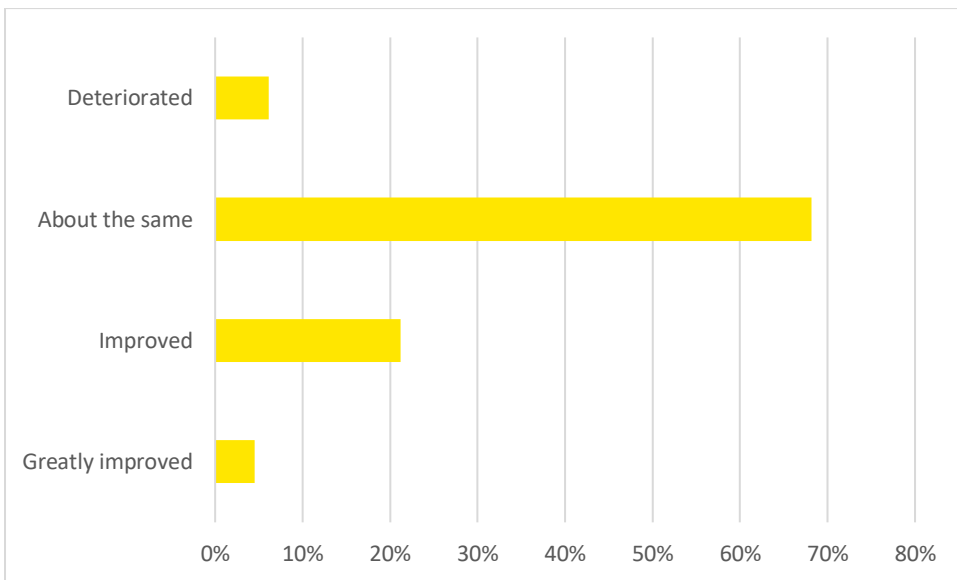
Q10 - Please indicate your level of agreement or disagreement for the following statement: "Other services work well with JAS support persons and JAS clients can access the other services that they need."





#	Answer	%	Count
1	Strongly disagree	3.03%	2
2	Somewhat disagree	4.55%	3
3	Neither agree nor Disagree	39.39%	26
4	Somewhat agree	36.36%	24
5	Strongly agree	16.67%	11
	<b>Total</b>	<b>100%</b>	<b>66</b>

Q12 - How has the criminal justice system changed in its response to people with cognitive impairment in the past year?



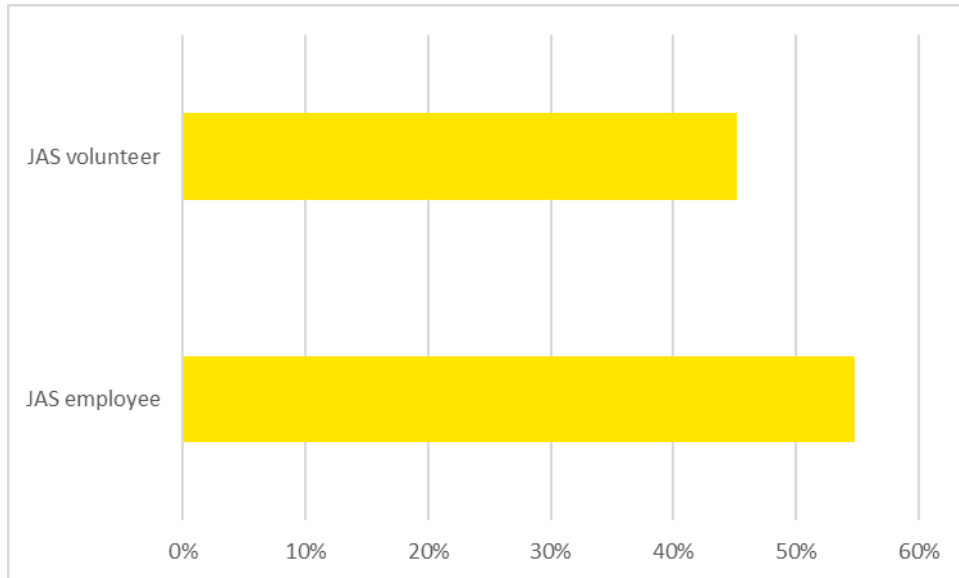
#	Answer	%	Count
1	Greatly improved	4.55%	3
2	Improved	21.21%	14
3	About the same	68.18%	45
4	Deteriorated	6.06%	4
	<b>Total</b>	<b>100%</b>	<b>66</b>

# JAS Stakeholder agencies survey (quantitative results)

November 22nd 2020

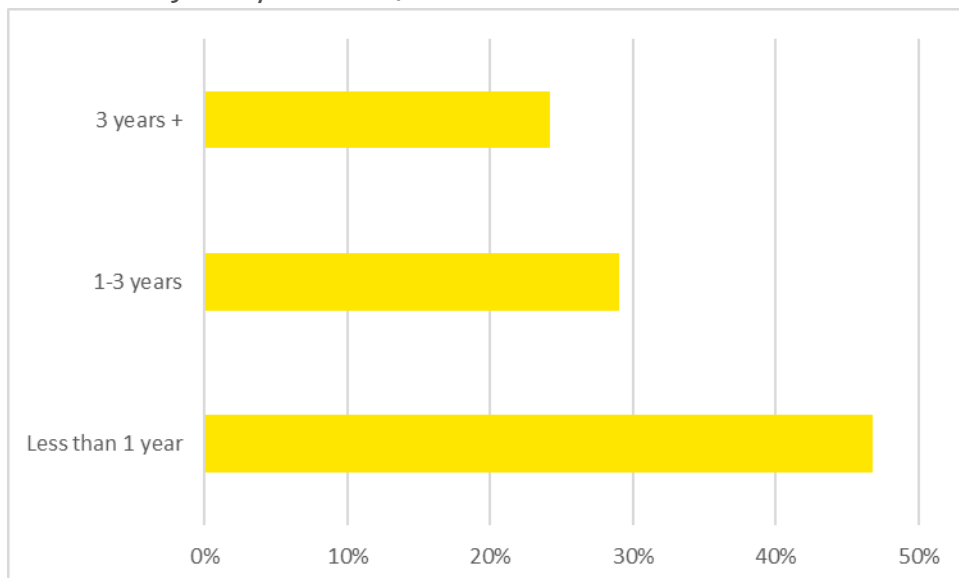
Q1 - Consent - not included here

Q2 - Are you a JAS employee or a volunteer?



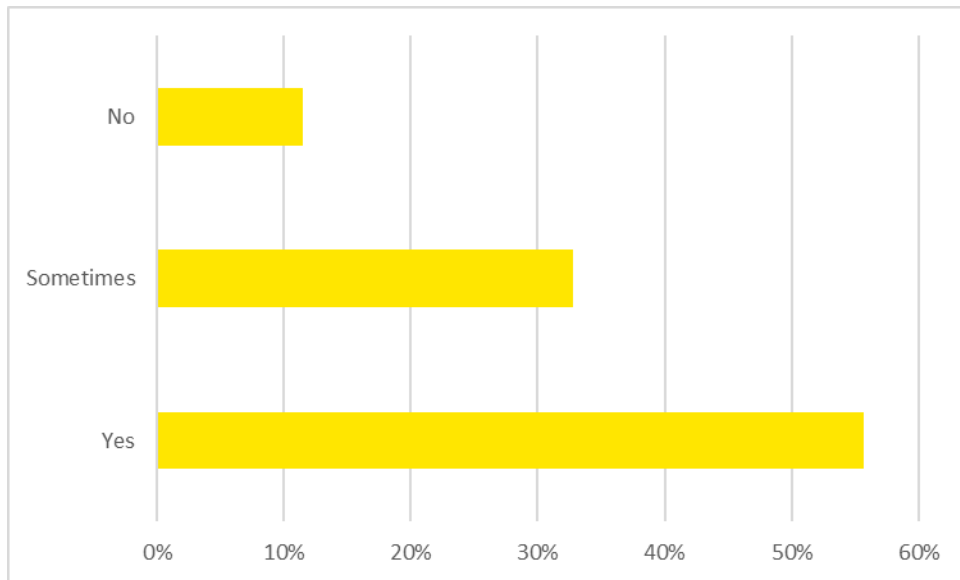
#	Answer	%	Count
1	JAS employee	54.84%	34
2	JAS volunteer	45.16%	28
	<b>Total</b>	<b>100%</b>	<b>62</b>

Q3 - How long have you worked/volunteered for JAS?



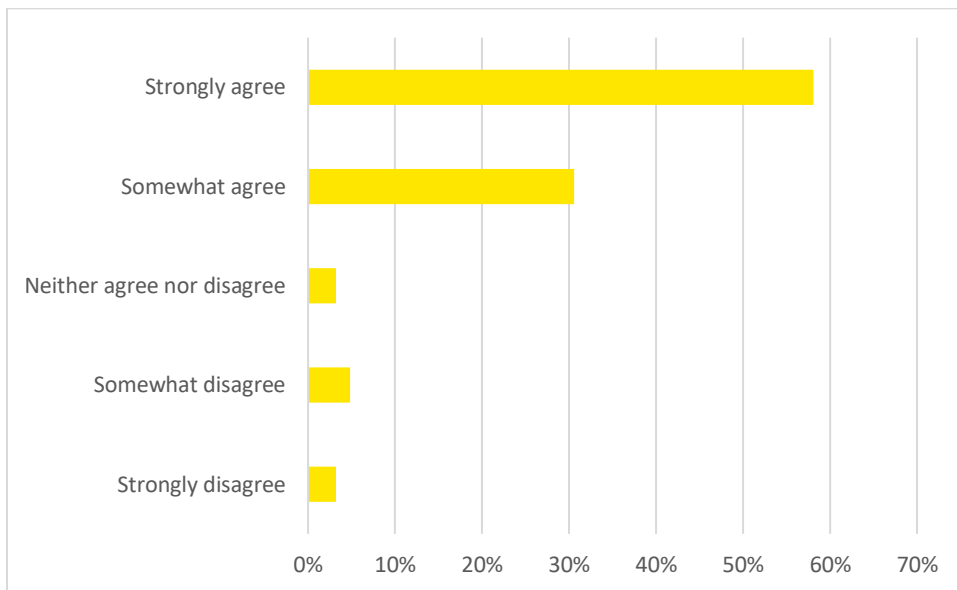
#	Answer	%	Count
1	Less than 1 year	46.77%	29
2	1-3 years	29.03%	18
3	3 years +	24.19%	15
	<b>Total</b>	<b>100%</b>	<b>62</b>

Q4 - Do you have access to professional development and training?



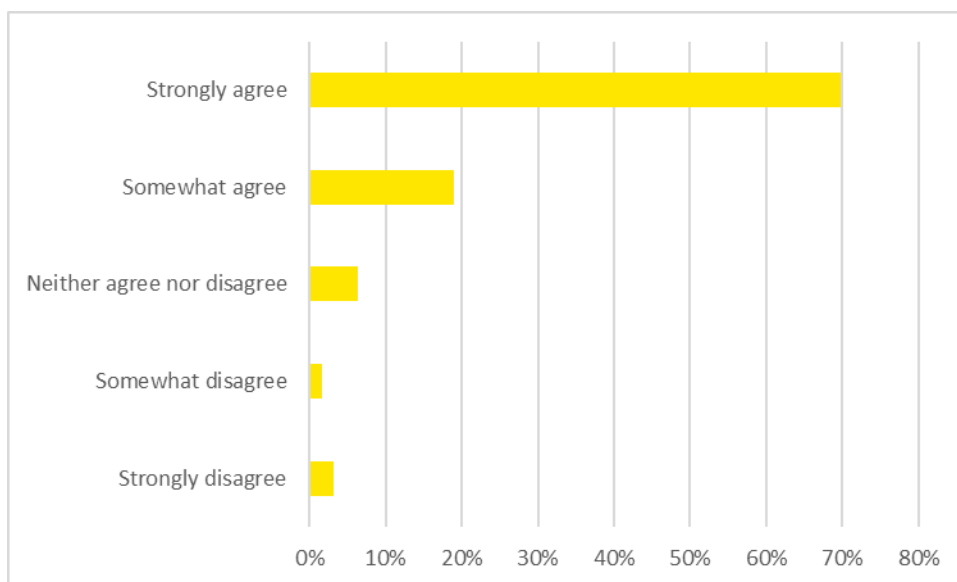
#	Answer	%	Count
1	Yes	55.74%	34
2	Sometimes	32.79%	20
3	No	11.48%	7
	<b>Total</b>	<b>100%</b>	<b>61</b>

Q5 - Please indicate your level of agreement or disagreement for the following statement: "I have a good understanding of my client's rights, for example under the Law Enforcement Powers and Responsibilities Act."



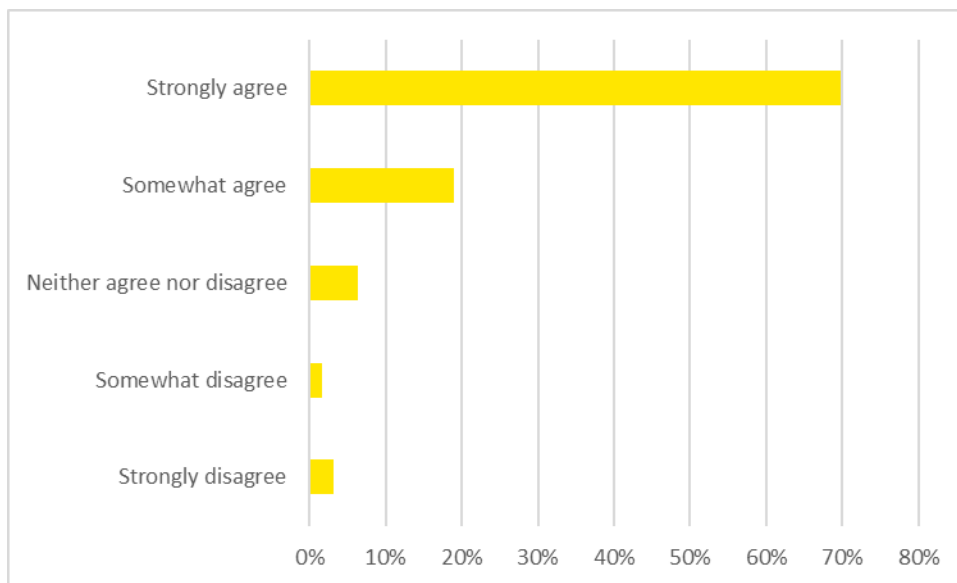
#	Answer	%	Count
1	Strongly disagree	4.84%	3
2	Somewhat disagree	1.61%	1
3	Neither agree nor disagree	6.45%	4
4	Somewhat agree	24.19%	15
5	Strongly agree	62.90%	39
	<b>Total</b>	<b>100%</b>	<b>62</b>

Q6 - Please indicate your level of agreement or disagreement for the following statement: "People with cognitive impairments are getting the support they need from JAS."



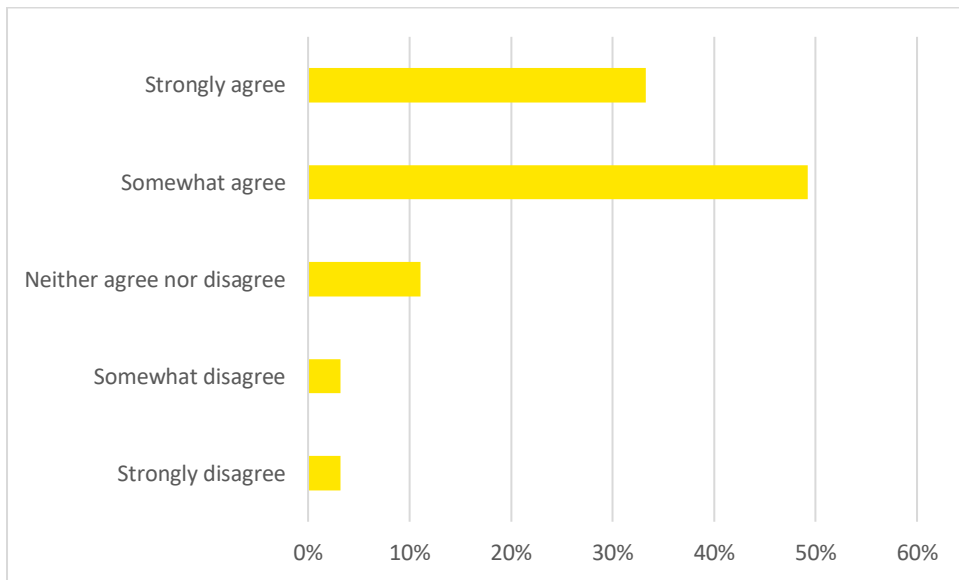
#	Answer	%	Count
1	Strongly disagree	3.23%	2
2	Somewhat disagree	4.84%	3
3	Neither agree nor disagree	3.23%	2
4	Somewhat agree	30.65%	19
5	Strongly agree	58.06%	36
	<b>Total</b>	<b>100%</b>	<b>62</b>

Q7 - Please indicate your level of agreement or disagreement for the following statement: "JAS enables clients to better express their views and exercise their rights."



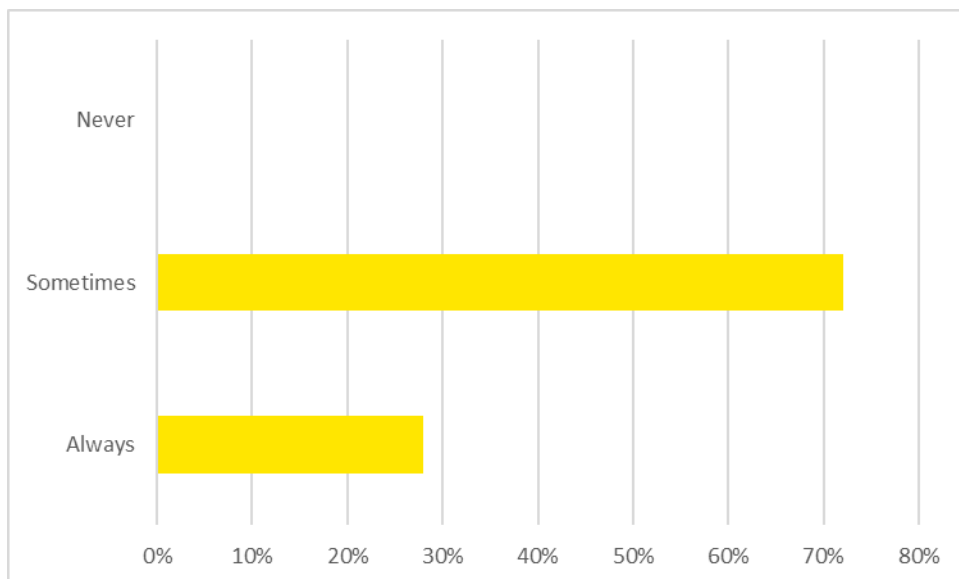
#	Answer	%	Count
1	Strongly disagree	3.17%	2
2	Somewhat disagree	1.59%	1
3	Neither agree nor disagree	6.35%	4
4	Somewhat agree	19.05%	12
5	Strongly agree	69.84%	44
	<b>Total</b>	<b>100%</b>	<b>63</b>

Q8 - Other services work well with JAS staff and volunteers so that JAS clients can access the other services that they need.



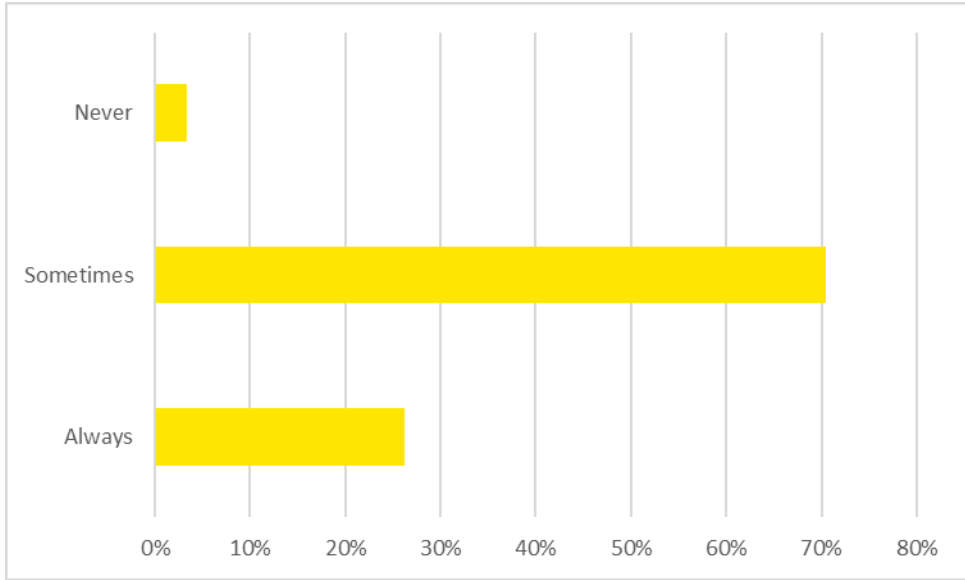
#	Answer	%	Count
1	Strongly disagree	3.17%	2
2	Somewhat disagree	3.17%	2
3	Neither agree nor disagree	11.11%	7
4	Somewhat agree	49.21%	31
5	Strongly agree	33.33%	21
	<b>Total</b>	<b>100%</b>	<b>63</b>

Q9 - Now, please reflect on these other services/agencies: JAS and the NDIS work well together:



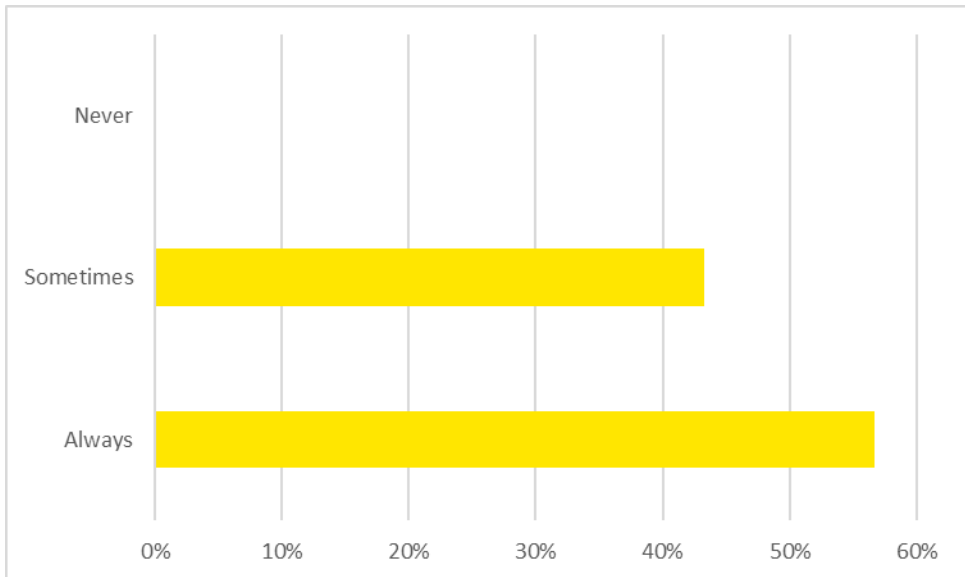
#	Answer	%	Count
1	Always	27.87%	17
2	Sometimes	72.13%	44
3	Never	0.00%	0
	<b>Total</b>	<b>100%</b>	<b>61</b>

Q10 - JAS and the police work well together



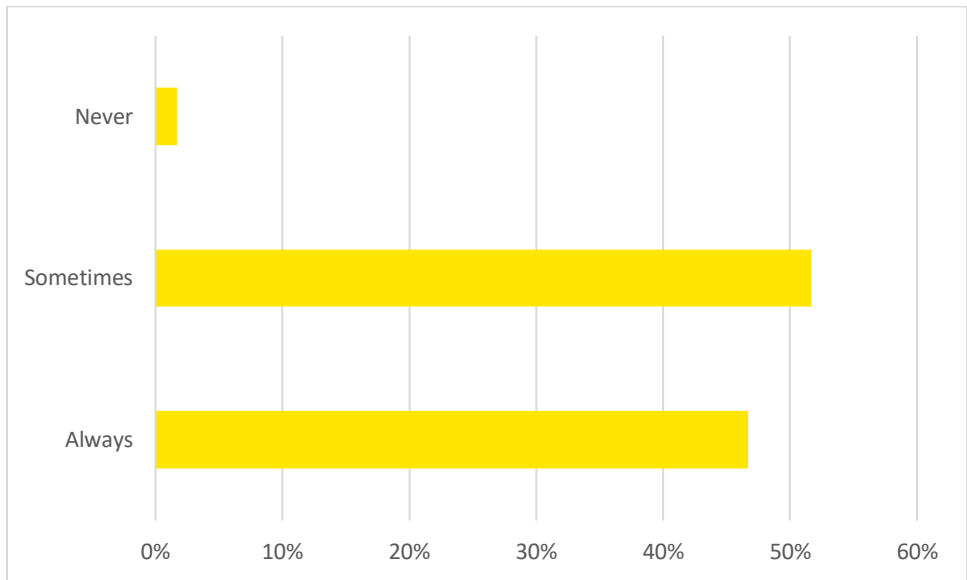
#	Answer	%	Count
1	Always	26.23%	16
2	Sometimes	70.49%	43
3	Never	3.28%	2
	<b>Total</b>	<b>100%</b>	<b>61</b>

Q11 - JAS and the courts work well together



#	Answer	%	Count
1	Always	56.67%	34
2	Sometimes	43.33%	26
3	Never	0.00%	0
	<b>Total</b>	<b>100%</b>	<b>60</b>

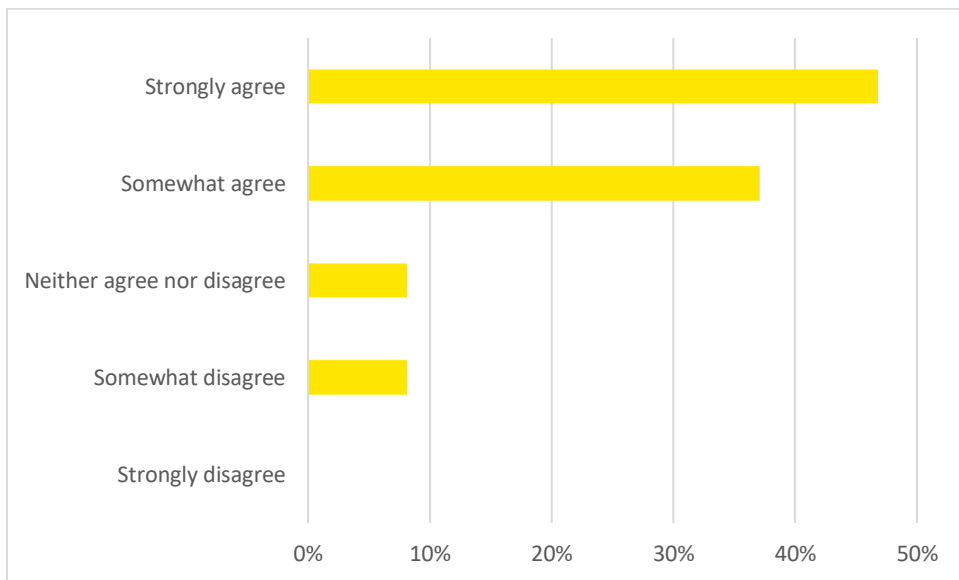
Q12 - JAS and legal advice services/lawyers work well together



#	Answer	%	Count
1	Always	46.67%	28
2	Sometimes	51.67%	31
3	Never	1.67%	1
	<b>Total</b>	<b>100%</b>	<b>60</b>

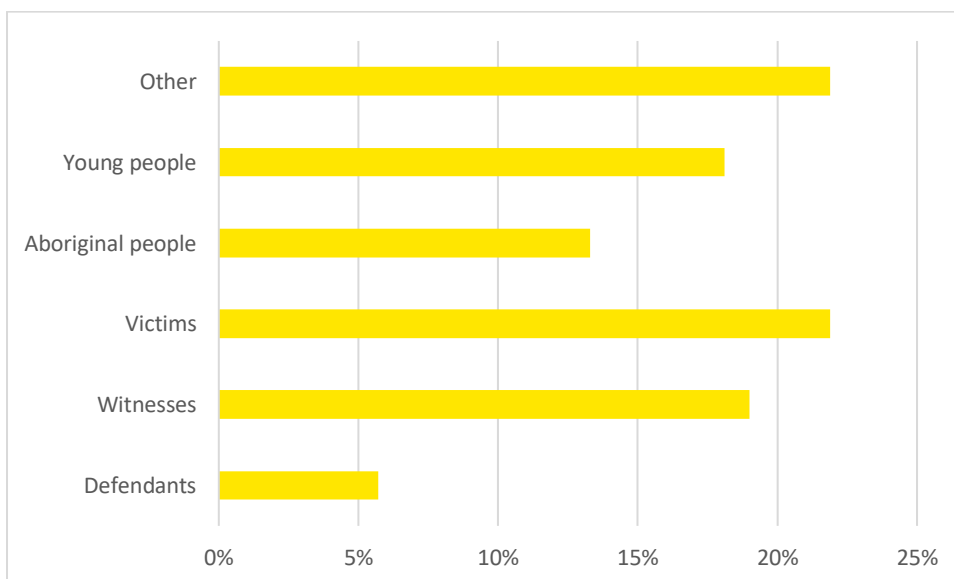


Q13 - The Justice Advocacy Service has been implemented and delivered as intended.



#	Answer	%	Count
1	Strongly disagree	0.00%	0
2	Somewhat disagree	8.06%	5
3	Neither agree nor disagree	8.06%	5
4	Somewhat agree	37.10%	23
5	Strongly agree	46.77%	29
	<b>Total</b>	<b>100%</b>	<b>62</b>

Q16 - Are there any groups that JAS is not currently supporting enough or needs to reach out to more? You can choose more than one.



<b>Answer</b>	<b>%</b>	<b>Count</b>
Defendants	5.71%	6
Witnesses	19.05%	20
Victims	21.90%	23
Aboriginal people	13.33%	14
Young people	18.10%	19
Other	21.90%	23
<b>Total</b>	<b>100%</b>	<b>105</b>

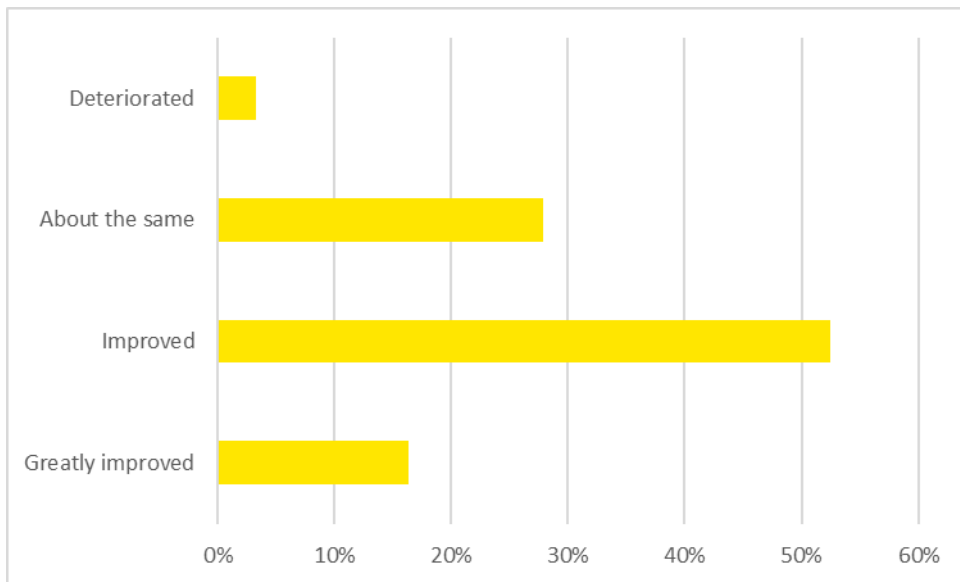


#	Question	1	2	3	4	5	6	7	8	Total								
1	Helping clients exercise their rights, including right to silence, having adjustments made, etc.	33.93%	19	16.07%	9	23.21%	13	14.29%	8	7.14%	4	0.00%	0	3.57%	2	1.79%	1	56
2	Helping clients have their voices heard	5.36%	3	17.86%	10	5.36%	3	14.29%	8	23.21%	13	14.29%	8	5.36%	3	14.29%	8	56
3	Helping clients access a lawyer	8.93%	5	23.21%	13	19.64%	11	16.07%	9	12.50%	7	10.71%	6	1.79%	1	7.14%	4	56
4	Helping clients understand legal advice	14.29%	8	14.29%	8	33.93%	19	14.29%	8	12.50%	7	5.36%	3	5.36%	3	0.00%	0	56
5	Helping clients feel supported	26.79%	15	19.64%	11	8.93%	5	17.86%	10	12.50%	7	7.14%	4	7.14%	4	0.00%	0	56
6	Reducing the likelihood that clients breach a court order including an AVO	5.36%	3	1.79%	1	3.57%	2	14.29%	8	17.86%	10	25.00%	14	12.50%	7	19.64%	11	56
7	Reduced custodial sentences	5.36%	3	5.36%	3	3.57%	2	5.36%	3	8.93%	5	12.50%	7	35.71%	20	23.21%	13	56
8	Reduced likelihood that a client will reoffend	0.00%	0	1.79%	1	1.79%	1	3.57%	2	5.36%	3	25.00%	14	28.57%	16	33.93%	19	56



#	Question	1		2		3		4		5		6		7		8		Total
1	Helping clients exercise their rights, including having adjustments made, etc.	14.81%	8	11.11%	6	12.96%	7	11.11%	6	11.11%	6	12.96%	7	14.81%	8	11.11%	6	54
2	Helping clients have their voices heard	14.81%	8	18.52%	10	18.52%	10	12.96%	7	9.26%	5	7.41%	4	12.96%	7	5.56%	3	54
3	Helping clients access a lawyer	5.56%	3	9.26%	5	16.67%	9	16.67%	9	11.11%	6	24.07%	13	7.41%	4	9.26%	5	54
4	Helping clients understand legal advice	7.41%	4	12.96%	7	12.96%	7	22.22%	12	12.96%	7	12.96%	7	12.96%	7	5.56%	3	54
5	Helping clients feel supported	35.19%	19	22.22%	12	14.81%	8	5.56%	3	5.56%	3	9.26%	5	5.56%	3	1.85%	1	54
6	Helping clients appear in court	18.52%	10	14.81%	8	7.41%	4	18.52%	10	16.67%	9	12.96%	7	7.41%	4	3.70%	2	54
7	Helping clients access victims' compensation or other services	0.00%	0	0.00%	0	3.70%	2	3.70%	2	7.41%	4	11.11%	6	24.07%	13	50.00%	27	54
8	Helping clients with statements	3.70%	2	11.11%	6	12.96%	7	9.26%	5	25.93%	14	9.26%	5	14.81%	8	12.96%	7	54

Q19 - How has the criminal justice system changed in its response to people with cognitive impairment in the past year?



#	Answer	%	Count
1	Greatly improved	16.39%	10
2	Improved	52.46%	32
3	About the same	27.87%	17
4	Deteriorated	3.28%	2
	Total	100%	61

## Appendix C Economic Analysis Calculations

### Benefits for individuals receiving JAS support

Benefit to Individual	Description
<p><b>Increase in number of cases where bail is granted</b></p>	<p>The benefit to a JAS suspect of not being incarcerated due to being denied bail.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Average number of days on remand) x            (Value of not being incarcerated for a day) x (Increase in proportion of cases where bail is granted when supported by JAS)</p>
<p><b>Reduction in custodial sentences applied</b></p>	<p>The benefit to a JAS suspect of not being incarcerated. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x            (Proportion of JAS cases receiving a custodial sentence) x            (Average number of days in custodial sentence) x            (Value of not being incarcerated for a day)</p>
<p><b>Reduction in intensive corrections orders applied</b></p>	<p>The benefit to a JAS suspect of not receiving an intensive corrections order. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x            (Proportion of JAS cases found guilty) x            (Proportion of JAS cases found guilty sentenced to intensive corrections order) x            (Average number of days in an intensive corrections order) x            (Value of not being in community supervision for a day)</p>



Benefit to Individual	Description
<p><b>Reduction in community corrections orders applied</b></p>	<p>The benefit to a JAS suspect of not receiving a community corrections order. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x            (Proportion of JAS cases found guilty) x            (Proportion of JAS cases found guilty sentenced to community corrections order) x            (Average number of days in a community corrections order) x            (Value of not being in community supervision for a day)</p>
<p><b>Reduction in community service orders applied</b></p>	<p>The benefit to a JAS suspect of not receiving a community service order. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x            (Proportion of JAS cases found guilty) x            (Proportion of JAS cases found guilty sentenced to community service order) x            (Average number of days in a community service order) x            (Value of not being in community supervision for a day)</p>
<p><b>Reduced legal costs for individuals supported by JAS</b></p>	<p>The benefit to a JAS suspect of reduced legal costs resulting from reduction in time charged due to support from JAS.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of cases funded by suspect) x            (Cost per case handled by legal representative) x            (Percentage reduction in time required on a case when supported by JAS)</p>

Benefit to Individual	Description
Reduction in reoffending	<p>The benefit to a JAS suspect of reduced future incarceration or community service due to reoffending as a result of support provided by JAS.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of cases found guilty) x            (Reduction in proportion of guilty cases that reoffend) x            {[ (Average number of days in remand for a JAS suspect) x (Value of not being incarcerated for a day)] +            [(Average number of days in a custodial sentence for a JAS suspect) x (Value of not being incarcerated for a day)] +            [(Average number of days in a community sentence for a JAS suspect) x (Value of not being in community supervision for a day)]}</p>

### Benefits for Government

Benefit to Government	Description
Increase in number of cases where bail is granted	<p>The reduced cost to Government arising from reduced prisoner-days of remand due to JAS suspects not being denied bail.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Average number of days on remand) x            (Cost of incarceration per day) x            (Increase in proportion of cases where bail is granted when supported by JAS)</p>

Benefit to Government	Description
<p><b>Reduction in custodial sentences applied</b></p>	<p>The reduced cost to Government arising from reduced prisoner-days of incarceration. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x (Proportion of JAS cases receiving a custodial sentence) x (Average number of days in custodial sentence) x (Cost of incarceration per day)</p>
<p><b>Reduction in intensive corrections orders applied</b></p>	<p>The reduced cost to Government arising from reduced days of supervision of JAS suspects sentenced to intensive corrections orders. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x (Proportion of JAS cases found guilty) x (Proportion of JAS cases found guilty sentenced to intensive corrections order) x (Average number of days in an intensive corrections order) x (Cost of community supervision per day)</p>

Benefit to Government	Description
<p><b>Reduction in community corrections orders applied</b></p>	<p>The reduced cost to Government arising from reduced days of supervision of JAS suspects sentenced to community corrections orders. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x  [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x  (Proportion of JAS cases found guilty) x  (Proportion of JAS cases found guilty sentenced to community corrections order) x  (Average number of days in a community corrections order) x  (Cost of community supervision per day)</p>
<p><b>Reduction in community service orders applied</b></p>	<p>The reduced cost to Government arising from reduced days of supervision of JAS suspects sentenced to community service orders. It was assumed that this benefit arises only from increased diversion of JAS suspects through use of Section 32 orders.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x  [(Proportion of cases with Section 32 orders under JAS) - (Proportion of cases with Section 32 orders without JAS)] x  (Proportion of JAS cases found guilty) x  (Proportion of JAS cases found guilty sentenced to community service order) x  (Average number of days in a community service order) x  (Cost of community supervision per day)</p>

Benefit to Government	Description
<p><b>Increased efficiency in cases supported by JAS</b></p>	<p>The reduced cost to Government arising from improvements in the efficiency of dealing with suspects/defendants, witnesses and victims with cognitive impairment when they are supported by JAS.</p> <p>Calculated as:</p> <p>[(Number of cases for people supported by JAS) x            (Number of police hours per case) x            (Percentage reduction in time required on a case when supported by JAS) x            (Cost per hour of police time)] +            [(Number of cases for defendants supported by JAS) x            (100% - (Proportion of cases funded by suspect) ) x            (Percentage reduction in time required on a case when supported by JAS) x            (Legal representative cost per case)]</p>
<p><b>Reduction in re-offending</b></p>	<p>The reduced cost to Government arising from reduced days of incarceration or supervision of JAS suspects resulting from a reduction in reoffending due to support from JAS</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of cases found guilty) x            (Reduction in proportion of guilty cases that reoffend) x            {[(Average number of days in remand for a JAS suspect) x (Cost of incarceration per day)] +            [(Average number of days in a custodial sentence for a JAS suspect) x (Cost of incarceration per day)] +            [(Average number of days in a community sentence for a JAS suspect) x (Cost of community supervision per day)]}</p>

## Benefits for Society

Benefit to Society	Description
<p><b>Increased efficiency in cases involving individuals with a cognitive impairment</b></p>	<p>Reduction in the cost of time members of society are required to give up to act as jury members due to support from JAS</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of cases with a jury) x            (Number of people in a jury) x            (Average number of days spent on jury duty) x            (Cost of jury duty per day for an individual) x            (Percentage reduction in time required on a case when supported by JAS)</p>
<p><b>Reduction in re-offending</b></p>	<p>The reduced cost to Society arising from the avoided cost of crime due to reduced re-offending for suspects supported by JAS</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of JAS cases found guilty) x            (Reduction in re-offending rate due to JAS) x            (Cost to society per committed crime)</p>
<p><b>Increased wellbeing for JAS volunteers</b></p>	<p>The wellbeing benefit for JAS volunteers arising from their involvement in delivering the JAS program</p> <p>Calculated as:</p> <p>(Number of JAS volunteers) x            (Value per year to a person volunteering for JAS)</p>
<p><b>Increased compliance with DFV orders</b></p>	<p>The avoided cost to Society arising from the reduction in breaches of DFV orders by JAS defendants.</p> <p>Calculated as:</p> <p>(Number of suspects supported by JAS) x            (Proportion of cases with DFV aspects) x            (Incremental increase in DFV order compliance due to JAS) x            (Cost to victims of a violation of DFV order)</p>

Assumption	Source and calculation details
JAS Program	
Number of new cases for suspects supported by JAS during evaluation period	Analysis of JAS data of cases open from Oct-2019 to August-2020 for all suspects with CI sup
Number of new cases for individuals supported by JAS during evaluation period	Analysis of JAS data of cases open from Oct-2019 to August-2020 for all suspects with CI sup
Proportion of matters funded by suspect	Based on proportion of supports where legal representation was recorded as "Private"
Proportion of cases with JAS support where bail is granted	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of cases with JAS support where bail is denied	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of cases with a jury	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of JAS cases with a guilty sentence	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of JAS cases receiving section 32 under JAS	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of cases with DFV aspects	Analysis of JAS data of Cases closed between Oct-2019 to August-2020

Proportion of suspects with JAS support receiving a custodial sentence	Analysis of JAS data of Cases closed between Oct-2019 to August-2020
Proportion of suspects with JAS support and found guilty receiving an intensive corrections order	Analysis of JAS data from Oct-2019 to August-2020 for all suspects with CI supported by JAS
Proportion of suspects with JAS support and found guilty receiving a community corrections order	Analysis of JAS data from Oct-2019 to August-2020 for all suspects with CI supported by JAS
Proportion of suspects with JAS support and found guilty receiving a community supervision order	Analysis of JAS data from Oct-2019 to August-2020 for all suspects with CI supported by JAS
Number of JAS volunteers	Communication from Jessica Singh, 30 November 2020
JAS as a proportion of all cases in a typical year	Total cases referred to JAS between Oct-2019 and Aug 2020 ; NSW Recorded Crime Statistics July 2015-June 2020
Percentage reduction in re-offending rate due to JAS	NZ Ministry of Justice evidence brief on Mental Health courts. Indicates 25% reduction in recid <a href="https://www.justice.govt.nz/assets/Documents/Publications/Mental-Health-Courts.pdf">https://www.justice.govt.nz/assets/Documents/Publications/Mental-Health-Courts.pdf</a>
Effective size of reduction in reoffending rate due to JAS	NZ Ministry of Justice evidence brief on Mental Health courts.



Criminal justice system	
Proportion of cases of CI receiving section 32 without JAS	Analysis based on figures reported in NSW Law Reform Commission report #135, tables 4.5 and 4.6, showing prevalence of CI in court defendants and number of section 32 orders made
Average number of days on remand	BOSCAR NSW Custody Statistics Sept 2020 Table 2.3.4 <a href="https://www.bocsar.nsw.gov.au/Publications/custody/NSW_Custody_Statistics_Sept2020.pdf">https://www.bocsar.nsw.gov.au/Publications/custody/NSW_Custody_Statistics_Sept2020.pdf</a>
Average days in a custodial sentence (remand to sentenced custody)	BOSCAR NSW Custody Statistics Sept 2020 Table 2.3.4 <a href="https://www.bocsar.nsw.gov.au/Publications/custody/NSW_Custody_Statistics_Sept2020.pdf">https://www.bocsar.nsw.gov.au/Publications/custody/NSW_Custody_Statistics_Sept2020.pdf</a>
Average months in an Intensive Correctional Order	NSW Sentencing council report - <a href="http://www.sentencingcouncil.justice.nsw.gov.au/Documents/ICO%20review/Report%20ICOs.pdf">http://www.sentencingcouncil.justice.nsw.gov.au/Documents/ICO%20review/Report%20ICOs.pdf</a>
Average days in a Community Correctional Order	Assumption informed by EY professional judgement. To be confirmed with DCJ during review
Average months in a Community Service Order	From BOCSAR research: <a href="https://www.correctiveservices.justice.nsw.gov.au/Documents/research/Community%20Service%20Orders%20-%202018%20-%202019.pdf">https://www.correctiveservices.justice.nsw.gov.au/Documents/research/Community%20Service%20Orders%20-%202018%20-%202019.pdf</a>
Average Number of days spent in jury duty	<a href="https://www.abc.net.au/life/jury-duty-guide-what-happens-when-you-get-called/11565176#:~:text=Jurors%20typically%20serve%20on%20trials,or%20more%2C%20sa">https://www.abc.net.au/life/jury-duty-guide-what-happens-when-you-get-called/11565176#:~:text=Jurors%20typically%20serve%20on%20trials,or%20more%2C%20sa</a>
12-month reoffending rate for Adults convicted sentenced to a community sentence	2018 values from BOCSAR <a href="https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Re-offending.aspx">https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Re-offending.aspx</a>
12-month reoffending rate for Adults	2018 values from BOCSAR <a href="https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Re-offending.aspx">https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Re-offending.aspx</a>

convicted sentenced to a custodial sentence	
Police hours per FTE in a year	Productivity Commission, Report on Government Services 2020, Table 6A.2
Number of suspects/defendants prosecuted by police in a year	BOSCAR 2019 Criminal Court statistics <a href="http://www.bocsar.nsw.gov.au/Publications/CCS-Annual/New%20South%20Wales%20Criminal%20Courts%20Statistics%20Jan%202015-Dec%202019">http://www.bocsar.nsw.gov.au/Publications/CCS-Annual/New%20South%20Wales%20Criminal%20Courts%20Statistics%20Jan%202015-Dec%202019</a>
Other	
Number of people living in New South Wales	ABS Statistics 31 March 2020
Number of people in a Jury	General knowledge
Benefit values	
Value of not being incarcerated for a day	FACSIAR Economics Page 32- Quality adjusted life year (QALY) , converted to a daily value, applied as value of day lived is not fully lost to the individual when incarcerated.
Value of not being in community supervision per day	FACSIAR Economics Page 32- Quality adjusted life year (QALY) , converted to an 8 hour equivalent "disability rate" of 25% applied as value of day lived is not fully lost to the individual for the time supervised sentence.
Value per year to person being involved in JAS	Assumes that the value to a JAS Volunteer of participation in JAS is similar to the value of being employed Value taken from NZ Treasury CBAX tool impacts database row 197 <a href="https://www.treasury.govt.nz/publications/guide/cbax-spreadsheet-model-0">https://www.treasury.govt.nz/publications/guide/cbax-spreadsheet-model-0</a>
Costs	

Labour cost of police service per hour	"DCJ Benefits Database 2020 - final.pdf", benefit SA3 described on page 54, Calculation row A police service
Cost of incarceration per day	Report of Government Services Table 8A.19
Cost of community supervision per day	Report on Government Services 2020 Table 8A.19 <a href="https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/justice/corre">https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/justice/corre</a>
Cost per case handled by legal representative	Cost for defended hearings in local court  <a href="https://www.legalaid.nsw.gov.au/for-lawyers/fee-scales/state-matters/criminal-matters-solicitor">https://www.legalaid.nsw.gov.au/for-lawyers/fee-scales/state-matters/criminal-matters-solicitor</a>  We note that there are other costs that may be incurred (magistrate costs, prosecution costs)
Cost to victims of a violation of DFV order	<a href="https://www.dss.gov.au/sites/default/files/documents/05_2012/cost_of_dv_to_australian_ec">https://www.dss.gov.au/sites/default/files/documents/05_2012/cost_of_dv_to_australian_ec</a>
Cost of jury duty per day for an individual	Based on value of travel time for business car use from TfNSW as an estimate of the average value of weekdays over an 8 hour day, less \$106.25 for the jury pay allowance  <a href="https://www.transport.nsw.gov.au/system/files/media/documents/2019/TfNSW%20Economic%20Draft%20for%20Consultation_2.pdf">https://www.transport.nsw.gov.au/system/files/media/documents/2019/TfNSW%20Economic%20Draft%20for%20Consultation_2.pdf</a>
Cost to society per crime committed	Calculated from NZ Treasury CBAX impacts database, rows 120-129, weighted by relative frequency of clients.
<b>Assumptions</b>	
Increase in proportion of cases where bail is granted when supported by JAS	Assumption informed by EY professional judgement. To be confirmed with DCJ during review
Percentage of police time involved in processing suspects/defendants	Assumption informed by EY professional judgement. To be confirmed with DCJ during review

Percentage reduction in time required on a case when supported by JAS	Assumption informed by EY professional judgement. To be confirmed with DCJ during review
Incremental increase in compliance due to JAS	Assumption informed by EY professional judgement. To be confirmed with DCJ during review
Proportion of DFV orders typically violated	Assumption informed by EY professional judgement. To be confirmed with DCJ during review

# Appendix E JAS Training Timeline (2019-2021)

