

Impaired escapee held 13 years

EXCLUSIVE

■ Amanda Banks
Legal Affairs Editor

One of two men who escaped from WA's only disability justice centre has been in custody for more than a decade after being found unfit for trial over allegations that at age 14 he crashed a stolen car, killing his cousin.

The West Australian can now reveal the backgrounds of the two men whose New Year's Eve escape from the Bennett Brook centre sparked debate about the

facility's suitability. Disability Services Minister Helen Morton has refused to give details of the men's cases, saying laws prevent her disclosing such information.

But independent advocate Taryn Harvey has revealed one of the men has been in custody since being accused of driving a stolen car that crashed after a police chase in August 2003, killing his 12-year-old cousin.

A ward of the State, Jason (not his real name) was charged with offences including manslaughter. But being mentally and cognitively impaired after

years of solvent abuse, he was declared unfit to stand trial.

The West understands the second man, referred to as Abraham (not his real name) in The West in 2013, has been in custody since being charged with sexually assaulting a 14-year-old girl after absconding from supported disability housing in 2009.

Experts found Abraham, who was put on an indefinite custody order in 2010, was not a sexual predator or deviant and was not prone to violence. But he had the intellectual capacity of a young child, was likely to reoffend and

there were inadequate accommodation options for him in the community.

Ms Harvey said Jason, now aged 27, had been "failed at every turn" by the system.

She said he had been an ideal candidate for the centre, but he had been given inadequate support for the move to the facility.

During his time in custody, he had not been given an intensive treatment plan to address his substance abuse.

Ms Harvey said Jason scaled two perimeter fences to leave the centre before visiting family,

who returned him to the facility. He was now back in prison in a crisis care unit because of concerns about his wellbeing.

She said Jason's overwhelming feeling of hopelessness, boredom and inadequate support had led to him absconding, but the escape was not a reason to close or move the centre.

Mrs Morton, who has commissioned an independent analysis of the centre, said there had been too few options for mentally impaired accused people.

■ OPINION P16

Two young men show justice options needed

■ Amanda Banks
Legal Affairs Editor



More than 12 years ago, Jason — not his real name — was described as having such a tiny frame that his feet barely touched the carpet as he sat on a swivel chair in the dock of the Perth Children's Court.

Now aged 27, Jason is still said to have a slight build for a grown man.

And despite his passage from adolescence to adulthood while behind bars, Jason's case continues to pose a dilemma for authorities.

Jason was 14 when he allegedly got behind the wheel of a stolen car with four children as his passengers — all relatives and the youngest aged just 10 — and led police on a high-speed chase on August 18, 2003.

The incident ended in tragedy after Jason allegedly ran a red light and ploughed into another car.

His 12-year-old cousin died and the others were treated in hospital, leading to charges of manslaughter, reckless driving and assault.

It was not the first time Jason, a chronic solvent abuser and ward of the State, had come to the attention of police and the courts.

Just the month before the fatal crash, Jason had been released into the community under laws governing mentally impaired accused after he was found to be so brain damaged he could not understand charges of reckless driving and car theft.

Jason's case, which came amid a horror run of teenage deaths on the roads, prompted a political firestorm.

Debate ensued over penalties and a blame game erupted over who was responsible for failing the State's troubled youth.

Jason became the youngest person in WA history to be placed on an indefinite custody order.

His case has been repeatedly highlighted during criticism about the failures in the laws which govern people who are accused of committing offences but are unable to stand trial because of their mental impairment.

In 2003, Children's Court Judge Valerie French said she hoped Jason would be released into a community-based facility in the future. But she had no choice but to place him on an indefinite custody order.

Until the State's first disability justice centre opened in August last year, the order meant there was no option other than Jason being held in detention as a child, then shifted to jail as an adult.

It was hoped the disability justice centre would be a positive step towards Jason's reintegration into the community, but again he has become the centre of public controversy after he absconded.

Jason's independent advocate, Taryn Harvey, describes him as a "reserved and quiet man" who recognises what he did was wrong.

Ms Harvey said Jason was consumed by a sense of hopelessness and desperation at his predicament, often expressing anger, frustration and a sense of sadness. She said he was most animated when he talked of his family.

Ms Harvey said his issues were exacerbated by his substance abuse, though testing had shown this was an unresolved issue while he continued to be held in prison. Jason's

co-conspirator in the New Year's Eve escape also poses a complex dilemma.

Abraham — also not his real name — was born in Sudan as the country was torn apart by its second civil war and spent his younger years in refugee camps.

Details about Abraham's upbringing have many missing pieces, but he was reunited with his mother in Australia in 2002 at the age of 14.

Abraham is described as having a lifelong impairment, perhaps because of trauma and torture he suffered in his younger years. Within two years he was no longer in the care of his mother and started receiving help from the Disability Services Commission.

He began offending and his behaviour escalated until he was charged with two counts of sexually penetrating a child aged 13 to 16.

He was deemed incapable of standing trial and has been held in custody since 2009.

Disability Services Minister Helen Morton said the Bennett Brook justice centre had been built because there were too few options for mentally impaired accused people and she is determined one incident will not jeopardise its potential.

There are many differences between the complex cases of Jason and Abraham, including their level and types of mental impairment and the treatment they need to reintegrate back into the community.

But there are also parallels. Both men were vulnerable and in some level of State care when accused.

And both men have now spent more time in jail than they would have had they been convicted and sentenced for the offences they stood accused of committing.