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Subject: submission to sexual offences enquiry

My name is Emily Piggott. I am the Advocacy Coordinator at the Victorian Advocacy League for Individuals with Disability (VALID). VALID is a disability advocacy agency who specialise in advocacy for and with people with intellectual disability. My submission relates to people with intellectual disability who are both victim survivors and perpetrators of sexual offences.

As you would be aware, people with intellectual disability are at greater risk of sexual harm and experiencing a range of violence and abuse. At the same time, people with intellectual disability are sometimes perpetrators of sexual harm.

Police:

- Police don't pursue statements from people when they have communication difficulties they don't do interviews if they think the person isn't going to provide 'reliable' information
- There are no supports available (like Speech path, psych, social worker etc) to formally assist a person to give a statement
- There is not enough flexibility around how a person can give a statement – it is a pretty formal process and some people find that really intimidating

- There probably needs to be an agreement that when a person with ID is being interviewed they can opt to have female/male officer (whatever their preference), not in uniform, in a location they are comfortable with, with whatever support people they need
- I think it's really important for police and other staff to have training to be able to identify when a PWD is reporting a sexual crime. The PWD may not recognise it as such but may want to talk about something that has happened. Sometimes if they don't use the right language people around them don't really pick up on what has happened. Support staff and police need to learn some basic counselling skills to be able to get the story from the person without using words like rape or sexual assault which might be confronting. I have always found that it works best to use the person's own language and say something like "some people would call that rape but you don't have to call it that if you don't want to". It's really important to remember that for many PWD there is little knowledge of language that's used around sexual crimes, so they might know that something has made them feel bad, but may need some help to tell the story. I have had many clients who can't bring themselves to use the formal language and will always refer to "that thing that happened" or something similar.
- There needs to be a lot of work done around PWD who are really scared and are being controlled by family members – I'm not sure what that looks like – but we have had a few cases where the PWD has been experiencing sexual abuse or assault and because of the level of control and coercion a family member is exerting the PWD is terrified to report anything. And in those situations sometimes behaviours of concern may give an indication that something is happening, but the person may not be able to come out and say what's happening. It's almost as if police need powers to be able to investigate where support staff or others have a reasonable suspicion that something is happening (and there are no direct witnesses).

Courts:

- In court there obviously needs to be accessible materials as you have said, but also a person who has the time to explain and answer questions – about the court process, the buildings, how to get there, what you can and can't do in court, where the toilets are – all that stuff
- There needs to be materials relating to the actual process for the person's case as well – there needs to be easy read explanations of things like 'mention', 'directions hearing', 'contest mention' etc – all the words that are used that only lawyers and people with experience understand. There needs to be ways that these concepts can be quietly explained – maybe courts need rooms specifically for this purpose – this would be especially so for people with ASD who might have sensory difficulties with the court environment
- Lawyers and court staff also need to be funded to spend more time with PWD – this is REALLY IMPORTANT – as victim/survivors but also as accused persons this is a massive issue. Lawyers need to be confident their client understands their case, their rights, the legal advice, and is able to give instructions based on this. In so many cases clients just go along with what the lawyer or support people say because they don't understand the advice. Lawyers never have time to explain evidence etc properly
- Magistrates, judges and court staff need training in how to use plain language to communicate with PWID, their lawyers and support staff so that PWID can understand what is happening. They should be expected to ALWAYS communicate in this way when there's a PWID in the court so that PWID can participate in their own cases – it's a UNCRPD right! It also relates to procedural justice – it goes to giving voice and transparency elements of procedural justice! It's ridiculous!
- PWD need full knowledge about why they would go through a court process – what will they get from it? They need really clear advice about whether it will be for 'justice', compensation, some other outcome?

I support a specialist court for sexual offending because the structures and supports that would hopefully become available may support the administration of justice, but also ensure that 'truth telling' and justice can actually be done.

Thank you,

Emily.

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Advocacy Coordinator



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VALID is committed to the vision of an Australian nation in which people with a disability are empowered to exercise their rights as human beings and as citizens.

VALID is the recipient of the **Public Advocate's Award 2015** for its outstanding advocacy and support of people with disability and the **Annecto Human Rights Award 2013**.

