

## Sexual assault and adults with a disability

### Enabling recognition, disclosure and a just response

SUELLEN MURRAY AND ANASTASIA POWELL

Adults with a disability can face particular barriers to disclosure of sexual assault and the responses to those who disclose are often inadequate. Enabling disclosure and providing the most appropriate responses across public policy, the criminal justice system and the service sector require further and urgent attention. This issues paper, drawing on international literature as well as consultations with staff of a number of Australian programs, provides clear directions for future research and practice in responding to and preventing sexual assault among adults with a disability.

#### Introduction

Adults with physical, intellectual or psychiatric disabilities face particular risks of sexual assault and exploitation. Research consistently finds that rates of sexual assault of people with a disability are much higher than the general population. In addition, victims of sexual assault face particular barriers to making a disclosure. If a disclosure is made, responses to this disclosure are often inadequate and may be harmful. A response to the sexual assault of an adult with a disability that is adequate is unfortunately still very rare, making addressing this issue a matter of continued urgency.

The Australian Bureau of Statistics (ABS, 2003) Survey of Disability, Ageing and Carers states that one in five Australians reports a disability. The most common form of disability reported is physical disability (14.7%), which places limitations on the extent and range of movement or activity (Australian Institute of Health and Welfare [AIHW], 2006). Individuals with a psychiatric disability<sup>1</sup> comprise 2.2%, sensory or speech disability 2.1%, and an intellectual disability 0.8%. It should also be noted that 6.3% of the population have a profound or severe core activity restriction, with women experiencing a higher rate at 7.1% of the female population as compared with 5.5% for men (ABS, 2003). Recognising that adults with a disability are not a homogenous group, but rather represent a diverse range of abilities and potential vulnerabilities, is particularly important. Indeed adults with a disability may not all experience the same risk or vulnerability to sexual

1 When narrowly employed, the term “psychiatric” disability or illness refers to conditions that can be explained by a clinically diagnosed and biologically based condition of the brain (Szasz, 2004). While some researchers and clinicians distinguish this from “mental illness” which they use to describe psychiatric-like symptoms that can be explained by social or environmental factors (for instance Draine, Salzer, Culhane, & Hadley, 2003)—in practice the two terms are often used interchangeably. This results in a frequent blurring of distinction between psychiatric and mental illness or disability, and there is no consistent or universally applied definition (McCabe & Priebe, 2004).



Australian Government

Australian Institute of Family Studies  
Australian Centre for the Study of Sexual Assault

The Australian Centre for the Study of Sexual Assault aims to improve access to current information on sexual assault in order to assist policymakers and others interested in this area to develop evidence-based strategies to prevent, respond to, and ultimately reduce the incidence of sexual assault.

The Australian Centre for the Study of Sexual Assault is funded by the Office for Women, Australian Government Department of Families, Housing, Community Services and Indigenous Affairs through the Women's Safety Agenda. The Centre is hosted by the Australian Institute of Family Studies.

## Contents

Introduction	1
Prevalence of sexual assault of adults with disabilities	2
Who are the offenders in cases of sexual assault of women with disabilities?	4
Barriers to disclosure to sexual assault of adults with a disability	5
Enabling disclosure and an appropriate response	7
Enabling an appropriate response to sexual assault of people with a disability post-disclosure	8
Conclusion	15
Acknowledgements	17
Consultations	17
References	17

## The authors

Dr Suellen Murray is Senior Research Fellow Global Studies, Social Science & Planning at RMIT University. Her research has examined the history of domestic violence services and social policy concerning domestic violence. She has also worked in a range of positions including those concerned with human services service delivery, research, policy development and program administration.

Dr Anastasia Powell is a Lecturer in Humanities and Social Sciences at La Trobe University where she teaches in Deviance and social control. Her research has examined young people's love/sex relationships and the prevention of pressured and unwanted sex.

ACSSA Issues are peer-review publications.

© Commonwealth of Australia 2008

This work is copyright. Apart from any use as permitted under the Copyright Act 1968, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at [www.ag.gov.au/cca](http://www.ag.gov.au/cca)

The Australian Institute of Family Studies is committed to the creation and dissemination of research-based information on family functioning and wellbeing. Views expressed in its publications are those of individual authors and may not reflect Australian Government or Institute policy, or the opinions of the Editors or of the Director.

Interim ACSSA Coordinator: Dr Antonia Quadara

Australian Institute of Family Studies

Level 20, 485 La Trobe Street, Melbourne VIC 3000 Australia

Phone: (03) 9214 7888 Fax: (03) 9214 7839

Internet: [www.aifs.gov.au/acssa](http://www.aifs.gov.au/acssa)

ISBN 978-1-921414-06-0

Edited by Lauren Di Salvia

Printed by Vega Press

assault, and nor will the issues and barriers that they face be the same.

“Disability” is a contested term for which the meaning is socially situated, such that the conditions or diverse abilities included in formal definitions of disability can vary between societies and over time. Using a social model of disability, it can be understood as “the result of disabling social, environmental and attitudinal barriers” (Howe, 1999, p. 12). Therefore, it is the societal perceptions and responses to people with a disability that are more often responsible for the increased risk of victimisation that such individuals experience. Consequently, certain factors place people with disabilities at risk of sexual violence. These factors include social and physical isolation, dependence on carers, a lack of knowledge that violence is criminal, and communication difficulties (Goodfellow & Camilleri, 2003; Petersilia, 2001; Women with Disabilities Australia, 2007a). As noted by the Victorian Women with Disabilities Network:

Women with disabilities who experience violence find they have less information about what constitutes violence; experience high levels of social isolation and increased dependence on a perpetrator; they are often not believed when reporting; they have greater difficulty accessing support services and may experience lower self-esteem that results in “tolerating violence”. (2007, p. 8)

This paper reviews current knowledge regarding the prevalence of sexual assault of adults with a disability, who the offenders are, and particular barriers to disclosure. It discusses the ways that individuals, organisations and society can enable the disclosure of sexual assault of people with a disability. The paper then considers the most appropriate responses post-disclosure, in terms of public policy, the service sector and the criminal justice system. Finally, good practice examples in responding to and preventing the sexual assault of people with a disability are profiled and directions for future research and practice considered.

## Prevalence of sexual assault of adults with disabilities

Sexual assault within disability and age care residential settings ... is a fact. These assaults occur for a variety of very complex reasons including the vulnerability of the residents, a service culture of secrecy and hidden violence, disbelief that such vulnerable people would be victims of sexual assault and services' lack of understanding of appropriate preventive measures. (Sexual Assault in Disability and Aged Care Action Strategy, 2007)

Despite being the major national data collection regarding the status and experiences of adults with a disability, the ABS Survey of Disability, Ageing and Carers, does not invite participants to report on their experiences

of violence or abuse. Similarly, the ABS (2006) *Personal Safety Survey* report, which specifically investigates experiences of violence, does not identify the disability status of participants, and the International Violence Against Women Survey (IVAWS) specifically excluded women with an illness or disability from the sample for the survey<sup>2</sup> (Mouzos & Makkai, 2004). Therefore, despite evidence that approximately 20% of Australian women, and 6% of men, will experience sexual violence in their lifetime (ABS, 2006), there is no standard national data collection that includes the experiences of sexual violence amongst adults with a disability, or more specifically, the experiences of women with a disability.

Reported crime data, collated by each state and territory, similarly provide an inadequate estimate of the prevalence of sexual violence experienced by adults with a disability. In addition to sexual assault already widely acknowledged as an under-reported crime, police recording of disability status among reported sexual offences is often incomplete and in many cases based on an individual police officer's subjective observations (Heenan & Murray, 2007; Cook, David & Grant, 2001). Nonetheless, a recent study of Victoria Police data regarding sexual assault indicates that just over a quarter of all victims were identified as having a disability. Of this group, 130 (15.6%) had a psychiatric disability or mental health issue and 49 (5.9%) had an intellectual disability (Heenan & Murray, 2007). These data indicate that adults with a psychiatric and/or intellectual disability in particular are over-represented as victims of reported sexual assault, representing just 2.2% and 0.8% of the Australian population generally (AIHW, 2006). There is also no consistent or standardised recording of allegations or incidents of sexual abuse of people with a disability across sexual assault victim services, the disability sector and other relevant agencies (Women with Disabilities Australia, 2007a; French, 2007; Heenan & Murray, 2007; Victorian Law Reform Commission, 2004; Cook, David & Grant, 2001). The need for improved data collection by key agencies has been noted elsewhere (e.g., Heenan & Murray, 2007; Victorian Law Reform Commission, 2003). Additional barriers also prevent disclosure and reporting of sexual violence by adults with disability, and these are discussed in a later section.

Despite evidence that approximately 20% of Australian women, and 6% of men, will experience sexual violence in their lifetime, there is no standard national data collection that includes the experiences of sexual violence amongst adults with a disability

While these issues in the reporting and recording of sexual assault of adults with a disability make establishing the prevalence of victimisation difficult, there are some research studies that provide additional estimates. Several studies in the United States and Canada indicate that women with a range of disabilities—including physical, language or intellectual impairments—are far more likely to experience sexual assault than women without disabilities (Brownlie, Jabbar, Beitchman, Vida, & Atkinson, 2007; Brownridge, 2006; Martin et al., 2006), and tend to experience all forms of abuse for significantly longer periods of time (Nosek, Howland, Rintala, Young, & Changpong, 2001). A highly cited Australian study conducted in 1989 surveyed a sample of 158 adults with an intellectual disability in South Australia using questions adapted from the 1983 ABS Victims of Crime Survey (Wilson, 1990; Wilson & Brewer, 1992). The study found that adults with an intellectual disability were more than twice as likely to be victims of personal crimes as the general adult population, and 10.7 times more likely to be victims of sexual assault in particular (Wilson & Brewer, 1992). Furthermore, the likelihood of victimisation differed according to an individual's living arrangements, such that those people with an intellectual disability that lived in shared residential care or institutional settings were most vulnerable to abuse. A further key finding of the study is that when victimised, adults with intellectual disability are unlikely to report the crime to police themselves, with a third party such as a family member or carer often doing so. Where the person experiencing abuse is dependent on a carer who is perpetrating abuse, the capacity to report is severely restricted. Wilson and Brewer (1992) found that between 40 and 70% of crimes go unreported, and that sexual assault in particular is least likely to be reported to police. The finding that adults with an intellectual disability are significantly less likely to report a crime themselves also highlights the additional vulnerability of this group to crime victimisation, such that in residential facilities in particular it is most often “staff, rather than the victim who decide

2 According to the respondent selection method for the IVAWS: “Once a private household was contacted by telephone, the respondent was randomly selected using the nearest birthday method. The respondent to be selected was the female aged between 18 to 69 years normally living in the private household whose birthday was nearest to the date of the telephone call. If this person was absent for the duration of the survey, or was either incapable of responding, deaf, or suffering from an illness or disability, then the female with the second-nearest birthday was selected.” (Mouzos & Makkai, 2004, p. 132)

when police intervention is called for” (Wilson, 1990, p. 9). As stated at the outset of this section, it is important to recognise that adults with disabilities are a diverse group, and that the diversity of disability translates into a diversity of experiences of violence and differing risk of sexual assault. A repeat of this, or a similar, survey with a more representative sample of the diverse Australian population of adults with a disability has yet to be undertaken, and would represent an important step in national data collection regarding sexual violence.

Existing data also indicates that adult men and women with a disability do not experience equivalent risk of victimisation of sexual violence.<sup>3</sup> Consistent with patterns of sexual assault generally, there is a gendered aspect to sexual violence that is perpetrated against adults with a disability. Australian and international research indicates that it is predominantly women with a disability who continue to be the victims (Brownlie et al., 2007; French, 2007; Women with Disabilities Australia, 2007a,b). The gendered pattern of sexual violence persists across diverse abilities and indeed across the lifespan. The aforementioned study by Heenan & Murray (2007) found nine sexual assault victims, all female, who were aged 60 years or over at the time of the sexual assault, of these, six were identified as having a physical, cognitive or psychiatric disability and three assaults occurred in residential facilities, indicating a cross-over between the vulnerability of women with a disability and women in residential aged care settings.

While women remain overwhelmingly the victims of sexual violence, men with an intellectual disability do experience greater risk of victimisation than men in the general population (French, 2007; Heenan & Murray, 2007; Sobsey, 1994), a trend which does not appear to hold across all men who have a disability. Therefore, in addition to gender, these prevalence patterns suggest that increased risk of sexual victimisation may be more closely linked with vulnerability, such that those adults with the greatest care or support needs are also most likely to experience sexual violence. Consistent with the national and international literature, the remainder of this paper will largely focus on women with intellectual disabilities, complex communication disabilities,<sup>4</sup> or psychiatric disabilities, as these are the women who are most vulnerable to sexual assault. However it is acknowledged that the issues raised in this paper and the good practice examples identified may also be relevant for women with other diverse abilities and complex needs.

While women remain overwhelmingly the victims of sexual violence, men with an intellectual disability do experience greater risk of victimisation than men in the general population

### Who are the offenders in cases of sexual assault of women with disabilities?

The national and international literature identifies three main perpetrator groups of sexual violence against women with disabilities, and again it is consistent with broader patterns of sexual assault, in that it is known-men, rather than strangers, who are the predominant offenders (Brownlie et al, 2007; Heenan & Murray, 2007; French, 2007; Women with Disabilities Australia, 2007a,b).

Firstly, for women with intellectual disabilities living in residential settings, male residents are frequently identified in the literature as the most common perpetrators of sexual abuse (People with Disability, 2007; Community Services Commission & Intellectual Disability Rights Service, 2001; Wilson & Brewer, 1992; Wilson, 1990). In such settings, the abusive behaviour may be minimised because it is deemed to part of the offender’s disability to behave inappropriately (Attard, 2007; Worth, 2008).

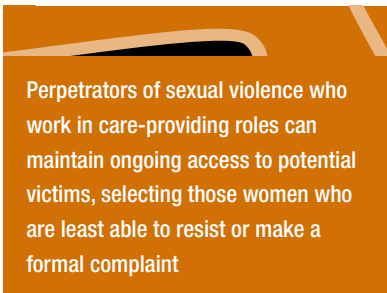
Secondly, family members—who may also perform carer responsibilities—are commonly identified as a key perpetrator group and can include the intimate partner or ex-partner of a woman with a disability (McFarlane et al., 2001; Wilson & Brewer, 1992; Wilson, 1990) or alternatively a father or step-father (McCarthy, 1998). Indeed, the interface of sexual violence and domestic or family violence remains largely under-acknowledged in the research literature. This is despite international research suggesting that, across a range of disabilities, women are at greater risk of

3 As we know that women are the majority of victims and men the majority of perpetrators of sexual violence, at times, we have used the pronouns “she” and “he” respectively to refer to people in these circumstances.

4 People may have complex communication needs and/or use augmentative communication due to a number of disabilities including cerebral palsy, traumatic brain injury, developmental delay and autism, and may use a variety of communication aids such as picture or letter boards, computers or voice output devices (Collier, McGhie-Richmond, & Odette, 2004).

experiencing various controlling behaviours as well as verbal and physical abuse (Women with Disabilities Australia, 2007a,b; Brownridge, 2006; Nosek et al., 2001). Paid in-home carers are also a potential offender group, although again, this is not widely acknowledged in the research literature. There are additional barriers to disclosure for women with a disability who experience abuse from a family member or in-home carer, which may contribute to less awareness of this issue, and these are discussed in the following section. However, there are moves to provide greater protection to adults with a disability who experience abuse in the home (whether from a family member or other carer), with the expansion of family violence legislation to include this relationship in both Queensland (*Domestic and Family Violence Protection Act 1989*, S.12B.4.a.b) and New South Wales (*Crimes Act 1900*, S.562A.3.e), with similar legislation proposed in Victoria (see *Family Violence Bill 2007*, S.12).

Staff in residential care facilities or disability support services represent a third frequently identified perpetrator group (Community Services Commission & Intellectual Disability Rights Service, 2001; Sobsey, 1994). These can include direct care staff as well as other more peripheral staff, including disability transport providers (for instance, some qualitative research also identifies taxi or other transport drivers as perpetrators, see Community Services Commission & Intellectual Disability Rights Service, 2001; Wilson & Brewer, 1992; Wilson, 1990). Perpetrators of sexual violence who work in care-providing roles can maintain ongoing access to potential victims, selecting those women who are least able to resist or make a formal complaint. Speaking at the 2nd National Ageing & Disability Conference, Lauren Kelly and Julie Blyth of the Northern Sydney Sexual Assault Service, described their experience responding to this issue:



Perpetrators of sexual violence who work in care-providing roles can maintain ongoing access to potential victims, selecting those women who are least able to resist or make a formal complaint

Offenders will often move from facility to facility. When suspicions arise in one place, they move on. We were contacted recently about an offender who has now sexually assaulted in at least three different facilities. However because he hasn't been formally charged he is still working with an agency which provides locums to disability and aged care services. He always targets clients with little or no verbal communication. (Kelly & Blyth, 2005, p. 2)

## Barriers to disclosure to sexual assault of adults with a disability

There are significant barriers to disclosure of sexual assault by people with a disability and these barriers may operate at societal, organisational and individual levels that, to some extent, overlap and interact. There are also different levels of disclosure of sexual assault, for example, disclosure to a family member or to staff at a residential unit, and also disclosure (or reporting) to police. As noted, due to the nature of some disabilities and organisational policies, typically, reporting to police occurs by a person other than the victim.

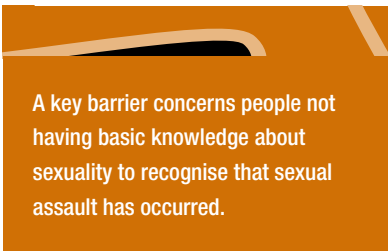
At the societal level, barriers to disclosure are related to wider understandings of sexual violence. If the perpetration of sexual violence is considered acceptable (or at least in some circumstances—and given the high levels of sexual violence that women experience it must be assumed that some people consider this to be so), then people with disabilities may also believe that it is acceptable behaviour and that it is not something to be disclosed. Alternatively, sexual violence may be experienced as shameful and, like others, people with disabilities may be deterred from disclosure because of their feelings of shame and stigma associated with the assault.

Moreover, and more particularly, how “disability” and “vulnerability” are understood may be reflected in the responses of those to whom the disclosure would be made and may also result in creating barriers to disclosure. For example, a woman with disabilities may be concerned that she will not be believed because of ideas that people with disability are asexual (or promiscuous), that they lie or exaggerate, or would not be sexually assaulted (Chenoweth, 1996; Lievore, 2005; Women with Disabilities Australia, 2007b). In relation to disclosure to police by people with intellectual disabilities, Keilty & Connelly (2001) found that “two myths, in particular, emerged consistently: women with intellectual disability are promiscuous and the complainant’s story is not a credible account” (p. 280). Police, in particular, may appear dismissive of allegations of sexual assault as the victim may be perceived as someone who could be too readily influenced and hence make a poor witness (Phillips, 1996; Victorian Law Reform Commission, 2003; Victorian Law Reform Commission, 2004).

These negative responses may be expressed as disbelief, ridicule, blame, rejection or persecution (Davidson, 1997). Due to these responses, she may be concerned that nothing will happen when she does disclose, that something may happen that she does not want to happen, or indeed, that the situation is made worse or it is taken out of her hands. As noted by Cockram (2003) in relation to women with disabilities who experienced domestic violence:

The responses of others to some of the women's eventual disclosure was often significant in determining the women's subsequent help-seeking behaviour. At worst, a poor negative response deterred or delayed the women from seeking help from elsewhere. (p. 43)

A key barrier concerns people not having basic knowledge about sexuality to recognise that sexual assault has occurred. The lack of education in this area is related to wider social beliefs that people with disabilities are asexual, or that they are child-like and, like children, should be protected from their own sexuality, or that they do not need to know about sexuality. Due to poor access to sexuality education, some people with intellectual disabilities may not know that what is occurring is sexual assault. As perpetrators of sexual assault are likely to know and be trusted by the victim, they can manipulate or groom the person into engaging in sexualised behaviours, leading the victim to believe that they have consented (Peckham, 2007). As noted by Carmody, "if people with an intellectual disability are not made aware of their own sexual feelings and their rights to choose or not choose sexual partners, confusion and the possibility of sexual exploitation is increased" (1991, p. 231).



A key barrier concerns people not having basic knowledge about sexuality to recognise that sexual assault has occurred.

When there is awareness that the behaviours directed at them should not occur, there may be a lack of knowledge of how to talk about it or to be able to communicate what has occurred, and there may not be the specific communication aids to facilitate communication. Research has identified that, for people who use augmentative communication, the symbols or words for genitalia or "rape" are rarely included on communication boards, making it all the more difficult to report when a crime has occurred (Federation of Community Legal Centres, 2006; Collier et al., 2004; Goodfellow & Camilleri, 2003). Additionally, a woman may be living in an environment where there is not the permission to talk about sexual matters, whether this is the family home or a residential unit. In these circumstances, being able to disclose sexual assault will be difficult. Furthermore, the assault may occur in an environment of social isolation where there is no-one with whom to speak about it without access to an advocate who can provide support. There may also be physical barriers to seeking assistance, such as a lack of suitable transport or services that are not accessible. More fundamentally, women may not know where to seek assistance (Cockram, 2003), and they may have difficulty accessing this information because carers act as "gate keepers", or decide on a woman's behalf whether or not she needs information" (Jennings, 2003, p. 22). Access to telephones or having visitors may also require the approval of their carer, again limiting options for assistance.

A lack of policies and procedures to deal with disclosures and an organisational culture that does not promote sexual violence prevention may also deter disclosure. But even when policies are in place, they may in themselves form barriers to disclosure. In residential units, for example, organisational policy may require that staff report disclosures to the centre management, at which time a decision is made regarding reporting to police (e.g., Disability Services Division, 2005). These processes may be a deterrent to reporting because it limits the victims' capacity to be involved in the decision-making and she may feel that the process has been taken out of her hands. Concerns have been raised by disability advocacy groups about this lack of control over responses to the sexual assault (Goodfellow & Camilleri, 2003), and this issue is discussed later in this paper.

A further deterrent to disclosure is related to what the victim perceives as the organisational response to the perpetrator of the sexual assault. For example, a report from the Ombudsman Victoria (2006) found that in instances of sexual assault in residential settings, the victim was moved rather than the perpetrator; in other words, she experienced a punitive response whereas the person committing the sexual assault was seemingly unaffected. Anecdotally, another response may be that the victim is locked in her room for her own "protection". There are other anecdotal reports that the focus of a response to sexual assault may be that the perpetrator is referred to a treatment program but the victim receives little support. Experiencing these responses on previous occasions, or observing them, could also deter disclosure.

Another barrier to disclosure may be the inadequate skills of the workers that the victims turn to for assistance. Women with Disabilities Australia (2007b) have noted that women who have tried to get help to stop violence against them have found that some workers do not have the skills to provide an appropriate service to women with disabilities, and that the attitudes of staff are sometimes discriminatory and not inclusive of women with disabilities. If those to whom the disclosure is made do not have an understanding of sexual assault, they may lack competence and confidence in responding appropriately. Moreover, services are frequently non-existent, or inadequate to meet the needs of people with disabilities who experience sexual assault (Jennings, 2003). Women with disabilities who live in rural communities are likely to have the most limited services, and there are few Indigenous-specific services or Indigenous staff based at mainstream services for Indigenous women (Thorpe, Solomon, & Dimopoulos, 2004).

Disclosure may also be affected by the relationship of the victim to the perpetrator of the violence. A victim of sexual assault may feel unable to disclose because she is in a dependent relationship with the perpetrator, whether this is an intimate partner, other family member, or a paid in-home carer (Saxton et al, 2001). If she relies on this person for her personal care she may feel unable to report the behaviour because she believes there would be no-one else to assist her. If the person is an intimate partner, there may be additional reasons she does not want to report the abuse, for the same reasons that women who are in situations of domestic violence do not: she may think she will need to leave her home (especially if the home has been modified to accommodate her needs), she is financially dependent on her partner, or she fears what her partner may do to her if she does disclose (Alexander, 2002; Keys Young, 1998; Patton, 2003; Petersilia, 2001). Despite the violence, she may care about her partner and cherish the lives that they have shared together and she may believe that reporting the violence may result in the end of their relationship.

Disclosure may also be affected by the relationship of the victim to the perpetrator of the violence.

### Enabling disclosure and an appropriate response

Based on the previous discussion of the barriers to disclosure, several key ways of enabling disclosure are summarised here, and further elaborated in the next section where a full discussion of enabling appropriate responses is given.

- Promote the community attitude that all people, including people with disabilities, have a right to live free of violence and fear, including sexual assault.
- Provide meaningful and accessible sexuality education so that people with disabilities understand the positive expression of sexuality and can distinguish it from sexual assault. While not making the victim responsible for their sexual safety, this knowledge base forms an aspect of a preventative approach to sexual assault.
- Create an environment that promotes and supports disclosure where allegations of sexual assault are always treated seriously. These responses to disclosure are characterised by belief in the victim and that she is treated with dignity and respect.
- In residential and other community settings, have in place policies and procedures that both make clear the unacceptability of sexual assault and also give clear guidance to the actions to be taken in the event of a disclosure, including the immediate removal of the alleged perpetrator while the matter is investigated. Compliance with these policies should be a requirement of the funding agreement and monitored through annual reporting.
- For people with a cognitive impairment and/or complex communication needs, provide specific advocacy expertise tailored to their individual needs to assist at disclosure and during the subsequent reporting to police, if she chooses to proceed, and for the proceeding investigation and prosecution. This will ensure the provision of all necessary communication assistance and other support to assist in the disclosure of sexual assault.
- Where sexual assault occurs, provide appropriate support and referral to specialist sexual assault support services, ensuring that the outcomes do not punish her by moving her or restricting her activities in an effort to protect her.
- After a disclosure, provide information in a form that is specific to her needs and disability about the choices she has to deal with the sexual assault, and empowering support to make those decisions. Avoid “gate-keeping” and ensure that agencies are sufficiently resourced to enable staff to have the time to work with clients at a pace and in formats that suits them.

- Ensure that sexual assault support services are accessible and the provision of their services is inclusive of people with disabilities.
- Have in place comprehensive training for all those professionals working in this area, including police, independent third persons,<sup>5</sup> disability workers and sexual assault support services' staff, to assist them to identify and respond to violence skilfully and appropriately.
- Have readily available the practical tools to assist direct service workers so that they know who to contact for specialist advice and assistance.

## Enabling an appropriate response to sexual assault of people with a disability post-disclosure

We now turn to a more detailed discussion of the enabling of appropriate responses post-disclosure, in terms of public policy, the service sector and the criminal justice system.

### Public policy

In Australia, governments play a significant role in the overall response to people with disabilities who have experienced sexual assault. While Australian state and federal governments typically do not provide direct services, they have a clear role in providing guidance and direction around good practice. At the commonwealth level, Australia is a signatory to a number of relevant United Nations conventions that seek to affirm the human rights of all people and, in relation to this area, the Declaration of the Elimination of Violence against Women and the Convention on the Rights of Persons with Disabilities are both significant. At the state level, policy frameworks differ and not all explicitly identify sexual assault as an issue. In Victoria, for example, high-level policy documents outline strategies to ensure the advocacy and support of women with disabilities who experience sexual assault. Relevant documents here include the Women's Safety Strategy (Office of Women's Policy, 2002) and the State Disability Plan (Disability Services Division, 2002). However, there appears to be much scope for developing improved standards and guidelines at a service level to reflect these policy positions.

One of the concerns about the wider service system is the problem of "siloing", or lack of coordination, across disability and sexual assault services, advocates, and police, in responding to those who have experienced sexual assault. While this problem is not unique to the area of disability and sexual assault, there are other fields where, lead by government, considerable effort is being put into better coordinating, and therefore improving, service responses (e.g., Office of Women's Policy, 2006). Governments, then, have an important role in promoting and resourcing collaborative approaches but, as noted by Zweig, Schlichter, and Burt (2002) in the United States, "integrated approaches only work when they receive specific and sufficient attention" (p. 177).

One of the concerns about the wider service system is the problem of "siloing" or lack of coordination ... in responding to those who have experienced sexual assault.

Governments also have a role in the funding of services, and monitoring service provision through funding agreements. However, there are resourcing issues with organisations being able to provide the quality of services required—discussed further in the following section. In addition, governments have a role in funding the professional development of staff, including those working in disability services and sexual assault services, as well as others who are involved with victims of sexual assault such as police, court personnel, the judiciary and independent third persons, so that they are equipped to respond appropriately. As Jennings has commented, "considerably more commitment and resources need to be directed towards training disability professionals, to assist them to identify and respond to violence more skilfully and appropriately" (2003, p. 18).

One of the contentious areas of public policy relates to mandatory reporting of the sexual assault of people with disabilities. Many state governments have established policies within the disability service sector which specify that any allegation of sexual abuse must be reported to the police. For

5 An independent third person (ITP) is a volunteer trained to help people with a cognitive disability or mental illness when they are in contact with police as a victim, witness or alleged offender. They are not advocates and do not provide legal advice or counselling support, but rather their role is to ensure the person with a disability understands their legal rights and to facilitate communication with police (Office of the Public Advocate Victoria, 2006).



example, in Victoria, the Department of Human Services' Disability Services Division has developed a policy to assist disability services in responding to incidents involving physical and/or sexual assault. The policy states the most senior staff member present when an allegation of physical or sexual assault is made *must* report the matter to Police, and that in cases of sexual assault a Centre Against Sexual Assault may also be called with the consent of the victim (Disability Services Division, 2005). The policy also provides a breakdown of incident levels in which sexual assault is rated as a "category one" and must be reported to Victoria Police:

For clients with an intellectual disability, inappropriate touching and public exposure need to be considered in the context of the individual client's behaviour. If the client lacks understanding of the behaviour (for example, they are unable to distinguish between the significance of touching someone on the arm as opposed to the breast) then it may be most appropriate to categorise the incident as category three. Under these circumstances an incident report must be completed and an appropriate behavioural management plan must be put in place, but it is not necessary or appropriate to report the incident to Police. (Disability Services Division, 2005, p. 6)

The policy makes little reference to referrals to Centres Against Sexual Assault in order to support a client victim who may have been subject to "inappropriate touching" and may have their own support needs. Similarly, the New South Wales Department of Ageing, Disability and Home Care has a policy which states that in cases of physical or sexual assault a report must be made to New South Wales Police, with the exception of domestic violence which must be reported to a manager "and may be reported to the NSW Police." An incident "that would usually be classed as assault, [but] is caused by a person with an intellectual disability who lacks understanding of the behaviour" is also exempt from this mandatory reporting obligation (Department of Ageing, Disability and Home Care, 2007, p. 13, emphasis added).

Other states also have in place similar policies; see Box 1 for an excerpt from the Queensland Disability Services *Procedure Guidelines*, which provides a guide for disability services in responding to allegations of sexual abuse.

As is evident from these excerpts, while a "mandatory reporting" policy of reporting allegations of sexual abuse to police may be in place, in practice, disability service providers are left with considerable discretion in defining

## Best practice examples for enabling a better response to the sexual assault of people with a disability in Australia.

These best practice examples include collaborations in service delivery and training and the development of specialist training and resources for work in this area. Two examples are drawn from work with people with disabilities who experience family violence (that may include sexual assault) and there is clearly capacity for these models to be adapted for use in the sexual assault field.

### Centres Against Sexual Assault (CASA) – Victoria

South Eastern Centre Against Sexual Assault (SECASA) offers a counselling and intervention program for young people with an intellectual disability who are displaying inappropriate sexual behaviour or are engaging in sexually abusive behaviours. The Sexual Assault and Intellectual Disability (SAID) program operates from within the Southern Region of Victoria. SECASA has also developed an information brochure, *Sexual Assault—When Sex is Not Okay*, to inform people with an intellectual disability about their sexual rights and where to get help and support. Training for staff working with clients who are victim/survivors of sexual assault and have a disability is also built into the annual professional development calendar, including delivering training regarding sexual assault and responding to a disclosure for professionals in the disability sector (Worth, 2008). From 2008, CASA Forum (the peak body of CASAs) is providing professional development for sexual assault workers in Victoria, including workshops concerned with working with people with disabilities who have experienced sexual assault.

For more information visit: [www.secasa.com.au](http://www.secasa.com.au)

### Northern Sydney Sexual Assault Service – New South Wales

In 2002 the Northern Sydney Sexual Assault Service, operating out of Royal North Shore Hospital in Sydney, produced the resource book *Myalla: Responding to People with Intellectual Disabilities who have been Sexually Assaulted*. The resource book discusses the nature of sexual abuse of people with a disability, working with clients, as well as counselling and advocacy approaches, and can be ordered by contacting Northern Sydney Sexual Assault Service directly. After producing *Myalla*, Northern Sydney Sexual Assault Service received an increased number of agencies and clients from both the disability and aged care sectors contacting them about sexual assault of these vulnerable people and the difficulties agencies had ensuring the safety of victim/survivors (Kelly & Blyth, 2005).

## Box 1—Excerpt from *Procedure Guidelines, Queensland Disability Services (2007)*

### 3.1 Example: What to do when an allegation of abuse, assault or neglect is made.

Person (person A) to whom the allegation is made must document the incident/allegation according to the service provider's procedures.

The first person to report the incident to the senior or designated officer (person B) will establish the nature of the incident and determine the next course of action. In most incidences the allegation will need to be reported to the police or an external organisation.

Person B will contact the police or other external organisation immediately, providing a copy of the initial allegation/report.

No further investigations, which may compromise or prejudice the involvement of the police or other external organisation or impede natural justice, are to be conducted.

Person B or a delegate liaises with police or other external organisation regarding further information or other requirements.

Prior to the clarification of the detail of the alleged offence do not inform other staff or the alleged offender of the investigation, unless the alleged offender is charged with an offence.

Seek advice or assistance from the Office of the Adult Guardian, Office of the Director of Public Prosecutions (DSQ—Misconduct Prevention Unit).

whether an alleged incident is serious enough to constitute sexual assault and therefore warrant a police report being made.

There is also considerable discretion exercised by disability services as to whether a referral to a local sexual assault service should be made in an attempt to support the victim of the alleged incident. These policies, therefore, rely on all disability sector staff being sufficiently trained in identifying and responding to sexual assault. Yet this training is not uniformly funded or widely available. Furthermore, it shifts the emphasis away from minimising abusive sexual behaviours as part of an offender's disability. Moreover, anecdotally, sexual assault specialist services report large variation in the number of referrals made from disability services and residential facilities, with some services seemingly very aware of the importance of offering support to victims while other services appear to retain a culture of responding internally.

There is also considerable discretion exercised by disability services as to whether a referral to a local sexual assault service should be made in an attempt to support the victim of the alleged incident

In addition to issues with how mandatory reporting of sexual abuse of adults with a disability works in practice, there are a number of views regarding whether such policies are indeed appropriate. For instance, the Disability and Discrimination Legal Service in Victoria maintains that mandatory reporting policies, while in place with the best of intentions with respect to protecting clients, also "clearly places the victim/survivor in a different situation than other victim/survivors of sexual assault who have the right to choose whether to report to police or not" (Goodfellow & Camilleri, 2003, p. 34). Likewise, a discussion paper

by the New South Wales Attorney General's Department also acknowledges the "philosophical dilemma between paternalism and the need to ensure their right to sexual freedom is protected" (Attorney General's Department, 2007, p. 11). Additionally, given some concerns that charges are rarely laid or successful where a victim of sexual assault has a disability (Victorian Law Reform Commission, 2004), it can be questioned whether mandatory reporting to police will necessarily achieve a better outcome for the individual victim. In some of our consultations, it was suggested that rather than a policy of mandatory reporting to police, mandatory reporting of any potential sexually abusive incident should be reported to a specialist sexual assault service. Such services have the expertise to determine the seriousness of the alleged incident, the support needs of the victim/survivor and adopt an empowerment model which would support the victim in making a report to police if they wished to do so, and in participating in a forensic examination to ensure that any physical evidence is maintained, should a criminal investigation ensue. The efficacy of this model

of standard policy for responding to allegations of sexual abuse is a key area for future examination. Such a policy would also require additional resources to be directed to specialist sexual assault services in order to adequately respond to the additional caseload that would follow increases in referrals from the disability service sector.

An additional area of public policy that could be investigated is screening for those wishing to work with vulnerable adults, similar to checks undertaken for those who work with children. In addition to criminal history checks, these screening processes could include information from a range of sources such as employer reports and relevant professional bodies. Such initiatives have been taken up in the United Kingdom and Canada and would be a way of attempting to prevent the difficulties that were described by the Northern Sydney Sexual Assault Service whereby offenders target vulnerable clients and move from facility to facility (Department of Health, 2000; Kelly & Blyth, 2005; Sobsey 1994).

### Service sector responses

*We need to communicate to family violence and sexual assault workers that they are in the best position to offer validation and support to women with disabilities who experience violence. As workers, they have the knowledge and expertise in supporting women and children. The problem is the violence, not the woman's disability. (Jennings, 2003, p. 27)*

While some issues regarding the service sector and individual organisations have already been raised in relation to enabling disclosure, there are also wider service sector issues in relation to responses to people with disabilities who experience sexual assault.

While governments have a role in promoting and resourcing cross-sectoral collaboration, it is the agencies (and governments) that need to work together. However, this level of collaboration is not necessarily widespread. The North Sydney Sexual Assault Service surveyed services across wider Sydney that have the responsibility for care and safety of vulnerable people to examine what policies and practice were in place. They reported that they “received a number of procedure documents for responding to disclosures of sexual abuse but it was clear that the response was not standardised and most were dealt with ‘in house’ with a low level of interagency involvement” (Kelly & Blyth, 2005, p. 4). Similarly in Western Australia, Cockram (2003) in her study of responses to

## Best practice examples for enabling a better response to the sexual assault of people with a disability in Australia. *Continued...*

Northern Sydney Sexual Assault Service is also involved in delivering professional education seminars through the New South Wales Government Education Centre Against Violence, including recognising sexual abuse and ensuring sexual safety of clients in mental health and aged care services. For more information visit: [www.ecav.health.nsw.gov.au](http://www.ecav.health.nsw.gov.au)

### SADA Action Strategy – New South Wales

The Sexual Assault in Disability and Aged Care Residential Settings (SADA) action strategy, auspiced by People With Disability Australia Incorporated, aims to identify best practice in preventing and responding to sexual assault. It was initiated in 2005 by the Northern Sydney Sexual Assault Service in response to the number of people with disability and older people approaching their service as victims of sexual assault (People with Disability, 2007). In 2006, the project received 2-years funding from the Office for Women to continue its work. The SADA action strategy has involved a number of consultations with stakeholders including across disability, aged care, police and sexual assault sectors in order to identify strategies for action to enable a better response to sexual assault of people living in disability and aged care residential settings. Findings from these consultations have emphasised the importance of recognising both the sexuality of people with disability as well as their vulnerability to sexual assault (People with Disability, 2007). The project has a website where they are collating existing tools and resources for disability and aged care services to guide prevention and responses to sexual assault. The next phase of the project is to pilot a training package for staff in the disability and aged care sectors on recognising and responding appropriately to sexual assault. The pilot training is due to take place by June 2008 (Attard, 2007).

For more information visit: [www.sadaproject.org.au](http://www.sadaproject.org.au)

### Family Planning Australia

Family Planning in most states and territories offer education and professional training as well as access to resources and information regarding sexuality and relationships for people with disabilities, their parents/carers and professionals working in the disability field. This includes formally accredited training for professionals in the disability sector, as well as consultation and seminars on developing sexuality education programs for people with a disability. Most states also have a disability resource library with materials that can be loaned or purchased, including sexuality and relationship

women with disabilities who experience domestic violence, found that there was a need for much greater collaboration. She recommended that:

A major goal should be for domestic violence and disability services to bridge the philosophical and service delivery gaps between the domestic violence and disability communities and to provide some of the practice, policy and training resources necessary to enhance and speed these efforts. (p. 57)

Moreover, agencies may have in place practices and policies as well as physical barriers that deter people with disabilities using their services. Women with Disabilities Australia (2007a) has developed an action plan for women's refuges that outlines ways of addressing barriers and ensuring that services are compliant with the Commonwealth *Disability Discrimination Act 1992*. The action plan is based around an agency audit that identifies areas requiring attention. Part of developing the action plan is ensuring the involvement of women with disabilities.

Improving the quality of service to people with disabilities who experience sexual assault rests on a number of factors mentioned already, including increased resourcing. Part of this additional resourcing includes ensuring professional development to equip all relevant staff—including disability care workers, independent third persons and sexual assault support workers. Particularly

for people with cognitive impairment or complex communication needs, there are serious difficulties in receiving appropriate responses to sexual assault, and further professional development is part of ensuring good practice. The Federation of Community Legal Centres (2006) has undertaken extensive consultations to develop a number of strategies to assist those with these particular disabilities. These strategies include specialised training in communication assistance techniques; further training for general duties police regarding identification of a person with a cognitive impairment; piloting a 24-hour advocacy service; and the development of a crime reporting communication board.

Improving the quality of service to people with disabilities who experience sexual assault rests on a number of factors mentioned already, including increased resourcing

### The criminal justice system

This young woman ["Caroline"] has cerebral palsy, is wheelchair bound, totally dependant on carers for her personal and daily living activities, and non-verbal. Cognitively very aware, she depends on assisted communication to enable her to communicate ... Caroline was sexually assaulted by the taxi driver who picked her up from home and drove her to school ... Caroline uses a communication book to communicate, but her communication book did not have the vocabulary she needed to describe what had happened to her. Her communication book did not include words such as "penis" or "rape", and police would not allow these words to be added after the incident, because as the police explained, in court this would be seen as leading the witness. (Excerpt from an interview with a support worker cited in Federation of Community Legal Centres, 2006, pp. 7–8).

The role of the criminal justice system in enabling an appropriate response to sexual assault of people with a disability post-disclosure has increasingly become the focus of research and proposals for law reform. For example, the Victorian Law Reform Commission's report into sexual offences recommended that the Attorney-General consider asking the Commission to review how people with cognitive impairment are treated in the criminal justice system as complainants, accused and witnesses. More recently, the New South Wales Attorney General's Department has released

The role of the criminal justice system in enabling an appropriate response to sexual assault of people with a disability post-disclosure has increasingly become the focus of research and proposals for law reform

a discussion paper, *Intellectual Disability and the Law of Sexual Assault* (2007), exploring similar issues and further indicating that these remain an important issue for future research and reform. Moreover, the Disability Discrimination Legal Service suggests that adults with a cognitive impairment in particular are "rarely considered capable of participating in the justice process" (Goodfellow & Camilleri, 2003, p. 25). However, as Caroline's story above indicates, this statement may encapsulate the ultimate barrier to justice for many adult victims of sexual assault with a disability, and underpin inadequate responses at every step of the criminal justice process; through the initial police response, to prosecution, as well as court processes and outcomes.

According to Petersilia (2001), when crimes against people with a disability are disclosed, they are typically not defined as crimes, but rather as “incidents”, and are consequently more likely to be dealt with by administrative channels within the institutional setting. The treatment of sexual assault or abuse as an “incident” rather than a “crime” is partly reflective of the additional complexities surrounding legal approaches to sexual consent particularly where a victim/survivor or alleged perpetrator has a cognitive impairment. Indeed, the issue of consent for adults with a cognitive impairment continues to be subject to legislative reform in some jurisdictions within Australia. Most legislation is clear that in some situations there can be no legal defence of consent, for instance, where the perpetrator is in a formal care position of authority, such as a medical practitioner. In other cases, where the perpetrator also has a cognitive impairment, whether the victim consented becomes an invisible issue, as the offender is not deemed criminally responsible. Such cases are most likely to be defined as “incidents” and responded to internally in order to manage the “problem behaviour” of the offender. Anecdotally, the categorisation of “incident” rather than “crime” tends to result in little focus on the support needs of the victim/survivor with respect to the sexual assault. In the case of intimate partners or informal care relationships, the issue of intervention becomes a particularly complex issue, with legislation continuing to struggle with the need to both acknowledge a person with a disability as having agency in their sexual life, while still wanting to provide some measure of protection for vulnerable adults. Like mandatory reporting referred to earlier—it is a difficult balance between a law of paternalism or of protection.

Even where service agencies or institutions do define a sexual assault as a “crime” rather than an “incident” and therefore exercise their internal policies regarding mandatory reporting, this process often goes through several layers of management before making a formal report to police. This can mean that crucial forensic evidence of a sexual assault may be lost or destroyed due to the delay (Goodfellow & Camilleri, 2003). In light of the view referred to above, of adults with a disability as not always considered capable of participating in a criminal justice response, independent forensic evidence can be a crucial factor in deciding whether a case is to progress through the system.

For those that do make their way into the criminal justice system, there are particular challenges for people with disabilities, especially for those with an intellectual disability or who use augmentative communication. More specifically, these difficulties

## Best practice examples for enabling a better response to the sexual assault of people with a disability in Australia. *Continued...*

education services for people with disabilities, their parents/carers and professionals working in the disability field. Family Planning services also offer direct, specialist individual sexuality education for people with a disability. For example, Family Planning Victoria (FPV) run a “Sexuality Education and Intervention Service” which provides education and intervention services to people whose behaviour is placing them at significant risk of sexually offending or being sexually exploited due to lack of knowledge. FPV has developed a “Sexual Assault and Intellectual Disability Resource Kit” for working with victim/survivors of sexual assault who have an intellectual disability. Family Planning New South Wales, with funding from the New South Wales Department of Ageing, Disability and Home Care, provide education and training for professionals in the disability sector to better identify and respond to inappropriate and abusive sexual behaviours.

For further details visit: [www.shfpa.org.au](http://www.shfpa.org.au)

### Sexuality Education Counselling and Consultation Agency – Western Australia

Established in 1991, the Sexuality Education Counselling and Consultation Agency (SECCA) provides education, counselling and consultancy services about human relationships and sexuality for people with a disability, their families, service providers and carers (SECCA, 2006). With funding from the Disability Services Commission Western Australia, including a best practice grant in 1998, SECCA has developed a number of resources for informing people with a disability about their sexual health and sexual rights. In 2005 the booklet *Sexuality and Your Rights*, which provides information about sexuality and the law specifically for people with an intellectual disability, received a certificate from the Accessible Community Awards for improvements in access and inclusion (SECCA, 2006). In addition to education and resources for people with a disability, SECCA also provides professional and community training workshops and seminars for disability support staff, carers, family, health and human services professionals. SECCA can also tailor workshops for disability service agencies and their staff (SECCA, 2006).

Details regarding training, as well as how to order education brochures, can be found on the SECCA website: [www.secca.org.au](http://www.secca.org.au)

include dealing with repeated questioning by a number of people, difficulty in understanding the nature of the crime, unfamiliarity with court processes, and inability to recall sufficient detail about the offence or to put these memories into words (Goodfellow & Camilleri, 2003; Petersilia, 2001).

In our consultations, some service providers were so disheartened by the inadequacies of police and court responses that they expressed doubts as to whether a truly just outcome could be attained for victims of sexual assault with a disability. Nonetheless, in her review of criminal justice responses to adult victims of sexual assault with intellectual disabilities, Petersilia (2001) concluded that “the literature seems to confirm that criminal convictions can be won in cases in which the victim is cognitively disabled, but it takes specialised training and may involve additional investigative and

“the literature seems to confirm that criminal convictions can be won in cases in which the victim is cognitively disabled, but it takes specialised training and may involve additional ... resources” (Petersilia, 2001)

prosecutorial resources” (p. 684). Furthermore, the Victorian Law Reform Commission *Sexual Offences* reports and New South Wales Committee on Intellectual Disability and the Criminal Justice System reports, in addition to several other research reports from Australian community and advocacy groups, have recommended a number of policy and process reforms to better enable a criminal justice response post-disclosure (Women with Disabilities, 2007a; Federation of Community Legal Centres, 2006; Victorian Law Reform Commission, 2004; Goodfellow & Camilleri, 2003; Blyth, 2002; Keilty & Connelly, 2001; Committee on Intellectual Disability and the Criminal Justice System, 2000). These recommendations are summarised below:

#### *Police interview and investigation*

- Ensure responding police have had training or expertise specifically in identifying and interviewing people with differing functional needs due to disability
- Consistent use of video and audio taped evidence
- Coordination between police, sexual assault support workers, intellectual disability rights services and other relevant disability support workers
- Additional training for independent third persons (ITPs) specifically regarding sexual assault.
- Systematic monitoring of matters which are not investigated, or where a report is made but a statement is not taken, and the reasons for this
- Flexibility in taking the statement to accommodate the person’s impairments, such as limited concentration, memory impairments or need for communication aids

#### *Court preparation*

- Planning and preparation to ensure that the victim feels prepared, including a visit to a court to familiarise them with the environment and procedures.
- Coordination and pre-trial conferences between sexual assault support workers, witness support staff at the office of the Director of Public Prosecutions, and the Director of Public Prosecutions (DPP)
- Expert witness reports to the DPP on the victim’s abilities and disabilities to identify the victim’s additional needs or difficulties that they may experience in being a witness

#### *Supporting victim/survivors in court*

- Inclusion of expert witness reports early in the court process to explain to judges and/or juries the person’s abilities and disabilities that may impact on their giving evidence
- A clear mandate, rather than discretion, for the Courts to attend to special needs of a victim/survivor with a disability such as:

“frequent breaks in giving evidence to ensure optimum concentration, support person sitting with the witness, physical modifications such as wheelchair accessibility, use of speech therapists to assist communication, willingness of the court to use plain language and short sentences, use of special provisions such as closed circuit television and screens, closed court when giving evidence ...” (Blyth, 2002, p. 67)

As suggested by Julie Blyth (2008), a counsellor-advocate at the Northern Sydney Sexual Assault Service and author of *Myalla*, “there is no such thing as red tape, only pink elastic—it’s about how you view the situation.” Substantial improvements to criminal justice responses for victims of sexual assault who have disabilities are thus not impossible, but do require government leadership and resources to investigate and implement these recommendations across all state and territory jurisdictions.

## Conclusion

This review of the literature and the consultations regarding sexual assault and adults with a disability provides clear directions for future research and practice. Several issues stand out as requiring further and urgent attention.

### *Creating an environment of sexual violence prevention and enabling disclosure*

Taking action in response to the sexual assault of individuals with disabilities is severely limited by the barriers to disclosure. These barriers are significant and have been outlined in many research reports and academic publications and reiterated here. This body of literature gives clear direction to enable disclosure at both the level of individual victims and also systemically, at the level of organisations and through public policy. The strategies, suggested in the literature, also assist in the prevention of sexual assault by promoting environments that do not condone sexual assault, and that affirm the human rights, respect and dignity of all people. Greater prioritisation is needed for this area that continues to have unmet and poorly met needs.

### *Sexuality education for people with disabilities*

Access to information about sexuality and sexual violence prevention across the life course is essential for adults with disabilities. Without this knowledge, people neither have an understanding of what is a positive expression of sexuality (and what is not), nor have the language to talk about it. While sexuality education may be part of an adult post-disclosure program, our review of the literature and the consultations with key workers in this field emphasised the need for this education to be life-long. As one informant stated:

*“for people with intellectual disabilities who may never have been given choices in their life, how can we expect them to be able to make choices and give consent to having sex, when for many people who have been exposed to some form of sexuality education (albeit limited) since young adulthood, find this difficult?”*

Sexuality education programs can be an important safety strategy and part of a wider preventative approach. Importantly, such sexuality education must include more than just the biological details of reproductive sex and sexual health, but also engagement with the meaning and negotiation of sexual consent (Carmody, 2003, 2005; Carmody and Willis, 2006; Powell, 2007).

## Best practice examples for enabling a better response to the sexual assault of people with a disability in Australia. *Continued...*

### **Disability Services Division, Department of Human Services (Victoria): Women with a Disability Family Violence Learning Program**

The Women with a Disability Family Violence Learning Program aims to assist workers in the disability and family violence sectors to provide a more collaborative response to women with a disability who are experiencing family violence. The learning program consists of several components: a two-day workshop focusing on the support needs of women with a disability experiencing family violence; four half-day facilitated practice forums for key workers from the family violence, disability and other services to support practice improvement in responding to women with a disability who experience family violence; work-based components in which participants document and reflect upon their work activities; and the establishment of ongoing communities of practice. The learning program is compatible with national units of competency. In 2008, the program is being established in two of the eight Department of Human Services' regions across Victoria with others to follow (Disability Services Division, 2007).

### **Women with Disabilities Australia: A Guide for Women's Refuges to Develop Disability Discrimination Act Action Plans**

Women with Disabilities Australia have produced a guide to assist women's refuges to develop *Disability Discrimination Act* Action Plans. The Action Plans are concerned with dealing with a range of barriers to women with disabilities gaining assistance, including those related to communication, information, attitudes, physical environment, and the skills of workers. The guide, *More than Just a Ramp*, outlines why Action Plans are important, what they entail and how to go about developing one. It draws on the example of Woorarra Women's Refuge that went about developing an Action Plan for its service (Women with Disabilities Australia, 2007a).

### *Resourcing of agencies working in the area of adults with disabilities who have experienced sexual assault*

To work effectively with people with disabilities, resources may need to be allocated to ensure that services are accessible and appropriate. For example: more time may be needed to provide responses that are more slowly staged; advocates may be needed to assist people; additional resources such as specialist communication equipment or material provided in alternative formats may need to be purchased; or modifications may be required to ensure that buildings are accessible. This resourcing then has implications for funding bodies and for prioritisation within agency budgets.

### *Professional development*

Professional development is needed across the service sector and criminal justice system to ensure workers are well equipped to support people with disabilities who experience sexual assault. Part of this training is about having the practical tools to assist direct service workers and for them to know who to contact for advice and assistance. While some innovative examples of staff training have been developed and are in place, a clear theme across the literature and the consultations concerned the need for further and ongoing professional development.

### *Screening of staff*

The introduction of screening of staff wishing to work with vulnerable adults, similar to checks undertaken for those who work with children, should be investigated as a means of preventing sexual assault.

### *Need for coordinated cross-sectoral responses*

While there is some evidence that in Australia specific initiatives have aimed to coordinate the responses of the various agencies involved in working with adults with disabilities who experience sexual assault, there is an urgent need for further work to be done in this area, at both public policy and agency levels.

### *Improvements to the criminal justice system*

There remains a need to address how people with disabilities, especially those with cognitive impairment, are treated in the criminal justice system as complainants, accused and witnesses, and this remains an important issue for future reform. A number of recommendations regarding policy and process reforms to better enable a criminal justice response for adults with a disability post-disclosure of sexual assault are available within existing research. However, these recommendations urgently require government leadership and resources to commence further development and implementation across all state and territory jurisdictions.

### *Improved data collection*

The collection of data regarding the prevalence, incidence and nature of sexual assault of people with a disability is a key research and service monitoring need. There have been numerous calls for improved data collection that identifies people with a disability and the nature of their disability. For this data collection to be useful and to be undertaken sensitively, consideration needs to be given to both what is collected and how it is collected. Agencies need to also consider the resourcing of this data collection and training of staff.

### *Further research*

A target for further research identified in the literature is an audit of agency policies and service responses regarding people with a disability who experience sexual assault and abuse. Such an audit could be cross-sectoral, examining agencies across disability, aged care, sexual assault, family violence and disability advocacy services. A similar auditing research project has been undertaken in the UK and formed the basis for development and implementation of multi-agency policies and procedures to protect vulnerable adults from abuse (Department of Health, 2000).



## Acknowledgements

To write this issues paper, we were asked to review the published literature on sexual assault of adults with a disability, particularly in relation to its prevalence, barriers to disclosure and good practice in the area of responding to disclosures. While there is substantial international literature on both prevalence (although, as discussed, typically reliant on poor quality or limited data collection) and barriers to disclosure, there is much less on responses and, in particular, case studies of good practice. To supplement the published literature, we consulted with selected key stakeholders working in this field, listed below. We would like to acknowledge their contributions. The consultations were highly informative and added significant further depth to our understanding of the issues.

## Consultations

- Attard, M. (2007). Senior Project Officer, Sexual Assault in Disability and Aged Care Action Strategy Project. Interviewed by A. Powell, 18 December.
- Blyth, J. (2008). Northern Sydney Sexual Assault Service, North Shore Hospital. Interviewed by A. Powell, 8 February.
- Burgen, B. (2008). Formerly, Family Planning Victoria. Interviewed by S. Murray, 31 January.
- Bryant, D. (2008). Manager WestCASA. Interviewed by A. Powell, 22 January.
- Chivers, J. (2008). Manager, Education and Training, Family Planning New South Wales. Interviewed by A. Powell, 23 January.
- Graham, C. (2008). Manager, Individual Specialist Education and Support, Family Planning Victoria, Interviewed by S. Murray, 16 January.
- Howe, K. (2008). Executive Officer, Victorian Women with Disabilities Network. Interviewed by S. Murray, 16 January.
- Jennings, C. (2008). Manager, Violence Against Women with Disabilities Project, Domestic Violence and Incest Resource Centre. Interviewed by A. Powell, 7 February.
- Paust, S. (2008). Manager, Sexuality Education Counselling and Consultancy Agency. Interviewed by S. Murray, 15 January.
- Worth, C. (2008). Manager, South East Centre Against Sexual Assault (SECASA). Interviewed by A. Powell, 22 January.

## References

- Alexander, R. (2002). *Domestic violence in Australia: The legal response* (3rd ed.). Sydney: Federation Press.
- Attorney General's Department. (2007). *Intellectual disability and the law of sexual assault. Discussion paper*. Sydney: Criminal Law Review Division, NSW Attorney General's Department.
- Australian Bureau of Statistics. (2006). *Personal safety survey* (Cat. No. 4906.0). Canberra: Author.
- Australian Bureau of Statistics. (2003). *Disability, ageing and carers: Summary of findings Australia* (Cat. No. 4430.0). Canberra: Author.
- Australian Institute of Health and Welfare. (2006). *Disability and disability services in Australia based on an extract of Australia's Welfare 2005* (AIHW Cat. No. DIS43). Canberra: Author.
- Blyth, J. (2002). *Myalla: Responding to people with intellectual disabilities who have been sexually assaulted*. Sydney: Northern Sydney Sexual Assault Service.
- Brownlie, E. B., Jabbar, A., Beitchman, J., Vida, R., & Atkinson, L. (2007). Language impairment and sexual assault of girls and women: Findings from a community sample. *Journal of Abnormal Child Psychology*, 35(4), 618–626.
- Brownridge, D. A. (2006). Partner violence against women with disabilities: Prevalence, risk and explanations. *Violence Against Women*, 12(9), 805–822.
- Carmody, M. (2005). Ethical erotics: Reconceptualising anti-rape education. *Sexualities*, 8(4), 465–480.
- Carmody, M. (2003). Sexual ethics and violence prevention. *Social & Legal Studies*, 12(2), 199–217.
- Carmody, M. (1991). Invisible victims: Sexual assault of people with an intellectual disability. *Australia and New Zealand Journal of Developmental Disabilities*, 17(2), 229–236.
- Chenoweth, L. (1996). Violence and women with disabilities. In S. Cook & J. Bessant (Eds), *Women's encounters with violence: Australian experiences*. Thousand Oaks: Sage.
- Cockram, J. (2003). *Silent voices: Women with disabilities and family and domestic violence*. Perth: People with Disabilities.

- Collier, B., McGhie-Richmond, D., & Odette, F. (2004). *Reducing the risk of sexual abuse for people who use augmentative communication: A community response*. Toronto: The Speak Up Project.
- Committee on Intellectual Disability and the Criminal Justice System. (2000). *People with a disability: Giving evidence in court*. Sydney: Criminal Law Review Division, NSW Attorney General's Department.
- Community Services Commission & Intellectual Disability Rights Service. (2001). *Crime prevention in residential services for people with disabilities. A discussion paper*. Sydney: Community Services Commission.
- Cook, B., David, F., & Grant, A. (2001). *Sexual violence in Australia* (Research and Public Policy Series No. 36). Canberra: Australian Institute of Criminology.
- Davidson, J. (1997). *Every boundary broken: Sexual abuse of women patients in psychiatric institutions*. Sydney: Women and Mental Health Inc.
- Department of Disability, Aged and Home Care. (2007). Retrieved 14 February 2008, from [www.dadhc.nsw.gov.au](http://www.dadhc.nsw.gov.au) - No title and not sure if cited!
- Department of Health. (2000). *No secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*. London: Home Office.
- Disability Services Division (2007) *Family violence learning program*. Melbourne: Victorian Department of Human Services
- Disability Services Division. (2005). *Responding to physical and sexual assault*. Melbourne: Victorian Department of Human Services.
- Disability Services Division. (2002). *State Disability Plan 2002–12*. Melbourne: Victorian Department of Human Services.
- Draine, J., Salzer, M. S., Culhane, D. P., & Hadley, T. R. (2003). Role of social disadvantage in crime, joblessness, and homelessness among persons with serious mental illness. *Psychiatric Services*, 53(5), 565–573.
- Federation of Community Legal Centres. (2006). *Advocacy: Making rights reality for sexual assault victim/survivors with a cognitive impairment*. Melbourne: Author.
- French, P. (2007). *Disabled justice: The barriers to justice for persons with disability in Queensland*. Report prepared by the Disability Studies and Research Institute. Brisbane: Queensland Advocacy Incorporated.
- Goodfellow, J., & Camilleri, M. (2003). *Beyond belief, beyond justice: The difficulties for victim/survivors with disabilities when reporting sexual assault and seeking justice. Final report of stage one of the Sexual Offences Project*. Melbourne: Disability Discrimination Legal Service.
- Heenan, M., & Murray, S. (2007). *Study of reported rapes in Victoria 2000–2003. Summary research report*. Melbourne: Statewide Steering Committee to Reduce Sexual Assault.
- Howe, K. (1999). Violence against women with disabilities: An overview of the literature. *Women Against Violence*, 7, 11–17.
- Jennings, C. (2003). *Triple disadvantage: Out of sight, out of mind* (Violence Against Women with Disabilities Project). Melbourne: Domestic Violence and Incest Resource Centre.
- Keilty, J., & Connelly, G. (2001). Making a statement: An exploratory study of barriers facing women with an intellectual disability when making a statement about sexual assault to police. *Disability & Society*, 16(2), 273–291.
- Kelly, L., & Blyth, J. (2005). Responding to sexual assault in aged and disability care settings. northern sydney sexual assault service. Paper presented at *Power, Passion, Practice, 2nd National Ageing and Disability Conference*, 18–20 July 2005, Hobart.
- Keys Young. (1998). *Against the odds: How women survive domestic violence. The needs of women experiencing domestic violence who do not use domestic violence and related crisis services*. Canberra: Office of the Status of Women, Commonwealth of Australia.
- Lievore, D. (2005). *No longer silent: A study of women's help-seeking decisions and service responses to sexual assault*. Canberra: Australian Institute of Criminology.
- Martin, S. L., Ray, N., Sotres-Alvarez, D., Kupper, L. L., Moracco, K. E., Dickens, P. A., Scandlin, D., & Gizlice, Z. (2006). Physical and sexual assault of women with disabilities. *Violence Against Women*, 12(9), 823–837.
- McCabe, R., & Priebe, S. (2004). The therapeutic relationship in the treatment of severe mental illness: A review of methods and findings. *International Journal of Social Psychiatry*, 50, 115–128.
- McCarthy, M. (1998). Sexual violence against women with learning disabilities. *Feminism and Psychology*, 8(4), 544–551.
- McFarlane, J., Hughes, R. B., Nosek, M. A., Groff, J., Swedlend, N., & Dolan-Mullen, P. (2001). Abuse Assessment Screen-Disability (AAS-D): Measuring frequency, type, and perpetrator of abuse toward women with physical disabilities. *Journal of Women's Health & Gender-Based Medicine*, 10(9), 861–866.

- Mouzos, J. & Makkai, T. (2004). *Women's experiences of male violence: Findings from the Australian component of the International Violence Against Women Survey*. Canberra: Australian Institute of Criminology.
- Nosek, M. A., Howland, C., Rintala, D. H., Young, M. E., & Chanpong, G. F. (2001). National study of women with physical disabilities: Final report. *Sexuality and Disability, 19*(1), 5–39.
- Office of the Public Advocate Victoria. (2006). *Independent third persons*. Retrieved 29 March 2008, from <http://www.publicadvocate.vic.gov.au/Services/Independent-Third-Persons.html>
- Office of Women's Policy. (2006). *Changing lives: A new approach to family violence in Victoria*. Melbourne: Government of Victoria.
- Office of Women's Policy. (2002). *Women's safety strategy*. Melbourne: Government of Victoria.
- Ombudsman Victoria. (2006). *Improving responses to allegations involving sexual assault*. Melbourne: Government of Victoria.
- Patton, S. (2003). *Pathways: How women leave violent men*. Hobart: Government of Tasmania.
- Peckham, N. G. (2007). The vulnerability and sexual abuse of people with learning disabilities. *British Journal of Learning Disabilities, 35*, 131–137.
- People with Disability. (2007). *SADA Action Strategy Project. Sexual assault in disability and aged care residential settings. NSW regional consultations findings and recommendations*. Sydney: Author.
- Petersilia, J. (2001). Crime victims with developmental disabilities: A review essay. *Criminal Justice and Behavior, 28*, 655–694.
- Phillips, J. (1996). Sexual assault, multiple disabilities and the law. *Australasian Feminist Law Journal, 7*, 152–162.
- Powell, A. (2007). Sexual pressure and young people's negotiation of consent. *ACSSA Aware Newsletter, 14*, 8–16. Retrieved 31 July 2008, from <http://www.aifs.gov.au/acssa/pubs/newsletter/n14.html>
- Queensland Disability Services. (2007). *Preventing and responding to abuse: Procedure guidelines*. Retrieved 14 February 2008, from <http://www.disability.qld.gov.au/publications/abuse-policy/procedure-guidelines.html>
- Saxton, M., Curry, M. A., Powers, L. E., Maley, S., Eckels, K., & Gross, J. (2001). "Bring me my scooter so I can leave you": A study of disabled women handling abuse by personal care assistance providers. *Violence Against Women, 7*(4), 393–417.
- Sexuality Education Counselling and Consultancy Agency. (2006). *SECCA history*. Retrieved 17 January 2008, from [www.secca.org.au/history](http://www.secca.org.au/history)
- Sexual Assault in Disability and Aged Care Action Strategy. (2007). *Sexual Assault in Disability and Aged Care Action Strategy*. Retrieved 19 December 2007, from [www.sadaproject.org.au](http://www.sadaproject.org.au)
- Sobsey, D. (1994). *Violence and abuse in the lives of people with disabilities: The end of silent acceptance?* Baltimore: Paul H. Brooks.
- Szasz, T. S. (2004). The myth of mental illness. In A. Caplan, J. McCartney, & D. Sisti. (Eds), *Health, disease, and illness: Concepts in medicine* (pp.43–50). Washington: Georgetown University Press.
- Thorpe, L., Solomon, R., & Dimopoulos, M. (2004). *From shame to pride: Access to sexual assault services for Indigenous people*. Melbourne: Elizabeth Hoffman House.
- Victorian Law Reform Commission. (2004). *Sexual offences: Law and procedure. Final report*. Melbourne: Author.
- Victorian Law Reform Commission. (2003). *Sexual offences: Interim report*. Melbourne: Author.
- Victorian Women with Disabilities Network. (2007). *A framework for influencing change to violence against women with disabilities*. Melbourne: Author.
- Wilson, C. (1990). *The incidence of crime victimisation among intellectually disabled adults* (Report Series No. 92). Adelaide: Australasian Centre for Policing Research.
- Wilson, C., & N. Brewer. (1992). The incidence of criminal victimisation of individuals with an intellectual disability. *Australian Psychologist, 27*(2), 114–17.
- Women with Disabilities Australia. (2007a). *More than just a ramp: A guide for women's refuges to develop disability discrimination act action plans* (Resource manual on violence against women with disabilities project). Hobart :Author.
- Women with Disabilities Australia. (2007b). *It's not OK—It's violence: Information about domestic violence and women with disabilities* (Resource manual on violence against women with disabilities project). Hobart: Author.
- Zweig, J., Schlichter, K., & Burt, M. (2002). Assisting women victims of violence who experience multiple barriers to service. *Violence Against Women, 8*(2), 162–180.



Australian Government

Australian Institute of Family Studies  
Australian Centre for the Study of Sexual Assault

