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Community based services for children and adults with  
learning disabilities

**RESPOND**  
from hurting to healing

# El papel de las organizaciones privadas en los apoyos ofrecidos a las personas con discapacidad durante el proceso judicial

Richard Curen  
Consultant Forensic  
Psychotherapist

# Introduction

- What Respond does
- Scene Setting
- Prisoners
- European Convention on Human Rights
- Police
- Fair Trials
- Challenges
- Solutions
- Take Away

# Respond Community Based Services

- Psychotherapy for children and adults with intellectual disabilities
- Circles of Support and Accountability
- Forensic Risk Assessments
- Parenting/Family Assessments
- Rape, Sexual Abuse and Domestic Violence Services
- Treatment for Offenders
- Loss and Bereavement Services
- Training/consultancy/clinical supervision
- Policy and campaigns work
- Independent Sexual Violence Advisor

# UK EHRC Report\*

## Key findings

- Cases reported in the media are the ‘tip of the iceberg’
- Harassment is commonplace with many believing it is inevitable
- People with intellectual disabilities often do not report crimes
- Systemic failures exist in public authorities to recognise the extent and impact of harassment
- What is needed is a transformation of the ‘way disabled people are viewed, valued and included in society

\*Hidden in plain sight: Inquiry into disability-related harassment (2011)

# Foundation for PWLD report\*

- 25-40% of people with intellectual disabilities with MH problems
- Almost 5 x higher prevalence rate of diagnosable psychiatric disorder in children and young people
- 33% more likely to be on Autistic spectrum
- More likely to live in poverty
- Few friends
- Other long-term health problems and disabilities

\*Mental health in people with learning disabilities (2011)

# What does this add up to?

- Mental Health is dependent on environment and experiences
- Society's 'Death Wish'
- Aborting disabled fetuses
- Daily humiliations
- 4 x more likely to be victims of sexual abuse and domestic violence
- Society is often hostile, with many feeling isolated and marginalised
- Disability-related harassment is rife

# National Council for Civil Liberties

- People with intellectual disabilities are an ‘integral part of the human race; their existence constitutes an unspoken demand on us. The extent to which we guard their right to the fullest and most useful life, the extent to which we guarantee to them the maximum freedom which they can enjoy and the extent to which we help their families to give them the love they need is a measure of the extent to which we ourselves are civilized.’

# Numbers of Prisoners with ID

- 7% of adult prisoners have an IQ under 70
- 25% have an IQ under 80 (Mottram, 2007)
- Currently between 5-10%
- 23% of under 18s in prison IQ under 70
- 36% of under 18s in prison IQ between 70-79 (Harrington and Bailey, 2005)

# Prison Reform Trust

- Over 60% of children who offend have communication difficulties
- 43% of children on community orders have emotional and health needs
- 39% of adult offenders under supervision in one probation area had a current mental illness and 49% had a past/lifetime mental illness
- 75% of adult prisoners have a dual diagnosis

# 1998 European Convention on Human Rights

Article 6 – the rights to a fair trial

‘Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law’

Article 3 – prohibits inhuman and degrading treatment and punishment

# UN Convention on Rights of Persons with Disabilities

- Article 13 - Access to justice
- Article 14 - Liberty and security of the person
- Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

# The Case of Gill

- In 2010 brought a claim against the Secretary of State for breaching the Disability Discrimination Act 1995
- Mr Gill unable to do offender programs
- Mr Gill served well over twice his four-year sentence
- Judge said Mr G was “let down by the system, in that the treatment required was not forthcoming because of his learning difficulties...and he has languished in prison.”

# Police

- Special measures from 'Speaking up for Justice' (Home Office 1998)
- Appropriate Adults Interview
- Recognising someone has an ID
- Lawyers sometimes not accessed
- False confessions

# Police Disposal

- Discontinue
- Release on police bail
- Issue a formal caution
- Proceed to charge
- Divert

# Case Study A

- 19 year old young man with Mild ID and Autism
- Exhibitionism on bus aged 16 – no caution
- Sexually assaulted a 5 year old boy while babysitting
- Psychology report – lacks capacity
- Released without charge or diversion
- Befriended by an older gay couple
- Both had histories of sexual offences against children but many years previously so not on Sex Offenders Register
- At risk and a risk

# ID & Sexual Offending

- Limited sexual knowledge
- People are often supervised therefore more likely to be 'discovered'
- More impulsive (less inhibition)
- Difficulty in making peer relationships
- Often unable to have access to pornography or other options that men without ID use

# Intellectual Disabilities

1. Often poor attachments and victims of sexual abuse and domestic violence
2. Lack of 'normal' sexual development and ability to experiment with peers
3. Society is often hostile, with many feeling isolated and marginalised
4. Life is demanding and challenging leading to a desire to escape or disappear

# The Advocacy Training Council

EXCELLENCE IN ADVOCACY



The Advocacy Training Council Working Group  
On Vulnerable Witness Handling

## FINAL REPORT

RAISING THE BAR:

THE HANDLING OF VULNERABLE WITNESSES,  
VICTIMS AND DEFENDANTS IN COURT



The manner in which the vulnerable are treated in our Court system is a mark of how civilized a society we are

The effective handling by advocates of vulnerable witnesses, victims and defendants is crucial for the good and fair administration of justice and requires skill, experience, education and understanding

# 3 areas to think about

1 – There is an urgent need to address significant problems associated with PWID in the Court system because:

- the perception and experience of the Court system is often poor
- lack of understanding by some advocates as to their needs
- inconsistency and weaknesses of some advocates in handling and questioning vulnerable people.

# 3 areas to think about

2 - the huge benefits that proper education and training would bring to the way in which advocates approach the task of handling, advising, examining and cross-examining vulnerable people

3 - the handling and questioning of vulnerable defendants is a specialist skill, and should be recognised as such by practitioners, judges, training providers and regulators. There should be a system for accrediting advocates suitably trained, qualified and experienced in the handling of vulnerable witnesses

# Intermediaries

- To facilitate 2-way communication between vulnerable person and others in the legal process, to ensure that their communication is as coherent as possible.
- *Intermediaries have these functions to assist the courts and CJ practitioners :*
  - *Conducting an initial, pre-trial assessment to evaluate the communication abilities and need(s) of the witness/defendant*
  - *Providing advice, guidance and information to the courts and CJ practitioners on how to achieve the best evidence. For example what types of questions should be avoided etc.*
  - *Intermediaries may also directly assist in the questioning process by asking CJ practitioners to rephrase questions the witness/defendant does not understand etc.*

# Some challenges

- Pre-trial visits to the court for witnesses are essential but rare in the case of defence witnesses
- IQ test and assessment for most serious cases as differences in intellectual ability are not always obvious until in court
- Intermediaries' reports should detail specific needs and vulnerabilities of a particular defendant

# Some Solutions 1

## Identification

- Identifying vulnerability before trial is crucial
- Parents and carers are best placed to establish levels of concentration and understanding.
- Experts should be consulted where appropriate
- Advocates and judges alike should be aware of 'complex vulnerabilities'

# Some Solutions 2

## Preparation

- Conferences in advance is crucial
- The challenge of explaining legal concepts should not be underestimated.
- Without a proper understanding of the ways prosecution might prove guilt, and what might defeat the charge, full instructions should not be taken
- Easy Read booklets DVD's

# Some Solutions 3

## Failure to Understand

- If the defendant fails to understand questioning fault usually is with advocate. Therefore aim to:
  - identify vulnerabilities/limitations at earliest stage
  - analyse the material that needs to be put to the defendant
  - short questions and simple language, time for comprehension
  - use a normal, non-aggressive tone
  - avoid double negatives and confusing or complex phrasing
  - be aware of limitations in defendant's grasp of abstract concepts such as time and sequence of events
  - identify areas that can be better put and identify areas of evidence that may be better put by other parties

# Case Study B

- 30 year old young man with IQ of 55
- Sexual assault on 6 year old aged 16
- 2 year probation order
- Aged 30 sexual assault on 14 year old girl
- Interviewed with Appropriate Adult
- Intermediary used in court
- 2 year sentence and put on Sex Offenders Register
- Adapted Sex Offender Treatment in prison
- Further treatment in the community upon release

# Training

- The training should be at all times sensitive and understanding with regard to the needs and vulnerabilities of the person concerned
- Should uphold the requirement rigorously to examine the evidence and fulfil the lawyer's duty both to court and to client
- It should seek to elicit 'Best Evidence'

# Take Away

## **Support for vulnerable defendants:**

- Special measures available to all
- Guidance should be developed on how impairments and disabilities can manifest

## **Intermediaries:**

- Intermediaries should be registered and trained

## **Information sharing**

- Information must be readily available

## **Training**

- All Criminal Justice staff must be suitably trained

# Finally

- Psychological impact of appearing in court should not be underestimated
- Re-traumatisation – Victim/Perpetrator
- Mental Health concerns
- Impact of Shame
- Vulnerability to abuse in prison
- Lack of support upon release

# Please contact us

24-32 Stephenson Way

London

NW1 2HD

020 7383 0700

[admin@respond.org.uk](mailto:admin@respond.org.uk)

[www.respond.org.uk](http://www.respond.org.uk)