

Sexual Assault Victims with Intellectual Disability

What YOU can do to help



Research indicates that the majority of women and many men with intellectual disability will be sexually assaulted at some time in their life¹. However, there is significant under-reporting and under-prosecution of assault and sexual assault complaints where the victim has intellectual disability. People with intellectual disability are especially vulnerable to victimisation by family members, friends, acquaintances, colleagues, strangers, service providers or other residents in group homes.

As a police officer, you are in a strong position to be able to assist sexual assault victims with intellectual disability get the fair treatment and justice they deserve. Over the next few pages we show you how and what you can do to help.

What is intellectual disability?

Intellectual disability occurs before the age of 18 and is characterised by lower than average intellectual functioning, with an IQ of less than 70. It affects the way a person learns, understands and communicates and leads to difficulties in areas such as self-care, social skills, work and independent living. 2-3% of the population has intellectual disability. People with intellectual disability may have difficulty understanding abstract concepts, planning ahead and solving problems. Intellectual disability is different to mental illness – it is present from childhood and is permanent.

People with intellectual disability may need special assistance to learn, and with support can learn about court and what is required to be a witness. Their ability to provide a good statement and act as a witness will partly depend on your ability to make adjustments for their disability.

**Remember, sexual assault victims with intellectual disability
rely on YOU,
so help them get a fair go—you've got the law on YOUR side!**

¹ Blyth J (2000) *Myalla: Responding to People with Intellectual Disabilities who have been Sexually Assaulted*, Northern Sydney Sexual Assault Service

Recognising when a person may have intellectual disability

The person themselves, or someone else such as a carer, might tell you that they have intellectual disability. However, some people do not recognise their disability, or are reluctant to tell people about it, often because of discrimination, bullying or other negative experiences. The following signs may indicate that a person has intellectual disability.

Things you might notice:	Questions you might ask: Do you....
Difficulty in responding to questions	Receive support from a disability service?
Difficulty making themselves understood	Attend a special school, or special classes?
Difficulty in following instructions	Receive assistance in employment or housing?
Seems younger than their actual age	Have limited reading and writing skills?
Poor concentration	Receive a Disability Support Pension (DSP)?

If the person meets several of the above criteria, ask yourself whether they could have intellectual disability. Ask them, or someone associated with them, if this is the case. If it seems a disability is present, obtain assistance – see below for who might be able to help.

Support: who else can help?

- Does the person have a family member, friend, disability worker or advocate?
- The NSW Rape Crisis Centre can provide free 24 hour crisis counselling on 1800 424 017
- Does the person have a guardian? Ask the person or check with the Guardianship Tribunal, tel (02) 9556 7600 or 1800 463 928 (outside of Sydney)
- Details of the nearest sexual assault service can be obtained from the NSW Rape Crisis Centre
- Contact the Criminal Justice Support Network on 1300 665 908 to arrange a support person for interviews
- Are they a client of Ageing, Disability and Homecare (ADHC)? Find your local ADHC telephone number on www.dadhc.nsw.gov.au
- *Myalla* is a helpful resource book when assisting a victim with intellectual disability, produced by the sexual assault service at Royal North Shore Hospital

People with intellectual disability and sexual assault: the myths and the truth

Myths include.....	Mythbusters.....
Don't understand about sex so don't suffer if they are sexually assaulted	Adults with intellectual disability have the same concerns and feelings as other people, though may find it difficult to express these
Are over-sexed or willing to have sex with anyone	Some people do not receive appropriate sex education and consequently do not understand what sexual behaviour is OK and what is not
Lie about sexual assault or don't know the difference between truth and lies	People with intellectual disability are no more or less truthful than anyone else
Make poor witnesses in court	Adequate support and preparation can enhance many people's ability to give evidence

Communicating with a person with intellectual disability:

- Acknowledge this is hard to understand: *"I want you to tell me if you're not sure what I mean"*
- If the person has a carer with them, make sure you still speak directly to the person with intellectual disability
- Show your empathy and acknowledge how the person feels
- Use simple words and if you must use jargon, explain it clearly
- Use short sentences, one idea at a time—nice and slowly!
- Break information down into smaller parts if person doesn't understand
- Get to the important information early
- Allow the person more time to respond to questions and avoid rushing or finishing sentences for them
- Check that the person understands – ask the person to tell you in their own words what they understand; ask the question in another way to check they understand. Own the checking: *"I'm just checking that I've explained clearly"*
- Avoid abstract concepts - use practical, 'concrete' words and ideas
- Let people tell their story and use 'open' questions – those that cannot be answered with a simple 'yes' or 'no'
- Minimise distractions and offer breaks
- 'Signpost' the conversation by telling the person when you are changing topics or have finished talking about a particular point

Things to do when someone with intellectual disability tells you they have been sexually assaulted

Your attitudes

Look at everyone who comes through the door as an individual with their own strengths and limitations - disability is only a problem if you allow it to be one. Reporting sexual assault is an extremely distressing and confronting thing to do; show the person that you respect and believe them. Remember that sexual assault is common amongst men and women with intellectual disability and false reports are unlikely.

Your words

Your response can make things a bit easier for a person with intellectual disability. Make calming statements in plain language and refer the matter to detectives as soon as possible using the CJSN checklist provided with this booklet. Saying things like, *"I'm sorry that happened"*, and *"Sexual assault is a crime"*, and *"I will refer you to the detectives and they will help you"* helps to assure the person they are being taken seriously and being helped. Use the communication tips above.

Your actions

Refer to detectives or the Joint Investigative Response Team (JIRT) as soon as possible.

Changes in legislation

Recent NSW legislation² reflects the fact that attitudes are changing towards the treatment of people with intellectual disability. Things are now in place to help the person to play their part in the legal process.

- Evidence can be given from behind a screen or via CCTV from a private room away from the courtroom and the case may be held in a closed court
- The victim may have a support person with them in court
- The court limits what information can be published in the media and on the internet; a 'non-publication order' meaning that the victim's name and any identifying information cannot be reported
- An unrepresented accused cannot directly question or cross-examine the victim. The lawyer representing the accused may not ask humiliating, harassing, repetitive and insulting questions
- Evidence will be recorded so that if the trial needs to be re-heard, the victim will not need to give evidence again
- Disability workers can no longer use 'consent' as a justification for sexually abusing their clients³

Benefits to taking sexual assault victims with intellectual disability seriously...

A conviction is not the only positive outcome that can arise from reporting sexual assault, other benefits may include:

- The opportunity to offer counselling or education on self-protection to reduce the likelihood of being sexually assaulted again
- The opportunity to suggest applying for compensation - a police report is necessary for the victim to make an application for victims compensation
- Being heard gives the victim strong message that they have a right to be safe
- Increasing police intelligence on sex offenders and pattern of offending
- Even if the perpetrator is not convicted, police interest sends a clear message that their
- behaviour is not acceptable

² NSW Department of Justice and Attorney General, May 2009, www.sexualassault.nsw.gov.au, or <http://www.lawlink.nsw.gov.au/lawlink/victimsservices/sexualassault.nsf/>

³ Crimes Amendment (Cognitive Impairment – Sexual Offences) Act 2008, www.austlii.com.au

Finally... By following the information in this booklet, you will be able to assist sexual assault victims who have intellectual disability more effectively. This group has a long history of victimisation and there are still high rates of under-reporting and under-prosecuting⁴; allowing perpetrators to continue to sexually assault people with little fear of punishment.

Police officers like YOU can make a difference

⁴ The Attrition of Sexual Offences from the NSW Criminal Justice System, www.bocsar.nsw.gov.au/