University Library



A gateway to Melbourne's research publications

Minerva Access is the Institutional Repository of The University of Melbourne

Author/s:
Maher, J;Spivakovsky, C;McCulloch, J;McGowan, J;Bevis, K;Lea, M;Cadwallader, J;Sands, T

Title:
Women, disability and violence: Barriers to accessing justice: Final Report

Date:
2018-04-30

Citation:
Maher, J., Spivakovsky, C., McCulloch, J., McGowan, J., Bevis, K., Lea, M., Cadwallader, J. & Sands, T. (2018). Women, disability and violence: Barriers to accessing justice: Final Report. ANROWS: Australia's National Research Organisation for Women's Safety.

Persistent Link:
https://hdl.handle.net/11343/227188



Women, disability and violence: Barriers to accessing justice:
Final Report

PROFESSOR JANEMAREE MAHER
School of Social Sciences, Monash University

DR CLAIRE SPIVAKOVSKY
School of Social Sciences, Monash University

PROFESSOR JUDE McCULLOCH
School of Social Sciences, Monash University

DR JASMINE McGOWAN
School of Social Sciences, Monash University

KARA BEAVIS
Queensland University of Technology

MEREDITH LEA
People with Disability Australia

DR JESS CADWALLADER
People with Disability Australia

THERESE SANDS
Disabled People's Organisations Australia

ANROWS

AUSTRALIA'S NATIONAL RESEARCH ORGANISATION FOR WOMEN'S SAFETY
to Reduce Violence against Women & their Children

HORIZONS : ISSUE 02 | 2018
RESEARCH REPORT | APRIL 2018

ANROWS acknowledgement

This material was produced with funding from the Australian Government and the Australian state and territory governments. Australia's National Research Organisation for Women's Safety (ANROWS) gratefully acknowledges the financial and other support it has received from these governments, without which this work would not have been possible. The findings and views reported in this paper are those of the authors and cannot be attributed to the Australian Government, or any Australian state or territory government.

Acknowledgement of Country

ANROWS acknowledges the traditional owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander elders past, present, and future, and we value Aboriginal and Torres Strait Islander history, culture, and knowledge.

© ANROWS 2018

Published by

Australia's National Research Organisation for Women's Safety Limited (ANROWS)
PO Box Q389, Queen Victoria Building, NSW, 1230 | www.anrows.org.au | Phone +61 2 8374 4000
ABN 67 162 349 171

Women, disability and violence: Barriers to accessing justice. Final report/ JaneMaree Maher, et al.
Sydney: ANROWS, c2018.
Pages ; 30 cm. (ANROWS Horizons, Issue 02/2018)

I. Domestic violence –Australia. II. People with disabilities – Abuse of. III. Family violence – Law and legislation – Australia. IV. Victims of family violence -- Legal status, law, etc -- Australia. V. Safety.
I. Maher, JaneMaree. II. Spivakovsky, Claire. III. McCulloch, Jude. IV. McGowan, Jasmine. V. Beavis, Kara. VI. Lea, Meredith. VII. Cadwallader, Jess. VIII. Sands, Therese.

ISBN: 978-1-925372-74-8 (print) | 978-1-925372-75-5 (online)

Creative Commons Licence

Attribution-Non Commercial  **CC BY-NC**

This licence lets others distribute, remix and build upon the work, but only if it is for non-commercial purposes and they credit the original creator/s (and any other nominated parties). They do not have to license their Derivative Works on the same terms.

Version 3.0 (CC Australia ported licence): View CC BY-NC Australia Licence Deed | View CC BY-NC 3.0 Australia Legal Code

Version 4.0 (international licence): View CC BY-NC 4.0 Licence Deed | View CC BY-NC 4.0 Legal Code

Please note that there is the potential for minor revisions of this report.
Please check the online version at www.anrows.org.au for any amendment.

Monash University
Scenic Blvd
Clayton VIC 3800

Women, disability and violence: Barriers to accessing justice: Final report

Professor JaneMaree Maher, School of Social Sciences, Monash University
Dr Claire Spivakovsky, School of Social Sciences, Monash University
Professor Jude McCulloch, School of Social Sciences, Monash University
Dr Jasmine McGowan, School of Social Sciences, Monash University
Kara Beavis, Queensland University of Technology
Meredith Lea, People with Disability Australia
Dr Jess Cadwallader, People with Disability Australia
Therese Sands, Disabled People's Organisations Australia

Author acknowledgment:
We thank the women who worked so hard to share their stories with us for their courage and commitment. Our thanks to facilitators, advocates and counsellors, and their organisations across Victoria and New South Wales who supported women's participation, Monash Gender and Family Violence team members, particularly Kate Fitz-Gibbon, Brandy Cochrane and Sandra Walklate who shared their knowledge and valuable insights and feedback and Madeleine Ulbrick who gave early research support.

Monash and PWDA collaborated on this project and used inclusive methodologies to best represent the voices of people with disability affected by the topic.

Easy English & Auslan translations of this report are also available at:
https://arts.monash.edu/gender-and-family-violence/projects/women-disability-violence/

This work is part of the ANROWS Horizons series. ANROWS Horizons (research reports) are in-depth reports on empirical research produced under ANROWS's research program.

This report addresses work covered in the ANROWS research project "Women, disability and violence: Creating access to justice". Please consult the ANROWS website for more information on this project. In addition to this report, an ANROWS Compass paper is available as part of this project.

Suggested citation:
Maher, J. M., Spivakovsky, C., McCulloch, J., McGowan, J., Beavis, K., Lea, M., … Sands, T. (2018). *Women, disability and violence: Barriers to accessing justice: Final report* (ANROWS Horizons, 02/2018). Sydney: ANROWS.

This page has intentionally been left blank.

Contents

Notes regarding language 3

Key terms 4

Disability 4

Violence 4

Legal capacity 4

Justice 4

Intersectionality 5

Executive summary 6

Summary of key findings 9

Conclusion: Actions to achieve access to justice for women with disability 10

Introduction 12

Our key objectives 13

Our key research questions 13

Project method 14

Using "intersectional discrimination" to explore forms of discrimination faced by people with disability 14

Phase 1 15

Phase 2 15

Portraits of participants 16

Data analysis approach 21

Context review **22**

Landscape of responses to violence for women with disability 22

Background knowledge about violence experienced by women with disability 26

Extant barriers to accessing justice 29

Key findings **33**

The need to listen to the voices of women with disability and believe them 34

Women with disability face particular and sustained challenges in achieving everyday safety and security 40

Possible pathways to just outcomes 47

Service challenges across the specialist violence and disability service sectors 59

Impact of 'siloed' knowledges 66

Conclusion **72**

Strengths and limitations of the study 75

References **76**

Appendices **82**

Appendix 1: Women, disability and violence: Creating access to justice 82

Appendix 2: Recruitment, participants and supports 83

Notes regarding language

The use of language in understanding and responding to violence against women has been recognised as critical. Developing and using appropriate language to capture the diversity of violence against women is key in advancing women's safety and security and developing community and stakeholder understandings and improved responses. In working with concepts of women's strengths and resilience, language is equally important. In this report, we use the term disability within the context of the internationally recognised social model of disability. The social model recognises disability as a function of the way a society is organised, and clearly articulates that disability is an interaction between people with impairments and the barriers created by society (as outlined in the *Convention on the Rights of Persons with Disabilities*). Throughout this report, we consider social and institutional definitions of and responses to disability. We then reflect on how these inform and influence how any form of impairment is experienced and the impact it has on the life of a person with disability. Using "disability" in the singular also emphasises that the focus must remain on facilitating and enabling all people to fully participate in all aspects of society, thus avoiding paying attention to types and kinds of impairment as explanatory for disadvantages or barriers experienced.

Key terms

Disability

In this project, disability is understood as a function or outcome of the ways in which society is organised and structured to create and sustain disability, including: "misconceptions, discrimination, inaccessible environments, buildings, communications and information and lack of appropriate supports that prevent full participation by people with disabilities in all aspects of community life" (Dowse et al. 2013; Women With Disabilities Australia (WWDA), 2013). This definition of disability emphasises the intersections of social, political, cultural, and economic factors that discriminate against and marginalise people with disability.

Violence

This project follows the United Nations Declaration on the Elimination of Violence against Women (1993) definition of violence, cited by Dowse et al. (2013) and WWDA (2013), as follows:

> … any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

For women and girls with disability, the violence they experience can be the same as that experienced by other women and girls. However, they may also experience forms of violence particular to their situation: poverty, race, ethnicity, religion, language and other identity and/or cultural status or life experiences such as incarceration, as well as geographical location can further increase the risk of group or individual violence against women and girls with disability (see WWDA, 2013, p.13). Violence includes sexual and reproductive coercion and assault; denial of treatments, required medications or specific aids, denial or lack of necessary social and structural supports, and violation of bodily autonomy and security, including forced sterilisation and forced abortion.

Legal capacity

Throughout this report, we discuss legal capacity in the context of violence, disability and justice and explore the significant implications of routinely denying the legal capacity of people with disability. The current legal capacity framework, built into laws and policy in Australia denies or limits the exercise of legal capacity for people with disability (Disability Rights Now, 2012, p. 70).

As outlined in Article 12 of the *Convention on the Rights of Persons with Disabilities* (CRPD), ratified by Australia in 2008, equal recognition before the law and legal capacity are inherent human rights. People with disability have the right to enjoy these human rights on an equal basis to others. People with disability have the right to be legal actors with presumed legal agency, and also have the right to make decisions, and to have these decisions given legal effect (People with Disability Australia (PWDA), Australian Centre for Disability Law (ACDL), Australian Human Rights Centre (AHRCentre), 2014, p. 3).

This understanding of legal capacity as an inherent right can shift the focus to the supports that may be required for a person to express their will and preferences and to exercise their legal agency (PWDA, ACDL, AHRCentre, 2014, p.3). As is highlighted throughout this report, women with disability are routinely not believed, not viewed as credible witnesses, and are viewed as incapable of participating in legal processes, as unable to provide valid evidence or to make their own decisions.

Significant changes are required to many existing laws, policies and practices that underpin the legal system, as well as to the substitute decision-making framework, all of which deny the legal capacity of people with disability and create barriers to justice. Future reform needs to enshrine the legal capacity of all individuals in legislation, institutions, policy and practice, and create mechanisms for the provision of supports for people with disability to exercise their legal capacity (PWDA, ACDL, AHRCentre, 2014, p. 6).

Justice

Justice in this report begins with the assertion that people with disability are bearers of human rights. We locate women with disability as subjects of human rights law on an equal basis, with legal capacity that must be affirmed and supported. As

the CRPD, ratified by Australia in 2008, makes clear, respect for autonomy and independence are critical aspects of creating an inclusive society and responsibilities fall to society and government to ensure all people with disability are accorded full inclusion and participation (see Didi et al., 2016 for a full discussion). The Convention enshrines attention to women with disability as part of the commitment.

In the course of our report, we came to recognise that women who participated outlined two interlinked but different forms of justice. Very often, in their desired outcomes in response to reports of violence, they sought personal justice: a recognition of what had occurred, acknowledgement of their rights and status and a pathway to security and safety. They often distinguished this from legal or structural justice, where accountability and responsibility were assigned to perpetrators and institutions. The idea of "justice" can and frequently does refer to personal justice as opposed to legal justice: to being able to leave a situation of danger; retain custody of children; have access to care and advocacy services; attain a sense of safety; or even simply survival. In our accounts, we have sought to differentiate these types of justice.

Intersectionality

Intersectionality is a term that was coined by American feminist, legal scholar, critical race theorist and civil rights advocate Kimberlé Crenshaw (1995). The term intersectionality supports the understanding that people with disability experience unique forms of discrimination. Such discrimination is unique for each individual, based on how their disability will intersect with other aspects of their identity, such as their age, gender, sexual orientation, religion, indigenous, ethnic or cultural background, immigration status or economic status (see Frohmader & Sands, 2015 for a full discussion; see also Lea & Sands, 2017).

These explanations of key terms have been primarily informed by the *Stop the Violence Project*.

See:

Dowse, L., Soldatic, K., Didi, A., Frohmader, C., & van Toorn, G. (2013). *Stop the violence: addressing violence against women and girls with disabilities in Australia. Background paper.* Retrieved Sept 11 2017 from http://researchdirect.westernsydney.edu.au/islandora/object/uws:36865.

Women with Disabilities Australia. (2013). *Stop the Violence: Report of the Proceedings and Outcomes.* WWDA. Retrieved Sept 11 2017 from http://www.stvp.org.au/documents/STVP%20Outcomes%20Paper.pdf.

See also:

Didi, A., Soldatic, K., Frohmader, C., & Dowse, L. (2016). Violence against women with disabilities: is Australia meeting its human rights obligations?, *Australian Journal of Human Rights*, *22*(1), 159-177.

Frohmader, C., Dowse, L., & Didi, A. (2015). *Preventing violence against women and girls with disabilities: Integrating a human rights perspective.* Retrieved Sept 12 from http://wwda.org.au/wp-content/uploads/2013/12/Think_Piece_Revised_Edition.pdf.

Frohmader, C., & Sands, T. (2015). *Australian Cross Disability Alliance Submission: Senate inquiry into violence, abuse and neglect against people with disability in institutional and residential settings.* Australian Cross Disability Alliance, Sydney.

Executive summary

This project, *Women, disability and violence: Creating access to justice,* draws on the insights of 36 women living in New South Wales and Victoria who outlined their experiences of seeking justice and security in the context of violence that they had experienced. As part of their commitment to policy-relevant empirically grounded research, Australia's National Research Organisation for Women's Safety (ANROWS) commissioned this research. The project was led by researchers from Monash University and People with Disability Australia, hereafter PWDA (representing Disabled People's Organisations Australia, hereafter DPOA).

This research examines how these women worked to seek redress or support and the pathways and obstacles they encountered. This data has been augmented by interviews with 18 service providers from NSW and Victoria working in disability support services and advocacy organisations, domestic and family violence support services, and legal services. This is a qualitative project which limits generalisability: the aim here is to analyse the experiences these specific women have shared and work to identify patterns that emerge.

Violence in the context of this project was understood to include physical and sexual violence as well as other forms of abuse such as coercive control, emotional abuse, financial abuse, and physical and social isolation. The majority of the cases captured in this report were instances of domestic and family violence defined broadly as violence occurring within a familial or caring context. It included sexual and physical assaults in a range of social and living environments. In addition, violence was understood to take particular forms such as withholding required medications or aids, limiting access to disability services and/or mainstream service providers and threats related to women's mothering and care-giving roles. Violence that violated women's sexual and reproductive autonomy, including forced or coerced sterilisation was also commonly reported. Avenues to seek desired justice, which may include prevention of future violence, everyday security and safety, and consequences for the perpetrators of violence are complex, as justice services and pathways may not effectively support the access of women with disability.

This report reiterates findings that already exist in the public domain. As the context review makes clear, these issues of violence and access to justice have been the focus of multiple reviews and interventions within Australia in the last five years.

The question of legal capacity for women with disability is still unaddressed. As the Australian Human Rights Commission outlines (AHRC) (2014), all jurisdictions should have a disability strategy underpinned by a national Disability Justice Strategy. Implementation of this strategy should be guided by the following principles:

1. Safety of people with disability and freedom from violence.
2. Effective access to justice for people with disabilities.
3. Non-discrimination.
4. Respect for inherent dignity and individual autonomy including the freedom to make one's own decisions.
5. Full and effective participation and inclusion in the community. (AHRC, 2014, p. 6)

In their report about equal recognition before the law, the AHRC (2014) outlines a necessary set of actions and principles to support people with disability to claim their human rights and exercise full and effective legal capacity (AHRC, 2014, p. 36). The *Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings, Including the Gender and Age Related Dimensions, and the Particular Situation of Aboriginal and Torres Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability* Report (Parliament of Australia 2015: hereafter the *Senate Community Affairs Report*) also contained a number of important recommendations. Recommendation 6 (2015, p. xvii) reiterates references of the need to implement the outcomes of prior reports. The Australian Law Reform Commission (ALRC) *Family Violence and Commonwealth Laws— Improving Legal Frameworks* (2011) identified necessary changes to address definitions of family violence that would better the needs of people with disability. As the recent review by Didi et al. (2016) of Australia's progress in meeting its human rights obligations in relation to responses to violence against women with disability makes clear, there is still inadequate progress towards effective access to justice or indeed everyday security. To achieve these recommendations, legislative change, as well as attention to ensuring women's full participation, will be required.

Importantly, despite these systematic institutional and social failures, the women we spoke with were clear about their needs and aspirations in terms of achieving justice and their transitions away from violence towards everyday security. Underpinning this was a notion of personal justice that at times preceded legal justice and in almost all instances was a precondition for seeking legal justice. Women emphasised the importance of accessible options and ongoing support and safety measures.

> **Paula:** First of all, they should believe you. Second, they should give you choices of where to go from there. And then support you in what you want to do, which may be just going to psychologists to help. It may be, "I want to report it to the police." It may be, "I am not safe where I am living," so we need to find a way to either move the person – move one or the other.

> **Beverley:** I'd actually like to see some follow-up after the events [in this instance court proceedings] … just to sign them off and that's it, you're finished: it might be finished for the person that's dealing with it, but that person that's involved and affected by it has to live with it for long after.

Women participating in this study were also articulate about the everyday ways in which their safety and security has been compromised. The deleterious and long-lasting effects of violence were evident: all of the women identified extensive and on-going effects, many of which remain unaddressed.

> **Ruth:** I nearly burst inside sometimes when you get that bad. And know it's still going on that's the worst part.

> **Nicole:** I have struggled to find a sense of safety, of connection, of stability, of validation, of calm, of support, of justice and most of the basic essential needs for survival and life, including self-care/love. I have only ever just existed, not thrived. I have never experienced happiness or contentment. I live mostly in a state of fear and hypervigilance. Violence has robbed me of my life and my freedom.

Yet their determination to communicate these experiences and their views on what could be done (and what they had sometimes experienced) was equally clear. Women stressed the importance of being believed and of having an opportunity to shape pathways subsequent to experiences or disclosures of violence; this was central in the different types of justice that these women sought. Recent work in domestic and family violence in Australia is keenly focused on perpetrator accountability, and for the criminal justice system, this is a key aspect in conceptions of justice. For the women we interviewed, their concepts of a just life free from violence were often first linked to everyday security, economic stability and effective support. The stories offered by Sarah and Rose illuminate the interconnected nature of these aspirations for women:

> **Sarah:** I was in tears thanking that police officer [who indicated that she believed Sarah], I said, "I want you to know, whatever happens from now on with that court case, if they walk off…", and I said, "Do you know what, you have done the justice, you have done it. It's already done." And that really touched her, she was emotional about it, and I said, "You've done it".

> **Rose:** And then, well, I think, "Hang on. I couldn't suicide meself ... I'm going to live for seeing the world change, even all the buildings going up and everything like that … when I was little and I used to hear about the soldiers going to the Second World War – how strong the Aussies were that went in the wars – I thought, "There is a reason to live." You might go into a war, but you know, you still might live it out. You take that chance like they did. You don't have to kill yourself or say you want to get off this planet, because there's a lot of other things to live for.

This finding of a just life being linked to everyday security and safety underpins the distinction that emerged in our study between notions of personal justice and legal justice. Women's aspirations for everyday security for themselves, and in many instances their children, were also a critical aspect of what they identified as justice and access to justice. These aspirations – of being believed, and of having their decisions and desires respected as part of legal processes – were critical to what they identified as personal justice.

In our view, this finding is linked to the routine denial or diminishment of women's legal capacity; where reproductive and sexual autonomy were compromised, decisions about treatment and desired legal outcomes were not respected, and appropriate communicative methods and approaches were not offered. All of these factors limited women's agency to act as full citizens before the law: this denial of personal justice limited women's access to legal justice too.

In our view, as in the views of these women and the service providers we interviewed (disability support and advocacy services, domestic and family violence specialist services, sexual assault services, and legal support services), the changing landscape of the disability and specialist violence sectors not only offers uncertainty, but also hope and opportunity. We are entering into a period in Australia's history where traditional approaches to violence are being challenged and new understandings of the rights, choice and control of people with disability are emerging. The National Disability Insurance Scheme (NDIS) legislation is based on human rights with a focus on people with disability having choice and control over the supports they need to enjoy full participation in community life. Accordingly, for us, there is a real opportunity at this time for support services across the specialist violence and disability service sectors to build cross-sectoral and grounded knowledge in workers. This is in spite of a depressing recent history of the failure to effectively implement existing recommendations. There is a need for cross-sector training packages that support the specialist violence and disability service sectors to form stronger linkages and referral pathways which make use of the full range of provisions emerging across these two sectors. The success of these initiatives however will depend on close attention to what women say they want and need. It will also depend on the willingness to act on existing recommendations to ensure autonomy and participation in regards to legal processes.

In the next section, we outline the key findings from our data analysis.

Summary of key findings

The need to listen to the voices of women with disability and believe them.

Many women who participated in this project were motivated by a strong desire to achieve change for others in the future. They spoke clearly about their experiences and often detailed a growing understanding of what they were experiencing as "violence" as part of a pathway to achieving greater everyday security. For those tasked with supporting women's everyday care needs, ideas of violence were often more limited and troubling. Many care workers expressed concern about raising violence as an issue with women in discussion and in service provision (see also Dyson et al., 2017). In moving towards the removal of barriers to women's access to justice, attention to women's own accounts and aspirations is critically important. Responses that trivialise women's disclosures, or the violence they experience operates to deny their legal capacity, and to deny access to needed supports and services. Given women's insistence that being heard and believed was the most important first step towards a meaningful and just outcome, this finding is critical. This also reflects a key recommendation of the *Stop the Violence Project* (Dowse et al., 2013), focused on capacity building to ensure women's voices are heard and respected.

> **Nicole:** People need to listen. It is extremely important that you have a voice. It is critical to be heard. To be believed. It is important for your story to be taken seriously. There has to be acknowledgement of the impact, the obvious impact (the physical effect) and also the silent impact (the emotional impact). There needs to be sufficient time available to talk. You need space that you feel safe. There has to be confidentiality. You need a sense that someone is committed to supporting you.

Women with disability face particular and sustained challenges in achieving everyday safety and security.

Typically, economic security, housing stability and care and service support are not readily accessible or available for women with disability. Understanding how violence impacts on women's lives in this context requires attention to types of violence that may be invisible or less well understood, and attention to how women's need for resilience and survival in the face of precarious everyday safety and security may impact on their definitions of, and decisions about, violence and the support and services they need.

In considering how women might actually move towards pathways to justice, everyday security was identified as a critical first step in all that followed.

> **Nicole:** Feeling safe means everything to me. To me it is one of the core factors for life, for survival. To remember, to process, to engage in the process of healing you first and foremost need to feel safe before you can learn to trust. And you need trust before you can start healing.

As Olivia's comments demonstrate, without a secure living situation in which women could feel confident, referrals and other forms of response to support transitions away from violence had little chance of succeeding.

> So I would say the biggest barrier to working with the women and accessing services and things like that would be first and foremost try to get them out of that initially unsafe environment and that risky environment. Where we can't do that it's really difficult like, if you make referrals they won't go because they're under significant amount of stress and yeah, just experiencing a significant amount of trauma. So, it's really hard to get them to engage and to work with them to try and change their mindset as well.
> **Olivia, criminal justice process organisation**

Possible pathways to just outcomes.

Data gathered in this project indicated that women with disability face violence in multiple ways. Violence occurs through a diverse range of incidents, consistently as part of everyday experiences and through the operations of family structures, relationships, institutions, service delivery and policy and legislative settings. Women's legal capacity was routinely denied or inhibited; reproductive and sexual autonomy were compromised, women's decisions about treatment and desired outcomes were not respected, appropriate communicative methods and approaches were

not offered, and therefore agency to act as full citizens before the law was not accorded them.

This complexity in terms of denying or limiting the legal capacity of women with disability has implications for effective responses, for how justice is defined and for how access to these different types of justice is understood. Women sought effective, respectful and prompt responses to disclosures as one important form of access to justice. Women's aspirations for everyday security for themselves, and in many instances their children, were also a critical aspect of what they identified as justice and access to justice. They often distinguished personal and legal justice. Our data suggests that definitions of violence and access to justice require considerable attention and expansion if we are to effectively address the needs, and embed the human rights of women with disability into service delivery models. However, a critical pathway as identified in the context review is action on existing recommendations which would change the extant patterns of injustice that this study finds yet again.

Service challenges across the specialist violence and disability service sectors.

In addressing the needs of women with disability, different services (here including disability support and advocacy services, specialist violence and domestic and family violence services, and legal support services) faced different challenges in supporting women to achieve access to justice. Understandings of disability and violence were variable and at times seemed reliant on common or pre-existing assumptions about women with disability – about women's legal capacity and rights, about what "needs" women were likely to have, about what "barriers" to accessing justice might exist, about how violence might manifest and about what responses might best serve women. Such challenges were also recently identified by Dyson et al. (2017). Supporting services to build cross-sectoral and grounded knowledge in workers, embedded in cross sector training packages, would ensure best practice outcomes, and build robust evidence bases for new and emerging knowledges about how best to support women to achieve safety, security and justice.

Impact of "siloed" knowledges.

The impact of assumptions about women with disability, their needs, strengths, aspirations, and concepts of violence, justice, security and safety are multiple in influencing how effective social, institutional, service and policy responses are in supporting women to achieve everyday safety, security and justice. The notion of "silos" as creating risks for women with disability and reducing the likelihood of effective responses have been urgently emphasised in multiple recent reports (see for example: Dowse et al., 2013; Dyson et al., 2017; Healey, 2008; WWDA, 2015). Yet this issue arose as key in our study too. The impacts of assumptions and siloed knowledges vary in different sectors and service agencies: the outcome however is that women's access to justice is often contingent on partial knowledge, insights, skills and service delivery models. Many service providers were aware that these complementary skills and knowledges were crucial to building effective and just responses for women experiencing violence, however, pathways for information exchange and service sharing were not always clear. Despite systematic investigations of, reports into, and recommendations for change, there appears to be limited progress towards embedding access to justice for women with disability facing violence in meaningful and concrete ways.

Conclusion: Actions to achieve access to justice for women with disability

The *Royal Commission into Family Violence* (RCFV, 2016) has been identified as a watershed moment in Victoria in terms of accepting broad-based responsibility for changing women's everyday experiences of family and other forms of violence. In other states in Australia and globally, a similar commitment is being articulated. Yet, the past five years in particular have seen numerous reports and inquiries that outline both the existing issues and pathways forward for women with disability facing violence and seeking access to justice. This study serves to reinforce that there has not been action on these existing recommendations. In securing access to justice and freedom from violence for women with disability, it is clear that we need to act on what is known and has been proposed: first, ensure access to everyday security and safety with attention to housing, economic well-being, and respectful and responsive service structures that support

and enhance women's autonomy; second, ensure international instruments enshrining inclusive human rights for all are active; third, ensure that women with disability have access to specialised violence services; fourth, support disability services to facilitate access to specialised violence services for the women they support; and finally, continue to expand and rethink how we define violence with regard to understanding the experiences of women with disability. As our findings indicate, women with disability require responses and support that we, as a society and community, are still struggling to deliver in the face of gendered violence. They also require structures that support their leadership and inclusion and which attend to their views of just outcomes and the particular barriers they face in achieving such outcomes.

Introduction

Melanie arrived prepared to tell her difficult and traumatic story and began talking straightaway. She was assaulted and held by her abuser over a period of hours in the early hours of the morning in her home several years ago: she was seriously injured and feared for her life. In the aftermath of the assault, Melanie was targeted by associates of her attacker: even though he admitted his assault and was later jailed, there were many incidents and events around her home that were frightening. She has moved housing and area since that time. She feels safer in her new neighbourhood and, importantly, she has security doors, something she had requested many times before the attack in her previous house.

Melanie said:

[The police] were good. They weren't aggressive. They said if you don't want to say much now you don't have to. They didn't rush me. And what they did say, when we finished the statement, they said if you think of anything else that you have forgotten now, let us know so we can put it in the statement, add it on.

And with the girls that have been raped, talk about it. Talk about it. Let it out. And if no one listens well don't but the longer you hold it in, it builds and builds up and it builds up and eventually you explode. You can't hold it. And I can't talk about it with any of my neighbours. And I was taken once before my last time at the hospital I was taken, I was quite distraught, and it was because of him.

I'd like a dog, not so much as a guard dog or anything, just like a therapy dog that'd keep me company and will kind of protect me and will let me know that there's someone at the door. Or someone's out in the back yard or something. Because my hearing is getting worse and so that I think would help me enormously. And for company too.

But the Trustees won't give me the money to do that, even though I have the money. See, I notice with them – and they don't care about the rape or anything. They couldn't care less. And if they see that you are happy and you are comfortable, they hate that. And I do want the dog, very, very much so. And I've been saying that for years.

[Simon, my support worker] gave me the letter and he said I feel this would be very good for you. In fact, he was right. Because what I like about telling you what had happened, you're not judging me. You're not saying you're blamed for this, you're blamed for that. You're saying we understand.

Following hearings across Australia, a Senate Committee recommended in late 2015 that a Royal Commission into the violence and abuse of people with disability should be established. The Senate Committee recommended that the proposed Royal Commission address violence and abuse in all settings and be developed in consultation with people with disability (*Senate Community Affairs Report* 2015). The *Senate Community Affairs Report* recognised that the prevalence of violence against women and girls with disability is often higher than the experiences of other groups of women. The Report also recognised that the context, types and impacts of such violence are also often different, occurring in institutional settings other groups of women are not expected to occupy, and under legal frameworks specific to people with disability.

Experts suggest that urgent work is needed for service and justice systems to appropriately respond to and prevent violence against women with disability, particularly in institutional and residential facilities. At the same time, as has been noted in a range of recent inquiries, including the RCFV (2016), there are also critical barriers for women with disability in accessing justice after surviving more commonly understood expressions of violence such as sexual or family violence. Current approaches to redressing sexual or family

violence for all women are piecemeal, often ineffective and have potential to re-traumatise, with these issues amplified in the case of women with disability. Indeed, conventional accounts of "barriers" and "access" may not pay sufficient attention to pre-existing legislative and structural constraints on autonomy and self-determination that are routinely experienced by women with disability. Furthermore, existing notions of justice may not accord with women's ideas about just outcomes. A grounded understanding of access to justice from violence needs to be developed for women with disability that emerges from their lived experiences, and is informed and shaped by their voices and full participation in processes of reform and implementation.

In March 2017, the Commonwealth government's decision not to proceed with a Royal Commission into violence against people with disability was widely criticised by people with disability (DPOA, 2017). In May, the Labor Party committed to a Royal Commission if they are elected to Government, joining the Greens long-standing party commitment to a Royal Commission.

The objective of this partnership project between the Monash Gender and Family Violence Program (Monash GFV) and PWDA, (on behalf of DPOA), funded by ANROWS, was to examine access to justice for women with disability particularly in relation to experiences of violence.

Our key objectives

- Produce knowledge of the experiences of women with disability in terms of violence, especially sexual assault and intimate partner violence, and pathways and barriers to accessing support and justice responses to such violence.
- Produce the research in partnership with an organisation constituted and led by people with disability, PWDA, which focuses on working with people with disability in terms of violence, in order to work in a disability-inclusive framework towards the validity, efficacy and potential for meaningful application of the research project.

Our key research questions

- What are women's experiences of violence, especially sexual assault and/or intimate partner violence?
- How do women position and interpret these experiences in relation to their disability?
- What are the mechanisms and factors that lead to incidences of violence, especially sexual assault and/or intimate partner violence being reported?
- If women report, how do they experience responses post reporting in terms of services and justice systems?

Project method

Our methodological approach to qualitative research in the field of gendered violence is aimed at giving primacy to the voices, experiences and knowledge of those at the centre of the study: in this instance, women with disability. A critical aspect of this commitment was our partnership with PWDA, on behalf of DPOA. In particular, the PWDA research team, specifically Dr Jessica Cadwallader and Meredith Lea, were involved in each phase of the study: design, all aspects of fieldwork, and drafting reports.

Additionally, through our partnership with PWDA, we have a unique opportunity to access the expertise, insights and networks of DPOA, an alliance of Disabled Peoples Organisations (DPOs) that comprises the National Ethnic Disability Alliance (NEDA), First Peoples Disability Network (FPDN), WWDA and PWDA. DPOs are organisations comprised and governed by people with disability.

We received ethics approval for both phases of the study from the Monash University Human Ethics Research Committee. Informed consent procedures were developed that worked within the framework of Easy English to ensure all potential participants received information in a mode that facilitated meaningful consent (see Appendices 1 and 2). In addition, the research team undertook facilitation training in working with women with disability provided by WWILD (a Queensland advocacy organisation that supports people with intellectual or learning disability who have experienced sexual assault or other crimes).

Using "intersectional discrimination" to explore forms of discrimination faced by people with disability

Intersectional discrimination is a term that is often used to explore the ways in which discrimination based on identity, social position or status, such as racism, sexism, ableism or classism, intersect to create new and unique forms of discrimination. Disability experts have long been using this term to discuss the unique forms of discrimination experienced by people with disability (Frohmader & Sands, 2015, pp.17-18).

This term captures discrimination experienced by people with disability as it intersects with discrimination based on other aspects of their identity, such as their age, gender, sexual orientation, religion, indigenous, ethnic or cultural background, immigration status or economic status (Frohmader & Sands, 2015, p.17). As Frohmader and Sands make clear, these various identity layers intersect to create new, unique and often quite complex experiences of discrimination.

In research practice, seeking to understand intersectional impacts requires attention to:

> … multiple intersecting forms of discrimination [that women] experience based on their gender and disability, as well as their diversity … [and the ways women may] experience different processes of discrimination and violence due to the nature of the ensuing power differentials when multiple axes of differentiation intersect' (Didi et al., 2016, p. 160).

An analytical approach must therefore take various layers of identity, social inclusion/exclusion and social positioning into account when considering their subsequent access to justice responses. Indeed, when people are located at intersections of disadvantage or discrimination, access to justice in relation to these axes of differentiation may be more complex and fraught.

In response to the intersectional discrimination experienced by many of our participants, our data analysis process embeds this intersectionality through an initial use of thematic data coding and then the creation of *intersectional reports*, which brought together key datasets for systematic analysis. We have sought to ensure these intersections are reflected in our key findings. Most importantly, however, building an effective understanding of "intersectional discrimination" as it impacts on women as they work or seek to access justice is important: systemic failure to do this has been routinely emphasised in recent inquiries (AHRC, 2014; ALRC, 2015; Parliament of Australia, 2015). Working to link women's knowledges and aspirations, their articulation of the importance of both personal and legal justice, and the differing responses and capacities of specialist violence and disability services has emerged as central in ensuring women have access to the

support they need to achieve the outcomes that are critical to them.

Phase 1

Phase 1 focused on interviewing and working in focus groups with women with disability. Following our intersectional approach as outlined above, our recruitment worked through accessing the extensive networks of PWDA and the broader DPOA group. It has been supplemented by the strong relationships that the Monash research team has forged with mainstream domestic and family violence and community legal services.

In the course of the project, we expanded our methods of outreach and recruitment. As well as our original use of focus groups, we offered individual interview options, as a number of women expressed some concerns about discussing violence in a group context. We were also approached by some women who wished to contribute via phone and email.

We undertook fieldwork in urban and regional locations in two Australian states, Victoria and New South Wales. Having experienced facilitators and counsellors was critical in creating a safe and open space for women to share their experiences. The additional support costs funded by ANROWS (for taxi vouchers, Auslan interpreters, technological, communication and advocacy supports) were central in facilitating safe and secure spaces where women felt able to share stories that were often distressing.

In total, 36 women participated in our study. The complexity and diversity of their insights has been the primary critical source in our project analysis. We outline details of each of our participants in the following section in a series of portraits that are aimed at introducing each participant in order that the context and background of her experiences are as clear as possible.

Phase 2

In addition to speaking with women with disability about their stories of violence and seeking access to justice, we also interviewed 18 specialist violence, legal and disability service stakeholders across both Victoria and New South Wales. These stakeholders include NGOs and relevant justice officers and services. In our data reporting, we use general descriptors, such as "employed in a service organisation", to maintain confidentiality.

Portraits of participants

The following portraits provide some background about the women with disability who participated in our project. The women who participated had a range of impairments, including physical disability, sensory disability, intellectual disability, and psychosocial disability. It was decided that specific details about each woman's disability would not be included—instead, this information is provided only when it is relevant to the experience of violence for particular women. We have taken care to disguise or amend details that we considered would be identifying and have therefore changed the women's names, and have included a de-identified description of the type of services with which women have interacted. This ensures the diversity and complexity of women's experiences is reflected as fully as possible. Where we had accurate information about the age of participants, we have provided a five year range: where we did not, we have assigned a 10 year range. We have identified the ethnic/cultural background of all participants in order to ensure we are not inadvertently assuming any particular norms around culture and citizenship.

Angie: 25-30 years old, from an English speaking background, was clear and confident as she talked with us. Angie experienced sexual abuse from multiple perpetrators, including her brother, throughout childhood. As an adult, Angie experienced intimate partner violence for approximately 5 years, including while pregnant. Angie has three children that have been removed from her care.

Angie has been involved with caseworkers from human services, she has accessed services provided by a range of local support services and refuges and she has stayed in a supported accommodation service for homeless women. She has spoken with a counsellor from the Royal Commission into Institutional Responses to Child Sexual Abuse.

Vanessa: 40-45 years old, from an English speaking background, was in an abusive relationship with her now ex-partner. Vanessa has four children. Vanessa also experienced violence directed at her children from her ex-partner's family and as a consequence of allegations related to these circumstances, her children have been removed from her care.

Vanessa has accessed a range of services including domestic and family violence services and refuges. Vanessa has completed numerous courses related to parenting with the goal of regaining custody of her children.

Melanie: 45-50 years old, from an English speaking background, has experienced systematic abuse and terrorisation from a group of adults and their children living in her suburb. This abuse has included physical assault, attempted robbery and vexatious counter-accusation. Melanie was also the victim of an hours-long home invasion in which she was repeatedly raped, her cat was killed, she was robbed and her property damaged.

Melanie has sought the assistance and services of police, Courts and the Department of Housing. Melanie has accessed the counselling service at a hospital (as organised by a court support worker), and the assistance and services of a second hospital; a local disability support service; and a support organisation for people affected by brain injury.

Suzanne: 70-75 years old, from an English speaking background, is a professional woman working as an advocate/service provider for women who are victims of domestic violence. Suzanne's 25-year relationship with her ex-partner was one of escalating domestic violence that culminated in a single extended vicious assault. Suzanne was 45 years old at the time of this assault and sustained a permanent leg injury as a consequence. Suzanne has a number of children.

Suzanne has sought the assistance and services of police and courts: however she had trouble obtaining help from appropriate services throughout her ordeal and did not receive victim support at court.

Sarah: 55-65 years old, from an English speaking background, is a confident, articulate and independent woman who has lived alone on her farm for more than 30 years. Sarah has experienced systematic abuse and terrorisation from people and families living in her area for 10 years. This abuse has included being shot in the back as well as severe physical assault.

Sarah has sought the assistance of police on many occasions over this 10-year period. In response to a recent and severe physical assault that left her unconscious, multiple perpetrators have been charged. Sarah is receiving counselling support from victim services and is a member of a network for people with autism.

Janet: 45-50 years old, from an English speaking background, experienced a number of sexual assaults throughout her childhood and as an adult has experienced assaults, abuse and violence in a range of contexts. Janet has four children.

Janet has received services from multiple providers and is currently receiving support through the NDIS. Janet has engaged the services of the Ombudsman and other complaints mechanisms in her bid to access justice.

Rachel: 40-50 years old, from an English speaking background, has experienced verbal and threatened physical and sexual violence from her stepfather throughout her life. As a young adult Rachel additionally experienced severe bullying from a fellow student while staying in residence at her university.

Rachel sought assistance through the Disability Advisor at her university. Rachel has worked for an animal service in her state.

Sandra: 45-55 years old, from an English speaking background, experienced escalating domestic violence from her former husband, and for a time official "carer", over 20 years of marriage. Sandra was a confident speaker who expressed concern about the plight of women with disability in domestic violence situations. Sandra expressed concern about the safety of animals in these situations.

Sandra was positive about the involvement of support agencies and has accessed the services and support of her personal GP (who was able to provide referrals), a local disability service, a local social justice organisation, relationship counselling, a local Women's Centre, an Ear Acupuncture Recovery Group, counselling (through a Women's Centre) and a community based mental health support group.

Beverley: 60-65 years old, from an English speaking background, had an aggressive father with a drinking problem who physically abused her mother. Beverley's father sexually assaulted her. As a young adult, Beverley was shot in a violent assault. Beverley went to court for both of these assaults and was not supported in either case: in the latter, she was subject to vexatious counter-accusations.

Beverley hasn't accessed many support services but regularly attends the local Neighbourhood House where she receives informal support through friendship networks.

Jenny: 50-55 years old, from an English speaking background, has been and continues to be subjected to controlling behaviours and verbal and financial abuse by her current husband of approximately 18, plus, years. Jenny and her husband have a university-age son. Jenny's family life when she was a child was abusive. Her policeman father had her regularly followed and her mother beat her. Jenny was also subject to reproductive abuse when she was forced by her mother to have a termination when she was 17.

Jenny has accessed psychological and psychiatry services as well as therapy services for her acquired brain injury. Jenny regularly attends the local Neighbourhood House in her community where she receives informal support through friendship networks.

Grace: 30-35 years old, is a migrant to Australia whose application for permanent residency includes her mother and uncle. Due to some problems with her uncle's application, Grace is experiencing delays getting her permanent residency granted. Grace has a young daughter and feels she has very little control over her own and her daughter's circumstances, as she feels she has to rely on her mother and stepfather. Grace attended the focus group to find out more about domestic and family violence.

Grace regularly attends the local Neighbourhood House in her community where she receives informal support through friendship networks.

Celia: 40-45 years old, from an English speaking background, was subject to stalking and abusive behaviours from a co-worker. This situation was never addressed appropriately nor were systems put in place to prevent or deal with such a situation if it were to reoccur. Celia has a number of children.

Celia works in an organisational and support capacity at the Neighbourhood House in her community.

Lynette: 50-60 years old, from an English speaking background, was subjected to abusive and controlling behaviours including financial abuse from her husband throughout their marriage of more than 18 years. Lynette and her ex-husband have a daughter, who Lynette says was also subjected to abuse. Lynette and her ex-husband are going to court to settle their property dispute. Lynette's ex-husband would deny or question her disability, telling her that she didn't need her wheelchair and other supports.

Lynette has accessed psychological counselling services, occupational therapy in hospital, and support from her local community. She has received assistance from the NDIS and has a lawyer for the court proceeding. Lynette has used 1800 RESPECT, which she said was very useful when she needed to talk about her ex-husband and coping with the court process.

Fiona: 50-60 years old, from an English speaking background, experienced domestic abuse perpetrated by her former husband over 15 years with violent episodes occurring every 3-4 weeks. Fiona has two children.

Fiona has sought assistance and support from police, women's refuges, specialist domestic violence court support services, a religious community organisation, a local mental health organisation, Lifeline and church friends (it is unclear if these persons were connected to church-run domestic violence services).

Maggie: 30-40 years old, from an English speaking background, experienced domestic violence from her former partner and husband of two and half years over the course of their relationship. Maggie and her husband had taken custody of two foster children whom Maggie had to leave behind in order to protect herself. The foster children are no longer in Maggie's care.

Maggie is passionate about speaking out about her experiences and helping other women in such circumstances. Maggie has accessed the services and support of police and her local Women's Health Centre.

Katrina: 30-35 years old, from an English speaking background, has experienced domestic and family violence throughout her life. Katrina was physically assaulted by her parents, her cousins and her foster parents. She was eventually put in a group home where she experienced violence from other clients and care workers. Katrina was recently assaulted by a neighbour in her apartment building and by a stranger in a shopping mall. She has disclosed the violence to her current care workers and has received assistance from police.

Jade: 30-35 years old, from an English speaking background, had an aggressive father with a drinking problem who physically abused her mother, herself and her siblings throughout her childhood. Jade received counselling from her school and was eventually removed from her parents' care. Though she was reluctant to do it, Jade had to take her father to court.

Jade has had the support of the same counsellor since she was in primary school. Jade has also accessed the services and support of a local mental health organisation.

Louise: 50-55 years old, is a proud Aboriginal woman who suffered childhood sexual abuse while living at an institution for children with disability. Louise was abused by care workers, other children and other adults in the community. As an adult Louise was in a long-term relationship for 24 years, 19 of which she experienced domestic violence from her former partner.

Louise has accessed the services and support of Aboriginal specific domestic violence service and counselling, including support and counselling for Forgotten Australians, services

and supports for people with brain injury and/or intellectual disability, self-advocacy organisations, advocacy programs for women with disability and court support workers.

Kathy: 40-50 years old, from an English speaking background, has been subjected to bullying at school and at her workplace. As a young adult, Kathy was forced by her parents to have sterilisation surgery followed by a hysterectomy.

Kathy has sought the services and support of the police and of a local disability advocacy organisation.

Rose: 55-65 years old, from an English speaking background, was subject to domestic and family violence from both of her children's fathers and then from a neighbour with whom she had struck up a friendship. Rose was a ward of the state when she was a child.

Rose has sought the assistance of police, courts and women's refuges. She has also accessed counselling services.

Stephanie: 25-30 years old, from an English speaking background, was subjected to the abusive and controlling behaviours of her former husband and father of two of her three children. When Stephanie left her husband, the children were in his parents' care. Subsequently, Stephanie has endured a four-year court process with her ex-husband to obtain custody of the children.

Stephanie has sought the services of police, courts, child protection services and disability advocates.

Catherine: 45-50 years old, from an English speaking background, has been subjected to physical, sexual and financial abuse perpetrated by her father. This abuse began during childhood and the financial and emotional abuse has continued into adulthood.

Catherine has accessed support and services of the police, psychology and psychiatry services, crisis and assessment at hospital, CAT (crisis assessment teams) and psychiatric services at local hospitals.

Simone: 40-45 years old, from an English speaking background, experienced domestic violence for over 10 years perpetrated by her ex-husband. Simone's ex-husband was her carer. They have a number of children.

Simone has accessed support and services provided by her GP, private psychiatrist, mental health care workers, human services, a community service organisation, a religious organisation and a local child and family services organisation.

Barb: 40-50 years old, from an English speaking background, was subjected to the abusive and controlling behaviours of her former partner of three years. Barb has a young child whose care she relinquished to the paternal grandmother prior to the abusive relationship. The decision to turn over the care of her child caused Barb great emotional anguish.

Barb has accessed support and services provided by a local citizen advocacy organisation, disability support workers, housing services, counselling and psychology services.

Paula: 40-50 years old, from an English speaking background, was subjected to physical and sexual abuse by her father when she was young. Paula has felt threatened on other occasions in her adult life. Paula has had some negative and unproductive experiences with police in trying to seek protection.

Paula has accessed support and services provided by various advocacy organisations and is a former member of a government disability advisory committee.

Willow: 30-40 years old, from an English speaking background, experienced abusive and controlling behaviours from roommates in the shared house in which she lived. In one case a roommate stole and damaged her property.

Willow sought assistance and support from a local peak disability advocacy organisation.

Marita: 50-60 years old, from an English speaking background, has experienced systematic abuse and terrorisation from her neighbours. As for others we have spoken to in this project, Marita has found seeking justice for this kind of abuse difficult. This abuse has included physical assault, property damage, assaults on her cat and vexatious counter-accusations.

Marita has sought the assistance of the police, Women's Legal Services and a local mental health organisation, and participated in the Royal Commission into Institutional Responses to Child Sexual Abuse in relation to other events in her life.

Antoinette: 40-50 years old, is a Greek-Australian who spoke of psychological abuse in the form of lying from friends and a potential intimate partner. Antoinette feels shut out of the details of the court case related to her injury. She suspects her brother is committing financial abuse and that her father is complicit.

Antoinette has sought assistance and support from a local women's information and referral service, a brain injury advocacy organisation, private counselling and her private lawyer.

Tracy: 70-75 years old, from an English speaking background, has been experiencing physical and verbal violence for two years from neighbours that have moved into the apartment block where she is a long-term resident. This abuse includes vexatious litigation and Tracy has had an AVO (Apprehended Violence Order) issued against her. Tracy is going to court regarding these issues later this year.

Tracy has sought assistance and support through her disability advocate, police and Legal Aid.

Molly: 45-55 years old, from an English speaking background, experienced sexual abuse throughout her life from multiple perpetrators including family and her Sunday School teacher. Molly has a grown daughter that she had to give up when she was young. Currently, Molly feels that people take advantage of her and her husband.

Molly has sought assistance and support from her disability advocacy organisation, a private counsellor and has spoken to the Royal Commission into Institutional Responses to Child Sexual Abuse.

Linda: 40-50 years old, from an English speaking background, was subject to severe physical and psychological violence from her father throughout her childhood. Linda has continued to experience violence, largely sexual assault, perpetrated by male relatives, a boarding house proprietor, a male partner and various other men. Linda became pregnant as the result of a sexual assault; she was forced to have the baby. Linda gave her son up for adoption.

Linda has accessed support through a counsellor and assistance and support through a housing initiative. She hopes to do more art practice.

Ruth: 60-70 years old, is an Aboriginal woman. Ruth has had three major relationships and all three male partners were violent towards her. Ruth has a number of children: all but one have been removed from her care.

Ruth has accessed support through a counsellor, and assistance and support through a disability advocacy organisation. She has also spoken to the Royal Commission into Institutional Responses to Child Sexual Abuse.

Bronwyn: 65-70 years old, from an English speaking background, has experienced domestic and family violence sporadically over the course of her life from her father, her son and her partner.

Bronwyn has sought assistance through the police and courts for her son's violence.

Jill: 55-60 years old, from an English speaking background, has experienced domestic and family violence perpetrated by her cousins and father. Currently, Jill is subjected to family violence perpetrated against her by her son. Jill took an AVO against her son but it has since expired and her son is back living with her.

Jill has sought assistance from the police for the AVO and support and advocacy from a disability advocacy organisation.

Anika: 25-35 years old, from an English speaking background, has experienced domestic and family violence. Anika is passionate about advocating for justice for people with disability who have experienced violence.

Nicole: 40-50 years old, from an English speaking background, experienced physical, sexual and emotional abuse as a child. Nicole has psychosocial disability as a result of this abuse.

Nicole has sought assistance and support from the police and courts as well as counsellors and Victims of Crime organisations. She has also sought support from a disability advocacy organisation and a private psychologist. Nicole found the court process particularly difficult and felt the court support was inadequate.

Data analysis approach

This research project was informed by an **intersectional** framework: as noted earlier, this means understanding discrimination in relation to intersecting axes of power and exclusion that may disadvantage people. Our semi-structured qualitative research approach aims to build a full and detailed exploration of women's experiences of seeking access to justice when they have faced violence and/or sexual assault either inside or outside their relationships. Our approach centred on women's voices and experiences. These insights were then explored in relation to the views of service providers and other stakeholders.

An intersectional framework understands that people may experience multiple vectors of discrimination based on various aspects of their identity (these may include economic, ethnicity, gender, educational, resource, access, age, a continuing history of colonialism) that must be analysed dynamically. In some sections this has meant that findings may appear multiple times: for example, in considering women's everyday security, security of motherhood was consistently raised by the women with children. Data related to motherhood were also important in understanding the operations of courts and child protection systems and how such institutions might be a source of injustice, or inhibit access to justice or just outcomes consequent on violence.

For this reason, we used thematic qualitative description to code our data (through the NVivo data analysis software). Sandelowski suggests thematic qualitative description offers a framework through which "comprehensive summar[ies] of an event in … everyday terms [that are] an accurate accounting" (2000, p. 336) of those events can be presented and would be recognised as valid by **both researchers and participants**. This embeds a critical commitment in the data analysis to the voices of the women and to building a grounded approach through their insights. Sandelowski argues that this is still clearly "interpretive" (2010, p. 79) since data can never speak for itself, but the emphasis in this process is on "descriptive validity" (2000, p. 363) and staying close to the everyday **meaning** of the data as produced by the participants. This approach seems particularly appropriate in this study since we are expressly interested in how women themselves understand justice, safety and security from gendered violence and the barriers they face accessing justice in this context. Throughout our report, we have made extensive use of quotations, in order to convey as directly and locate as centrally as possible the meanings of violence and justice as expressed by the participants. The 36 women with disability who participated were highly articulate in communicating their feelings and experiences. Their voices document the impacts of violence on their lives powerfully, alongside their hopes and struggles to access justice and achieve safer and more secure futures.

Context review

Introduction

This literature review examines existing knowledge about access to justice for women and girls with disability who have experienced violence. This violence can take many forms. As noted in our Executive summary, there has been extensive policy and research activity in the last five years focused on how to support the legal capacity, autonomy, independence and safety of people with disability better. There have been sets of recommendations in reports such as *Equal Before the Law* (AHRC, 2014) and *Equality, Capacity and Disability in Commonwealth Laws* (ALRC, 2015) that have sought to change existing patterns of discrimination in accessing justice and services.

ANROWS recently funded a project exploring the access of women with disability to domestic and family violence services. Dyson, Frawley and Robinson's report, *"Whatever it takes": Access for women with disabilities to domestic and family violence services* sought to develop guidelines for access to tertiary response services for women with disability.

Key findings of the Dyson et al. (2017) report include:

- the concept of access must be re-thought and expanded to address "how services think about disability" (p. 3);
- there is an on-going failure to effectively identify and support disability;
- support services may seek to "protect" women from further trauma, which can then limit service access; and
- multi-agency collaborations will be critical in supporting women and girls with disability.

The findings of Dyson et al. (2017) resonate with much that is presented in this report and with prior reports already cited. As they have argued for rethinking access, we argue for the need to rethink justice, with attention to the differences between personal justice and legal justice that women articulated in our research. It is particularly the case that justice needs to be redefined in relation to service challenges and the need to develop a more complex account of access to justice in terms of understanding the work of service providers. A point of difference is that this study interviewed primary, secondary and tertiary service providers, in domestic and family violence, specialist violence, disability support and advocacy organisations and legal services. Yet the findings are consistent, as they have been in most recent studies, inquiries, reports and advocacy.

This review provides an overview of current policy and existing work in relation to access to justice for women with disability after violence has occurred.

Landscape of responses to violence for women with disability

Across Australia, there have been several high-level studies and reports produced over the last five years that include a focus on access to justice for people with disability who have experienced violence. These reports have included:

- The Australian Law Reform Commission inquiry into *Family Violence and Commonwealth Laws* (2012).
- Women With Disabilities Australia, People with Disability Australia and the University of New South Wales *Stop the Violence Project (STVP)* (2013).
- The Australian Human Rights Commission report: *Equal before the law: Towards disability justice strategies* (2014).
- The Australian Law Reform Commission report: *Equality, Capacity and Disability in Commonwealth Laws* (2014).
- Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria's report: *Voices against Violence, Women with Disabilities Victoria* (2014).
- The Victorian Equal Opportunity and Human Rights Commission's report: *Beyond Doubt: The Experiences of People with Disabilities Reporting Crime* (2014).
- The Victorian Ombudsman's *Reporting and investigation of allegations of abuse in the disability sector: Phase 1 – the effectiveness of statutory oversight* and *Phase 2 – incident reporting* (2015).
- The Commonwealth Senate Community Affairs Committee Report: *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability* (2015).
- The Victorian Family and Community Development Committee: *Inquiry into Abuse in Disability Services: Final Report*, tabled in the Victorian Parliament May (2016).

- Dyson et al.'s ANROWS Horizons report: *"Whatever it takes": Access for women with disabilities to domestic and family violence services* (2017).

The key developments, findings and recommendations are summarised below under each year since 2011.

Developments, findings and recommendations - 2011

In 2011, the ALRC conducted an inquiry into family violence and Commonwealth laws (2011). The ALRC found that people with disability experience diverse types of violence including: sexual violence, financial abuse (including misappropriation of a disability pension), neglect, deprivation of medication, forced sterilisation and abortion. The ALRC recommended a common definition of family violence across legal frameworks to ensure people with disability are protected. Recommendations included pro-active encouragement of disclosures, on-going training and education for those working with people with disability (e.g. those involved with the legal system, child protection employees), and transparent procedures. This work built on the Australian and New South Wales Law Reform Commissions' report, *Family violence—A national legal response* (2010) and the *National Plan to Reduce Violence against Women and their Children 2010 – 2022* (Council of Australian Governments, 2011).

In July 2011, the Productivity Commission explored the feasibility of a national program of assistance that would allow people with disability to choose the support and assistance they require. Although this is not directly relevant to the issues of personal and legal justice addressed here, this scheme impacted all forms of disability services and reinforced existing chronic underfunding. The Productivity Commission found that the lifetime costs of care to be substantial for most families and individuals, and the current support system under-funded, piecemeal and fragmented. The key recommendation was for a NDIS with funding from government, in the same style as Medicare. This is now being rolled out.

Developments, findings and recommendations - 2013

WWDA, PWDA and the University of New South Wales (UNSW) commenced a collaborative project entitled "*Stop the Violence Project*" (STVP) in 2013. The project was funded by the Commonwealth Department of Social Services under the *National Plan to Reduce Violence against Women and their Children*. The *STVP* explored sexual assault and domestic violence responses to women and girls with disability. This national project involved extensive consultation with women with disability and various cross-sector service providers, mapped good policy and practice models to build the evidence base, and conducted a cross-sectoral national symposium on violence against women with disability (Dowse et al., 2013; WWDA, 2013).

The *STVP* highlighted a number of key emerging issues in relation to violence against women and girls with disability. These included, for instance, the need to appropriately identify, record and respond to various forms of violence, to remove barriers to accessing appropriate services, to include women with disability in violence prevention service and policy environments, to support the leadership of women with disability through training and development initiatives, to develop service sector responses, to perform cross-sector collaboration, and to capture and use data regarding women and girls with disability in relation to violence (Dowse et al., 2013; WWDA, 2013). It also reiterated the need to include women with disability in leadership, governance and advisory roles, providing them a voice in decisions that affect them. The findings of the *STVP* are still to be implemented, indicating on-going challenges in disability-inclusive policy and practice in relation to the *National Plan to Reduce Violence against Women and their Children*.

Developments, findings and recommendations - 2014

In 2014, several landmark reports about violence against people with disability in Victoria were published. These included: Victorian Equal Opportunity and Human Rights (VEOHRC) Commission's report *Beyond doubt: The experiences of people with disabilities reporting crime – Research findings*;

and Women with Disabilities Victoria, report *Voices against Violence*. In the same year, the Australian Human Rights Commission published the report, *Equal before the law: Towards disability justice strategies*. In addition, the ALRC published its report, *Equality, Capacity and Disability in Commonwealth Laws*.

The VEOHRC report (2014) found "substantial" abuse in spite of, and because of, systems that are intended to protect people with disability, and that the nature of the barriers to reporting violence for both victims and workers are "grave[ly] concern[ing]". The report highlights the first-person accounts of unlawful discrimination by police in refusing to take reports. The VEOHRC highlights the need for patient, respectful treatment that allows a person to feel safe and supported throughout the reporting process. Learning and capacity building for police, as well as adjustments to court practices to ensure that disability needs are met, especially for people who have experienced sexual assault, were recommended.

Women with Disabilities report, *Voices against Violence,* uncovers "the profound failure of the service system that is responsible for upholding justice, for supporting people with a disability, and for assisting women to safety when they experience violence" (2014, p. 4). The report explored the impacts of violence for women with disability, their help-seeking behaviour, and legal and social service sector responses. As emerged in the *STVP* (Dowse et al., 2013; see also Dyson et al., 2017), this report's findings include that the service system is difficult to navigate, responses are often poor and inappropriate, women with disability do not have adequate access to safe, appropriate and affordable housing, and have mixed experiences when taking reports of violence to police. The first recommendation of the report is for improved representation of women with disability in all policy and planning arenas that relate to violence against women with disability. This is closely followed by the recommendation for programs that address both gender equality and discrimination against people with disability and how existing discriminatory attitudes combine to perpetuate violence against women with disability. Cross-sector collaboration forms an important component of the required change.

The Australian Human Rights Commission (AHRC, 2014) report, *Equal before the law: Towards disability justice strategies* examined existing inequality before the law. Through wide-ranging consultations, the AHRC identified that, for people with disability, a lack of access to justice through vectors of inequality multiplied their hardship. People were without protection and at risk of escalating or more frequent violence. Many of those incarcerated for perpetration of violence had themselves been victims of violence and improperly supported. To improve access to justice, the AHRC suggested a human rights approach based on the principles of equality, participation, accountability and empowerment. A key recommendation was directed at all jurisdictions developing Disability Justice Strategies.

Finally, the ALRC (2014) report, *Equality, Capacity and Disability in Commonwealth Laws,* offered a review of equal recognition before the law and examined principles of legal capacity for people with disability. It was specifically charged with examining barriers to people's ability to exercise legal capacity, including in relation to accessing the justice system.

This report recommended National Decision-Making Principles that outline the equal right of all people to make decisions that affect their lives, and posited that supported decision-making should be readily available. In addition, the report made recommendations regarding access to justice, including amending legislation in relation to giving evidence and providing appropriate communication and other supports to witnesses where required. Disability advocates continue to argue that wide-ranging reforms to existing laws that deny or limit the legal capacity of people with disability must be implemented as a matter of urgency, to ensure the protection of the rights of people with disability across Australia.

Developments, findings and recommendations - 2015

In December 2015, the Victorian Ombudsman (2015) released *Reporting and investigation of allegations of abuse in the disability sector: Phase 2 – incident reporting*. The services that were investigated were disability-specific (residential, respite and day programs funded by the state government),

the Department of Health and Human Services, and the Disability Services Commissioner. The investigation revealed a culture of non-reporting, with disability workers failing to report due to a fear of reprisal, intimidation, unease about the impact for the victim, volumes of paperwork and because they do not know how to identify abuse.

The need for an independent oversight body and properly resourced advocacy to support people with disability formed key recommendations of the first report. The second report found a lack of mandatory reporting responsiveness, and recommended a new incident report system that is person-centred and has the capability to follow up complaints that have been made, and proper protection under disclosures legislation for whistle-blowers.

In November 2015, a Commonwealth Community Affairs Senate Committee Inquiry into "widespread" violence towards people with disability tabled its report (Parliament of Australia, 2015). Based on submissions from people with disability, their families and advocates, the Senate Committee made thirty recommendations. Four central recommendations were for: a Royal Commission into the violence and abuse of people with disability, a national complaints mechanism, national workplace regulation, and improved access to justice.

Developments, findings and recommendations - 2016

The RCFV dedicated a chapter to the issue of family violence as experienced by people with disability. While the terms of reference stipulated a focus on family violence, the RCFV observed 'that family violence is one part of a wider picture of violence and abuse against people with disabilities' (2016: 31, p. 167ff). They noted that the extended definition of family violence provided by the *Family Violence Protection Act 2008* (Vic.) incorporated "violence by paid carers and other workers, both within home and service settings, and by people living together in group settings".

Key findings of the RCFV into the experience of family violence by people with disability reflected previous findings:

- The identification of a culture that deters reporting violence (see also Vic Ombusman, 2015).
- Intimate partner violence is the primary type of family violence for all women; women with disability face challenges when the partner may be the carer as this makes both reporting and leaving violence more difficult. This challenge is intensified for women who live in rural, regional or remote areas or who are from refugee or immigrant communities (see also George & Harris, 2014).
- Access to legal remedies in these cases must be strengthened.
- The inadequate provision of disability-inclusive tertiary services, and particularly crisis accommodation, represents a significant barrier for women with disability.
- Lack of awareness and specific training related to "the nature and dynamics of family violence" amongst disability workers (2016: 31, p. 192).
- The on-going urgent need to ensure people with disability should be supported in 'their independence, self-determination and dignity' (2016: 31, p. 192).
- The need to build an understanding of how family violence and disability intersect in disability policy and practice frameworks.
- The need for enhanced data collection to support effective responses.

In May 2016, the Victorian *Parliamentary Inquiry into abuse in disability services: Final report* was released. Recommendations included:

- A Disability Services Commissioner be funded to investigate reports of individual and systemic abuse, undertake a comprehensive review of all deaths within disability services each year, and make the results public.
- That the Victorian Government fully implement the recommendations of the RCFV which relate to people with disability.
- That amendments be made to section 5 of the *Disability Act 2006* (Vic) to require disability services to demonstrate commitment to the principle of zero tolerance of violence before registration can be awarded, and to sections of the *Family Violence Protection Act 2008* (Vic) to ensure violence by carers can be better captured.
- That changes be made to the state government's management systems to emphasise the impact of violence on people with disability, including ceasing to use the term "incident" and instead using language that reflects the abuse, e.g. rape, financial abuse, violence, neglect, as well as improved tracking of complaints of abuse.

- That services and initiatives for the prevention of violence against women with disability be expanded, and that information be published in formats such as Easy English.
- That a range of measures including human rights education, training for Victoria Police and a state-wide workforce development strategy be implemented.

Developments, findings and recommendations - 2017

In 2017 the Federal Government rejected calls for a Royal Commission that was supported in the *Senate Committee Community Affairs Report* (2015). As outlined in *The Civil Society Statement to the Australian Government End the Violence: Call a Royal Commission into Violence and Abuse against People with Disability* (DPOA, 2017), peak organisations see a Royal Commission as the only way to effectively address the widespread violence against people with disability. While the February 2017 release of a Quality and Safeguarding Framework (Australia. Department of Social Services, 2016) is designed to underpin the regulatory protection mechanism that oversees the high quality disability supports and protections from harm in relation to the NDIS, this is clearly limited and cannot address the full range of measures needed to effectively address the violence and abuse experienced by people with disability.

Advocates have raised concerns that many of those who require safety will not access the information and avenues to report abuse within the proposed framework (Cooper, 2017). This shortfall is because the NDIS will only include about ten percent of people with disability in Australia (Cooper, 2017). Advocates have stressed a Royal Commission as the only effective way forward. The NDIS Quality and Safeguarding Framework does not address all forms of violence, nor all settings in which women with disability live and/or experience violence. Further, a complaints procedure, while necessary, is unlikely to end the epidemic of violence, abuse and neglect (Laragy, 2017). New approaches are required to curtail the culture of abuse. A Royal Commission continues to be a focus of advocacy as it creates a forum for people to discuss the violence and abuse they have experienced, has powers to ensure perpetrators are held accountable, and reinforces the requirement to be accountable for adherence to legislative principles. The possibility of a systematic account of the prevalence of violence against people with disability, given the limited and fragmented nature of existing data, is a key opportunity of a Royal Commission. The Commonwealth Government's decision against a Royal Commission was widely criticised by disability advocates (DPOA, 2017; Doran, 2017).

Background knowledge about violence experienced by women with disability

Type and prevalence of violence experienced by women with disability

In Australia, around 4.2 million people, or 18.5 percent of the population, have disability (AIHW, 2017). Violence towards people with disability is substantial, disturbing, unlawful and entrenched, with rates far higher than for the rest of the community (Dowse, 2015; VEOHRC, 2014, Parliament of Victoria, 2016; Parliament of Australia, 2015). As outlined above, laws that deny or diminish legal capacity of people with disability also contribute to violence that is lawful, or constitutes "legal violence", such as forced medical treatments. People with disability experienced higher levels of violence than other groups in the 12 months preceding data collection for the 2012 Personal Safety Survey (ABS, 2013). Domestic and family violence is inflicted for longer periods by a greater number of perpetrators than for people without disability (STVP, 2013; ALRC, 2014; Jansson, 2007). These statistics reinforce the complexity and specificity of violence experienced by women with disability. Importantly, the prevalence, type, and impacts of violence against women with disability are different in comparison to women in the broader population.

Frohmader et al. (2015) use the term "gendered disability violence" to specify this important distinction.

> Although women with disabilities experience many of the same forms of violence that all women experience, including domestic and family violence and sexual assault, when gender and disability intersect, violence has unique causes, takes on unique forms and results in

> unique consequences (Manjoo, 2012; Dowse et al., 2013; Frohmader, 2014; Healey, 2014; Woodlock et al., 2014). (Frohmader et al., 2015, p. 14)

As outlined earlier, the intersection of structures of discrimination, or intersectional discrimination, means women with disability experience "compounding" impacts, given the "multiple intersecting forms of discrimination they experience based on their gender and disability, as well as their diversity" (Didi et al., 2016, p. 160; Ortoleva & Lewis, 2012, p. 14). The violence that women with disability experience is significantly more diverse, severe, persists for longer, and results in more serious injury than for women without disability (Dowse et al., 2013; Didi et al., 2016). Women with disability experience violence across the lifespan from mostly male perpetrators (Woodlock et al., 2014; Frohmader & Sands, 2015). A survey of 367 family violence agencies found that nearly a quarter of women and girls with disability live with family violence (Dowse et al., 2013; see also ABS Personal Safety Survey, 2012). Women with disability face financial abuse, forced isolation, withholding of food and medication, forced contraception and abortion, and rough handling (ALRC, 2012; Kavanagh & Robinson, 2015).

Despite there being no uniform data collection portal in Australia for the experiences of sexual violence perpetrated against women with disability, it is known that women with intellectual disability, psychiatric disability or complex communication difficulties are significantly more at risk of sexual assault (Murray & Powell, 2008; Tarczon & Quadara, 2012; Victorian Health Promotion Foundation, 2011) compared to women who do not have such disability or communication difficulties. About 90 percent of Australian women with intellectual disability are understood to experience sexual abuse, 68 percent before they reach adulthood, typically perpetrated by a carer (ABS, 2012; Camilleri, 2008, 2010; Robinson, 2012; VicHealth, 2011). In 2007, official Victorian Police data showed that 22 percent of victims of sexual assault had a psychiatric disability, mental health issue or intellectual disability (Heenan & Murray, 2006). Due to the lack of ability of police officers to identify disability, and the specific and complex barriers that women with disability face in reporting crime, the true figure is likely to be much higher.

Women and girls in institutional and supported residential situations are highly vulnerable to violence: such settings are often closed to public scrutiny and may have developed troubling internal cultures (Barr, 2002; Cambridge et al., 2011; Goodfellow & Camilleri, 2003; Mahoney & Poling, 2011; VEOHRC, 2014). Experts suggest that the continuation of practices such as the forced sterilisation of women and girls with disability are forms of state-sanctioned abuse (Steele, 2014), enabled through policies and legislation. In clear violation of the principles of legal capacity, girls and women with disability are not considered able to give consent: this can result in referral to the Family Court, as proxy for parental consent, and sterilisation can and has been authorised. The *Senate Community Affairs Report* (Parliament of Australia, 2015) deemed violence within institutional settings, "cruel, inappropriate and… unlawful" (Laragy, 2017). It is a key instance of how intersectional discrimination operates to create unique oppression for women and girls with disability.

Intersectionality

Gender and disability interact to increase the risk of violence for women with disability (Woodlock et al., 2014). There is also considerable evidence that social exclusion combined with disability increases the likelihood of exposure to violence: poverty, low education and labour force exclusion create greater risk of poor mental and physical health for people with disability (Frohmader & Sands, 2015; Mithen et al., 2014). Disability and limited income commonly interact to create impoverishment and impoverishment is likely to contribute to disability (Yeo & Moore, 2003). These dynamics combine to impact the likelihood of both victimisation, and perpetration, of violence. Intergenerational abuse, age, cultural context, childhood exposure to violence, drug and alcohol misuse and mental illness can also contribute to an increased risk of abuse for people with disability (Frohmader & Cadwallader, 2014). Other factors include impeded access to justice, poor housing and living in a residential setting (Frohmader & Cadwallader, 2014; Parliament of Australia, 2015).

Aboriginal and Torres Strait Islander women: Intersections of poverty, disability and barriers to justice

Access to justice in Australia is imperative for the fulfillment of human rights. Women living in poverty and who are Aboriginal or Torres Strait Islander are likely to have reduced access to human rights such as legal representation. Studies from the United Kingdom and Australia find greater levels of social exclusion occur for people with chronic illness or disability, who are reliant on income support, experiencing economic disadvantage, and/or Indigenous people with high vulnerability to legal need (Coumarelos et al., 2012; Pleasence et al., 2014).

Aboriginal and Torres Strait Islander women comprise two percent of the adult female population and 34 percent of the adult female prison population (Walters & Longhurst, 2017, p. 4). Aboriginal and Torres Strait Islander women with disability are more likely to be in prison for negligible matters (Baldry et al., 2015) and face gender, disability and racial discrimination. Health needs and disadvantages are significantly greater for this cohort compared to the non-Indigenous prison population (Aboriginal and Torres Strait Islander Social Justice Commissioner, 2002; Baldry & McCausland, 2009). Furthermore, almost every incarcerated Aboriginal or Torres Strait Islander woman in Australia is a victim of long-term sexual violence (Baldy et al., 2015).

An increasing number of domestic violence protection orders against Aboriginal and Torres Strait Islander women (Hunter & de Simone, 2009) are being requested. With both parties under orders, the police often view the woman as similarly threatening and maintaining her safety and protection becomes more difficult (Hunter & de Simone, 2009). The primary aggressor often requests a protection order to continue to wield power over his current or former partner. Assistance is usually required to prepare an appeal against a domestic violence application but requests for legal aid may be refused.

Women and their children

The significant majority of victims of domestic and family violence are women and their children (RCFV, 2016). Exposure to violence from an early age has been linked to later experiences of victimisation or perpetration as an adult (Stanley & Humphreys, 2014; RCFV, 2016). Intimate partner violence affects children and is the key focus of most family violence interventions, services and programs. Studies consistently show that the risk of harm to children and young people with disability is reduced when they have a voice, their dignity is respected, they (and their families) have strong networks, and they have access to well resourced, well trained workers (Robinson, 2012). The Victorian RCFV identified a lack of tailored support for children and young people who have been exposed to violence at home. Culturally safe, inclusive support for women and children who experience family violence is vital, with the RCFV recommending that women's refuge accommodation be fully accessible within five years (RCFV, 2016).

Evidence indicates that children with disability are more likely to experience bullying than children without disability, for example, "[m]ore than half – 62% of students with Autism Spectrum Disorder…report being bullied once a week or more. This is significantly higher than the 1 in 5 to 1 in 7 Australian students who report being bullied once a week or more" (Queensland Government, 2016). A UK study measuring the probability of being bullied at ages seven and 15 found "an independent association of disability with bullying victimization" (Chatzitheochari, Parsons & Platt, 2016, p. 695; Robinson, 2012, p.5). As Sally Robinson noted, "[t]oo often, we allow practices for children with disability which would cause community outcry if used for children without disability" (2012, p. 5).

The Royal Commission into Institutional Responses to Child Sexual Abuse reported that children living in institutions or in situations such as out-of-home care or detention may be vulnerable and at risk of sexual abuse (2014, p. 112; Victoria. Commission for Children and Young People, 2015). It is the nature of the closed institution itself that engenders such situational vulnerability. The Royal Commission found that situational vulnerability is intersectional and that some

children face additional vulnerabilities because of the way perpetrators seek to exploit certain "attributes like their age, ethnicity, disability or immigration status", noting for example that "girls with a disability are significantly more likely to be victims of abuse" (2014, p. 112).

In conjunction with physical access, information, communication and attitudinal barriers preventing women and children with disability from achieving everyday security and accessing justice must be addressed.

Extant barriers to accessing justice

Legal capacity in Australia

Legal capacity and equality before the law are often discussed in conjunction with access to justice. For people with disability, these rights are clearly articulated in the CRPD. Despite ratifying the CRPD in 2008, however, the legal capacity of many people with disability in Australia is denied or limited by the current legal capacity framework (ALRC, 2014). These denials and limitations are enshrined in Australian laws, policies and practices, including guardianship, financial management and mental health laws (Australian Cross Disability Alliance (ACDA), ACDL and Advocacy for Inclusion, 2015).

Within the existing substitute decision-making framework, people with disability are presumed to lack legal capacity. This denial of legal capacity and the overarching substitute decision-making framework can lead to increased risks of physical, emotional and financial violence against people with disability (Frohmader & Sands, 2015, p.26; 45). Laws that deny or limit legal capacity reinforce and contribute to attitudes that view people with disability as not reliable witnesses, not to be believed, and not able to testify in courts or participate in court proceedings. Promoting the legal capacity and self-determination of people with disability would therefore help mitigate some of these risks of violence.

To be compliant with the CRPD, Australia must take robust measures to ensure all people have the right to equal recognition before the law. As such, drastic reforms to the existing legal capacity framework, such as those recommended by the 2014 ALRC report, are urgently required. This involves the recognition that all people have rights equally (legal capacity), have the capacity to act on those rights (legal agency), and to have those acts (and the decisions that lead to those acts) recognised and respected in law (PWDA, 2017). There should always be a presumption of legal capacity, and a recognition that some people may require formal or informal decision-making supports to exercise their inherent legal capacity (PWDA, ACDL, AHRCentre, 2014, p.5).

Moving to a supported decision-making framework would improve access to justice for people with disability. Instead of disputing the legal capacity of the individual, under this framework, attention would be turned to the adequacy of the supports offered to them to assist them throughout decision-making processes (PWDA, ACDL, AHRCentre, 2014). With regard to people with disability who have experienced violence, this systemic shift would require police and courts to provide adequate and appropriate supports to people with disability when reporting crime and participating in legal processes, such as witness intermediaries and the provision of advocates.

Barriers to reporting violence, abuse and neglect

Studies from the United States and Australia show that victims of crime rarely use formal justice and institutional supports (Campbell, 2008; Davies, Block, & Campbell, 2007). A US study showed that only 43 percent of female victims of "severe" intimate partner violence contacted police after any of their experiences of violence (Davies et al., 2007). In Australia, there are "severe and numerous" barriers to justice for women with disability who have experienced violence (AHRC, 2014; ALRC, 2014; Frohmader & Sands, 2015; Frohmader et al., 2015).

Critical barriers to justice have been identified as follows.

Culture of normalisation of violence within service systems and society

Institutions responsible for providing accommodation and support to people with disability are likely to be characterised by cultures that perpetuate violence (Attard & Price-Kelly, 2010; Frohmader & Sands 2015; Parliament of Australia, 2015). The normalisation of violence within disability services

means that violence is considered a "service incident" to be dealt with internally, rather than a criminal matter requiring investigation (Victorian Parliament, 2015). Restrictive practices may be employed, contravening the rights of people with disability while reinforcing the normalisation of violence (ALRC 2014). The Victorian Committee found that this systemic barrier significantly influenced the responses that were provided to allegations of abuse.

Studies suggest that violence against women and girls with disability very often goes unreported, and when it is reported, it is typically dismissed, ignored, covered up, inadequately investigated, and/or results in negligible sentencing (Frohmader, 2014; Frohmader & Cadwallader, 2014; French et al., 2010). Silence, cover-up and under-reporting characterise responses to sexual violence against women and girls with disability (Lievore, 2003). These outcomes are linked to perceptions about women's legal capacity which affect every aspect of participation in processes of justice.

The Victorian Ombudsman (2015) found that non-reporting has become the norm because disability workers (in the field) are not aware of how to identify and respond to the dynamics of family violence, they fear that reporting will affect their job prospects, and service providers have concerns about the health of the relationship with a funding body if violence is reported. The Victorian Ombudsman recommend establishing an independent body to receive and investigate complaints of abuse. The *Senate Community Affairs Report* (Parliament of Australia, 2015) also supported a national complaints body.

Culture of victim blaming, disbelief within policing response

Data across Australia suggest that a limited number of people with disability are victims of crime, yet research, high level reports and disability advocates suggest the opposite: that the violence, abuse and neglect of people with disability is endemic. The VEOHRC study (2014) found that the police response to violence depends greatly on which police officer accepts the initial report, and people with disability consistently argue that they are unable to rely on police protection against violence (see also WWDA, 2017). Problematic assumptions about people with disability's lack of legal capacity play out here and the lack of a fully implemented human rights framework are clear. People with disability feel treated as "unreliable witnesses", and can be prevented from providing evidence (Dowse et al., 2013; Frohmader & Cadwallader, 2014). Experts argue that urgent work is needed to improve access to justice for women with disability because they are too often not believed when reporting sexual assault to police and frontline service providers (Frohmader, 2011). When a rare disclosure occurs, women and girls with disability feel police question their credibility (Frohmader, 2011; VHREOC, 2014). The Royal Commission into Institutional Responses to Child Sexual Abuse's *Criminal Justice Report* aims to address this issue via its recommendation 13, which advises that, "Police who assess or provide an investigative response to allegations made by victims and survivors with disability should focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant" (2017, p. 119). Aboriginal women with disability face additional barriers to safety and protection from police (Woodlock et al., 2014). Woodlock et al. note that "Aboriginal women … who have a disability are likely to be even less well-represented for additional reasons related to communication, despite the recognition that their risk of violence is yet higher" (2016, p. 348).

The application of paternalistic tropes about women with disability is common, along with victim blaming, an unwillingness to investigate allegations and to recognise violence as something other than a "service incident", and to regard the victim with credibility. Studies show that police have been discourteous because of a person's disability, or assumed that pressing charges will not be successful because the person lacks credibility (Frohmader & Cadwallader, 2014; VEOHRC, 2014). This becomes a self-fulfilling prophecy (Camilleri, 2013).

Police are usually unwilling, and lack the experience, to interview people with intellectual disability (Frohmader & Cadwallader, 2014; VEOHRC, 2014). A key finding of the AHRC report (2014) is that the communication and questioning styles used by police (along with others in the justice system such as lawyers and those working in courts) do not facilitate the participation of people with disability: adversarial interrogation approaches may create

confusion and stress. The effect has been to discourage people from reporting a crime (Victoria. Office of the Public Advocate, 2010).

Lack of awareness of disability within the criminal justice system

When women with disability experience violence, they face significant barriers to accessing assistance and support. Police and courts commonly fail to: provide reasonable adjustments, adequately investigate, and recognise the abuse as violence rather than a "service incident"; and commonly apply paternalistic tropes about women with disability (Frohmader & Cadwallader, 2014; Frohmader et al, 2014; VEOHRC, 2014). The AHRC (2014) found that it is common to find justice representatives struggling to identify disability and respond appropriately. The AHRC report suggested that this is a common reason that necessary adjustments and supports are not provided.

Many inquiries have received evidence that police officers had incorrectly assumed that a person had an intellectual disability (see for example VEOHRC 2014). Typically, police officers base their response on previous experiences with people with disability (Henshaw & Thomas, 2011), and make generalisations about people with disability. Having the aptitude to identify and understand different types of disability, and then adjusting practices to meet access needs is required (Federation of Community Legal Centres Victoria and South Eastern Centre against Sexual Assault, 2013; United Voices for People with Disabilities, 2013; Camilleri, 2013). Furthermore, Victorian Police do not consider that they have specialist assistance to help them implement policies (VEOHRC, 2015). They are unaware of where to find guidance and referral pathways for people with complex needs. Women with disability require regard, trust, and help throughout the process, however, there appears to be a gap in support for police in implementing policy change in Victoria.

Limited resources in the community legal sector, lack of accessible services

Some women face challenges in communicating what has happened and may not be offered communication support. There is limited availability of resources for disability advocacy, often a critical avenue for the disclosure of violence by people with disability. This is compounded by the limited availability of accessible (and affordable) legal services, time constraints on legal service providers, limited ability to identify disability, lack of appropriate language and focus on deficits rather than strengths exacerbates these barriers (AHRC, 2014; Karras et al., 2006; Lievore, 2003). Police, legal and court services all propagate these barriers. A properly resourced justice and human services sector is needed to improve practice so that better justice outcomes are delivered.

Lack of access to, and knowledge of, legal rights for women with disability

Coexisting with systems that classify many forms of violence as "service incidents", women often do not identify the harm that they are experiencing as violence. Furthermore, women with disability are often not made aware of their legal rights as they pertain to gender-based violence. Information about how and where to seek support after experiencing abuse is usually not made available. In institutional or residential settings, women may be encouraged towards acceptance or silence. Consistent themes appear to be that women have not been told about how to raise a complaint, do not know how or where to report a crime, do not consider reporting to police, and have not been made aware that the assault they have experienced is a crime with a legal penalty (Camilleri, 2013; VHREOC, 2014). Women participating in these studies indicated that the emotional toll of reporting is too great, and they feel humiliated, shame or concern about retribution, particularly if the perpetrator is responsible for their care. Women with complex communication needs may not be able to disclose what has happened and face significant obstacles through the legal process (Communication Rights Australia, 2013). Further, they may feel overwhelmed, mistrustful, or concerned about sharing personal information with justice and human service providers, which can create difficulties in prioritising appointments with these professionals.

Fear of reprisal for both women with disability and workers

Women are often fearful of seeking help (Women with Disabilities Victoria (WDV), 2014). Fear of reprisals from service providers, a belief that their allegations will not be taken seriously, and a lack of knowledge about how to report underpin the fear. Social isolation can also limit the

opportunities for women to seek help (Woodlock et al., 2014). The *Senate Community Affairs Report* (Parliament of Australia, 2015) heard that disability workers fear that reporting will negatively impact their employment prospects. The experience was "complex" and "draining", and offered little prospect of justice. In the same year, the Victorian Ombudsman (2015) found disability workers fear reprisal, intimidation, the impact for the victim, and volumes of paperwork and in addition often do not know how to identify abuse.

Our study explores the current experiences of women with disability to examine these issues of access to justice, in light of current foci on effective responses to violence against women. As is clear, many of these pre-existing findings are still relevant, despite efforts to achieve meaningful change. It is evident from these reports and findings that the voices of women with disability are increasingly being heard, in the sense that the problems of access to justice are becoming more widely known. Despite this, however, few of the barriers to justice have been systematically addressed. This report provides a focus on the voices of these women with disability who have shared their insights. Listening to and believing these voices is critical to creating a more just future for women and girls with disability, as is hearing how much these voices resonate with all of the other voices captured in the policy and research reports that have been produced in the last five years. However, the next step must be acting on the range of recommendations that have been generated so as to stop the widespread violence against women and girls with disability with impunity.

Key findings

> **Antoinette:** Where do I feel safe?–Nowhere. What does that mean? The world's an ugly place. Like society makes it really, really ugly; I'm so anti-societal now. I know I shouldn't be.
>
> **Sandra:** I'm safer in my house on my lounge than anything, with my cats. But I don't think anywhere really is safe in the world. There is no safe place in the world. Anywhere, anytime, someone violent can turn up or someone from your past and the whole thing starts again. I left him 14 years ago.
>
> **Linda:** Where do I feel safe? Well, sometimes not in my own home because I'm alone ... Mortality; you worry about that. I'm only young but I think about it sometimes. I'm sorry I'm crying.
>
> **Celia:** No, I don't think [people understand the effects of not feeling safe]. And [it does] taint the way you make decisions or impact the way you make decisions, and how you respond to things.
>
> **Madeleine (specialist violence service):** I think that jurisdiction is falling behind in terms of knowledge and understanding of family violence dynamics. And yeah, also just the unconscious bias that is applied to disadvantaged women with disabilities is manifestly clear to anyone who has a brief encounter with that part of the legal system. I think there's heaps more that needs to be done yeah.

Throughout our research, the issue of accessing justice was consistently presented as intersecting with women's everyday need for safety and security. As the above quotations make clear, it was not possible to disaggregate these concepts. This finding has guided our data analysis throughout. In addition, we have sought to be attentive to the specificity of gendered disability violence and the complex and particular effects for women with disability. As Frohmader et al. (2015) urge, there is a:

> critical need to understand and respect the complexity and specificity of gendered disability violence – that is, violence directed against a woman because she is a woman, which is shaped by the disability context, and which affects women with disabilities disproportionately as individuals and as a group. (Frohmader et al., 2015, p.14)

For the women interviewed, pathways to justice contain many obstacles. Women with disability face barriers related to acknowledging and disclosing violence that must be surmounted before any next steps, including escaping or planning to escape a violent situation, can be considered. Our findings reflect much recent research in this regard (see, for example Dowse et al., 2013; Dyson et al., 2017; Frohmader et al., 2015). In this context, the idea of "justice" can and frequently does refer to *personal* justice as opposed to *legal* justice: to being able to leave a situation of danger, retaining custody of children, having access to care and advocacy services, attaining a sense of safety, or even simply survival. For many of the women interviewed even the most basic of human rights—an authentic and lasting sense of safety and security—will never be achieved. In this context then, the very definition of "justice", which typically includes perpetrator accountability, may not be the focus of victims/survivors. This question about what constitutes "access to justice" emerged in our study as a critical issue. Given the enormity of these barriers and the unique context of domestic and family violence for women with disability, it is imperative that the voices of those affected are heard and believed. Not only are improved societal and institutional responses dependent on this information, but hearing and believing women's voices and experiences is also ranked by many of the women we spoke with as the most urgent and significant change required for current and future responses.

Additionally, many women also emphasised that there was a need for action to address the insecurity that they and other women with disability lived with. Many who participated in this project were motivated by a strong desire to achieve change for others in the future. They spoke clearly about their experiences and often detailed a growing understanding of what they were experiencing as "violence" as part of a pathway to achieving greater everyday security. For those tasked with supporting women's everyday needs however, ideas of violence were often more limited and troubling. Many disability service providers approached by the project team to assist in recruiting women who had experienced violence expressed concern about raising violence as an issue with these women in discussion and in service provision. This tension has been reported by other researchers too (most recently, Dyson et al., 2017). In moving towards the removal

of barriers to women's access to justice, attention to women's own accounts and aspirations is critically important.

The need to listen to the voices of women with disability and believe them

> **Janet:** I've got this ridiculously driven thing that I keep going, it's a curse, but I know so many people who give up, they die, they take drugs, they drink themselves stupid, they do whatever they can to try and cope in a system that actually, I believe, subconsciously I hope...wants us to die because we're too much trouble. And we're really not asking for anything other than a safe place to be while we regain control of ourselves…

> **Sarah:** I think we're just an inconvenient truth that affects other people and their time and energy, and the economy.

Listening to and believing women with disability who are affected by domestic and family violence may be understood as a first step towards justice. As indicated by Janet and Sarah, cited above, previous experiences of marginalisation of women with disability increase the likelihood of silence and contribute to the structural invisibility of the violence they experience. As one participant describes it, women themselves are sometimes understood as "collateral damage". Almost without exception the women we spoke to not only wanted, but *needed*, to speak about their experiences, understanding that sharing these difficult parts of their lives had the capacity to precipitate change by raising awareness. As was critically identified in the *Stop the Violence Project* (Dowse et al., 2013), the opportunity to support the leadership of women with disability in achieving change is crucial. The women who participated in this study were keenly aware of that.

> **Sandra:** Well I was so glad to be able to fess up [about the violence]. Because you're living a lie and living in danger was no good. Walking around crying for years or running away gasping. I hid in amongst bushes and plants and things for him to violently - you know, his anger to go away sometimes. Then I'd come up and go on my nebuliser again. Because I needed to use that for hours every day to breathe.

> **Melanie:** [referring to a support person from her local disability service] He gave me the letter and he said "I feel this would be very good for you". In fact, he was right. Because what I like about telling you what had happened, you're not judging me. You're not saying you're blamed for this, you're blamed for that. You're saying we understand.

> **Molly:** I can't say no to people, because people say that I'll get into trouble. I've got to do what people say. But I keep saying to meself, "I've got to tell, I've got to tell, I've got to tell." It just kept going around and around and around inside me head until I said, told the welfare. Because nobody else would believe me.

> **Maggie:** Just to spread the word and help other women, because I've been through domestic violence myself and I've just got the fire in the belly just to go out there and help and spread the word.
>
> **Interviewer:** And you've told your story before, haven't you?
>
> **Maggie:** Definitely, yep. And I'm going to tell it again and again.

> **Angie** [about speaking to the Royal Commission into Institutional Responses to Child Sexual Abuse]: I walked out ... and I saw one of the ladies ... who works with them now. And she said, "We're going to use your story. It was so amazing; we're going to use it." And I said, "That is good to know." But someone is actually at least listening to what I'm trying to tell them.

> **Ruth:** Well, you've got to talk about it to make people aware of what does go on. There's lots of things that goes on that people would never believe that goes on.

The women in our study challenged the pervasive idea (discussed at the beginning of this report) that to speak about their experiences triggers a re-traumatisation severe enough to outweigh any potential benefits of their testimony.

> **Sarah:** And as far as getting upset, you know how someone said about bringing things up, to me there's nowhere to bring it up from, it's there all the time. Anyone who'll listen

to me I just rabbit off about it to whoever will listen, and most people just say, "Oh I can't handle this." And walk away. But if there's even one out of 10 that will listen...So as far as the trauma of, it's not about revisiting, it's all the time. I'm telling you this because if I get upset it really isn't any more upset than I am the minute before I was getting upset, or the week before; do you know what I mean? It's just there all the time, it's not down somewhere or I have to bring it up.

While women did speak about the stress and difficulty of disclosure, especially when making statements to the police or speaking to the Royal Commission into Institutional Responses to Child Sexual Abuse, all were cognisant of the necessity and value of such disclosures. Furthermore, though women did get upset at times throughout the data collection process, all insisted on continuing and completing their contribution.

Beverley: I experienced violence as a young child. My father was an alcoholic, and he abused my mother, physically hit her and stuff like that. So - I didn't realise this was going to be so confronting.

Interviewer: You don't have to.

Beverley: That's okay [inaudible]...and I also experienced something - not by him, but by a Vietnam veteran who came back, and I was shot by him. So it's significant violence and

Interviewer: Thank you, Beverley. Are you happy to carry on?

Beverley: Yep.

Many women hoped their stories and experiences would help others in similar circumstances and situations. Some women have thought deeply about the specific nature of the violence experienced by women with disability and had taken further steps along the path to justice.

Sarah: I want to try and understand more. My particular experience it's...been continuing for 10 years, and then in the course of that I became aware of other people, mainly with disabilities, and mainly with other cognitive disabilities, autism... I became more aware of how my experiences were reflected in a lot of ways with people on the spectrum and people with cognitive disabilities, with developmental disabilities.

Suzanne [reflecting on how she felt manipulated by her abuser in the court process]: And then after that I wrote to people like say for example the Premier who said. "Can't intervene". I wrote to the Minister for Women who said, "I get letters like yours from people like you every day but there's nothing I can do about it." I wanted to reach through and say, "Yes, you can!"

As these women are intimately aware, a culture of silence perpetuates their isolation and ultimately their risk. The culture of silence around experiences of violence by women with disability has obscured devastating acts of violence and egregious infringements of human rights that women shared with us.

Angie: ... on the bus to go home and the perpetrator would pull his pants down and try to force his penis in me, just clean ripped my undies down, pulled my dress up. And it was very hard for me to explain it to everybody, where everyone that was there watching basically going, "Ha, ha, ha," laughing at me ... and then when I went to high school I had to have a special aide bus who picks up people that are in wheelchairs and stuff to pick me up from home and take me to the school... and I wasn't allowed out in the mainstream classes. I had to stay in the support unit where everyone who has special needs stay. And I had to stay in there and he still did it. He still managed to get into the support unit, pull me out of the classroom and make me do the same thing, and no one did anything until now.

Linda [recounting violence she experienced as a child]: There was another night that he got stuck into me again, and I think that was the - that's right, that was the time when he grabbed me from the bed and threw me in the bathtub and rubbed my faeces in my face. He then said to me - because I'm just breaking up with my memory - he then said to me, "Right, I'm going to turn out the

lights now so the boogie monsters can get you." Yeah, he said that.

Kathy [discussing her forced sterilisation]:

Interviewer: Is having children something that you think about a lot?

Kathy: Yes.

Interviewer: Is that something you've thought about all the time that you've been an adult woman?

Kathy: Yes.

Interviewer: How old are you now?

Kathy: 54.

Interviewer: And do you still think about what happened and that you weren't able to have children, do you still think about it now?

Kathy: Yes.

Interviewer: Yeah, and when you think about it how do you feel?

Kathy: Uncomfortable.

Interviewer: When you say uncomfortable is that a happy feeling or a sad feeling?

Kathy: Sad feeling.

The experiences recounted by our participants reveal much about the barriers to justice faced by women with disability that are directly connected with the ability to speak freely, to be heard and to be believed; again echoing the deep impacts of troubling assumptions about the legal capacity of women with disability. It is deeply concerning that in so many of these accounts, no one did anything to stop the kinds of violence women disclosed, and as such, women continued to be subject to abuse. This finding reiterates that there has been a failure to act on recent reports, projects, and recommendations, such as the *STVP* in 2013 (Dowse et al., 2013); the ALRC report in 2014, and AHRC report in 2014. This failure to act and implement necessary changes means that women with disability continue to be denied human rights and equality before the law. This denial of full participation is one of on-going failures to act against violence. Women's concerns focused on key themes that have been found in these previous inquiries and projects and their identification of issues at hand was also the same: they emphasised issues of acknowledgment and disclosure, and credibility.

Acknowledgement and disclosure

For many women in situations of violence, the normalisation of violence in the contexts in which they live means to acknowledge and disclose violence being committed against them may be very difficult. Women often indicated that cultural norms that suggest they are burdensome and therefore lucky to have any support make it more difficult again to report and seek justice, either as a personal or legal outcome.

Jenny: I'm only newly accepted to the fact that there's violence against me in my home, thanks to Cynthia … my advocate, I was pushing it aside as just [partner] ... but with some talks that I've had with them as friends, they've shown me that, no, it's not acceptable, and it's not right, and it is a form of domestic violence.

Simone: The element of being stuck is already huge for women, but when you've got a disability, being stuck isn't just the emotional being stuck; it's physically being stuck … [I] had ... absolutely no confidence in myself whatsoever, or that there are other services out there that could step in and help us be independent. For me, there was just no independence. There was no way out. There was no light at the end of the tunnel. It was this is just the way it's always going to be … for somebody with a disability - for me, it was sort of, I think the best way to put it was "anybody that wanted to be with me, I had to be grateful for that" I guess is one way to describe it.

The moment of acknowledgement and subsequent disclosure might come after escalating violence that culminated in a violent act or may be random and severe, as occurred for Suzanne and Melanie.

Suzanne: And what happened to me was escalating domestic violence that I did not recognise being domestic violence. Me, a victim, with all these things that I'm doing I haven't got time to be a victim! Ultimately the final event was very, very serious, it was five hours of being tortured

> and being hurt in every way from top to bottom including finally my leg was broken in four places.
>
> **Melanie:** And he's just wrecked my life. The sexual, he was rough, he hurt me. And then he did say before he left, he did rape me just before he left, he said to me "if you fucking tell your neighbours what has happened, or you tell the fucking police, I will come back and murder you". You really think I'm going to sit there and not say anything? Of course I'm going to say something.

For many women disclosure brings with it the threat of further violence in the form of retribution. When women disclose violence in any context, it is often a time of greater risk for them. These women were specific about the risks they faced in reporting and disclosure.

> **Marita:** I've been threatened with death … if I call an ambulance. Two, if I call an ambulance I also have to call the police and three, I already know what's going on so for me it's just a big waste of time and effort.
>
> **Melanie:** ... if any of his so-called drug addict friends find out where I live I'm gone, I'm sure. And I did say to the police "when I did move, I said what if they follow me in the truck? You know, get in their cars and follow me?" He said, "I don't think they will". I said "but it's possible".
>
> **Sandra:** When I was in a bad situation with my idiot ex, the police didn't have much strength. I was afraid to say things too honestly to people. Because I had to go home to the bastard.

Making the decision to disclose may mean women accepting that a course of action may be taken that is not optimal for them. While all women seeking assistance in response to violence face this, for women with disability there is the added pressure of losing or being displaced from disability-specific supports.

> **Simone:** [The responses to disclosure] didn't take into account all the other things that - all the other concerns that I had for - from the disability's point of view into account. "Would you like to go to a refuge?" Well, Jesus, is it going to be accessible, for one? What happens to my children? Am I going to end up in a care home? It's all of those things that an able-bodied woman wouldn't be running through her head. Am I going to end up in a nursing home? Am I going to end up in assisted care? An able-bodied woman wouldn't be thinking that.

There were additional barriers identified by women with children, where family and children's services become involved (see section 9.3). Of all the barriers to disclosure faced by the women we spoke with, living in a culture where inaction and indifference normalises violence against them recurred as one of the most difficult to overcome. As observed in the *STVP* (Dowse et al., 2013), a key impact may be that women do not disclose as they may not perceive their experiences as violence. The *STVP* recommend building capacity of women and girls with disability to identify, disclose and leave violence. The on-going impact of this culture of normalisation on women's disclosures of violence was commented on by many of the study stakeholders. One service provider said:

> they [women with disability] probably don't recognise some of the things that happen to them as crimes and so don't really follow through. So as far as barriers go, that's a significant one that people with intellectual disability often don't have high expectations as regards to their rights. So the bad things that happen to them, they just absorb and suffer it really. ...that's a definite trend that we've noticed. The next big step is thinking, I deserve better, or I deserve for something to be done about it. (Erin, disability advocacy organisation)

Another commented on how lack of access to information exacerbates this problem.

> I guess if we start in more isolated environments...but this could be so in families in other settings as well. Might be your access to information about what is a crime, and how to get help is mediated by others, through transport, communication, whole range of things. A big part of it's around knowing what is justice and what's not okay. (Kat, disability advocacy organisation)

Coming to the realisation that threatening behaviour, psychological intimidation and control, financial abuse and violence are not a normal part of everyday life and do not have to be tolerated is thus a significant moment for women.

> **Janet:** ... for the first 50 years of my life just thought I needed to be a better person and try harder and I would understand the world … [it] didn't even occur to me for a moment that ... there was anything I could do. Then the NDIS came and it was kind of like this invitation to stop marking time until the kids were older so I could just go. It was like I'd been offered this future, and so having a future makes you actually start to question the quality of your life, instead of kind of enduring it.

Credibility and legal capacity

Once women do acknowledge and disclose what is happening to them, they frequently come up against further hurdles related to credibility. As outlined earlier, failure to develop a clear human-rights framework for legal capacity in Australia underpins ineffective responses to violence against women with disability. Not being believed was a prominent theme in the stories women told us, which, in turn, will mean no appropriate action will be taken. Women consistently identified this as a denial of what we have termed 'personal justice', which in turn lessens the likelihood of women achieving 'legal justice'.

> **Nicole:** People need to listen. It is extremely important that you have a voice. It is critical to be heard. To be believed. It is important for your story to be taken seriously.

> **Paula** [on being questioned by the police when seeking support]: Well, or my answers to that would have depended on my credibility, whatever. Also, who did I live with? Was I in a sexual relationship with anybody I lived with? It's like ridiculous – basically every possible question that they – there's a whole lot of inappropriate questions. And then they were trying to get me to go through the incidents, which by that time were several years earlier, in detail. And then they were asking the questions like three or four different times and I was getting confused. No independent third person involved.

Circumstances or factors that are out of the victim's control such as their age, disability or ethnicity may be used against them to undermine their credibility, deny them legal capacity and therefore not take them seriously in creating a pathway to justice: this may include personal and legal justice for these women. In this instance, the denial of legal capacity takes the form of viewing these women as not believable or able to provide credible evidence.

> **Beverley:** But what I'm saying is that as a child, I wasn't believed. There wasn't anybody that sort of took credence of what I said.

> **Paula:** As I said, there's a lot of people who will not even get as far as the police being made aware because – well, they may not be able to communicate in the first place. If they can, they may communicate it to a gate keeper who may or may not believe them.

> **Catherine:** I just sat there and he was saying look nothing's happened, it's all in her head. I'm sitting there going I can't believe this. I can't believe he's actually denying everything. ...So it was pretty horrendous. I was re-traumatised by that family meeting.

> **Bronwyn:** I did one time [try to disclose violence], but they wouldn't hear - we had at our place where we used to live, have a little work thing out the back, our yard. I went out there, told someone, and he said, "Oh no." ...
>
> **Interviewer:** So, you went for help.
>
> **Bronwyn:** He went out, he knew where I was, and they didn't do nothing.
>
> **Interviewer:** And, they didn't do anything, because he told them a lie?
>
> **Bronwyn:** Yeah, and [that] I belong in the mental hospital, I'm crazy.

Stakeholders spoke to us about the common perception of women with disability lacking credibility as a major barrier to accessing justice.

> I mean there's also a long history of women with disabilities feeling like or not being believed, this kind of view of the police that they're inherently less credible, so there's all those kinds of barriers. (Madeleine, specialist violence service)

An advocate from an Aboriginal disability organisation discussed the intersection of race and disability as crucial to the issue of credibility and recognition of legal capacity.

> Women with disability can present to police and then are just not taken seriously. I mean, they might be viewed as troublemakers or drunk or just not believed. Ms Dhu's death in Port Hedland was all around that. And I'd be very surprised if she didn't have an impairment of some kind. And that was, again, not being taken seriously... So I don't think it's possible to look at this stuff without talking about race … You've got the disability component; you've got the Aboriginality. (Rob, disability advocacy organisation)

Typically women with disability are conscious of the cultural bias against them and this can operate as a barrier to disclosure in the first place. Reluctance to disclose may become entrenched if women have already experienced difficulty reporting.

> **Nicole:** Who I have gone to in the past has had devastating consequences. I would hope you could go to the police or a hospital or a doctor. In my experience, from my observations, the police need to be further educated in trauma. Many health and mental health professionals also need to be further educated in trauma, ESPECIALLY staff in the Emergency Room of a hospital. I could not go to my family, as they did and still do not have the capacity to support or help. I also have a limited amount of friends I could go to or trust. Most people do not understand the symptoms. Most people find trauma//mental health confronting.
>
> In the past I have told many health professionals, especially mental health professionals. I have told the police, I have told friends. I have called the emergency crisis support numbers. On one particular occasion, I was put in hand cuff by the police. They did not know how to deal with me while I was in a severe dissociative episode. They did not respect my space.
>
> **Louise:** They wouldn't believe you. They'll just tell you to shut your mouth and—the staff would and that. And even the girls wouldn't. They would just keep it to themselves. I think there's real cause to think if someone does disclose once and gets a bad response, and a disempowering response, that they won't again, so it becomes more and more hidden ... a culture of violence ... so it's normalised. (Kat, disability advocacy organisation)

An unwillingness on behalf of women to report is suggested in this comment by a stakeholder.

> We know that women with disabilities experience violence at...disproportionately high rates, but I guess that we would see them at lower rates in the duty list and that's probably because they're not reporting it to the police … [my] experience is that you don't see women with disabilities necessarily as much as you would expect to. (Madeleine, specialist violence service)

A number of women talked to us about the need for evidence, the difficulty and expense related to this and the effort required. In many ways these issues around evidence speak directly to the problems surrounding legal capacity and decision making. That is to say, cognisant that they are likely to be perceived as lacking the legal capacity to act as a 'reliable' or 'credible' witness, some women with disability have picked up the burden of collecting evidence. In an extreme example of this burden and in response to the question, "who would you go to for help?", one participant told us that this would be determined by what evidence she was able to provide.

> **Anika:** I would focus on collecting evidence rather than an individual I would go too [sic]... Who I would go to

depends on the type of violence (crime) and the evidence I am able to collect.

Louise: I started writing things down when I got back from the community house that Sunday night. And when he was asleep, I was writing things down, I was.

Interviewer: What sort of things, Louise?

Louise: I was writing things what happened in the community house, and how it all started and all that …

Interviewer: And why did you want to write it down?

Louise: For evidence.

Marita: So the thing is that I'm left with having to provide video footage and yet I'm not allowed to install cameras. So I buy battery-operated cameras … What they can't do is stop me from setting up cameras inside looking out but because they're the battery-operated things, for the same reason. And they cost money; I spent $1,000 already on cameras and then setting up lights so that they light up an area outside the window.

Stakeholder observations reinforce these insights. Evidence is a crucial factor in attaining justice for these women due to flawed assumptions around credibility and legal capacity.

There's a lot of conversations I've had with police that have said, "We don't have enough evidence. It's a person with an intellectual disability. I don't know if the bus driver raped her, or assaulted her. She can't articulate that. It's not going to," and we know the police are under pressure to only present cases, and you probably know, for the prosecution that they can prosecute. (Susan, specialist violence service)

[C]ases do fall through...because they can't get substantiating evidence to back it up...some police...really go hard at getting a good case in a case against a person with a disability. But for others, there's still a bit of a this person's not going to be okay as a witness, so the case is weak, and so you get this bit of reluctance about whether to take it all the way or not. (Erin, disability advocacy organisation)

Given extensive evidence that the criminal justice system struggles to respond effectively to gendered violence, the obstacles faced by women with disability are seemingly multiplied and compounded. Without well devised supported decision-making frameworks and well-resourced processes brought into effect throughout the criminal justice system, women with disability are too readily dismissed as lacking capacity and credibility, and their cases rarely achieve a form of legal 'justice'. This finding echoes those from the *Equal before the Law* report (AHRC 2014) about barriers to reporting and poor outcomes for women who had sought to do so, the Victorian Ombudsman's (2015) report and the VEOHRC (2014) report into the experiences of people with disability reporting crime.

Women with disability face particular and sustained challenges in achieving everyday safety and security.

Typically economic security, housing stability and care and service support are not readily accessible or available for women with disability. Understanding how violence impacts on women's lives in this context requires attention to types of violence that may be invisible or less well understood, and attention to how women's need for resilience and survival in the face of precarious everyday safety and security may impact on their definitions of, and decisions about violence, disclosure and the support and services they need. As is evident, for the women we interviewed, everyday security was necessarily a part of achieving personal and/or legal justice.

For the women who shared their insights in our project, concepts of everyday security were very often compromised and provisional. Childhood experiences of violence and insecurity were often followed by later life events that reinforced that safety and security were unachievable. For many of these women, experiences of violence were characterised by multiple perpetrators, often family members, and were in many instances connected to the provision of services.

Some of the women who participated in this study were still in situations of ongoing violence while for others past experiences had left a residual sense of unease and in some

cases fear. Women are frequently charged with the burden of organising their own safety, a process that can be bureaucratic and frustratingly difficult.

> **Simone:** My ex-husband is being released from jail in about 18 days. I'm not feeling very safe and secure at the moment. Everyone says, you should just pack up and should've just moved. It's not a simple, easy thing when you're on a disability pension and you're - I need...a modified bathroom...

The perpetrator in Simone's case, her ex-husband and carer, also has disability, a detail that complicated her criminal justice process and access to security. Simone says "he had a lot of concessions made for him because of his disability. People were confronted by that". She however felt she had not received support or concessions as she had to manage all of her own everyday needs. In relation to her ongoing safety concerns she says:

> **Simone:** It's incredibly tiring. I'm chasing up the safety precautions for myself. Nobody will come to me and say, what do you need to keep yourself safe? I'm asking them, this - telling them, this is what I need to keep myself safe. Where do I go to apply for funding to help me with roller shutters or cameras or a safety card? If I wasn't constantly following these things up, these things that've been put in place to help me feel safe would not have happened.

Jenny is in an ongoing situation of coercive control. When asked about where she feels safe, Jenny responded:

> **Jenny:** I feel safe in my home alone. But when I hear [husband's] car come home, my stomach goes into knots, and I feel really sick. And some nights are fine, where he's not bombastic and aggressive or picking an argument, or something like that. So it's not every day. But when he comes home, I'm just expecting so I feel really sick.

Jill's son is violent towards her. Jill had an AVO against her son but it has expired and he has moved back in with her and he is not contributing financially. When we spoke to Jill on the phone her son was home and she could not speak freely with us.

> **Interviewer:** Jill, didn't I help you go to Court to get an AVO?
>
> **Jill:** Oh yeah, that was a while back.
>
> **Interviewer:** Yeah, so who was that against? Can you say?
>
> **Jill:** No.
>
> **Interviewer:** Are they there?
>
> **Jill:** Yeah.
>
> **Interviewer:** So if I say the name, will you say "yes" or "no"
>
> **Jill:** Yeah.
>
> **Interviewer:** Okay, was it [redacted], your son?
>
> **Jill:** Yes.
>
> **Interviewer:** And did [redacted] threaten you and make a mess of your house and smash holes in the walls and your doors?
>
> **Jill:** Yes.
>
> **Interviewer:** And did he take your money?
>
> **Jill:** Yes.

A number of the women we spoke with are facing neighbourhood terrorism in the form of ongoing and severe violence and intimidation from neighbours. Such situations can present complications in the criminal justice process as they do not fit the definition of domestic or family violence despite the fact that they largely take place on women's properties or within their apartment complexes and occur with regularity over prolonged periods of time. Women expressed frustration with police responses to this form of violence, particularly in relation to their inaction, dismissal and minimisation of their experiences.

> **Sarah:** My particular experience it's not domestic, they've changed it from hate crime to crimes of bias, and it's been continuing for 10 years … and then the way that the system ... minimises what's happening as being neighbourhood disputes … "Oh right, it's not domestic, go away, neighbourhood dispute." So you could be looking at 10/15 more people attacking you in the middle of the night at your home with no police support … they're not looking at what's happening, it's more, "Oh not her again."

Melanie: They watched everywhere I went, and those guys that were in that car outside my house when I walked up the road and when I came back and they were taking the TV, they were hiding in the car and watched me left. They knew my routine. And no one else in my street - there were 12 houses in my street - no one else got robbed.

For Marita, who was able to take out an intervention order against one or some of the offending parties in the neighbourhood where she lived, the police remained unhelpful regarding breaches.

Marita: They [the police] come back to me and it gets into the "he said, she said" tit-for-tat stuff and they go we can't do anything. And there's a clear breach of the order so then I have to keep diaries. I have got a pile of documents and diaries that is now standing about a metre tall. And in essence what it does, it means I have to keep my neighbours under surveillance. And I wear a body camera to get out of a unit.

Overwhelmingly, even among those who considered themselves currently to be in a safe and secure location, despite being out of immediate danger, there was a sense that safety is provisional and precarious. Themes that emerged most strongly were: childhood experiences of violence, the difficulty of identifying violence, the issue of carer abuse and patterns of financial deprivation.

Childhood experiences of violence

Sarah: There's a lot of violence that nobody looks into what's going on. It can be hidden. It can be hidden with old people and disability people, children and animals. They're the ones that need advocates and often can't speak up for themselves.

Celia: But [childhood experiences] do make you step back from people. And I would not tell - I don't think I'd go to my family with anything. And, again, it's probably not realistic, and it probably wouldn't - they would be supportive. But I just don't think I'd do it.

Interviewer: Your carer, yeah, did you have a carer when you were a little child? Yeah.

Katrina: Group home did it to me too.

Interviewer: What, in the group home?

Katrina: Clients like me, and carers hit me too.

Angie: He was another student and when I was in foster care my own biological brother was actually assaulting me as well at my nan's and basically when I told my nan, she said that she'll chase it up with FACS [Family and Community Services] and FACS never did anything, never wrote anything. So he has gotten away with it.

Most of the women described significant incidents and/or periods in their childhood where they were exposed to violence which meant they were not safe. These incidents ranged from violence they experienced at home (clearly falling within readily accepted definitions of domestic and family violence and often including sexual violence) and violence in out-of-home care. For women, this presented many issues and considerable frustration later in life as they outlined requirements to "prove" someone was a family member in order to access a Family Intervention Violence Order (FIVO, Victoria). These findings echo those of previous research which indicates that children with disability experience higher rates of violence (Robinson, 2012, p.10) and women with intellectual disability experience sexual abuse, with many experiencing it before they reach adulthood (ABS, 2012; Camilleri, 2008; 2010; Robinson, 2012; VicHealth, 2011).

Of particular note, and again reported widely by the women in this study, was that they were asked, encouraged or required to be silent. Again and again, women described processes where their carers or the perpetrator (who were sometimes the same) told them not to tell anyone or they would be in trouble. In Linda's case, this silencing was literal as she became unable to speak for a period when she was a child.

Linda: Yeah. I went to a boarding school because I stopped talking when I was eight. The stuttering got really bad to the point - because my father was hitting me too much. My father was really belting into me too much and I stopped talking because I couldn't say anything properly and they

put me into boarding school called [redacted] School, and that's for mentally disturbed as well as unwanted children and children with disabilities.

As women made very clear, the effects of this childhood violence, and the pressure not to reveal it, had impacts all across the life course even when they were no longer directly exposed to it.

Beverley: My name's Beverley. I experienced violence as a young child and also as a young adult. But I'm not in that sort of frame at the moment. But it still has affected my life and affected choices I've made. And it never leaves you.

Identifying violence and its impacts

For many of the women that participated in our study, the challenges and circumstances they faced in their lives meant that the process of identifying what was occurring as violence was an important and sometimes challenging one. Often, as Louise identified, childhood experiences and the systematic lack of everyday safety meant that violence and insecurity were normalised and routine.

Louise [about multiple physical and sexual assaults]: But I thought that was ordinary, you know.

At times, service interventions were part of a growing realisation that these experiences were not normal or acceptable, but there was not consistency in this finding with some women. As Rose outlines below, some women experienced confusion and difficulty when conflicts arose in the relationships.

Catherine: I didn't realise I was a survivor of domestic violence, I had no idea. I knew I felt terrible but then I thought hang on a minute this is actually quite good to understand this.

Vanessa: She explains it, about DV, which I didn't know much about until I did the DV course, which was good anyway, because I needed to know more about it.

Rose: And when you go to counselling, it's really good, but the bottom line is, some of them come back with – what's that word? You always take it out on the ones you love. And I just got sick of hearing that word. I thought, "I'm not going to accept that". Because that makes you go back again. Because you think they're going to change. And then it makes you confused. What is assault and what's not assault and what do you take him to court for?

It is also troubling that so many of these women were denied the kinds of communication and other supports they would need to report the violence they had experienced in a way that might break this cycle.

Paula: In the end, I was told, "We believe something happened but I don't think it's the way that you say it was. But if you want, you can." It's ridiculous. It's like you have made somebody who's autistic and has a brain injury completely confused. Because I can't give exactly the answers that they want …

Even when violence was identified and acted upon, as Simone's story below makes very clear, the challenges faced by women with disability are particular and complex. It is well-established that leaving violent relationships is very hard and a time of significant danger for women and their children. When the abusive partner is also a carer, this process has additional layers of difficulty.

Simone: I mean, even down to when things did become [known] to Child Protection, to Police, at that point even, when Police arrested my husband and removed him from the house, I begged them, you can't put an Intervention Order on him. I can't do this. I can't live by myself, I can't be by myself. I just actually begged them, you can't do this, I can't look after myself. At that point, they said, "we can't allow him back into the house. He's going to continue to do this and you need to be protected. One day, you will see that this is the right thing to do".

It took a while. I did see it was the right thing to do, but he was my carer.

> **Susan (specialist violence service):** And, again, it's that scenario what do we decide? Do we decide to stay in violence and then they remove the child? "He's my carer what can I do?" So that can be a tricky scenario.

Simone's identification of the difficulty of identifying one's carer as an abuser and then confronting and changing that pattern was a strong theme in many of the stories that women told. Yet, this difficulty, and the significant fear of being left without adequate care, did not deter women from recounting the violence they have experienced. As Ruth noted, decisions to tell were full of ambivalence even when the process was an important one.

> **Ruth:** No, it was only since the last two years I've sort of been worrying about it. It's just part of life. I mean I just wanted to forget all about the domestic violence and all that and just live with it in the memories that bring it up all the time. And ever since I've been going to all this and it's bringing up old skeletons out of the closet and everything but it is a lot easier to talk about it now than it was back in them days.

For a number of the women who participated in the study, as outlined earlier, the decision to talk about the violence they had experienced was driven by the desire to advocate for others: to work towards safer outcomes for other women who were facing the same difficulties.

> **Maggie:** Looking back on it I think I'm glad I went through it because it's made me stronger, it's made me able to speak out and that's why I'm speaking. I've got a lot of women that say hey, yes you can speak out, yes you can reach out. No one's going to try and judge you. No one's going to say it's wrong. And this is what we need more women to do, to come forward if they have been through domestic violence.

Later, in the section titled 'Impact of 'siloed' knowledges' we outline the views and concerns that some service providers have, some of which were expressed in the course of this study, about encouraging women with disability to speak openly about their experiences of violence. Yet many of the women were, like Maggie, speaking out with a strong commitment to supporting the safety of other women.

Carers and violence

As Simone's story indicates, many of the women recounted abuse that occurred in conjunction with the provision of care. This was the case when care was being provided within a family context: Bronwyn, for example, experienced consistent abuse from her father, which included withholding most of her disability pension, which meant she was bound to stay with him. She was only able to leave when she married.

> **Bronwyn:** No. Felt about running away - getting away, but didn't know where to go - just going, but I thought I know to go to - where I'd go.
>
> **Interviewer:** Yeah, it's trick to know where you'd go, and where you'd be safe.
>
> **Bronwyn:** Yeah, I was "where do I go?" I don't know where to go. I had no boyfriend at the time.

Celia described minimising how afraid she was, because of her recognition that her options for change were compromised.

> **Celia:** Threatened, yeah, yourself. And I think often - well, I do - if you feel threatened, you put it off. You go, "Oh, that's being silly. It'll be right." You're over-thinking it or over-judging and - do you know? I guess you think yourself that you're a bit silly thinking that's frightening. But, that's to me, anything that makes you feel threatened or scared or frightened - it could be physical –

Other women talked about the direct links between carer pensions and abusive relationships.

> **Sandra:** I was so sick. He was on carer's support. Me and a girlfriend, who was also really sick; we used to say, mate, it should be called abuser's support pension. Because she also had a violent husband.

In many households, women's disability payments were a critical source of household income which offered a platform

for a range of abusive financial practices. Service providers identified these financial issues as a critical aspect of their work (Bullen & Cortis, 2016).

> We know of a number of cases where a woman has partnered up with somebody who's main motivation seems to have been to get the carers' allowance, and then there's this really sort of low level but constant control that goes on. It's a very co-dependent relationship usually, so hard for people to recognise that and get out of it. (Erin, disability advocacy organisation)

> In the elder abuse cases that I looked at, specifically under guardianship, the older people wanted, often, to maintain the relationships, because they were family relationships, and important relationships in their lives. The role of guardian was often to try and facilitate the maintenance of the relationship, under supervised and safe settings. Whether, or not, the people would actually have wanted to pursue criminal justice is questionable, in that setting, particularly. (Hugh, oversight agency)

Financial deprivation as abuse

As is illustrated above, access to money was often a site of systematic and on-going abuse perpetrated against these women. Economic abuse is being more consistently identified as a form of coercive control in violent relationships: its impact on women's well-being is now much more effectively documented. Its impacts have been identified in recent Australian inquiries and research (ALRC, 2012; Kavanagh & Robinson, 2015). Women in our study reported many circumstances where disability allowances and carers' pensions were critical sources of income for whole households, and as consistently, women reported limits and constraints on their access.

> **Lynette:** So, so, I had to produce every cent for me to even feel – for me to feel that I had the right to do anything. So, I would stand my ground on my white shoes. So, we'd go home with a big not speaking to each other.

> I know our parent worker has used that a number of times where to us it was really clear that the mother was in a domestic violence relationship. But she just didn't - as for a lot of women I guess, but even more so didn't realise that what she was experiencing was domestic violence, and just working through this list of questions, you know which ask things like does your partner ever give you any money. (Erin, disability advocacy organisation)

Access to housing security in particular was a serious consideration for women with disability as they considered the management of their finances and housing options in the context of a violent relationship or unsafe environment.

> **Willow:** I didn't want to break my lease because I'd just moved out of home and I'm like – if I break a lease I don't have a good track record. I've got a disability, it's hard enough for me to be able to get a private rental with having a wheelchair and having a place that's got access and then having the landlord or whoever to sign off on the rental agreement that it's been okay with somebody in a wheelchair living in their property and all the rest of it.

When accommodation was managed by other agencies, direct requests to make accommodation safer were often met with refusal.

> **Melanie:** I begged and screamed the Department of Housing to please put on a screen door. It didn't have to be anything fancy, just a screen door for security and because the flies were coming in. The back door was where the laundry is which goes onto the kitchen, but there was a lovely breeze that comes through. And I asked for the door, and they said we don't do that. We only do it to new homes. And I said, but all the other Department of Housing are old houses like mine, have a screen door.

Melanie had experienced a sexual assault in her house that lasted many hours. After that, the Department of Housing did find alternative housing for her. But her on-going requests to the Guardianship Board for a dog – which she saw as important for company and some peace of mind in the future – were consistently refused. Melanie's autonomy and decisions about

what she needs to feel secure are being denied. In these ways, Melanie's case illuminates the array of systems, including law and policy that interlock and impact upon people with disability's lives, contributing to a lack of personal justice for women with disability and an inability to take control over their lives and safety. Notably, this denial of decision-making and lack of support for women to take control over their lives and safety often left women with disability in a position of forced dependency, which enabled other forms of violence and coercion to take place. Failure to accord legal capacity to women resulted in these outcomes.

Forced dependency and coercive control

The women who participated in our study were deeply aware of the positions of dependency they were often forced to occupy as a result of a lack of supports, especially as this related to the ways violence and coercion might enter into relationships.

> **Simone:** growing up with a disability, you're always relying on other people just to do stuff for you, other people - you've never really made to feel empowered to be independent and do things for yourself. Naturally, that tends to then flow on to any intimate relationships you have as well, and the case of that happened with myself and my husband; that he just naturally fell in the role of carer for me.

> **Lynette:** See, he was very happy when I was in a wheelchair so then he was pushing me around. That made him happy. I mean, how strange is that that you feel happy. And he said, "The happiest when he felt good about himself was when he was pushing me in my wheelchair." It's so disempowering being in a push around wheelchair. It's the most awful feeling.

In a number of women's lives, being made to be dependent on other people and systems due to a lack of supports also meant being forced to stay in quite unsafe or violent environments. Some women described living in unit blocks or areas where they were subject to continual harassment from neighbours, ranging from threats that were put in letter boxes, to direct confrontations when women were using common spaces such as laundries. Even when women did move to report these incidents, questions about their ability to remember were raised, once again playing off harmful views that people with disability are not credible, do not know or remember things, and cannot be believed. As Antoinette explains, these harmful views often contributed to a cycle of violence where "intersectional discrimination" (Frohmader & Sands, 2015) endangers women with disability:

> **Antoinette:** Because I believe that women are especially violated, especially women; in particular, when they're disabled, when they have a disability, whatever that disability is I think. Well my disability and ABI comes along with memory issues for some. For others, there are none: well hardly any. But it comes a packet like and people just think you've got a brain injury, you can't remember a thing and that's what gives them, like, the go ahead to violate you.

Impacts on the security of mothering

Fourteen of the women in our study told us they were mothers. The majority of these mothers had experienced, either temporarily or permanently, having their child or children removed from them. Typically, the removal of children had occurred because of pervasive societal views about people with disability's capacity and the assumed implications about their capacity to parent. Women who report violence may be subject to judgments about their parenting capacity. A report from the Office of the Public Advocate noted that while "Mothers may be thought of as victims … [they] are rarely seen as blameless' (Carter, 2013, p. 10). Women are commonly aware that reports of violence will precipitate the involvement of child protection, and this knowledge may act as a deterrent to reporting. As is a common pattern in intimate partner violence, many women experienced the beginning or intensification of violence when they became pregnant, sometimes with serious health outcomes for themselves and their children. Stephanie had feared losing her baby due to her partner's violence. Fiona worried about revealing what was happening to her family.

> **Fiona:** I was a bit ashamed to tell them at first but then they saw it themselves. And when I was seven months pregnant with Melinda he hit me then and I ended up going into labour early, so she was born premature at seven months.

Women described proactive steps that they took to ensure that they could care effectively for their children, including parenting courses, counselling and education interventions and efforts to build their own resilience and ability to care for children.

> **Stephanie:** 'Cause I did have [post-natal depression] and I did have tablets but I stopped the tablets 'cause I found more positive ways to control my depression. And I put myself more into the girls and into walking the dogs, 'cause they say animals help with that. It helped me a lot—more than the tablets did instead. It's like, nuh, ditch that, I'll do that! Keep my life busy. And I'd get the girls healthy, walk the dogs …

Yet, as we explore more fully in *Impact of 'siloed' knowledges,* these proactive steps were rarely enough to ensure that mothers with disability and their relationships with their children were protected when violent incidents occurred.

Possible pathways to just outcomes

The pathways to justice for women with disability who have or are experiencing violence are fraught with challenges above and beyond those routinely encountered by women in the community generally. While women with disability and stakeholders expressed varied ideas about what justice is or could be there were a number of overarching themes. As we have already outlined, the need to be heard and believed has emerged as a critical ground for women's concepts of justice.

Knowledge of rights and access to justice pathways

A prerequisite for justice for women with disability is knowing their human rights. Stakeholders underlined that pursuing justice in the face of violence relies on women understanding their rights because "the rights you don't know about are pretty much the same as the rights you don't have" (Janice, specialist violence service) and "it's around knowing what is justice and what's not okay" (Kat, disability advocacy organisation). Preventing and responding to violence against women with disability often involves as a starting point "talking about their body and what's right and wrong and really encouraging that sense of entitlement to a different way of being and the right to safety" (James, disability advocacy organisation).

> [I]f you can't get past those first barriers . . . then other barriers are irrelevant to a lot of people because they need to have higher expectations really of what's okay and what's not okay. (Erin, disability advocacy organisation)

The validation, acknowledgement, recognition and release that comes as a result of speaking and being heard can in itself be an experience of personal justice.

> **Rose:** And all these years when I couldn't tell nobody, you can feel this anger building, right? And you let it out on someone. But I've learnt, over the years, talking to a worker or something, you release it and you feel better and when you have problems, the anger is less building in your body. You calm down a lot . . . I've found from my own experiences.

> **Janet:** [H]e is the only person in my entire time of services that actually has said, "No, you need to keep going with this, because how can you live with that injustice, how can you -" But to have it, you can imagine having a real person say that . . .

> **Janet:** [A]nd even though it didn't help my situation [having the opportunity to speak about injustice], and I'm pretty sure they would have done it in a tokenistic way [changes to the system], it enabled me to just go, "That's enough." Literally it doesn't upset me anymore. So yes, it makes such a difference.

> **Celia** [a good response to a report of violence]: … if you went to someone and you told them something … you

> felt that it was acknowledged or validated or accepted: not that thing where someone doesn't believe you to start with until you can prove it … But I think if you could, the way they respond to you was it was maybe more positive, not like, "Oh, that couldn't happen" or something.

Some women were clear, however, that the opportunity to tell their story, even when believed, was not justice, where they were still unable to get help to change their situation. This reflects a lack of both personal and legal justice.

> **Melanie:** I'm thinking, there's an aspect of counselling, I'm not saying always, but just for me, there's a kind, like not an easy way out for the community, but it's like here you are, you've got a victim who's still in the situation, neither the community nor the system has done anything to take you out of that situation … it's immoral, it's putting all the responsibility onto the victim instead of the community to change it. What is happening is unacceptable.

For women experiencing ongoing violence, the recognition that they *are* believed but are nevertheless not helped could be devastating because it creates the impression that their security, safety and lives do not matter.

> **Sarah:** So I said to the officer on the phone in tears, this is when I was naïve enough to think, "They're just too busy, they'll get it right in the end. Maybe they're not all the brightest tools in the shed" … The horror for me, something in me broke when that good police officer said to me, when I said, "I don't understand, why don't they believe me?" He said, "Sarah, they know … [I]t's a systemic thing that comes from above that tells the officers below, we haven't got time for this nonsense, you're not going out there for the third time, we've got to deal with this woman, shut her up. I think we're just an inconvenient truth that affects other people and their time and energy, and the economy. So whether it's they want us to actually die or just not, you know, I'm sure the police they just want me to go away.

Most of the women had experiences of violence and consequent injustice that they could identify. These involved being or feeling blamed, judged, disbelieved, ignored, isolated, and/or punished as a result of the violence they experienced. They expressed their wishes to:

- have specific needs recognised;
- understand options for responding to the violence;
- have control over choices;
- be supported to implement choices; and
- be supported in recovering from the violence.

They outlined a number of key conditions that they considered were critical to achieving just outcomes.

Investing time in justice

Stakeholders and women were clear that justice takes time. Time to talk, to trust, to listen, to hear, to be taken seriously, to make decisions and to heal. As the AHRC (2014) and ALRC (2014) reports found, failure to accord time and support for appropriate communication to occur, for women with disability to speak out, is a failure of justice and human rights obligations to provide equality before the law.

> **Rose:** So people will say, "You don't hold things in. You talk about it". It took me a long time to even get the courage to do that. But when I did, I felt … I feel like a better person.

> **Nicole:** It is important for your story to be taken seriously. There has to be acknowledgement of the impact, the obvious impact (the physical effect) and also the silent impact (the emotional impact). There needs to be sufficient time available to talk.

> **Tracy:** I suppose the best I could possibly hope for [in terms of justice] would be that somebody would just listen. Not continually ask me "what about this, what about that, what about the other?"

> I've seen great examples where workers have been equipped for longer case management periods, which has let them have the time to work with people and they can spend that time building up trust and communication

strategies, and send the person the message that what they're experiencing isn't their fault. It could take a really long time before that person's in a position to go to Police or move out of home, or whatever it might be, and they might never be able to, but just in a sense, that's a form of access to justice in itself; that you're not left isolated and scared and - not left isolated and blaming yourself. (Kat, disability advocacy organisation)

I'm probably telling you something that you already know, but it takes a woman up to seven times to leave family violence. With a person with disability I believe it's up to 14 because it's a really difficult decision to make. (Susan, specialist violence service)

Louise: And it went on for about six, seven years, it did, because it had to fit other people's stories . . . about the institution that I was brought up in, them saying many felt sexually abuse[d]. And it did fit those stories. And I did win my case.

Interviewer: Six years is a long time, isn't it?

Louise: I know. It is a long time, six years, yes. But it does take a long time.

Those service providers dealing with domestic and family violence and violence against women in the criminal justice system often have very little time. They recognise the impacts this can have on women and the possibility of effective and positive outcomes.

When I sit in on duty lawyer appointments in court . . . they're getting a history really quickly and it's like, what date did they punch you, what date did they take your car, where's the car now; these kind of questions. It's so confusing if there's anything disturbing the communication or the cognition of the conversation. There's really not much room for the worker to slow down and extend the time. (Kat, disability advocacy organisation)

When you see the lawyers, thinking "oh is she going to get it?"… then you can say "oh, could you try that again?", and maybe use shorter sentences. Even just stressing next appointment, it would be a good idea to allow more time. (Justine, criminal justice process organisation)

The time legal processes take can significantly burden women with disability. Stephanie's divorce took more than three years due to tactics adopted by her ex-husband and his father. Lynette was still managing court processes at the time of her interview.

Angie: And then when I walked into the courthouse for the children I was like, "I can't do this again. Are you serious? Come on, more courthouses … I may as well park a bed out the front and just keep walking in."

So all those kinds of [legal and other] systems abuse tactics, I would imagine. Also I'd be concerned that women with disabilities would be particularly vulnerable too. (Madeleine, specialist violence service)

Because … [women with disability] are already managing themselves across multiple systems and jurisdictions and that really increases that. . . [h]aving to deal with multiple matters that are being drawn out in the legal system, so all of that I think can just have that cumulative effect of wearing women down. And if you're already dealing with health issues on top of that that kind of burning women out can just happen that much more easily with women with disabilities. (Madeleine, specialist violence service)

Expanding the opportunities to disclose violence

The opportunities for women with disability to tell their stories are frequently mediated through family, institutions or carers. These potential mediators may be implicated or complicit in the abuse or have another sort of vested interest in the abuse not being disclosed. Given this, it is important that the range of opportunities to disclose to independent third parties is expanded. Many women spoke about disclosing to disability advocates, and the importance of the support and assistance they received from these independent disability advocates. Outreach services, including advocacy are particularly important in this context.

Paula: Depending on the exact circumstances, I would probably go to the police with an advocate first. I'd go first to an advocacy organisation and have them go with me… But if it's an advocate, it's somebody that knows you as well.

Molly: Well I've told a couple of welfare people and they didn't do anything first. Then I started telling the ones looking after me now, and then I told [my disability advocate], and [she] started doing something about it.

Anika: The documentation of information noted/ represented as the "voice of victims and offenders", needs to be conducted by independent researchers who have completed in-depth interviews with victims, bystanders and offenders [not conducted by victim/ offender services]. Many systemic problems start in services and it can be difficult for people who work within these systems to acknowledge these issues.

Justine (criminal justice process organisation): We would want it [outreach] at every disability location, where somebody with a particular disability goes. Where there's access to a lawyer to give them advice. If you did that, and you had lawyers who were trained and reached various standards . . . and get after-hours telephone advice, joining those dots, I think, will make a difference.

Anika: Clear need for Centre Against Sexual Assault (CASA) to provide an outreach service within psychiatric wards in Victoria. This should occur when any patient alleges they have been a victim of family violence, especially sexual abuse. Or when a professional within a psychiatric hospital has concerns. Additionally, patients should be able to request to see someone from CASA while a patient within a psychiatric hospital. A patient may not feel comfortable disclosing abuse to treating staff for various reasons.

Police

Police are often referred to as the "gatekeepers" of the criminal justice system. Women with disability have frequently navigated many gatekeepers before reporting to police. When women with disability seek assistance from police it is imperative that they are taken seriously. Police taking the women's reports of violence seriously was considered significant and a form of personal justice in some cases, even if legal justice did not follow. Failure to take reporting seriously and to provide appropriate safeguards (as already established in a wide range of reports and inquiries: see ALRC 2014; AHRC 2014; Dowse et al., 2013; WWDA 2013); that is, not believing women with disability and not providing safeguards or disability advocacy support, means that access to legal justice is denied from the outset.

A number of women reported positive experiences.

Melanie: They [police] were good [when reporting a rape]. They weren't aggressive. They said if you don't want to say much now you don't have to. They didn't rush me. And what they did say, when we finished the statement, they said "if you think of anything else that you have forgotten now, let us know so we can put it in the statement, add it on". And I said "all right". So they were really kind to me. I was surprised.

Sarah: I was in tears thanking that police officer [for charging the perpetrators], I said, "I want you to know, whatever happens from now on with that court case, if they walk off …", and I said, "Do you know what, you have done the justice, you have done it. It's already done."

However, there was a sense that some groups of women were at significant risk of receiving a poor response. Aboriginal people are subject to widespread criminalisation in Australia where entrenched racism can result in an inability to see Aboriginal people as victims. The difficultly police have in recognising Aboriginal people as victims is not neutral; racist social attitudes mean Aboriginal women are at higher risk of violence and are less likely to experience appropriate justice responses (Baldry et al., 2015; Hunter & de Simone, 2009).

So [Aboriginal] women with disability can present to police and then are just not taken seriously. I mean, they might

> be viewed as troublemakers or drunk or just not believed … that's a pretty common story. (Jeff, oversight agency)

Police were sometimes seen to react punitively to repeated calls for assistance.

> We often work with women who are defendants to AVOs. That is, although they're actually the victim, but where the perpetrator has come across as Mr Cool, Calm and Collected and she's come across as hysterical. You know, had to restrain her because she was going to attack him; those sorts of things. It's … it can be very frustrating trying to extract a woman from that situation. I think those are a whole lot of barriers around believability. (Kat, disability advocacy organisation)

> **Sarah:** Basically the police in the past, they haven't said these words but it's basically, "You go away, you stop expecting us to respond or we will charge you."

> **Olivia** (criminal justice process organisation): So that is of increasing concern to us of women being wrongfully identified [as primary aggressors]. And I'd be particularly worried about women with disabilities being wrongfully identified. Sometimes they've gone multiple times and that almost makes it worse for you, because the police think you're—this is just something you do. Yeah so some of the women that we meet have already been rebuffed at the police station before we get involved to support them to make a statement.

One woman considered that the lack of positive police response to her experience of being victimised and subject to serious violence may have been linked to the type of violence she was experiencing.

> **Sarah:** My particular experience, it's not domestic—[Police] minimise what's happening as being neighbourhood disputes . . . So it means it's really great that the domestic violence things . . . have come in where police have to do certain things as a minimum . . . but it kind of means that, "Oh right, it's not domestic [violence], go away, neighbourhood dispute."

The police are often an important mediator of the court experience so communication between the police and women with disability is critical.

> [M]aking sure that police know what women's views are before they come to court on an intervention or a safety notice matter. I would still like to see improvement in that, there's still not necessarily the level of communication between police and women that we would like to see. (Madeleine, specialist violence service)

For some of the women we spoke to interactions with police had been positive and productive. For others, personal experiences and official responses to those experiences had shaken their faith in the institutions that are supposed to protect them. While Suzanne had a positive experience in terms of being believed by police, this was not common to the stories of other women – nor did it mean that Suzanne had a particularly positive experience in court.

> **Beverley** [in response to "Who would you go to for help?"]: It's actually, for me, it's an actually horrifying question, because I've never really thought of it. Because I don't have faith in the judicial system, because of—as a child sitting in that courtroom and they didn't help me. They saw something was wrong. But nobody came to me and said, "Why aren't you talking? Or why are you crying?" And they let me go back home into that situation.

> **Suzanne:** The police said, "What do you want to happen to him?" and I said, "I want him to stop hurting me, I want him to leave me alone." And they said, "Well, we can get it over if we lower the charges" but they didn't tell me anything about what that would look like or how that could be manipulated against me. Because I didn't know how the system worked, I trusted the system and it betrayed me, and that betrayal in its own way was worse than the crime itself, and that's pretty horrific.

Courts

For women with disability being able to tell their story in court and have the perpetrator held to account provides an

opportunity to experience justice by being heard, validated, recognised as a victim and or having the experience of the perpetrator being held to account. However, when women considered that their stories were not heard, believed or taken seriously, feelings of injustice could be compounded. The circumstances under which stories of violence had to be communicated (adversarial questioning, limited time and lack of appropriate communication protocols and supports) presented real challenges for many women.

Victim impact statements gave some women the opportunity to tell their story in a safe way.

> **Melanie:** But I want to do the victim impact so I can stare him down.
>
> **Interviewer:** Did you want to read it in court?
>
> **Melanie:** I'll read it but I want to be serious about it too. I want to say "you better listen, because what I've got to say I want you to hold in your head" … And I know I want to be very angry and tell him off, but you're not allowed to in the court. You can't. But I will let him know how I feel and I will let him know, and the magistrate, the judge, how I feel …

The usual stresses and anxieties related to attending and giving evidence in court about experiences of violence, are multiplied for women with disability. Yet, in this study, the rights of women with disability to be accorded inclusive and equal access to processes of justice were not recognised, nor were appropriate supports provided.

> **Nicole:** When I was finally able to bring one of the perpetrators to trial, there was extreme lack of awareness … to the real effects of chronic trauma and it made the whole process an extremely isolating and devastating experience. After many hours on the stand as a primary witness there was no chance to debrief or even have some safe quiet space to calm down and somewhat self-soothe and regulate, I was just put on a plane. And mid-flight I had a severe panic attack as a result. No one took my disability into consideration. You are treated as an object that is put in a box to be grilled by prosecutors and defence attorneys. It is a raw clinical environment. There was no SAFE space in the court house. In my case the perpetrator that threatened to kill me if I ever spoke about what he did. There is so much pressure on your shoulders and you only have one chance to answer the questions to your best ability. The perpetrator is seated within five metres of your seat in the witness box. The defence attorney is also allowed to bring up your mental health diagnosis and history in the trial, to suggest the story is made up as a result of your mental health condition. At lunch time the police and witness advocate took me through the Adelaide markets so they could find some lunch. It was the most unhelpful environment to be walked through. They both seemed to be incredibly unaware that I desperately needed a quiet safe space to try to rest my brain before going back into court for more direct questioning. I did not want to eat anything. I just needed a quiet space, and I was under extreme pressure and stress.

The deliberate use of Nicole's diagnosis to discredit her in court is a clear example of the ways in which existing stereotypes and perceptions about legal capacity and credibility, within the framework of substitute decision-making, limit and deny the human rights of women with disability. Her request for a safe space reflects a need that all women seeking redress for violence may have: she indicates that she felt this need intensely, reflecting her experiences not only as a woman who experienced violence, but as a woman with disability who experienced violence, and who is well aware of the ways in which she can best be supported and kept safe.

The court process could lead to a sense of injustice where the extent and impacts of the violence were not fully acknowledged as a result of a plea bargain, the language used to describe the impacts of the violence or the sentence imposed on the perpetrator.

> **Suzanne:** It started off being attempted murder and grievous bodily harm and other back up assaults and it ended up going to court for actual bodily harm. But they acted like I had a bleeding nose but in fact I was damaged from head to foot. My leg was broken in four places, they were going to cut it off, took a long time and very, very slow process of being completely unable to participate in life. And then in the court case the judge in the appeal

said "I was unable to find any evidence the back of her head was ever hit into any surface despite the presence of bruising to other parts of her body etcetera." So this leg, my face, my eye, my neck, my back and all the other bits that were hurt became "etcetera" in the system.

Susan (specialist violence service): Perpetrators need to be held accountable. At the other end, you've got people … she's nervous because the person, the perpetrator—who got a three-month custodial sentence—is now coming out and has said that he's going to go back to living with her, can you help? So is that too lenient? I mean the whole justice sentencing perhaps is something that needs to be looked at.

Simone: [I]t was the family violence as well as sexual assault through the whole ten years of our relationship. I don't think—as far as feeling that justice has been served—I don't think the gravity of sexual assault within a marriage . . . the impact of that is just not taken into account in a court hearing. The sentencing was incredibly light, and everybody has said that.

Women with disability typically experienced great stress anticipating and undergoing cross examination. They were clear that these processes were unjust and detrimental. As the comments, below, make clear this may result in women deciding not to pursue available legal avenues:

Melanie: Yeah, as if to say that you've made all this up. That's what they're trying to do. At one stage I thought I was really tough, I'd be able to handle it, and you know you try getting me, it won't work. But I've got a feeling I would have cracked eventually through it because they've got a sneaky way of doing it, how they say things to you, how they word it. They can catch you out by how they word it and things.

Erin (disability advocacy organisation): I think it would be true for everybody, but I think is exacerbated particularly by having a cognitive disability which makes everything hard to understand. It's not - doesn't all make sense to you, why it would be so much later, why are they asking those questions from me, they don't believe me do they? Taking that on - just not understanding really how the system works. So without some guidance to be prepared for that yeah I think it is harder.

Madeleine (specialist violence service): It is not fair and I think it's wrong that they cross-examine people in that situation. They've been through enough. They don't need to be abused by the court system.

Vanessa and Angie, who have both had their children removed from their care discuss why they do not trust the court process:

Angie: I see that they go by the papers that they get given. They go on the Department's side, really. Well that is what I reckon, that they read the material and then they go -

Vanessa: I don't even think they read it, really

Angie: They go on the Department - well they read what is negative.

Vanessa: I just think they just go, "Don, da, don."

Interviewer: Skim.

Vanessa: Yeah.

… (Pause)

Angie: How can they read a hundred and something pages in one affidavit? Our affidavits are huge, considering it is …

... (Pause)

Interviewer: Do you think you get to have your say in court?

Angie: You get to have your say with your solicitors and then they put it in court, but sometimes they just get told to be quiet and not say anything.

Service providers recognised that these processes did present considerable difficulties for women.

Still—although the magistrates and the judges can intervene, particularly in sexual assault if cross-examination is being too difficult—that still happens. So you get quite undermining and accusatory sort of things said to the witness. So again that can … I know one case I went through which was four days and she was giving evidence a couple of times for a couple of hours

through that. But the cross examination was really tough and fortunately she gave good responses and said things like you're just trying to confuse me and you shouldn't do that. But she could have gone the other way and got really angry and then that undermines. (Erin, disability advocacy organisation)

I'd like to see some efforts or continuing efforts made to reform the law to make it easier for people with disabilities to be able to give evidence in matters where they've been the subject of violence at the hands of a perpetrator who doesn't have a disability. (Jeff, oversight agency)

[M]ore flexibility about people being able to use communication devices to give evidence, have communication partners to support them; so those sorts of things are really integral, I think, to making the courts more flexible and more accommodating [for people with disability]. (Andrew, specialist violence service)

Both the AHRC (2014) and ALRC (2014) reports made multiple recommendations regarding urgent and necessary changes to court processes, communication protocols and resources in order that courts could become 'more flexible and accommodating', as Andrew suggests. Our study reinforces that these previous recommendations have not been implemented, resulting in on-going injustices.

Lack of legal representation, specialist support and information about criminal justice processes

Victims of crime are formally witnesses in the criminal justice system so are not legally represented in any court case. This lack of representation, combined with a lack of information about the criminal justice system, impacted negatively on women with disability engaged with the criminal courts.

Suzanne: [W]ell you better be a criminal because victims don't get lawyers. In the state system now you can get someone to stand up for you in court but it's not representation, it's not understanding you or the process … And the prosecutor, not my lawyer, which I didn't know at the time either, did a very poor job of doing any questioning about that because they didn't have any prior knowledge, so it's a very silly system.

Support workers and access to justice

Stakeholders and women were clear about the importance of advocates in legal and justice contexts for those experiencing or who had experienced violence. By allowing women to be seen and heard this support can be a form of personal justice in itself and also a critical conduit to formal justice systems. The support could take the form of specialist workers within courts, for example, or advocacy workers dedicated to supporting individual women.

Janet: … but this year I've had a really great coordinator of supports, and he's worked for a disability advocacy agency for years … so he gets dysfunction, and he has said to me that he would never have believed the stuff that has happened to me if he hadn't seen it with his own eyes … and it was the first time I think I'd actually experienced having a real advocate that was just there for me, and let me have a say.

Kat (disability advocacy organisation): And if there were good service—if associated with that reporting, there is a witness assistance service with the Director of Public Prosecution—if they had, I don't know, extra skills in helping people, then obviously we'd refer to that service or seek to have something involved if the person was interested in pursuing the matter further.

Madeleine (specialist violence service): I get the sense from our interactions with clients and community organisations they're left a little bit on their own and they're not necessarily supported well through that process … I'd like to know more about and I think initially would be really welcome in that space to better support women through that criminal process and understanding it … I'd be really interested to see change in that area so what support is available for women with disabilities around criminal prosecutions and making sure that they feel supported and heard through that process and just informed.

Advocates can work towards a better recognition of the needs and circumstance of women with disability when dealing with agencies such as the courts and police:

> **Andrew** (specialist violence service): A client was going through a trial … and they [the defense] wanted this person to have another psychological assessment. So, [I] organised it with a psychologist, whose office was a really long way away, hard to get to and didn't have an accessible toilet. So the person was going to have to travel for two hours to this location to have a two hour long assessment and there was no accessible toilet. So part of my role and the role of the OPP was saying "this is actually not okay, you need to find a different venue". So those sorts of things people just come across all the time, but it really hasn't been thought through or no thought given to the needs of the person.

> **Erin** (disability advocacy organisation): [H]aving the support person there does make a difference [when reporting to police], because you know, I mean the support person can … not in a very assertive way, but just support the woman not to be turned away.

Stakeholders and women considered that there needed to be more access to lawyers in order to enhance the pathways to justice.

> **Tracy:** I just wish—honestly, I just—I can't afford a lawyer. You know what I'm saying. Lawyers—they run the fees, you know what I'm saying? And even the Legal Aids that I have—I've gone for interviews, at the University of New South Wales, at like 12 midnight, because they're so overloaded. It's the only time at the end of the day that they can talk to me. And they more or less said to me, "there's nothing here".

It was identified that workers in all parts of the justice system need to be supported and empowered to effectively engage with women with disability experiencing violence and to ensure women's legal capacity is not denied.

> **Justine** (criminal justice process organisation): So I think if we make it easier for people to know what to do, if you're seeing somebody struggling, with disabilities – a set of navigators, hotline, information line, someone you can call and say "look, I've got somebody here at home. She doesn't want to leave. There are a couple of kids. She's in a wheelchair. They're renting a house, it's not really well suited for her." … Or you could ring them and say "what are the services, where do I refer her to, what do I do next?" If you set up a system where you are empowering people to do the right thing easily, the right thing's going to get done.

> **Justine** (criminal justice process organisation): It's just an extra yard. And people don't do that because they feel pressured and they don't know where to go. It feels like a – how would I get ready to climb Mount Everest, really. Where would you start? And I think we can make it easier, quite efficiently, actually.

> **Erin** (disability advocacy organisation): [A]nd the police actually probably can get further, because they've got a support person there. So it must be very difficult for them often I think, trying to get information out of some of the people that we then later support. Because that can be quite a challenging role, just trying to keep them focused and answering the questions, and letting the police know when what they're asking probably isn't being understood, or when there's an obvious misunderstanding that the person has taken the question differently to what it's intended and getting them to try again.

Women with disability need to be supported when leaving violent relationships, after violent crimes and through the whole process of reporting and recovery.

> **Simone:** But when things did happen, when it did go to the police . . . somebody should've asked when he was removed from the house, okay, we've taken your carer, what are your immediate needs right now? What do you need? Do you need somebody to come in and help you get the kids up? What are your physical needs right now? I would've said I need somebody to come in and give me - help me with a shower. I need somebody to feed the dogs, get the kids to school, get out of bed in the morning. Nobody

asked at that point, what are your physical needs right now? It took me to say to Child Protection I'm going to ask him to come home and put myself and my children in danger because I have - I can't even have a shower. I can't do something as simple as clean myself, before anybody thought that hang on, we took your carer away, maybe we should ask you what you need.

Melanie [After being raped]: A support person I guess to come around afterwards and sit with me for a while, let me let it all hang out. I don't know who that'd be. Maybe they'd call a nurse or someone in. But after the police dropped me off I sat up all night watching and waiting for him to walk back in, even though they told me they got him. It was like watching a movie. And I kept thinking it's going to happen again, and I couldn't sleep. So that knocked me around, being 24 hours without sleep and not eating. And then I'm there on my own. And my house is a wreck, and I disinfected everything. I disinfected the walls. I disinfected my bed, the furniture, the lounge, everything. I threw that lounge out. I ended up buying all new furniture, the lounge and everything, to get rid of him.

Willow: People need that support throughout the whole process because you can't put somebody through a process and then expect them to be okay before, after or during without any support because you've got to remember that ultimately most people that don't have a disability will have some sort of support behind them, whether it's their partner or their best friend or their family members or their colleagues or whatever. But if you've an intellectual disability, for instance, you're not necessarily going to have your family around or a partner around or you're not necessarily going to be working with people that are going to be able to support you . . .

Willow: It's all well and good to have that support going to those places [police for example] but if they don't have the support after going to those places, it's almost as detrimental as going to those places so you've kind of got to make sure that you actually have that whole support organised throughout the whole process otherwise you're kind of setting up somebody to fail within – not necessarily within the system but within the emotions that they are going to have to actually deal with once you've actually left for the day and then they're back at home.

Informed about choices and supported to make and implement decisions: recognising women's legal capacity

Experiences of violence undermine women's sense of agency; the denial of legal capacity through laws and unequal and problematic processes impacts access to justice in both a legal and a personal sense. Obtaining or regaining a sense of control after experiencing violence is critical for all women and women with disability in particular.

Nicole: I did not choose the violence, I cannot necessarily control factors in life that can trigger symptoms I experience.

Willow: So whilst you [the support person] might … feel like you want things to be like this for this person, you want this to change and all the rest of it – that's what you want . . . it's not necessarily what's going to be in the best interest of the other person . . . [U]ltimately it doesn't matter how you feel because it's not actually happening to you . . . [W]hen you're communicating with somebody that's actually going through violence themselves, it's their story and it needs to continue to be their story of how they actually want to proceed with how things happen or not happen.

Kat (disability advocacy organisation): We're involved in work on supported decision making and I do think that is part of a long, slow process of change, of seeing people as citizens, as people who can make decisions, who are deserving of right and who with support can do things for themselves.

Kat (disability advocacy organisation): But I think for people with disabilities particularly, decisions get taken out of our hands. Whether it's someone under guardianship or someone with a mental illness or someone with a mild intellectual disability, or even someone who's deaf, it's

> just seen as it's going to slow us down, they don't need to worry about it, and decisions get made on their behalf.

Women with disability need control over their finances. They should be supported to do this, not have this control taken by a substitute financial decision maker. Melanie's story reveals how law and guardianship system limits women's decision-making and efforts to secure their own safety.

> **Melanie:** And if I'd said to him [the trustee] I want to buy a new screen door, they wouldn't let me. And if I want to go on a holiday, which I do to forget about the raping and everything, which would be after the court, and I was hoping to go on a cruise. Not a $50,000 one. An $8,000 one or something. No. And even if I did go, they'd choose what cruise, and where I'd go and for how long and how much spending money ... And the Trustees won't even let me take two, three thousand dollars out of my account when I'm allowed to. There's no rules telling me what I can spend the money on, which my mum left me, to even put curtains up in my home. So where I am now, any man can walk by and watch me in the house. Kids do. They come up to my window and squash their faces up there at nine, ten o'clock. The whole house, it's open up to everybody.

Child Protection and the Family Court

As identified earlier, women with children faced significant issues in being able to live secure lives with their children. Child protection was identified, not just as a barrier to justice, but as a major source of injustice for mothers with disability experiencing violence. Mothers with disability experiencing violence risked having children removed for not leaving a violent relationship, thus being deemed insufficiently protective (see also Frohmader & Cadwallader, 2014). Women with disability reported having children removed for being homeless or not being able to physically take care of their children after leaving an abusive partner/carer. One woman, Ruth, described having to live in a tent to escape domestic and family violence and then having her children removed from her care. This is an instance of the ways the Family Court may compound what is frequently a catch twenty-two by seeing women who attempt to protect their children from violent fathers as uncooperative parents.

> **Madeleine** (specialist violence service): There's not good understanding or good treatment of family violence, it's still a victim blaming kind of mentality … women with disabilities who are experiencing family violence they're really up against it with the child protection system . . . just the unconscious bias that is applied to disadvantaged women with disabilities is manifestly clear to anyone who has a brief encounter with that part of the legal system.

> **Justine** (criminal justice process organisation): As soon as child protection is involved, it forces people to join up as parents, and so she will underplay the violence—didn't really happen, etcetera, which makes her vulnerable and the children vulnerable. That's a scenario played out every day.

> **Justine** (criminal justice process organisation): [M]any of those women – a common experience they have is having their kids taken away from them, and they're the ones that are experiencing violence – it just seems like punishment . . . Well, it is a double punishment. It doesn't even look like it. It is a double punishment. … And probably, that's one of the reasons, one of the major reasons, why they don't report family violence. They can see what's going to happen. They can't look after the children on their own.

> **Simone**: At no point did anybody say "we can get - there are services that can help you to be independent [from a violent partner]. You won't lose the children, they can go with you". None of these things were ever explained to me. It's just like, you could go to a refuge. I said, I'm going to be in institutions for the rest of my life. I'm going to end up in a nursing home, or I'm going to end up in care somewhere being looked after, and I'm never going to be able to see my children again. I was never given an opportunity or support to believe that there was any ability to be independent.

VANESSA'S STORY

Vanessa's four children, aged from ten to six years were in out-of-home care.

Her relationship had been violent and she had made a number of moves to try to seek safe accommodation. Her relationship with her family had been supportive but some rifts had emerged. As her comments show, Vanessa blamed herself for these, even though the issues she was currently facing arose from a mistaken report to child protection. Vanessa had undertaken a number of parenting courses in her efforts to have her children returned. Her support worker indicated that she faced many challenges and it was not likely that this would happen at least in the short term.

Vanessa: Well most of my family weren't much supportive, but they were happy that I left him, because they didn't like him. But then as soon as they found out the paperwork about the allegations and the DV, they just stopped supporting me. So I didn't get much support until I met Miriam.

Interviewer 2: What is an appropriate way of reacting? When you talk to Miriam as well, Miriam is a counsellor and she talks too. So what is a good way for someone to react when you tell them what has happened to you?

Vanessa: She explains it, about DV, which I didn't know much about until I did the DV course, which was good anyway, because I needed to know more about it.

....

Interviewer 1: Did you say before, Vanessa, that your family, when they found out about the domestic violence, stopped supporting you. Is that what you said?

Vanessa: If they found that - because I wasn't in the place of mind to go I just went, "Well." My head just went - so what I should have done is went from [there to where my family lived] to up here instead of going to another violent family, which I did the opposite to my family. I should have listened to my family and came this way, but I went that way.

Interviewer 1: And so then, what did they do - your family?

Vanessa: They just told me that I was stupid and silly. I said, "Well my head wasn't in the right place minded."

Interviewer 1: Of course. I totally - I can understand that. When you're in a violent situation it is very complicated and it is hard to work out what the best thing to do is. I was just wondering how your family responded when - they wanted you up here so they could take care of you, I assume, but -

Vanessa: Yeah well I should have - instead of going straight to Melbourne and got my kids taken off me and then I won the court case down there, I should have just come straight up here, went to Housing Commission and say, "Hey, I got four kids and myself. Can you find somewhere for us to stay?" But you never know. And then we went to where my auntie's ... lived because she was caring for them and then she couldn't care for them anymore so she put them in foster care. Now I'm trying to fight for them back.

As Janice's comments below make clear, Vanessa's experiences are not uncommon. A systematic lack of insight around intersections of domestic and family violence and how mothering can be impacted are very often compounded when women with disability are seeking to navigate these systems:

> In the Family Court jurisdiction, we find a lack of attention to issues around domestic violence and an assumption that even a violent husband can be a kind and loving father, which of course he can't. Very difficult to get orders that prevent him from contacting the children. There's a woman trying to protect her children, who is perceived as being uncooperative parent. (Janice, specialist violence service)

Service challenges across the specialist violence and disability service sectors

In addressing the needs of women with disability, different services faced different challenges in supporting women to achieve access to justice. Understandings of disability and violence were variable and at times may have drawn on common or pre-existing assumptions about women with disability – about what "needs" women were likely to have, about what "barriers" to accessing justice might exist, about how violence might manifest and what responses might best serve women. Dyson et al. (2017) suggest that, at times, a "clash of cultures" in service provision may inhibit optimal access and support for women.

Adding compounding dimensions to persistent, universal service challenges

Housing

Speaking with stakeholders in the specialist violence and disability service sectors reinforced two well-known issues relating to all women experiencing violence: (1) gaining access to a safe and stable environment is of paramount importance, and (2) there are a number of service-related challenges that limit women's capacity to gain access to these environments. Indeed, a range of stakeholders from both the specialist violence and disability service sectors - including those who work with Aboriginal and Torres Strait Islander women - spoke about the lack of secure housing options available for women escaping violence. They presented this issue as one of the most obvious and pressing barriers facing women. As Susan, Olivia and Jane explained:

> **Susan** (specialist violence service): I think the number one barrier is where do they go from there? And it's not even people with disabilities, housing is the most difficult part … I'd like housing to be available for a woman easily, much more easily than it is now. So they don't have to make that ultimate decision of deciding to leave but where do I go? Yes. And then it's another barrier.

> **Olivia** (criminal justice process organisation): So I would say the biggest barrier to working with the women and accessing services and things like that would be first and foremost trying to get them out of that initially unsafe environment and that risky environment. Where we can't do that it's really difficult; like if you make referrals they won't go because they're under significant amount of stress, and yeah, just experiencing a significant amount of trauma. What we find working with [Aboriginal and Torres Strait Islander] people who have experienced family violence is we're limited in options because there's a lack of housing … it would be [one of] the biggest problems we face.

> **Jane** (oversight agency): I think the most obvious barrier is a lack of alternative accommodation … the priority in the last 10 years in terms of placement really has been around people who are homeless so capacity to reconfiguration [as well as] transferring folk has been [limited], and that's not shifting necessarily … so by far and away that's the biggest issue.

Yet, as Susan continued to explain, there are both additional questions that women with disability must consider when they make the ultimate decision to leave a violent environment, and compounding factors they must negotiate:

> With someone with a disability it's [also] about "where am I going to get the supports from and can I get them immediately?" … Quite often people with disabilities are in Office of Housing. They're a victim of family violence where do they move to? There's a process … and it can take time. (Susan, specialist violence service)

Indeed, several stakeholders commented that for many women with disability, the one place that is meant to act as a last resort for *any* woman escaping domestic and family violence is already their home: public housing. As such, women with disability can face compounding and intractable situations when they try to escape the violence they are experiencing. As Madeleine put it:

> [There are] really horrible intractable situations because someone may genuinely be in fear, but then you've also got a very vulnerable person who is in public housing and so that becomes an issue of where they're going to go and all that sort of stuff. So they're really challenging issues and we deal with them quite regularly. (Madeleine, specialist violence service)

Moreover, as Jane clarified, having nowhere else to go can lead to a number of negative consequences for women with disability, and their ongoing access to services:

> in the absence of alternative accommodation people have learnt to deal with the hand that they've been dealt … And, you know, that leads to sometimes kneejerk responses from service providers, you know … stick a person in a caravan park by themselves. (Jane, oversight agency)

Funding

Complicating these issues of accommodation further was the other well-known barrier women escaping violence encounter: a lack of fully funded services. Susan surmised the interdependence of these issues well, stating that:

> The other main thread that I'm not able to help, is people that are wanting accommodation. It's quite significant that if a woman wants to flee family violence, any woman, a disability or not, she needs to choose between being homeless, or remaining in a violent relationship, or a controlling relationship or whatever that scenario is ... It's shit. It's not a choice. And we can't do accommodation supports. Originally the first year we did, and very, very popular, but what happened was the government gave the family violence sector more what we call housing establishment fund. So if you're fleeing family violence you might have sort of $500 to set yourself up somewhere else. It's not much. Five hundred won't go much, especially, if you need a washing machine … It doesn't go very far so therefore they always ring and try and explore alternate options, including myself. (Susan, specialist violence service)

Moreover, as Paula explained, even when provisions are made for women with disability, the lack of funding available for support services continues to paralyse women's efforts to escape violence.

> **Paula:** there is something about availability of supports for women in that situation where their abuser is a partner or a family member. Even with—I mean, that's great that there is short-term crisis funding available, but the Disability Support Register is ridiculously long. It's probably even longer now than it used to be because a lot of services put themselves—put people on the DSR. So, you hear about day programs and sheltered workshops—sorry, ADEs, sheltered workshops—from putting basically everybody on the DSR. The DSR is not a waiting list, it's in crisis—if you're in a crisis, you should be taken first. But I don't know how well the priority stuff is working because there's just not a lot of – nowhere near enough funding in the state system. And it's like, how do you prioritise a woman who's left a domestic violence situation over somebody of the same age that is currently living at home, being cared for by their parents in their 80s who themselves have an aged care package? How do you prioritise that?

In these ways we can begin to see how some of the well-known service challenges that face all women escaping violence can begin to take on new contours and compounding dimensions when faced by women with disability. As Dyson et al. (2017) also identified, terms such as "access" will need to be rethought if services are to create effective responses.

Yet, as our interviews with stakeholders in the specialist violence and disability service sectors made apparent, in addition to these common issues that women with disability largely share with other women escaping violence (albeit in more acute or compounded forms), there are also other, separate and additional service challenges that women with disability experience that other women escaping violence do not.

Additional challenges: Disability accessibility and the need for person-centred approaches

One of the most basic barriers facing women with disability escaping violence is an accessible criminal justice system. Dyson et al (2017) have urged a broadening of both definitions of violence and of 'access' if effective change is to be achieved. As Kat explains, often, the criminal justice system (and those who work in it) seem to overlook even the most basic needs of including women with disability in the process of justice.

> What I was hearing from many women, particularly with physical disabilities but also with sensory impairments, who went to Magistrates Courts around family violence, was that the buildings weren't fit for purpose, and that … sometimes, the staff weren't aware. I did some investigation myself and found that it was absolutely right. Even in the accessible courts, it would be the same old story about the accessible toilet being locked and no one knowing where the key was, which just seemed ridiculous. (Kat, disability advocacy organisation)

Yet, as other stakeholders clarified, it would be a mistake to think that just providing accessibility provisions is all that is needed to address the diverse challenges facing women with disability accessing justice. Indeed, as Andrew reflected with some frustration, there is a tendency for non-disability service providers to simply say "yes, that's right, and we've got some easy-read resources, or we've got a ramp", and to not really think any further about the *woman* that needs those accessibility provisions.

Notably, this limited way of thinking about "accessible justice" for women with disability (where accessibility is conceptualised solely in terms of physical barriers) was made apparent during interviews with some of the specialist violence services. In several of these interviews, discussions about the barriers facing women with disability seeking justice never extended beyond the need to create physically accessible buildings for those women with mobility impairments, and alternative documents for those with hearing or vision impairment.

Thinking about accessibility only in terms of physical barriers and not in terms of the woman who encounters those barriers - both in terms of her daily functioning and in terms of her experiences of violence - can produce further deleterious effects for women with disability attempting to seek justice for the violence they have experienced. As Kat explained:

> [T]he Courts were doing a safety audit, and it was concerning me that they weren't recognising that safety was part of – that accessibility was part of safety. If there's only - one of the women raised the issue, went into the court through the accessible doorway and through the lift, it was really obvious to the perpetrator where she'd be … a woman [also] talked about having to just about wheel over the respondent's feet in the courtroom [because of the inaccessible way courtrooms are set up]. (Kat, disability advocacy organisation)

For a number of stakeholders, the development of both of these basic and more complex "accessibility" challenges facing women with disability could be explained in relation to an additional barrier: the lack of understanding surrounding women with disability and the violence they experience.

Additional challenges: Lack of understanding about women, disability and violence

Several stakeholders spoke of the much broader lack of awareness that surrounds the experiences, needs and capabilities of women with disability experiencing violence, and the lack of understanding service providers have in relation to how they should best support these women through service provision to escape violence. Speaking in the context of criminal justice responses, for example, Justine explained:

> I think [police and lawyers] suffer from lack of understanding, awareness, and ideas of how to respond … I think you have to come back a little bit to human nature, don't we. If somebody throws you and I a problem here, where you sort of know about it, and you know the right thing to do, but you don't know what the resources are, or you are scared of saying the wrong thing, then it's like trying to respond with your hand tied behind your back, isn't it. (Justine, criminal justice process organisation)

Indeed, Andrew proposed that this uncertainty of not knowing what is the "right thing to do", was the exact reason why so

many non-disability service systems appeared to believe they could adequately cater for (all) the needs of women with disability if they just provided some very simplistic accessibility measures (i.e. easy-to-read resources). As Andrew put it:

> [O]bviously having things like easy-read resources, or pictures or various things that can assist, having brokerage money to be able to pay things to assist people with access. Those sorts of things are obviously helpful, but I think when people are quite anxious or uncertain, they do cling to—and we all do it, I know I do it with things I'm uncomfortable with—to the tools. If I have a tool I'll be able to do it. (Andrew, specialist violence service)

And yet, as other stakeholders explained, both this lack of understanding and this fear of not doing or saying the "right" thing results in other, more serious consequences for women with disability. Not only do these factors appear to limit the kinds of provisions made available to support women with disability who are seeking access to justice for the violence they experience, but they can also appear to limit the kinds of outcomes these women receive. Erin spoke to this complexity in her reflections about the police. She said:

> A number of cases do fall through at that level because they [police] can't get substantiating evidence to back it up, and they still—it varies a lot—but some police are really, they really go hard at getting a good case in a case against a person with a disability. But for others, there's still a bit of a "this person's not going to be okay as a witness", so the case is weak, and so you get this bit of reluctance about whether to take it all the way or not … I don't know how much [training] they get about victims with cognitive disability and about the skill of being able to interview them in a way that will result in good evidence down the track. So I think that's important. (Erin, disability advocacy organisation)

These observations were then further corroborated by Susan, who explained:

> There's a lot of conversations I've had with police that have said "we don't have enough evidence. It's a person with an intellectual disability. I don't know if the bus driver raped her, or assaulted her. She can't articulate that. It's not going to," and we know the police are under pressure to only present cases, and you probably know, for the prosecution that they can prosecute. (Susan, specialist violence service)

In these ways we can begin to see the diversity of factors that make it harder for women with disability to both escape violent situations, access mechanisms of justice, and seek redress. A lack of attention to women's legal capacity, and ensuring that there are appropriate supports and processes in place that will support her to exercise it are critical absences.

Additional challenges: The operation of an entrenching legal landscape

Of course, it is necessary at this time to make the point that just because women with disability face different and additional barriers to justice than women without disability does not mean that *all* women with disability experience the same barriers as each other. Indeed, for one particular group of women with disability—women living in supported accommodation or other forms of residential services (commonly known as "group homes")—the so-called opportunity to come before police (and potentially be dismissed), or to face the challenge of navigating an "accessible" court system, does not appear to even exist. From discussions with stakeholders, the unique barriers facing women living in group homes appears to occur for two interlinking reasons.

First, there appears to be a conceptual barrier surrounding group home settings. That is to say, group homes are not typically considered in the general public to be "family" or "domestic" settings. Indeed, while in NSW, the *Crimes (Domestic and Personal Violence) Act 2007* does include violence at the hands of co-residents or carers in residential institutions as constituting domestic or family violence, this broad definition often doesn't extend into practice. As Hugh explained, the violence that occurs in group home settings does not automatically become recognised as "family" or "domestic" violence, or as requiring "family" or "domestic" violence provisions.

> We made an argument to the Royal Commission into Family Violence that people in group home settings

> sometimes ought to be seen as being in family-like arrangements, therefore family violence responses should be appropriate. We wanted legislative change. The commission didn't agree to recommend legislative change, but it agreed with us that sometimes people in those settings are in family-like situations, which means family violence orders can be more appropriate than personal intervention orders. (Hugh, oversight agency)

Despite the consistent work of disability advocates to remedy this problem, when we spoke with specialist violence services about the contact they might have with people living in group homes, none could identify a time that they had worked with someone living in a group home. Indeed, as Madeleine's response illustrates, even when asked specifically about women experiencing "family" violence in group home settings, there was a tendency for specialist violence services to reconceptualise these experiences as something else:

> It might be useful for me to actually put you in touch with our equity team because they would—because I'd imagine that's how they would come through. So if their primary legal issue wasn't family violence necessarily, if they're experiencing some kind of abuse or discrimination or unfairness in their group home setting then they'd go through to equity. (Madeleine, specialist violence service)

Madeleine's repositioning of the kind of violence women living in group homes experience is also illustrative of the second key factor that appears to act as a barrier to these women seeking justice through domestic and family violence provisions. That is, there is a complementary assumption that the violence that occurs in group home settings is or should be recognised as something that stems from the so-called nature of people with disability and disability services: that violence in group homes stems from disability-related "challenging behaviours."

> We do get situations in group homes become really complicated … so they are in a sense in a domestic environment and someone can be assaultive towards another person in the group home. And sometimes the person targets a particular person for some reason and that behaviour is often treated as challenging behaviour as distinct from assault or whatever. (Jeff, oversight agency)

The tendency to see violence in group homes as extending from disability-related "challenging behaviours" has a number of real consequences for women with disability. This includes the proposition that if this violence is only understood as "challenging behaviours", then it is also only understood as needing to be addressed through the behaviour change approaches used in the disability sector (as opposed to criminal justice approaches). This tension was illustrated by Susan in her account of how she would respond to a woman with disability who is being subject to violence by another person with disability in a group home setting.

> Yeah. Okay. So if I had an inquiry about one client perpetrating violence against another client in a disability specific accommodation setting then it would probably fall on whoever is managing that accommodation. So, as you know, the Department has group homes that they own, but they're managed by different organisations. So if that was to occur … I would have a conversation with my colleague who manages the group home and they probably would be on top of it. (Susan, specialist violence service)

> It wouldn't necessarily come to me, but if it did, like that scenario, then it would be a case of, and I had one last week as well, a very similar scenario to that one, they removed the victim and said, "What can we do about the perpetrator?" And, of course, sometimes I get calls where the perpetrator is also the victim because it's a cycle. I might get calls about the perpetrators and it's a disability worker and, "What do I do?" It's almost like a secondary consult and it's like, "Well, have you tried behavioural change?" and a lot of it you don't want to tell them how to pat a cat, but it's about two heads are better than one. "I've tried that." "No. I didn't think to do that," etcetera, etcetera. (Susan, specialist violence service)

Of course, this is not to suggest that involving the police in these kinds of scenarios would automatically lead to a positive outcome for women with disability either. Indeed, as both Jeff and Erin explained, when the violence that a woman experiences in her group home manages to break through the barriers outlined above, and the police are involved, new complexities arise.

> [S]ometimes when the police do get involved and charges are laid and AVOs are taken out, it can be quite complicated. I mean when you've got two people living in the same environment and AVOs existing and … we get situations often where the response of the organisation is to attempt to relocate the victim as opposed to the perpetrator and that hardly seems fair in some cases and families are upset about that and we have to advocate for those people. So yeah they're very complicated issues. (Jeff, oversight agency)

> [V]iolence in residential facilities. Yeah, which is a difficult one. Because often - sometimes, that's because the service is not managing things well. But you end up with possibly a victim and a perpetrator with disabilities yeah. There's not responsiveness to those problems. So you're finding alternate accommodation so that people are less victimised. So there's a reliance on the criminal justice system for that that really doesn't solve the problem. (Erin, disability advocacy organisation)

In these ways we can begin to see how conceptual barriers surrounding what constitutes a "family" or "domestic" setting can leave some women with disability in truly intractable and harmful situations. It also highlights how violence in the disability service sector can be reconceptualised as "challenging behaviour", which then means the focus remains on the individual with disability as opposed to the accommodation of people with disability in congregate living environments, such as group homes. Many of these stories illustrate the significant work that needs to take place in the disability service sector where group homes are the norm, and where behaviour is controlled by (often harmful) restrictive practices or behaviour modification. A number of the recommendations from the *Senate Community Affairs Inquiry* (Parliament of Australia, 2015) focused on addressing these issues, but remain unimplemented.

A changing family violence and disability landscape bringing hope and uncertainty

At the same time that stakeholders raised these longstanding concerns about the lack of understanding and harmful assumptions that continue to surround women with disability, many also spoke about the significant changes currently underway in both the family violence and disability sectors which hold hope for the future. Indeed, Olivia, Susan and Justine all spoke about the positive differences they have already started to see taking shape for *all* women experiencing violence in the wake of the RCFV.

> But I would have to say that the service system itself is getting a little bit better and I think it's on the back of the Royal Commission [into Family Violence] in having seen some of those changes in the first 12 months. There's more funding available for crisis accommodation, so we do have some women that meet that criteria where they have offended in the community police would be called to their house on the basis of a family violence incident. So we're able to get them out of that situation quite early on and out of immediate harm into a safe space. But it's only for a limited time, it's only – sometimes it can only be for a week or two weeks. (Olivia, criminal justice process organisation)

> And just in breaking news with the Royal Commission in family violence … we're going to expand the criteria [to provide more services to women with disability experiencing family violence]. (Susan, specialist violence service)

> But I noticed that the government has also now appointed, and has used the term "navigators", and that is part of the whole family violence Royal Commission reform as well. Somebody in complex matters who can help you navigate the system. The risk for me is that those navigators will give wrong advice. I can see lawyers give wrong advice, I can—people get over-enthusiastic about what they think they know, so there need to be checks and balances and some clarity about that role. They need to be paid enough to attract the right people to that role. I can think of half a dozen who'd be perfect, but they need to be paid a vast sum to do it, because they're being paid a vast sum to do other things. I think that will be a critical development. We need something like that here. (Justine, criminal justice process organisation)

However, as each of these service provider's accounts demonstrate, even with these welcome changes from the RCFV coming into fruition, it is unclear to what extent these changes for all women will address some of the compounding and additional issues facing women with disability. Indeed, this mixture of hope and uncertainty about what the future might hold for women with disability experiencing violence was often expressed by stakeholders in relation to the other major change in Australia's service landscape: the roll-out of the NDIS.

Paula and Susan, for example, who outlined serious concerns about the significant impact that a lack of properly funded services can have on the capacity of women with disability to leave violent relationships, both expressed hope that this situation might change under the NDIS:

> **Paula:** It's just that there wasn't enough funding in the system and so even if people … who have been experiencing violence by a partner or a parent or whoever else is looking after them … even if they do get up—which there's barriers to getting to that point—it's like "will they be able to get adequate supports quickly enough because the fricking amount they'd need is too high". I mean, hopefully that will be fixed with the NDIS but you hear of all sorts of crazy stuff happening there too.

> **Susan** (specialist violence service): I'm hoping on hopes that the NDIS will do crisis well because at the moment, I mean it's early … it's a baby at the moment. It's very early days, but how they would deal with someone who comes in, gets a plan, gets her $40,000 to get ABCD and then something changes. Either their primary carer dies, they experience family violence, something significant happens. At the moment, it's fill in a form and we'll try and give you more money. I don't know.

Indeed, even stakeholders working outside of the disability sector appeared to see promise in what might become possible under the NDIS:

> Then when people actually need treatment, there's a significant undersupply of treatment places. There's often waitlists, so that was part of the reason for developing the women's diversion program at [this organisation] is that they would have priority access so we're always at capacity. Yeah and it's unfortunately, you know, there's not much we can do for people who don't meet the IQ [criteria]. Yeah and it's unfortunate that those that probably need it the most are being turned away. But I would hope that they'd be picked up through now potentially NDIS or something like that where they can work with local orgs and stuff like that. (Olivia, criminal justice process organisation)

And yet, as a number of other stakeholders expressed, there is also uncertainty about what the future might hold for women with disability under the NDIS. Hugh, for example, raised concerns about the role the NDIS might play in safeguarding women with disability who experience violence in disability accommodation. As Hugh explained:

> One of the areas of most concern is with the roll-out of the NDIS, and the quality and safe-guarding framework. What role will be played in this area? Because we know that there will be a national complaints commissioner, but there's concern that we don't know the detail. The detail has not been released yet. And a lot is going to be pushed back to the states and territories to be monitoring. So the concern here is that, with new models of accommodation and so on, what are going to be the regulatory ways in which abuse can be identified and reported upon? I think they are concerns. (Hugh, oversight agency)

Moreover, Kat and Susan both raised concerns about how the roll-out of the NDIS might undo some of the cross-sector collaboration that has started to take shape between the family violence and disability sectors in Victoria since the RCFV. As noted earlier, the NDIS will only address the needs of about 10% of women with disability: this means many women with disability will experience domestic and family violence without NDIS support. Even within the scheme, as Kat notes, it is unclear how women's needs will be met.

> There's not resourcing for cross-sector collaboration, especially in the NDIS environment where everything has a cost. I'm not really sure how that's going to work, particularly in crisis situations. That really concerns

> me and I don't see Department of Social Services giving any attention to that at all. (Kat, disability advocacy organisation)

> There's been working groups that have been created in country towns where they haven't thought about "maybe she's quiet because she's experiencing family violence", or "maybe she can't articulate because she's got a disability", from both sides of things. The red flags … personally, I'm very passionate about this, but into the future NDIS will deal with disability and family violence will deal with family violence and will go back to that. (Susan, specialist violence service)

Indeed, Jane, commented on the new kinds of barriers and problems her organisation was already starting to encounter with women who have received some of the first NDIS funding.

> We're also starting to see some small indicators that where we were able to intervene and suggest the clinical support was required for particular sets of clients in group homes, that where there are National Disability Insurance Agency (NDIA) packages in place, that that is starting to become a little bit of a problem in terms of timely access to therapeutic and clinical supports. So that will probably I think be something that we're going to have to focus on fairly heavily. (Jane, oversight agency)

Impact of 'siloed' knowledges

The impact of assumptions about women with disability, their needs, strengths, aspirations, and concepts of violence, justice, security and safety are critical in influencing how effective social, institutional, service and policy responses are in supporting women to achieve everyday safety and security. The impacts of assumptions and siloed knowledges are different in different sectors and service agencies: the outcome however is that the women's access to justice is often contingent on partial knowledge, insights, skills and service delivery models. Findings and recommendations from reports across the past five years (see for example Didi et al., 2016; Dowse et al., 2013; Dyson et al., 2017; Frohmader et al., 2015; WWDA, 2013) have identified this concept of 'siloes' as a critical barrier to stopping violence against women with disability and ensuring more effective and just outcomes when it occurs.

Our study reinforces these existing findings; the voices of the women and the views of stakeholders revealed that extant assumptions and identified issues that work against women's legal capacity continue to create negative impacts. The siloes that operate within and between families and other care institutions such as residential homes; within different sectors (disability and family services); and across all aspects of the legal system create negative outcomes. Participants identified this problem as 'siloed' knowledges that operate around rights, obligations, understandings of the impacts of family violence and the additional barriers in seeking justice that might arise for women with disability. As women identified, these 'siloed' knowledges created barriers that impacted on women's search for personal justice and in turn, their search for legal justice. As Nicole's observation below makes clear, for her, psychological support is a critical precondition to achieving everyday security: for her, this preceded any possibility of her moving forward.

> **Nicole** The government only allows you very limited access to a psychologist each year under the Medicare scheme. It is usually about 10-12 sessions per year. Again I think the government believes you are ok after 10-12 sessions. For me it has taken at least 6 months of weekly sessions to build trust. I have had over 100 hours with my current psychologist, and it is only now that I am able to work on my coping strategies and mechanisms. I am slowly learning new coping strategies to help me engage in life, even though I frequently experience trauma symptoms.

Susan, a service provider, echoed the importance of individualised and effective supports.

> In general, it's about making people aware that people with disabilities have a different experience when it comes to family violence and they need that extra support. And early on it was certainly talking to family violence organisations about disability because they would paint them all with the same brush and it's like you don't want to talk to someone with … a physical disability like they've

> got an intellectual disability that's just patronising. And the same with disability workers would say, "Well, (1) they're not hitting her so what's the problem?" or, "Why can't they go back and get her equipment? What's the problem with that?" (Susan, specialist violence service)

Although there was uniform agreement that these assumptions existed and impacted significantly on the ways in which women were able to seek support and access justice, as noted earlier there was acknowledgement that some positive change was occurring. Yet given the number of reviews, inquiries and recommendations, this outcome is still profoundly limited.

> So I think that looking back to five years ago or ten years ago we didn't have that and this was a very siloed conversation in the main. It really was very siloed and very within that small disability community where we were just talking to one part of the ombudsman's office or only talking to other disability advocates or talking to journalists that had a particular bent around disability, whereas I think we're seeing this broader conversation happening. (James, disability advocacy organisation)

Definitions as barriers

There are a number of key areas where these siloed knowledges have been identified as having a distinct impact on women's pathways to support and ability to access justice and continue to do so. Women and service providers identified the ways in which definitions in different sectors and social contexts (such as the disability sector and domestic and family violence specialist services) shaped and influenced access. Notions of "family member" and "carer" that existed within different legislative instruments, and therefore informed the mission and activities of various services, often intersected and had the potential to diminish women's safety. These issues have all been the subject of previous recommendations for legislative change and clarification (see AHRC, 2014; ALRC, 2014).

> For women with disabilities or children with disabilities that have fled family violence. So they need to meet the criteria for the *Disability Act*, the legislation, that we're still under for another couple of months, but then we stretched out the guidelines a couple of years ago to include zero to six because the act is children school age up. So now from children zero to 18 and women that are fleeing family violence there are some supports on the other side of that and those supports might be personal care, it might be counselling, it might be equipment hire or purchase depending on the scenario and transport costs. The need has to be related to the disability and they need to have fled family violence. (Susan, specialist violence service)

As outlined earlier, the context of residential care presented seemingly intractable barriers for women, in regards to being able to disclose, having that disclosure heard and understood as violence (rather than reinterpreted as an 'incident') and being able to report to police or other relevant authorities. Legislative frameworks also created difficulty here.

> There are issues for women with disabilities who are in different kinds of institutional care, [or] where the abuser is the carer. The domestic violence laws in some contexts don't fit that particularly well, although I think that's more in the perception than the reality. (Janice, specialist violence service)

A priori definitions about women's needs and pathways were often assigned at the point where a woman may have entered the service or support system which meant that other forms of assessment (for example of disability needs) may not have occurred. One service provider working with Aboriginal and Torres Strait Islander women talked of women who had been in contact with the prison system for periods of up to 20 years and had not had any assessment around health or disability needs that were very clear to her.

> The importance of being able to work across distinct domains of legislation and differing definitions was stressed: notions of family, partner, carer, and the ways in which these roles may intersect require careful and contextual analysis in order to build effective responses to women's needs and potential pathways to justice and security. Another service provider evocatively described all of the ways in which her service "tried to smash those

silos that the department loves to live in", (Susan, specialist violence service)

Assumptions about women's voices and legal and communication capacities

As well as services and possible pathways, women and service providers recounted complicated and diverse assessments of women's capacity to self-advocate for justice and, in some instances, to go through relevant processes to achieve the outcomes they wanted or needed. As most acknowledged, often these concerns were grounded in fears for women's well-being and an accurate recognition of the multiple barriers and risks of re-victimisation that women do face in reporting (see for example VEOHRC, 2014). Yet these assumptions reflect the routine failure to accord women with disability legal capacity, and to provide necessary supports for women to communicate the issues that they had faced (AHRC, 2014; ALRC, 2014). These assumptions also do not take account of women's expressed wishes, their aspirations for personal justice, their resilience and their desire to speak out, as detailed in Section 9.1. One disability service provider described being called by another service provider and told about a particular client with whom they felt they weren't able to communicate. She however reflected on meaningful and engaged communication with this same client.

Assumptions about women not being able to give statements and subsequently evidence were commonly reported both by the women and service providers.

> **Paula:** When I actually went to police about violence, what I actually needed was an intervention order. I didn't remember the words "intervention order" and I got put through a whole separate pathway. It's like, they -
>
> **Interviewer:** So, they didn't recognise what you were experiencing as domestic violence or family violence?
>
> **Paula:** They did but they brought in-they got me interviewed by some child sex [investigator]—and it's like—and at this point I—and then they were asking all sorts of—I have a physically and sexually abusive father who I had not been living with at the time but I had been told that he was planning to buy the service station that was basically across the road from where I lived.

> Look, I think sometimes there can be gatekeeping that goes on from people around the person who—with the best intentions—might really love the person or be supportive of them, but really strongly discourage them from going through a criminal justice process: so that certainly happens and something that we noticed through the pilot project, that that was often a reason people chose not to proceed. (Andrew, specialist violence service)

Despite these experiences, and some internal hesitancy and doubt, as detailed in Section 9.1, many women advocated extremely strongly for the need for women to tell their stories and the importance of speaking out.

The doubts of service providers were often in evidence too. In our recruitment process, we were faced by many service providers who indicated they were cautious about circulating our call for women to make contact to talk about violence because it would create stresses and anxieties. Yet, as Anna's comment shows, when staff and care workers were exposed to ways that could better support women's expressions of their desires and capacities, their views often changed quite significantly.

> But some of the things certainly Christine was sharing with me the other day was about the change that they see in the staff that are you know that are incredibly protective in the beginning of the individuals and also saying you know to Carol and Christine – and again like the same type of thing around well you won't get much engagement, not sure how much they'll understand of what you're doing but—and maybe it's the way in which also this is delivered, there's a lot of roleplay and direct engagement with people and it's targeted at people with high levels of cognitive impairment—that you know Carol and Christine are feeding back that it's—every session they have staff are just overwhelmed and so surprised by the response of the guys that are involved in it. (Anna, oversight agency)

As Simone outlined earlier, the interlocking and cumulative impacts of dependency, arising from the need for care, and experiences of trauma do have a critical impact on how women understand their own autonomy, a concept that as Simone observed, moves beyond simply "understanding rights". Many women and service providers identified the need for focused and attentive listening to how these experiences might shape women's decision making or need of/for specific types of assistance in accessing justice and security.

> I think that one of the things are the kind of context that women are in and their histories. So those things might be around having experienced institutionalisation and segregation for a prolonged period, sometimes from birth, that women have found themselves "othered" and separated and isolated structurally from the rest of the community. So that means that they might have had really different educational experiences, so they might not have frameworks for understanding violence and having language around violence and rights and their own body and safety. So those things can be critical things that are missing because of what's happened to them and what's been done to them. (James, disability advocacy organisation)

Assumptions about mothering

As detailed previously, many of the women who participated in this study had experienced the removal of their children. Again, assessments about the legal capacity of women with disability and a failure to accord women their rights have a significant and deleterious impact in the particular experiences of mothers with disability. These mothers faced existing patterns of the removal of their children, which were exacerbated when women experienced violence of diverse types. It is well-established in family violence research that child protection intervention may work to penalise mothers: the intersection of this child protection presumption or pattern with the exclusion or maginalisation of women with disability creates specific patterns of gendered disability violence where women and service providers were constantly fearful of the removal of children (Frohmader et al., 2015).

> So how to fix that, what would you want? You'd want accommodation where a woman with a disability could move in with her children where there was a capacity to bus the kids to the school they were always at, to keep things as organised as they could be it at all possible, help support her, put things in place, get the navigator to apply, and so on. You'd need a system where she can be sat straight again, really, instead of having a very unsophisticated system, panic, cover their own bottoms, and put all this stuff in place. Now, it doesn't mean that every woman with a disability who's been the victim of family violence will end up being a great parent who can do those things, but they need an opportunity to do it, and to prove it. (Justine, criminal justice process organisation)

> And as I said my sense of child protection is that we see them at disproportionately higher rates. So, I think that the department's probably more inclined to intervene where they see a mother with a disability because the way—I mean some of the policy failings of that system are that it's geared very much towards mums especially in violent relationships and putting the responsibility on them and so the onus is on those mothers to make sure they're being protective. And that's not a system that's about making the perpetrator visible and the perpetrator accountable for their behaviour, it's often about the victim who is also a parent of children who are victims being responsible for protection. (Madeleine, specialist violence service)

> Where there are effects of trauma from domestic violence and the parties have to go through family reports and things like that, often those effects of trauma can be used against that woman as a kind of evidence of a lack of parenting capacity, whereas in fact, getting out of the situation is going to be a path to healing and that situation's going to improve, particularly if the parties are kept apart. I think in all of those situations, having disabilities is an additional barrier or burden or difficulty. (Janice, specialist violence service)

Assumptions about women's behaviour

Another concern expressed by a number of service providers was that misinterpretation or failure to understand the needs of women with disability was resulting in those women being identified as primary aggressors when police were called to domestic and family violence incidents. This trend is one that has been identified internationally and within Australia (RCFV, 2016) as impacting on the current policing of domestic and family violence in troubling ways. This pattern was clearly impacting on women with disability. In particular service providers noted that women may have been expressing higher degrees of agitation or stress, while the abuser appeared calmer, which resulted in police misidentification of the primary aggressor.

In both of these circumstances, there was recognition that intersections of racism and assumptions around disability or "ableism" (Campbell, 2009) produced particularly negative outcomes for Aboriginal and Torres Strait Islander women. Yet, as Olivia's description makes clear, these challenges can be met, if the service response is underpinned by a focus on listening and understanding.

> So we've had over 25 women engage in that type of support program and what's really interesting about that is that they've continued to engage from right throughout up until now. It's very rare that you'll find Aboriginal women engaging with service providers or accessing programs and services for that length of time. It's purely because a program has been developed to target the unique cultural and gender needs.
>
> But what we understood quite early on was that a lot of these women were in contact with the justice system as first and foremost as victims of family violence. They themselves were products of the child protection system, a lot of them had been removed but a lot of them had been engaged with the justice system or the child protection system and had never been diagnosed for any mental health conditions or anything like that.
>
> So one of the first things that we did was we actually tried to understand what does this woman need, so we looked at each individual woman involved in the program. The caseworker did individual assessments and case plans and identified that at least 80 to 90 percent of these women had undiagnosed ABI (acquired brain injury). Part of the program was that we had partnerships with DHHS, which meant that we could pay for those assessments and not have to go on a waitlist. So we were able to get a lot of people diagnosed, so a lot of the women have borderline personality disorder and a lot of unresolved trauma going back to family violence. So it's really unique in that these women are also, they're victims as well as perpetrators. Dealing with them in that space the justice response is typically a punitive one and we're saying well hang on a minute these are actually people who have their own trauma and suffering that needs to be resolved, and that's our main driver as to why they're in contact with the justice system. (Olivia, criminal justice process organisation)

Beyond assumptions: Targeting and thinking through responses to women's disclosures and their needs

> I've given a couple of presentations over the last year or so about violence and violence against women with disability and it always astounds me that people like that will come up to me and say we've got this woman with disability who's experiencing violence. What do we do? And it's just like, you guys are the experts on violence. You should know what to do. You shouldn't have to come over to the disability sector to get the response for a woman who's experiencing violence. So it's quite interesting that people just think there's this specialised response that's in place for a woman with disability or institutionalised violence, but that's not the case. That falls into your responsibilities as a violence organisation or whatever it is. So it is, it's very interesting to see that. (Karla, disability advocacy organisation)

The participants in this study offered information about multiple events where women with disability did not receive effective or adequate responses to experiences of violence and their efforts to access just outcomes as they defined them. The comment by Karla reveals that the issues underlying such gaps are complex. At times, service providers in the

domestic and family violence sector were not confident in their expertise around disability. On occasion, this resulted in inaction when support was needed. At times, service providers in the disability sector were hesitant to identify violence and to support women to report and progress claims for justice. On occasion, ensuing outcomes were focused on removing the victim, rather than achieving security where women lived. Yet, as Olivia's account above makes clear, a response that eschews formulaic responses, and avoids checklists, is able to create an effective service map that supports women.

There were many examples of this that emerged: lack of access to funding available for domestic and family violence victims, contingent on different service knowledge bases, as identified in the RCFV, lack of appropriate refuges for women with disability, and removal of abusive carers without attention to consequent unmet care needs. Our findings suggest, following those of multiple other reports, that a critical aspect of achieving effective responses is the development of much stronger cross sectoral communication pathways, so that supports available to women with disability experiencing violence make use of all available pathways, as both the women who participated and service providers reflected.

> **Nicole:** It feels like mental health outreach support workers often do not understand, it is difficult to connect with them, to gain a sense of trust. You also have to change services and workers frequently. So the healing process is constantly disrupted and delayed, and in my case delayed for decades. Over the years of my adult life, the psych system has also chosen to drug the symptoms, and choose not to take my story into account.

> **Hugh** (oversight agency): So, something is just happening to you - unless you're taught that that's wrong, or understand that that's wrong, you won't even identify it as being wrong, and seeing it as abuse. There's that element first. Then there's the fear of reprisals, if your report involves someone who provides care to you. You may fear that there'll be reprisals. There'll be the lack of anything that may happen as a result of reporting, as well. Uncorroborated evidence of personal disability tends not to result in any convictions. It's a whole range of things that take you all the way through the justice system, where things could fall down; at the police level, at the prosecutorial discretion level, and even, should it make it to court, at the court level.

> **Kat** (disability advocacy organisation): A big part of it's around knowing what is justice and what's not okay. Then in those organisations, Disability Services, I guess how they recognise what's happened and how they respond.

Conclusion

This report has offered insights into the experiences of 36 women with disability as they have sought to stop the violence they were facing and achieve just outcomes for themselves, that were personal (everyday safety and security) and legal (redress, the proper attribution of responsibility and recognition of their legal capacity). Our key findings from our dataset were as follows.

1. We need to listen to the voices of women with disability, believe them and act on what they tell us.
2. Women with disability face particular and sustained challenges in achieving everyday safety and security.
3. Possible pathways to just outcomes must be better articulated and supported.
4. Service challenges continue to exist across and between specialist violence and disability service sectors.
5. Impact of 'siloed' knowledges is deleterious and must be ameliorated if women with disability are to live free from violence.

Overwhelmingly, the data collected in this research corroborates the findings of earlier reports and scholarship in this area, thereby confirming a broader failure to act upon and implement existing recommendations.

In line with the ALRC's 2011 report, our research found that people with disability experience diverse types of violence including: sexual violence, financial abuse, neglect, deprivation of medication, forced sterilisation and abortion. The WWDA, PWDA and UNSW collaborative report *Stop the Violence* (Dowse et al., 2013) highlighted a number of issues in relation to violence against women and girls with disability including (but not limited to) the need to appropriately identify, record and respond to various forms of violence and remove barriers to accessing appropriate services. There was ample evidence in the data we collected to suggest the ongoing significance and urgency of these issues.

Our analysis suggests that lack of capacity to identify and respond to violence is one of the key barriers to accessing safety and services. Lack of capacity to identify violence in the lives of women with disability is perpetuated by a culture of normalisation in which violence, intimidation and coercion are seen as "just the way it is". The culture of normalisation is in some cases exacerbated by institutions responsible for providing services to people with disability as evidenced by the interpretation of violence as a "service incident" rather than a criminal matter requiring investigation (Attard & Price-Kelly, 2010; Frohmader & Sands, 2015; Parliament of Australia, 2015; Victorian Parliament, 2015). The normalisation of violence doesn't only inhibit the capacity of institutions and service providers to respond appropriately, but crucially also inhibits women from recognising that what is happening to them is not appropriate and that they have recourse to justice (Camilleri, 2013; VHREOC, 2014). As one service provider described this issue:

> They [women with disability] probably don't recognise some of the things that happen to them as crimes and so don't really follow through. So as far as barriers go, that's a significant one that people with intellectual disability often don't have high expectations as regards to their rights. So the bad things that happen to them, they just absorb and suffer it really. That's a definite trend that we've noticed ... the next big step is thinking, I deserve better, or I deserve something to be done about it. (Erin, disability advocacy organisation)

While it follows that a culture of normalisation will lead to a culture of underreporting, studies have also shown that when violence against women and girls with disability is reported, it is typically dismissed, ignored, covered up, inadequately investigated, and/or results in negligible sentencing (Frohmader 2014; Frohmader & Cadwallader, 2014; French et al., 2010). Inadequate responses to reporting are exacerbated by further barriers including a culture of victim blaming, a disbelief or skepticism about women's credibility (Frohmader, 2011; VHREOC, 2014; Camilleri, 2013) and adversarial interrogation techniques (AHRC 2014). Women's stories collated in this research support this finding. In Sarah's case, as cited on p.56, these factors combined leading to an untenable situation in which despite knowing about the violence committed against her, local police refused to respond.

A cluster of reports in 2014 underlined the on-going failure to support the legal capacity of people with disability,

identifying this as a major barrier inhibiting access to justice (VEOHRC; WDV; AHRC; ALRC). The ALRC report in particular examined principles of legal capacity for people with disability and recommended the National Decision-Making Principles as a framework for supported decision-making. The lack of supported decision-making and the failure to acknowledge or support women to exercise legal capacity was a prominent theme in the stories women told us. While rarely, if ever, referred to in these terms, women recounted numerous experiences in which the reliability of their integrity to recall details, to report objectively, to make decisions, or even to recognise the capabilities of their own bodies, was questioned or refuted. As Willow's comment below suggests, dissatisfaction with service provision highlights the urgent need for supported decision–making, and the urgent need to listen to, hear and believe women with disability.

> **Willow:** So whilst you [the support person] might . . . feel like you want things to be like this for this person, you want this to change and all the rest of it—that's what you want . . . it's not necessarily what's going to be in the best interest of the other person. [U]ltimately it doesn't matter how you feel because it's not actually happening to you . . . [W]hen you're communicating with somebody that's actually going through violence themselves, it's their story and it needs to continue to be their story of how they actually want to proceed with how things happen or not happen.

Adversarial interactions with police may be further exacerbated by lack of understanding of disability. The Australian Human Rights Commission (2014) found that it is common to find justice representatives struggling to identify disability and respond appropriately. As Henshaw & Thomas (2011) outline, police officers base their response on previous experiences with people with disability and may make generalisations about people with disability. Paula's experience reporting to local police foregrounds these concerns.

> **Paula:** Well, or my answers to that would have depended on my credibility, whatever. Also, who did I live with? Was I in a sexual relationship with anybody I lived with? It's like ridiculous – basically every possible question that they – there's a whole lot of inappropriate questions. And then they were trying to get me to go through the incidents, which by that time were several years earlier, in detail. And then they were asking the questions like three or four different times and I was getting confused. No independent third person involved.

Research has found that having the aptitude to identify and understand different types of disability, and then adjusting practices to meet access needs is a skill base requiring attention in Australia (Federation of Community Legal Centres Victoria and South Eastern Centre Against Sexual Assault, 2013; United Voices for People with Disabilities, 2013; Camilleri, 2013). Our research supports this finding.

Numerous service challenges across the specialist violence and disability service sectors contribute substantially to the barriers encountered by women. Lack of alternative housing is a well-known issue that relates to all women experiencing domestic and family violence but can be more complicated for women with disability given they may have specific support or access needs. As such, women with disability can face compounding and intractable situations when they try to escape the violence they are experiencing. Both service providers and women spoke about this issue:

> **Susan** (specialist violence service): With someone with a disability it's [also] about "where am I going to get the supports from and can I get them immediately?" Quite often people with disabilities are in Office of Housing. They're a victim of family violence—where do they move to? There's a process, and it can take time.

> **Simone:** [The responses to disclosure] didn't take into account all the other things that - all the other concerns that I had for - from the disability's point of view into account. "Would you like to go to a refuge?" Well, Jesus, is it going to be accessible, for one? What happens to my children? Am I going to end up in a care home? It's all of those things that an able-bodied woman wouldn't be running through her head. Am I going to end up in a nursing home? Am I going to end up in assisted care? An able-bodied woman wouldn't be thinking that.

A key impediment to justice, one indicated by women, service providers and stakeholders, is the limited accessibility of the criminal justice system. In several of our interviews, discussions about the barriers facing women with disability did not go beyond the need to create physically accessible buildings for those women with mobility impairments, and alternative format documents for those with hearing or vision impairment. One stakeholder spoke about the specific safety concerns for women attending court, noting that if a woman "went into the court through the accessible doorway and through the lift, it was really obvious to the perpetrator where she'd be" (Kat, disability advocacy organisation). For a number of the stakeholders, the lack of understanding surrounding women with disability and the violence they experience directly contributed to an inability to attend to complex accessibility needs too.

While the dataset collected in this project cannot speak to prevalence, the content of the data reflects existing findings about the type and nature of the violence experienced by women with disability. In particular, our research contributes to work on "gendered disability violence" and supports the work of scholars who understand these types of violence as a form of "intersectional discrimination" (Frohmader et al., 2015, p. 4; Frohmader & Sands, 2015). All of the women we spoke with have, and in some cases continue to experience the "compounding" impacts of discrimination engendered by the intersection of their gender and disability (Didi et al., 2016, p. 160). Additional vectors of discrimination such as ethnicity and socio-economic status often further compound the discrimination these women face and this can in turn impact their quality of life (Yeo & Moore, 2003). Our data supports evidence that the violence women with disability experience is severe, persistent and can at times result in more serious injury than for women without disability (Dowse et al., 2013; Didi et al., 2016). Suzanne's experience of torture culminating in having her leg broken in four places, and Beverley's survival from a gunshot wound speak to this severity.

Research has consistently found that for women with disability, domestic and family violence is inflicted for longer periods by a greater number of perpetrators (STVP, 2013; ALRC, 2014; Jansson, 2007). Women with disability often experience violence across their lifespan from mostly male perpetrators (Woodlock et al., 2014; Frohmader & Sands, 2015). Researchers have found that from childhood, people with disability experience all types of violence at a greater rate than people without disability (Robinson 2012; Chatzitheochari, Parsons & Platt, 2016) and further, exposure to violence from an early age has been linked to later experiences of victimisation or perpetration as an adult (Stanley & Humphreys, 2014; RCFV, 2016). Our research found ample evidence of protracted and severe violence over the lifespan. Stories recounted by Angie, Janet, Beverley, Katrina, Louise, Kathy, Catherine, Molly, Linda, Bronwyn, Ruth, Jill and Nicole attest to these findings.

As we have repeatedly noted, these findings are not startling or new. As the context review makes clear, recommendations that could achieve change exist and they are clear and consistent, but they have not been implemented. Multiple reports, ground-breaking projects such as the *Stop the Violence Project* (Dowse et al., 2013; WWDA, 2013), findings from national investigations such as the Australian Human Rights Commission (2014) report *Equal before the law: Towards disability justice strategies*, and the ALRC (2014) *Equality, Capacity and Disability in Commonwealth Laws: Summary Report* have in fact identified the barriers women with disability face, and proposed changes that would create pathways to justice through supporting and enabling women's full citizenship and participation, recognising their legal capacity and ensuring Australia meets its human rights obligations.

The proposed AHRC (2014) Disability Justice Strategy is guided by the following principles:

1. Safety of people with disabilities and freedom from violence.
2. Effective access to justice for people with disabilities.
3. Non-discrimination.
4. Respect for inherent dignity and individual autonomy including the freedom to make one's own decisions.
5. Full and effective participation and inclusion in the community. (AHRC, 2014, p. 6)

Our findings serve to reinforce the urgent need for the implementation of these principles as illuminated by all prior

research and offer a difficult insight into stalled change. We hope that the weight of accumulated evidence and what some in our study identified as a changing landscape of possibility can ensure real change.

Strengths and limitations of the study

This was a qualitative study, designed to explore and draw out the experiences of women with disability and workers in the field. Its objective is to offer grounded in-depth insights, rather than findings that are generalizable beyond the study population.

The strength of this project lies in two key overarching findings that arises directly from the women's narratives. The first is the significance of the concept of personal justice. This sense of personal justice—be it in the form of being heard, feeling safe or simply surviving—has emerged as something crucial to the women themselves, as well as a first step on the pathway to more comprehensive forms of justice. The failure to hear these women and implement meaningful change, despite the prevalence of the reports calling for it, speaks to the second overarching finding—that the persistent and underpinning cultural assumptions about the legal capacity of people with disability need to be changed.

Finally, as we hope is highlighted by the primacy given to their voices throughout the report, the defining strength of this research lies in the courage and strength of the women themselves and the power of their stories. In this way, we want to acknowledge the clarity of their call for personal justice as a pre-condition and pre-cursor of all other forms of justice, including legal justice.

References

Attard, M., & Price-Kelly, S. (2010). Accommodating violence: The experience of domestic violence and people with disability living in licensed boarding houses. Retrieved from People with Disability Australia website http://www.pwd.org.au/documents/pubs/Accommodating%20Violence%20Report.pdf

Australia. Department of Social Services. (2016). *NDIS quality and safeguarding framework*. Canberra: Author.

Australian Bureau of Statistics. (2014). *Personal Safety Survey, 2012: Females experience of violence during the last 12 months, disability status, relative standard error [data set]*. Retrieved March 16, 2017 from http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4906.02012?OpenDocument

Australian Human Rights Commission. (2014). Equal before the law: Towards disability justice strategies. Retrieved April 15, 2017 from https://www.humanrights.gov.au/our-work/disability-rights/publications/equal-law

Australian Institute of Health & Welfare. (2017). Disability: Overview. Retrieved April 15, 2017 from http://www.aihw.gov.au/disability/ .

Australian Law Reform Commission. (2010). Family violence: A national legal response (ALRC 114 Summary). Retrieved from http://www.alrc.gov.au/sites/default/files/pdfs/publications/Report Summary.pdf.

Australian Law Reform Commission. (2012). Family violence and Commonwealth laws: People with disability. Retrieved September 5, 2017 from http://www.alrc.gov.au/CFV-disability

Australian Law Reform Commission. (2014). Equality, capacity and disability in Commonwealth laws: Summary report. Retrieved from.https://www.alrc.gov.au/publications/equality-capacity-disability-report-124

Barr, L. C. (2012). Disability Services Commissioner learning from complaints: Safeguarding people's right to be free from abuse (Occasional paper, no. 1). Retrieved from Disability Services Commissioner Victoria website http://www.odsc.vic.gov.au/wp-content/uploads/OccasionalPaper1.rtf

Benedet, J., & Grant, I. (2014). Sexual assault and the meaning of power and authority for women with mental disabilities. *Feminist Legal Studies*, *22*(2), 131-154.

Bowleg, L. (2012). The problem with the phrase women and minorities: Intersectionality - an important theoretical framework for public health. *American Journal of Public Health, 102(7), 1267-73.*

Bowman, R. A., Scotti, J. R., & Morris, T. L. (2010). Sexual abuse prevention: A training program for developmental disabilities service providers, *Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, 19*(2), 119-127.

Brownridge, D. (2006). Partner violence against women with disabilities: Prevalence, risk, and explanations. *Violence Against Women, 12*(9), 805-22.

Cambridge, P., Beadle-Brown, J., Milne, A., Mansell, J., & Whelton, B. (2011). Patterns of risk in adult protection referrals for sexual abuse and people with intellectual disability. *Journal of Applied Research in Intellectual Disabilities, 24*(2), 118–132.

Camilleri, M. (2008, September). *Enabling justice: New ways forward - pathways to change*. Paper presented at National Victims of Crime Conference, Brisbane.

Camilleri, M. (2010). *[Dis]Abled justice: Why reports of sexual assaults made by adults with cognitive impairment fail to proceed through the justice system* (Doctoral dissertation). University of Ballarat, Victoria.

Mental Health Legal Centre. (n.d.). [Beyond doubt: The experiences of people with disabilities reporting crime. Submission no. 2]. Retrieved from Victorian Equal Opportunity & Human Rights Commission website http://www.humanrightscommission.vic.gov.au/index.php/component/k2/item/619-experiences-of-people-with-disabilities-reporting-crime.

Campbell, F. K. (2009). *Contours of ableism: The production of disability and abledness*. London, UK: Palgrave Macmillan.

Carter, B. (2013). *Whatever happened to the village? The removal of children from parents with a disability. Report 1: Family law – the hidden issues*. Melbourne, VIC: Office of the Public Advocate.

Cattalini, H. (1993). *Access to services for women with disabilities who are subjected to violence*. Canberra: AGPS.

Chatzitheochari, S., Parsons, S., & Platt, L. (2016). Doubly disadvantaged? Bullying experiences among disabled children and young people in England. *Sociology, 50*(4), 695–713.

Civil Society Parallel Report Project Group. (2012). Disability rights now: Civil Society report to the United Nations Committee on the Rights of Persons with Disabilities. Retrieved November 14, 2017 from People with Disability website http://www.pwd.org.au/issues/crpd-civil-society-shadow-report-group.html.

Cooper, E. (2017). Concerns NDIS quality and safety framework forgets majority of people with disability. Retrieved April 12, 2017 from PRO Bono Australia website https://probonoaustralia.com.au/news/2017/02/concerns-ndis-quality-safety-framework-forgets-majority-people-disability/

Council of Europe. (2011). Explanatory report to the Council of Europe convention on preventing and combating violence against women and domestic violence (Council of Europe Treaty Series, no. 210). Retrieved from https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383a

Cortis, N., & Bullen, J. (2016). *Domestic violence and women's economic security: Building Australia's capacity for prevention and redress: Final report* (ANROWS Horizons, Issue 05/2016). Sydney: ANROWS.

Crenshaw, K. (1995). Mapping the margins: Intersectionality, identity politics, and violence against women of color. In K. Crenshaw, N. Gotanda, G. Peller, & K. Thomas (Eds.), *Critical race theory: The key writings that formed the movement* (pp. 357-383). New York: The Free Press.

Didi, A., Soldatic, K., Frohmader, C., & Dowse, L. (2016). Violence against women with disabilities: Is Australia meeting its human rights obligations? *Australian Journal of Human Rights, 22*(1), 159-177.

Disabled People's Organisations Australia. (2017a). Civil Society statement to the Australian Government calling for a Royal Commission into violence, abuse and neglect of people with disability. Retrieved December 3, 2017, from http://dpoa.org.au/civil-society-statement-rc/

Disabled People's Organisations Australia. (2017b). Disability groups call for Royal Commission into violence against people with disability: Retrieved April 6, 2017 from http://dpoa.org.au/disability-groups-call-for-royal-commission-into-violence-against-people-with-disability/

Disabled People's Organisations Australia. (2017c). Disability groups slam government decision not to hold Royal Commission into violence and abuse. Retrieved from http://dpoa.org.au/media-release-disability-groups-slam-government-decision-not-hold-royal-commission-violence-abuse/

Doran, M. (2017). Royal commission into alleged abuse, neglect of people with disabilities off the table, Government says. Retrieved April 6, 2017 from ABC News website http://www.abc.net.au/news/2017-03-03/royal-commission-into-abuse-of-disabled-people-ditched/8320364

Dowse, L. (2015). It's time to fix the power dynamics that allowed the abuse of people with disability. Retrieved April 15, 2017 from The Conversation website https://theconversation.com/its-time-to-fix-the-power-dynamics-that-allowed-the-abuse-of-people-with-disability-51307

Dowse, L., Soldatic, K., Didi, A., Frohmader, C., & van Toorn, G. (2013). *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia. Background Paper.* Retrieved from Western Sydney University ResearchDirect website http://researchdirect.westernsydney.edu.au/islandora/object/uws:36865

Dyson, S., Frawley, P., & Robinson, S. (2017). *"Whatever it takes": Access for women with disabilities to domestic and domestic violence services: Final report* (ANROWS Horizons, 05/2017). Sydney: ANROWS.

French, P., Dardel, J., & Price-Kelly, S. (2009). *Rights denied: Towards a national policy agenda about abuse, neglect & exploitation of persons with cognitive impairment*. Sydney: People with Disability Australia.

Frohmader, C. (2011). Submission to the preparation phase of the UN analytical study on violence against women and girls with disabilities (A/HRC/RES/17/11). Retrieved from Women With Disabilities Australia website http://wwda.org.au/wp-content/uploads/2013/12/WWDASubUNStudyViolenceWWDDec2011.pdf

Frohmader, C. (2013). Dehumanised: The forced sterilisation of women and girls with disabilities in Australia. WWDA Submission to the Senate Inquiry into The Involuntary or Coerced Sterilisation of People with Disabilities in Australia. Retrieved from Women With Disabilities Australia website http://wwda.org.au/wp-content/uploads/2013/12/WWDA_Sub_SenateInquiry_Sterilisation_March2013.pdf

Frohmader, C. (2014). Gender blind, gender neutral: The effectiveness of the National Disability Strategy in improving the lives of women and girls with disabilities. Retrieved from Women With Disabilities Australia website http://wwda.org.au/wp-content/uploads/2013/12/WWDA_Sub_NDS_Review2014.pdf

Frohmader, C., & Cadwallader, J. (2014). Joint submission from National Cross-Disability Disabled People's Organisations (DPO'S) [to the Senate Standing Committee on Finance And Public Administration 'Inquiry Into Domestic Violence In Australia]. Retrieved from Women With Disabilities Australia website http://wwda.org.au/wp-content/uploads/2013/12/Final_Draft_DPO_Sub_DV_Senate2014.pdf

Frohmader, C., Dowse, L., & Didi, A. (2015). *Preventing violence against women and girls with disabilities: Integrating a human rights perspective*. Retrieved 12 September from Women With Disabilities Australia website http://wwda.org.au/wp-content/uploads/2013/12/Think_Piece_Revised_Edition.pdf

Frohmader, C., & Sands, T. (2015). *Australian Cross Disability Alliance submission to the Senate inquiry into violence, abuse and neglect against people with disability in institutional and residential settings*. Sydney, NSW: Australian Cross Disability Alliance.

George, A., & Harris, B. (2014). Landscapes of violence: Women surviving family violence in regional and rural Victoria. Retrieved from Deakin University website https://www.deakin.edu.au/__data/assets/pdf_file/0003/287040/Landscapes-of-Violence-online-pdf-version.pdf

Gill, A. K., & Harrison, K. (2013). Sentencing sex offenders in India: Retributive justice versus sex-offender treatment programmes and restorative justice approaches. *International Journal of Criminal Justice Sciences, 8*(2), 166-181.

Goodfellow, J., & Camilleri, M. (2003). *Beyond belief, beyond justice: The difficulties for victim/survivors with disabilities when reporting sexual assault and seeking justice*. Melbourne, VIC: Disability Discrimination Legal Service.

Healey, L., Howe, K., Humphreys, C., Jennings, C. and Julian, F. (2008). *Building the Evidence: A report on the status of policy and practice in responding to violence against women with disabilities in Victoria. Victorian Women With Disabilities Network Advocacy Information Service*. Melbourne: Victoria.

Heenan, M., & Murray, S. (2006*). Study of reported rapes in Victoria 2000-2003: Summary research report*. Melbourne, VIC: Office of Women's Policy.

Henshaw, M., & Thomas, S. (2012). Police encounters with people with intellectual disability: Prevalence, characteristics and challenges. *Journal of Intellectual Disability Research, 56*(6), 620-31.

Hunter, R., & Simone, T. (2009). Women, legal aid and social inclusion. *Australian Journal of Social Issues, 44*(4), 379–398.

Jansson, K. (2007). Domestic violence, sexual assault and stalking: 2005/06 British crime survey. In K. Coleman, K. Jansson, P. Kaiza, & E. Reed. *Homicides, Firearm Offences and Intimate Violence 2005/2006* (pp. 54-62). London, UK: Home Office.

Karras, M., McCarron, E., Gray, E., & Ardasinski, S. (2006). *On the edge of justice: The legal needs of people with a mental illness in NSW*. Sydney: Law and Justice Foundation of New South Wales.

Kavanagh, A., & Robinson, S. (2015). We count what matters, and violence against people with disability matters.. Retrieved April 15, 2017 from The Conversation website https://theconversation.com/we-count-what-matters-and-violence-against-people-with-disability-matters-51320

Laragy, C. (2017, March 29). Four Corners: Can the NDIS prevent abuse of people with disability? Retrieved from The Conversation website http://theconversation.com/four-corners-can-the-ndis-prevent-abuse-of-people-with-disability-75286

Lea, M., & Sands, T. (2017). Disabled People's Organisations Australia submission to the Australian Law Reform Commission discussion paper: Protecting the rights of older Australians from abuse. Retrieved 12 September 2017 from People With Disability Australia website http://pwd.org.au/documents/Submissions/DPOA_ALRCdiscussionpaper_elderabuse__060317.pdf

Lemaitre, J., & Sandvik, K. B. (2014). Beyond sexual violence in transitional justice: Political insecurity as a gendered harm. *Feminist Legal Studies, 22*(3), 243-261.

Lievore, D. (2003). *Non-reporting and hidden recording of sexual assault: An international literature review.* Canberra: Commonwealth Office for the Status of Women.

Mahoney, A., & Poling, A. (2011). Sexual abuse prevention for people with severe developmental disabilities. *Journal of Developmental and Physical Disabilities, 23*(4), 369-376.

Murray, S., & Powell, A. (2008). Sexual assault and adults with a disability: Enabling recognition, disclosure, and a just response. Melbourne, VIC: Australian Institute of Family Studies.

Neave, M., Faulkner, P., & Nicholson, T. (2016). *Royal Commission into family violence: Summary and recommendations* (Parl Paper, no. 132). Melbourne: State of Victoria.

Ortoleva, S., & Lewis, H. (2012). Forgotten sisters: A report on violence against women with disabilities: an overview of its nature, scope, causes and consequences. Retrieved from https://womenenabled.org/pdfs/Ortoleva Stephanie Lewis Hope et al Forgotten Sisters - A Report on Violence Against Women Girls with Disabilities August 20 2012.pdf

Parliament of Australia. (2015). *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability.* Retrieved 11 April 2017 from http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report

Parliament of Victoria. (2016). *Inquiry into abuse in disability services: Final Report.* Retrieved 12 April, 2017 from https://www.parliament.vic.gov.au/file_uploads/FCDC__Inquiry_into_abuse_in_disability_services_HtW37zgf.pdf

People with Disability Australia, the Australian Centre for Disability Law, & Australian Human Rights Centre. (2014). Australian Law Reform Commission (ALRC): Equality, capacity and disability in Commonwealth laws (Discussion Paper). Retrieved 12 September 2017 from http://www.pwd.org.au/documents/pubs/SB14-ALRC-Submission-PWDA-ACDL-AHRCentre.doc

Productivity Commission. (2011). *Disability care and support* (Report, no. 54). Canberra, ACT: The Productivity Commission.

Queensland Government. (2016, October 26). Bullying, disability and mental health. Retrieved November 14, 2017, from https://www.qld.gov.au/disability/children-young-people/bullying-disability-mental-health

Robinson, S. (2012). Enabling and Protecting: Pro-active approaches to addressing the abuse and neglect of children and young people with disability (Issues Paper). Retrieved from https://epubs.scu.edu.au/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1111&context=ccyp_pubs

Royal Commission into Institutional Responses to Child Sexual Abuse. (2014). Interim report. Retrieved from http://www.childabuseroyalcommission.gov.au/about-us/reports

Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). Criminal justice report: Executive Summary and Parts I-II. Retrieved from http://www.childabuseroyalcommission.gov.au/policy-and-research/our-policy-work/criminal-justice

Sandelowski, M. (2000). Focus on research methods: Whatever happened to qualitative description? *Research in nursing and health*, *23*(4), 334-340.

Sandelowski, M. (2010). What's in a name? Qualitative description revisited. *Research in nursing & health*, *33*(1), 77-84.

South Eastern Centre Against Sexual Assault and Family Violence. (2013). *Feelings after sexual assault*. Retrieved from http://www.secasa.com.au/assets/Documents/feelings-after-sexual-assault.pdf

Stanley, N., & Humphreys, C. (2014). Multi-agency risk assessment and management for children and families experiencing domestic violence. *Children and Youth Services Review, 47(1)*, 78-85.

Steele, L. (2014). Disability, abnormality and criminal law: Sterilisation as lawful and "good" violence. *Griffith Law Review, 23*(3), pp.467-497.

United Nations General Assembly. (2015). *Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence* (Human Rights Council Twenty-Ninth Session Agenda Item 3). Retrieved from blog.unwatch.org/wp-content/uploads/Res-Domestic-Violence.docx

United Nations. (2015, November). Serious concerns about human rights violations against Australians with disability. Retrieved November 14, 2017 from Women With Disabilities Australia website http://wwda.org.au/united-nations-serious-concerns-about-human-rights-violations-against-australians-with-disability/

Victoria. Commission for Children and Young People. (2015). "As a good parent would …": Inquiry into the adequacy of the provision of residential care services to Victorian children and young people who have been subject to sexual abuse or sexual exploitation whilst residing in residential care. Retrieved from https://ccyp.vic.gov.au/assets/Publications-inquiries/as-a-good-parent-would.pdf

Victoria. Office of the Public Advocate. (2010). Violence against people with cognitive impairments: Report from the Advocacy/Guardianship Program at the Office of the Public Advocate. Retrieved from http://www.publicadvocate.vic.gov.au/our-services/publications-forms/10-violence-against-people-with-cognitive-impairments?path=

Victorian Equal Opportunity and Human Rights Commission. (2014). Beyond doubt: The experiences of people with disabilities reporting crime. Research Findings. Retrieved April 12, 2017 from http://www.humanrightscommission.vic.gov.au/our-projects-a-initiatives/experiences-of-people-with-disability-reporting-crime

Victorian Health Promotion Foundation. (2011). *Preventing violence against women in Australia*: *Research summary*. Retrieved from VicHealth website https://www.vichealth.vic.gov.au/.../vh_vaw%20research%20summary_nov2011.ashx

Victorian Law Reform Commission. (2004). Sexual offences: Final report. Retrieved from http://www.lawreform.vic.gov.au/sites/default/files/FinalReport_0.pdf

Victorian Ombudsman. (2015). Reporting and investigation of allegations of abuse in the disability sector: Phase 2, incident reporting December 2015. Retrieved April 13, 2017 from https://www.ombudsman.vic.gov.au/getattachment/45e28c63-24b0-4efd-b313-85f4f6e44d3f

Walters, A., & Longhurst, S. (2017). *Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment*. Melbourne, VIC: Human Right Law Centre.

Women With Disabilities Australia. (2004). *Submission to the South Australian Government's discussion paper: "Valuing South Australia's women: Towards a women's safety strategy for South Australia"*. Retrieved from http://wwda.org.au/issues/viol/viol2001/saviolsub/

Women With Disabilities Australia. (2010). Assessing the situation of women with disabilities in Australia: A human rights approach. Retrieved from http://wwda.org.au/wp-content/uploads/2013/12/WWDAPolicyPaper2011.pdf

Women With Disabilities Australia. (2013). Stop the violence: Report of the proceedings and outcomes. Retrieved September 11, 2017 from http://www.stvp.org.au/documents/STVP%20Outcomes%20Paper.pdf

Women with Disabilities Victoria. (2014). Voices Against Violence. Retrieved April 6, 2017 from http://www.wdv.org.au/voicesagainstviolence.html

Women With Disabilities Australia. (2017a). *Human rights workbook* (1st ed.). Hobart, TAS: WWDA.

Women With Disabilities Australia. (2017b). *Submission to the Committee on the Rights of Persons with Disabilities. List of issues [Australia] to be adopted during the 18th Session of the Committee on the Rights of Persons with Disabilities*. Sydney: Disabled People's Organisations Australia.

Woodlock, D., Western, D., & Bailey, P. (2014). *Voices Against Violence: Paper 6: Raising Our Voices – Hearing from with Women with Disabilities*. Melbourne, VIC: Women with Disabilities Victoria.

Appendices

Appendix 1: Women, disability and violence: Creating access to justice

Questions for women

1. What made you interested in coming to talk to us about violence today?
2. Who would you go to if someone was violent to you? (Prompts: Your carer, your service organisation, the police) Who have you told? Who would you tell if you experienced something like this?
3. How do you think people should respond when you tell them about violence? Can you tell me about a good response you've had?
4. Where do you feel safe? What does that mean to you?

Stakeholder questions

1. In your role, what are your key responsibilities? (Key mission e.g. universal or general?)
2. What do you see as critical barriers for the reporting of violence against women?
3. What specific barriers and issues impact on women with disability in reporting violence?
4. What specific barriers and issues inhibit women with disability accessing justice?
5. Are you aware of any programs or initiatives that support the access of women with disability?
6. In your view, what would be valuable/important reforms or developments to address the specific issues of violence facing women with disability?

Appendix 2: Recruitment, participants and supports

Recruitment process

The recruitment process entailed accessing the extensive networks of PWDA and the broader DPOA group.

Many of the participants were drawn from PWDA's extensive state-based networks. These networks have been built both through PWDA's individual advocacy locations across NSW, and through their professional networks with other organisations and services, including other DPOs and advocacy organisations. PWDA has individual advocates located in Redfern, Bowral, Sutherland and Queanbeyan; a systemic advocate located in Ballina; and a systemic advocate located in Melbourne. These, and their surrounding areas, were key locations for focus groups and individual interviews.

Over the course of the project, we expanded our methods of outreach and recruitment. Initially, emails were sent out widely to networks, outlining information about the project, the selection criteria for participants and asking for recruitment assistance. As the project progressed, follow up emails and phone calls proved useful in recruiting participants. Information about the project and options for participating was also provided via PWDA's social media and newsletters. DPOA and other representative and advocacy organisations across NSW and Victoria also shared and distributed this type of content. A number of participants were also recruited through having in-person conversations about the project with PWDA's clients and members.

Over the course of the project, we expanded the methodology to include individual interview options, as a number of women expressed a desire to participate in a more private manner. We were also approached by some women who wished to contribute via phone and email. These different types of participation were subsequently clearly promoted in all recruitment material.

In recruiting participants for phase one of the project, PWDA also sent information out to a wide variety of services and organisations working in the violence prevention and women's health sectors. Additionally, the Monash research team has strong relationships with mainstream domestic and family violence services and community legal centres. These relationships were also leveraged to assist with the recruitment of participants.

Safety considerations of the women who participated

This project used a range of different ethical protocols in relation to engaging people with disability. These occurred primarily through the focus groups and interviews.

Informed consent procedures worked within the framework of Easy English to ensure all potential participants received information in a mode that facilitated meaningful consent. These consent forms outlined that if the participant did not want to continue with the focus group or individual interview, they could stop participating at any time. Each participant was given the opportunity to ask questions about the consent form or research processes at the beginning of the focus group or individual interview.

At the start of each interview and focus group, it was also made clear to each participant that they would receive a gift card even if they changed their mind about participating or ceased their involvement at any point. This $50 gift voucher was provided to all phase one research participants, to facilitate their participation, and to thank them for their time and contributions.

At each location, two spaces were made available. One of these was a large room in which the focus group or interview took place. The other was a private space for participants to access in case they needed some space and time away from participating in the research. This also afforded them privacy to access support from a counsellor or advocate, if required.

Safety considerations were taken into account throughout the course of the project. Prior to holding any focus groups or interviews, the research team sought the assistance of some expert facilitators. WWILD (a Queensland advocacy

organisation that supports people with intellectual or learning disability who have experienced sexual assault or other crimes) subsequently ran a facilitation training session with the research teams at both Monash University and PWDA. This training provided information about working with women with disability, and outlined some techniques for facilitating safe yet robust engagement.

For most of the focus groups, facilitation was a collaborative process that typically involved a research team member and a local facilitator who was known to the participants. This was seen as a way of maximising rapport.

Safeguards were built into the focus groups and individual interviews. At the beginning of the focus groups in particular, the co-facilitators outlined clear group guidelines, particularly around respecting diversity of opinion, and allowing all participants to contribute their experiences and thoughts. Gentle reminders regarding these guidelines were provided on the odd occasion, but overall, participants respected their fellow participants and the diversity of experiences.

Experienced counsellors and facilitators were critical to the creation of safe and open spaces for women with disability to share their experiences of violence.

Counsellors and facilitators were typically sourced from local non-government organisations, sexual assault or violence services, and/or women's health services. This was important to ensure that focus group participants had direct access to local supports should they have required it. In all focus groups and individual interviews, participants were provided with accessible information about local counselling and other support services that they could access.

Support workers who accompanied women were often from local disability services, or employed directly by the individual through their NDIS plan.

The work of PWDA is underpinned by human rights and particularly guided by the Convention on the Rights of Persons with Disabilities (CRPD). We ensure that people with disability are provided with the supports they need for full participation in activities, such as the focus groups for this research. We had an allocation in our budget to ensure that any supports a person with disability may require to participate could be provided. Participants were offered taxi vouchers and other reimbursements for travel where required. In addition, prospective participants (and organisations distributing information about the project) were informed that funding was available to pay for Auslan interpreters, technological, communication and advocacy supports, should they require any such supports.

The presence of individual advocates and/or counsellors at the focus groups allowed the opportunity for on-the-spot support if required. The involvement of individual advocates and counsellors was also useful as it provided the participants with a local contact to get in touch with if they wanted ongoing support after their participation.

After their involvement in either focus groups or individual interviews, participants were provided with an information sheet about the research (also available in Easy English). They were also given a list of local services, focused particularly on counselling and support services. This ensured that they were aware of where to go to get any help should they experience distress after their involvement with the research. Funding was also made available for participants to access counselling support if they required assistance after their focus group or individual interview.

Sample characteristics

In total, 36 women participated in this research. Twenty-two of these women were from NSW, and 14 were from Victoria.

Phase one fieldwork was performed in urban and regional locations in Victoria and NSW.

In NSW, quite a few participants lived in and around Sydney. Five participants lived in Newcastle, four participants lived in Wollongong, and one lived in Lismore.

In Victoria, the majority of participants lived in and around Melbourne, and four participants lived in regional Victoria.

This page has intentionally been left blank.

This page has intentionally been left blank.

ANROWS

ANROWS

AUSTRALIA'S NATIONAL RESEARCH ORGANISATION FOR WOMEN'S SAFETY

to Reduce Violence against Women & their Children

