# CORRECTED VERSION

## LAW REFORM COMMITTEE

## Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers

Melbourne— 7 November 2011

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Coalition for Disability Rights:

Mr K. Stone, Executive Officer, Victorian Advocacy League for Individuals with Disability (VALID);

Ms R. Lawson-Street, State Manager, National Disability Services Victoria;

Mr J. Lo, Policy Officer, National Disability Services Victoria;

Ms D. McLean, Advocate, VALID;

Mr J. McKenna, Advocate, VALID;

Mr K. Jenkins, EW Tipping Foundation.

**The CHAIR** — Welcome, everybody. My name is Clem Newton-Brown, I'm the Chair of the Law Reform Committee. This is a Committee which is set up by Parliament to inquire into various matters, this Inquiry being one of them, and we are calling for submissions from the community and we will be reporting to Parliament with recommendations at the end of it so the information you give us is very helpful and very valuable. Thank you all for coming in today.

We are pretty informal so you can assume we've read your submissions but if you can talk us through the main points you wanted to highlight and we will probably ask some questions as you go. Anything you say here is covered by parliamentary privilege but not outside the room, so just be aware of that in case a journalist asks you to repeat something that you may have been expecting to be privileged. This is all recorded and there will be a transcript prepared, which you can check over when it's been done.

If you could start by perhaps going through each of your names for the transcript and what organisations you represent and also the address of the organisation. The Coalition for Disability Rights, is that an umbrella group?

**Ms LAWSON-STREET** — I'll have a quick word to introduce — —

**The CHAIR** — Perhaps if we could start by going through all the names first. If you have different professional addresses, if you could give your address with your name as well, please.

**Mr McKENNA** — My name is John McKenna, I'm an advocate with VALID, 235 Napier Street, Fitzroy. I'm here as an advocate and also to share my experiences with my role working at the Port Phillip Prison in a joint treatment unit called the Mulberry Unit.

**Ms McLEAN** — I'm Dariane McLean. I work for VALID as an advocate, particularly supporting individuals who present with high complex support needs, but I'm also the parent of a young man with complex needs as well.

**Ms LAWSON-STREET** — I'm Rhonda Lawson-Street, I'm the State Manager for NDS, National Disability Services, which is the peak body for service providers of disability services nationally and in Victoria. Our address is Level 10, 369 Royal Parade, Parkville.

**Mr STONE** — I'm Kevin Stone, Executive Officer with VALID. VALID stands for the Victorian Advocacy League for Individuals with Disability, 235 Napier Street, Fitzroy. We're funded by the State Government to provide advocacy support to people with intellectual disability and their families across Victoria.

**Mr LO** — I'm Jieh-Yung Lo, I'm a Policy Officer at National Disability Services, Victoria. I provide a secretarial support to the Coalition for Disability Rights and our address is 10/369 Royal Parade, Parkville.

**Mr JENKINS** — I'm Karl Jenkins from EW Tipping Foundation and our address is 1036 Dandenong Road, Carnegie. I've had 15 years of experience working with different types of offenders and coming along with some models, we're basically developing models with people with disabilities, ABI, which has become part of ACSO, and I've come along to offer some expertise.

**The CHAIR** — All right. How do you want to do this? Is one of you going to be the spokesperson?

**Ms LAWSON-STREET** — I will make some introductory spokesperson remarks and then we've actually agreed that we will work through the recommendations and NDS and VALID will lead on different parts of those recommendations and draw in others with more direct ground level experience as we go through the recommendations.

**The CHAIR** — Okay. Just so you're aware we've got until 2 o'clock.

**Ms LAWSON-STREET** — Yes, we could take a long while. Thank you for the opportunity to speak with you today. We did want to congratulate the Minister for calling this Inquiry. As a coalition we have been concerned about this particular issue of the over-representation of people with intellectual disability and acquired brain injury in the corrections system for quite some time. In fact, in our election statement of 2006 we called for an Inquiry of this kind to occur so we're really pleased to see it actually taking part of the agenda at this time and the issues, we believe, are really critical.

I think you understand from the submission that the Coalition for Disability Rights is a coalition of organisations that cover the whole spectrum of disability concerns so it covers service providers, carers and advocates for people with disability. It's a broad ranging coalition where we come together really for issues of major priority and shared concern. So we don't tackle everything that comes our way but we do tackle those issues that we feel collectively affect the breadth of the coalition but are quite strategic and most significant for achieving the best outcomes for people with a disability and their families. I think you've seen the members who have signed off to this particular submission. They cover a range, including advocacy organisations for children and for youth as well as the organisations present and Carers Victoria.

In going to the recommendations, what we thought we would do is just work through them in an allocated fashion, and I'll give an overview initially and Kevin will give an overview of those that he's taken prime responsibility for and call in those people who can elaborate on what we've actually written in the submission.

Starting with recommendation one, the issue of a state-wide response model for service providers to directly support clients in early intervention programs, I think you would be aware from this and other conversations that the service system supporting people with disabilities is extremely stretched. You probably are also aware that the 2011 Productivity Commission Inquiry into a long-term care and support scheme talked about it as an inadequate, fragmented, highly rationalised and limited system of support and care. Fundamentally, early intervention is one of those areas that keeps missing out because, as in all these scenarios where there is a crisis around funding, the attention and the response gets picked up at the crisis end, not at the prevention and early intervention end. There are many examples, and the National Crime Commission's early work on Pathways to Prevention that you're probably well aware of, talks about the economic return of early intervention, talks about the absolute cost savings and substantial gains that come with investing funds right upfront to ensure that behaviours aren't compounded and that progressively more severe and cost intensive forms of intervention aren't required.

When I'm thinking about early intervention, there are some major planks within that that I think are important. One that is really important is the value of diagnosis and appropriate management of co-morbidities; we have the co-morbidities that exist with intellectual disability, of mental health, and of drug and alcohol use, sometimes all three of those conditions coexisting, and we find behaviours becoming escalated and more severe when those co-morbidities aren't understood and aren't addressed and aren't given the attention they need before there are some severe consequences and behaviour.

There is also a great value in recognising the skill required of staffing in programs supporting people with intellectual disabilities and ABI, if you don't mind me shortening it that way. There's a whole range of specific behavioural prevention that's possible, it's around recognising triggers to behaviour escalation, and investing in the staff skills to actually understand these triggers and know really how to read cues and understand in fact that boredom can be a major precursor to aggressive behaviour or that frustration can be a major trigger if communication is a problem and communication isn't being understood. Frustration can be one of those escalating features that can result in assault or other forms of antisocial behaviour.

I would like to bring to your attention a piece of work that's a research piece currently underway. It's been substantially undertaken by Latrobe University and the Tizard Institute from the UK Tizard Centre, I believe it's called. The research has been up and running for several years now, it has about six or nine months still to go. It's been funded by the Office of the Senior Practitioner here in Victoria and it is partnering with member organisations of NDS. These partners include the services Annecto, Golden City Support Service, Yooralla, the eastern region of DHS, and Jewish Care. This work is focusing on active support and it's about reducing the hazards in behaviours of concern, so it really is about developing a far more sympathetic and sensitive understanding of the precursors and triggers to behaviours of concern and refining communications such that behaviours are much more readily managed because they're de-escalated. I think that's going to have some important recommendations for your attention but the actual report won't be in for six to nine months yet. In terms of a systematic understanding of what helps with early intervention, these are some of the key features and resources that might be possible.

We know that social isolation is a major form of frustration and isolation and leads to potentially a criminal pathway. We also understand that those forms of support and early intervention that reduce social isolation and increase social participation are going to actually be positive in terms of reducing any pathway to criminal behaviour. These social participation opportunities are being provided increasingly but it's again about where are the resources being placed, and it really does refer to the need for the breadth of support needed to intervene early: the primary needs around accommodation, having adequate accommodation that prevents people from being homeless; around having proper health care that does address the co-morbidities I mentioned but also ensures that people aren't living with chronic pain conditions, for instance, whereby pain can contribute to aggression and those sorts of behavioural responses. I think those are primary forms of care that are absolutely essential and do have an impact on pathways to engage with the corrections system. There's a need for relationship skills training. You would understand that people who have some intellectual limitation or impairment, including autism, may not understand behaviour cues well, don't really recognise when they're upsetting or offending someone else, so working to assist people with behavioural training can be quite valuable as an early intervention process.

Similarly, I think there are ways in which supporting people with everyday living skills makes a real difference: so that you're actually assisting people to be skilled in their daily endeavours around shopping and looking after themselves and budgeting, those sorts of features; that people are better skilled and better equipped and are less likely to get into altercations of one sort or another or into situations of major debt where something might actually send them down the wrong path. In saying all of those things, I would like to add that there are particular groups of concern, including Aboriginal people and other multicultural groups in our society, for whom all of the issues are compounded, so that the extra disadvantage that comes with a disability and one of those experiences of origin tend to add to the load and the probability that there will be a negative outcome in the criminal pathway.

Realising that we've got limited time, I could add far more elaboration but I think I will wait for your questions and pass over to Kevin at this point.

**Mr STONE** — Rhonda has focused on the aspect of the offender, or potential offender. I guess I would say ditto in terms of early intervention for people who are prospective victims. As an advocacy group, we support both people who are involved as offenders but also probably a lot more people who have been victimised in different ways, exploited, neglected, abused physically, sexually, financially. I have to say that the majority of cases that we get involved in never needed to have happened had there been good pre-emptive, proactive training, support, education and not to get too deep and philosophical, but certainly we've come to the conclusion that one of the fundamental issues for people with intellectual disability and cognitive impairment is their own sense of powerlessness, their own sense that they are not legitimate, equal citizens of Victoria. So when they get beaten up, when they have a staff member come into their room late at night to abuse them, when their mum or dad is ripping their money off them, they don't have any sense that they can actually go to the police or speak up or tell someone about it, so we see this suffering in silence as indicative of this really negative image that people with disabilities have developed over the years, for obvious reasons. We believe very strongly that early intervention must take a very proactive human rights focus.

One of the best things to have happened — I don't know what people's views are about this, but from our perspective one of the best things that's happened over the last five years has been the Charter of Human Rights. The introduction of that framework of rights and responsibilities has allowed us to run training amongst people with disabilities to actually empower them: you are an equal citizen, you have to obey the law, you have to protect people's property, you have to respect other people. It's given us and others the opportunity to have those sorts of conversations and what we would say is that needs to be resourced, that's a really proactive approach to helping to ensure that people with disabilities will stand up and go to the police when they need to.

Does anyone else have anything they wanted to add to that around early intervention before we move on? Okay, let's move on.

**Ms GARRETT** — Can I just ask a question on that, because we had previous evidence before this Inquiry — I can't remember the group — saying that often another compounding factor is the person who is the abuser is the person whom the individual is most dependent upon.

**Mr STONE** — They're trapped.

**Ms GARRETT** — Yes, they're trapped. Is that your experience?

**Mr STONE** — That's a common experience, yes. We're dealing with a number of cases right now where you can say that is exactly the case, where family members have taken advantage of a person with a disability. Just to be current about it, it's a case we're dealing with right now where a young man who inherited a house from the mother, a young man with a disability, was turfed out by his brother and their family. He was made to go and live in an SRS — Supported Residential Service. Bad enough that he got kicked out, but for the last five years he's actually been paying their rent; it's financial exploitation. Had he not actually contacted us after a long circuitous route to get to us, he would never have known that he actually had the right to do something about it. We've now involved the police, we've solved it, but it was more by luck than anything else.

**Ms GARRETT** — Just a further question on that and using that as an example, is there enough training or understanding at every juncture in which a person with an intellectual or cognitive issue comes up against to reinforce their rights?

**Mr STONE** — I guess that's what we would want to say.

**Ms GARRETT** — That's missing, there's gaps.

**Mr STONE** — We think that one of the most proactive things that can occur is a systematic, sustained campaign of awareness-raising both amongst people with disability and their families, because it's often their families who have the secondary issue, but also amongst the police that people with a disability are equal citizens. You can't do things to them just because they can't speak back. There is a real need for that sort of public awareness raising and very much a need for more targeted campaigns for people with intellectual disability. One of the things we have to constantly remind ourselves is that people with an intellectual disability actually learn at a different rate and they need particular approaches to teaching, they don’t necessarily learn from the same things that everyone else learns from, so you need materials which are actually tailored to educate them. I won't say any more than that.

**Mr NORTHE** — Sorry, Kevin, I don't want to dwell on it too much either, and I'm a firm believer in taking a proactive approach to stop these types of scenarios and examples happening, but in reality from a practical sense I'm not sure. How do you stop that type of thing happening? If it is a close family member that's taking advantage of this particular person, what do we put in place to ensure it doesn't get to that point?

**Mr STONE** — Maybe Dariane would like to comment on that.

**Ms McLEAN** — What's in place for any other person to avoid that happening; how we educate our kids who don't have disabilities in high school and what organisations are there out there in society who are raising concerns where it's occurring within a family, the natural, already available resources for people without disabilities.

**Ms GARRETT** — On that example with that individual, should there have been red flags raised at various junctures, like why has your address changed, why are you paying rent in a different — were they having any other service providers who should have — —

**Mr STONE** — Not actually service providers but certainly systemic points.

**Ms GARRETT** — Systemic points where someone would go: this doesn't pass the smell test.

**Mr STONE** — That's right. I guess we could sort of dwell on this a lot but we believe that people need advocacy support and we believe that families are the most natural form of that but sometimes it can be the family. Let me just say more advocacy, more support networks for people, more opportunities. You and I, we came out of school and we formed other relationships and we got involved in different groups. Many people with intellectual disabilities don't have the skill, the capacity or the opportunity to do that so they are very, very restricted in the opportunity to actually talk to other people and to be reinforced in that understanding. A way to do it is by supporting support groups, self-help groups, self-advocacy stuff. We're a statewide organisation and we're funded for the equivalent of one and a half advocates for the whole state. The Court Support Network out of the Office of Public Prosecutions which supports people involved in some pretty heavy cases, there are only six advocates and six staff for the whole state. It's not enough.

**Mrs PETROVICH** — And they are metro based?

**Mr STONE** — Yes. Very rarely get out into the country so advocacy groups like ours who are out there will be called upon but all are very stretched.

**Ms LAWSON-STREET** — Building on Dariane's point too, the importance of curriculum work perhaps in the schools too.

**Mr STONE** — Because it does start there, it starts with what people expect in the community and schools are the place to start.

**Mrs PETROVICH** — In the area that I represent there's a little group that is called Windarring and it does some fantastic work. I think it creates a lot of those sorts of opportunities that you're talking about because there are employment opportunities, there is independent living, there are residential opportunities and there are support groups that come out of that. How widespread is that sort of support across Victoria?

**Ms LAWSON-STREET** — I think it's there in greater and lesser degrees. As you would be aware, the policy of the Victorian disability system is in change, that we're looking progressively to the world of an NDIS, a National Disability Insurance

Scheme, and the major implications that that has, but there is a lot of good work going on and I'll get Karl to talk a little bit about some of the work his services do in the immediate pre release and post release stage. There is really useful work going on in lots of places but often we as service providers don't see the victim’s experience, if you like; we can see what we can do to support and enable better living experience, better quality of life and avenues to take part in employment and social engagement, but we don't necessarily see that experience.

**Ms GARRETT** — This is important for us. With respect to you as service providers, is there something in your day-to-day work which would be about training individuals about their rights or how they can best exercise that?

**Ms LAWSON-STREET** — Our focus in terms of the service provider part of the picture is that we work with services to train staff in services around human rights and the way they work with people with disabilities. So it has implications for how difficult behaviours are managed, for instance, it has implications for what choices people are given rather than just imposed on them: "Sorry, we're doing this today so bad luck if you don't want to do it." That's where our emphasis comes from, whereas the advocates' emphasis comes more from working directly with the individuals themselves. The pieces of the pie mix up and we do work jointly on various things but I suppose in our total responsibility we are looking to our services delivering the right kind of quality and understanding of the human rights of the people whom they're supporting. Does that answer your question?

**Ms GARRETT** — Yes. I'm very interested in what assistance is given for people say, for example, if they are in access to services, be it some financial assistance or day-to-day living services, is there somewhere that happens which said this is your money and no one should be taking that money from you, in a simple terminology, and if there isn't do we need to address the gap?

**Mr STONE** — For those who are fortunate enough to be in good services, and a lot of the Victorian disability services are very, very good, they will be getting that training and support, they will be getting it as part of their support package. Many people with disability are not involved in services, they can't get jobs, they're out there in the community, or they're part-time within services, and there are some services that don't talk to people about their rights, it's a different approach, particularly if they're work-orientated type services, they haven't got time, and nor are they skilled or funded to do that, it's a completely different approach. We would also be saying that it needs to come from an independent source because often the rights that we're talking to people about are also not just their human rights but their consumer rights, their right to actually complain about the quality of the services they might be getting.

**Ms LAWSON-STREET** — I might just skip over recommendation four other than saying that we have the view that the broader cross-government engagement, including organisations like ourselves, in coming to deal with these issues will bring better outcomes for early intervention and prevention, I believe, than perhaps the limited protocol that exists currently between DHS and DOJ. We think that the engagement needs to be systemic and understand the whole of life context for better outcomes.

Moving onto recommendation five in terms of case management support to people with an intellectual disability prior to release and in fact post release, I first of all refer to Karl who has got some specific program experience to describe to you, and John who has done some specific work in a piece of work within a custodial situation.

**Mr JENKINS** — Basically we've developed Vista, a community support part of EW Tipping. We've basically developed programs as we see that people with disability in prisons getting out do struggle without direct support, without some case management. We did have residential settings where there would be 24 hour support but unfortunately getting funding for those programs is difficult at times so what we've done is develop a model to be more of a wraparound model with the limited funding that maybe we get 40 hours support or 100 hours support, and we basically work this program around getting them social skills, basic skills like cooking. I got a recent guy who came out, he couldn't even crack an egg, or he'd put a can of soup in a microwave, because he didn't understand that's not what you do, so they didn't have any cooking skills, they just eat KFC, so they don't understand healthy eating.

Our support is about getting them in the community. Being in prison, they don't know how the community works when they get out. In prison they learn survival skills, they learn to present well in prison, so when they get out they present well but you ask them a question and you think they understand, so as support we've got to say: you've got to tell people you don't understand. Together I think we basically get the person what they need because they clearly can't advocate for themselves and having support they just sort of know what they need. Going to Centrelink, for example, they don't realise they need to stand in a line, they don't understand about waiting in line, just simple things like that, so our support is about getting them skills that the prison has deskilled so getting back to learning basic skills to live independently, and also knowing what their rights are in a sense of going to Centrelink and what they're entitled to, even though they don't understand the support pension guidelines and things like that. So getting connected back and then getting them back in the community doing activities where they're used to maybe antisocial activities, and get them involved in recreational activities and bettering themselves and getting them jobs.

Sometimes we work at a low level where they might push a trolley in a supermarket but we build up on that, and also just getting out there and getting other services that they may not engage as well. The big thing is that they’re not aware of other agencies that can support them, so part of our role is to get them to the Men’s Shed, there's a lot of good local council things, and we help with that. So our program is really about trying to get them to get a certain level of living, basically human rights, a right to live in the community with access to services like everyone else, but they do struggle and sometimes you have to keep repeating the support and that's where it struggles because they're expected to give all these supports and they're expected to do really well. They don't always do that well but I think we measure it as we don't have the high expectations, I take small things that they get, small achievements, and then I build up on that and I think that's how we should look at it. I think we've got to look at what they achieve each time they get out, or what they're achieving individually, and then we praise them and I think we work that way so it's a different approach that we're trying and I think it's working, I think a lot of organisations are trying it. It's about engagement, engaging them, and getting them back in the community. They don't always know what to do with that engagement so we have to work on that.

**Mr NORTHE** — What numbers are you talking about, Karl?

**Mr JENKINS** — It's increased because currently in prison, people with disabilities, because of the change in the Act, acquired brain injury was included and because of their risky behaviour and their lifestyles they have got acquired brain injuries, so they've got a lot of people who are getting out that have got disabilities and they struggle, so probably 30 per cent of people with ABI. I know the Justice Department have set figures on that. Peter Persson has done a research paper, the Justice Department has done a lot of work on identifying the increase in disabilities. I think also from personal experience going to court, sometimes the Magistrates don't know what to do with a particular person so they put them in prison thinking that's a place to be assessed and supported but it's not, and then they end up being put back into the community and being in a prison experience is not great for somebody with a disability if they haven't got those survival skills as well; they can become victims if they're put in there. I've had an example of a client stealing a can of Coke 50 times and they finally didn't know what to do with him and put him in prison and it's just not the way to respond to that. It goes back to having early intervention and stuff like that.

**Mr NORTHE** — I was going to ask, if it's all right, make sure it's appropriate right now, one of the aspects of the submission talks about the alternative dispute resolution setting and I'm interested to maybe hear a bit more about that. Whether it's appropriate now or John speaks first, I will leave it up to you, Rhonda.

**Ms LAWSON-STREET** — John is happy to speak first.

**Mr McKENNA** — I guess my input into this conversation is the fact that Peter Persson from the Department of Justice invited me to run a series of focus groups at the Mulberry Unit at Port Phillip Prison, and part of this is the Disability Action Plan that Corrections Victoria run and they were very keen to know about the Mulberry Unit, which is a joint treatment unit, 33 beds, on what's going through the guys' heads, with the idea of let's try and reduce the recidivism rate, of course, stop them reoffending. I ran them over a two year period, ran big focus groups and also smaller ones, and it was great, it really was. I learnt very quickly that there are no bad people, there are people with bad behaviours, and I think that's a really important thing to remember to take away from myself. My questions were all about how they were feeling there, what's working, what's not, and really became a two-way conversation because they were able to look at me and say: wow, you're a mess, you have a disability. We got that really nice conversation going and I was able to talk about the advocacy and support that I have had as a person with a disability.

One thing they struggled with, of course, is when it's appropriate to identify as having a disability and understanding the pros and cons. So it's yes, of course you can access services if there's funding attached, if you're not disabled, obviously a bad guy, it's all of that, so these are the sort of conversations. The report, by the way, is available if you wanted to look at it, we've got the recommendations in it. But at the end of the day, sure they're bored, they don't want to re-offend, they're really interested to know about disability supports because it's the fear. It's also about being valued, if they're not valued they're going to stuff up again, but if they know it's about employment, they know what's going on a bit more and everybody is at different levels as far as their cognitive ability to understand.

I spoke a lot about the work that VALID does and I do when meeting people on the train about there's a lot of help out there, and they say: this is good because I have got my mates here but if I go back and see my mates in Shepparton I'm going to get in trouble again. So they can be steered and directed. After two years, unfortunately I saw some guys: oh, Jack's back again. That was a bit disappointing, of course, but instead of hitting someone on the head he broke a phone box so he thought about it. I was really impressed about his decision-making and some of his triggers, what upset him, why he did certain things.

To summarise, yes, there are big gaps when people are leaving prison. At least they're involved with an advocate and someone to put them on track to understand this is where you can go. I think it's all very positive but I'm happy to answer any questions.

**The CHAIR** — We've got about five or six minutes left.

**Ms LAWSON-STREET** — You had a story, Dariane, or a case study?

**Ms McLEAN** — I've got a few case studies in the submission but I guess I will need to talk to my own very quickly, or my son's. I have a 33 year old son who has autism, severely affected by autism. He currently has over — I'm not quite sure of the exact number — 200 missing person reports on the LEAP database. I advocated for him, with Kevin's support I might add. He left us at 21 and went into supported accommodation, they chose to lock him in. He just kept getting out, self-harming, massive property damage. He is now living in the community in a rented house, but we've had to work really hard because when he's out in the community he doesn't always abide by the laws because he simply just doesn't have the capacity. We're working on all of that and we see that we're probably looking at least a two year window before we see significant change.

**The CHAIR** — How old is he?

**Ms McLEAN** — 33. Because he was locked in, that's actually set him up to fail and now we're having to sort of undo a lot of that work. My story is that eventually I was able to work with the police in such a way that they were supportive rather than saying: look, this is totally a nuisance, we'll lock him up. And they were happy to lock him up for the rest of his life without actually considering what that meant for him in terms of his mental health, breach of his human rights, and the lack of opportunity to do the sort of training that was referred to before.

**Ms GARRETT** — Is that the local police?

**Ms McLEAN** — Yes. In his case we've actually had to work with many local police because he walks from Greensborough to Frankston, or Greensborough to Narre Warren or Footscray or wherever.

**Mr STONE** — He checks himself into the police station.

**Ms McLEAN** — He does. At the end of the day I've been able to get the Department to change their protocol, the police to change theirs so that he's not reported missing before 11 o'clock at night. Now he voluntarily most days goes into a police station, they ring and say: he's here ready to go home. We're about to do travel training so that he's actually not walking a lot but I've had to work really hard to get police to change their mentality that here is a person who is a nuisance who shouldn't be out in the community, he should be locked up. In fact, we had a challenge at VCAT for guardianship on that point so there certainly needs to be — —

**Ms GARRETT** — Who from? You don't need to go into it.

**Ms McLEAN** — A concerned citizen. There were some interesting factors involved but the point is when we say about inclusion in the community for these individuals, sometimes their behaviours are not what the community feels comfortable with, and the instinctive response is put them away or lock them up. People are not thinking about what inclusion actually means so that means that individuals need to work collaboratively. We invite the police to come to case meetings, we've done that on several occasions, and their attitude changed completely because they saw the resources and the effort that was going into it. At the moment we're seeing a bit of a spike in some behaviour that's not good but we're saying: please, we expect this to be occurring, give us a two year window to really get some major change.

**The CHAIR** — Dariane, perhaps specifically in your son's case and also generally, what dealings have you had with lawyers? A previous witness today said there's problems in the communication of the understanding of what your lawyer is asking and what the question is and what the answer given is, there's a real problem there as to lawyers actually getting an informed answer. How could we better deal with that?

**Ms McLEAN** — Unless they're prepared to train lawyers specifically, there needs to be an intermediary between the lawyer and the individual.

**The CHAIR** — Obviously every person has a different disability and I imagine it would be difficult to train somebody to deal with all the different spectrum you could have, is there a role perhaps for an intermediary, is that somebody who knows the particular person and knows, when they're giving an answer, whether that's an informed answer or not?

**Ms McLEAN** — Absolutely, yes. I had a case where I supported a mother with an intellectual disability, who has a son with some challenges as well, and they ended up in the Children's Court. If I hadn't been there, her lawyer would have just absolutely walked all over her.

**Mr STONE** — Sold her out.

**Ms McLEAN** — Yes. Her behaviour was such that unless you knew, unless you understood, she could be misinterpreted quite badly in her intent, a whole range of issues.

**The CHAIR** — Do you think there is some value in a general training for lawyers in that here is some common examples for these types of problems that people have and how they may respond, or is it too individual to be able to do that?

**Ms McLEAN** — Particularly I think that certainly with individuals with intellectual disability, but also people on the autism spectrum, this is a critical area, because they are literal. So when you are questioning them, you have to be really careful how you pose the question, how you interpret their response. They can get themselves into trouble very quickly. Very, very quickly. For a start, in a legal situation they will be blatantly honest, but we're not saying that we want dishonesty in the legal system but you understand in a court situation, in a legal situation, often we have to be careful about the information we give out in context of the particular case.

In the case of the mother I'm talking about, they were struggling at home and the dad smacked the child so she rang up Child Protection straight away and reported him, because that's what you do when people are physical. It was a lot more complex than that — not that I'm endorsing that sort of approach, but then that started a whole process within the legal system.

**Ms LAWSON-STREET** — So the alternative dispute resolution sits well, I think, within that sort of context.

**Mrs PETROVICH** — In that sort of circumstance — through you, Chair — what's the circuit breaker, how do we make an assessment as a community about the appropriateness of a legal course of action? How do we actually flag that this person has a special need and they have an intellectual age of whatever and is not perhaps capable of fronting up to court on their own, and maybe the court system is not the ideal place for them anyway? Have we got any recommendations around how we have an assessment model that actually flags for the legal system and perhaps those representing these people that there are special needs?

**Ms McLEAN** — I would have thought that one of the things that could be looked at, and I'm not sure if one exists, is some sort of questionnaire that is actually scientifically put together with some very basic questions that straightaway anybody could administer that and understand what the outcomes of that mean.

**Mr STONE** — The New South Wales police have the Vulnerable Persons Card and a set of questions that go with that. Have you been informed about that?

**Ms GARRETT** — No.

**Mr STONE** — We will get some information around that. Certainly there needs to be — don't ask me what it is — but I do think we need to have a much better way of police being alerted to the particular behaviours of people that may have a cognitive impairment. We have cases where people have been picked up because the police thought they were drunk. Well, no, they have an ABI.

**The CHAIR** — Does any agency have a card that they give people with, for example, ABI?

**Mr STONE** — No, I don't believe they do but I'm just reminded quickly of an interview I did with a young man, and I see the gentleman from ACSO over there and he'll know exactly who I'm talking about. I did an interview with him recently and asked him that question, because he's in trouble with the police, has a lot of transactions with the police, because he's constantly being mistaken for a person who is violent and aggressive, and he's not; it's part of his behaviour. He said he doesn't want anything that is going to identify him as having a disability, he is not a disability, he's a human being. There's an issue here that even a term like vulnerable person — would you want to be called a vulnerable person and carry something like that around? I don't know what the answer is but I do think that we need to have a good think about it.

**Mr McKENNA** — I think it's gut feeling. At the end of the day, you meet someone for the first time, you've got to identify very quickly where things aren't sitting right. So it's about that person saying: you know what, I want to make some more enquiries, let's stop this conversation right now, let me think about it. I think that doesn't happen enough with the case load pressures that people have got. Next one. Let's try and deal with this now without acknowledging things like the independent third person.

**Mr STONE** — It will be interesting to see what the Public Advocate says around ITP.

**Ms McLEAN** — One of the case studies in here talks about situations where parents have an adult son or daughter at home who have a history of aggressive behaviour — and we have many people in this category — and it gets to the point where, for whatever reason, their son or daughter is highly anxious and out of control and they are attacking them or somebody else or doing harm to themselves. Their only option at the moment is to ring the police for backup and support. In a case that was referred to here, that's exactly what a mother did, who is dying of cancer, and has just been through absolute hell, calls the police, they storm in the door basically and push him to the ground and hold him there for almost two hours, and she was absolutely beside herself because she had called them and she had to sit there and witness this treatment to her son. This is a big problem. Particularly parents with kids with autism, you get to a point where you cannot control your own son or daughter so you have to call somebody, and the police is your only option in a crisis situation.

**Mr STONE** — Can I just explain. Dariane has referred a couple of times to case studies. Those case studies aren't in the submission you have in front of you. VALID did an additional submission to this one, still within the same framework, just to give more depth to some of these experiences. That's gone to you today.

**The CHAIR** — All right. Thank you very much for that; it's been really helpful.

**Ms LAWSON-STREET** — And any other questions, we're very happy to answer on-line.

**Ms GARRETT** — Thank you.

**Witnesses withdrew.**