**PWDA calls on candidates to commit to ending violence, abuse and neglect of people with disability; to ensuring that people with disability can enforce their rights through the justice system; and to addressing over-representation of people with disability in the criminal justice system.**

**THE SITUATION NOW**



**People with disability experience significantly higher levels of violence, abuse, neglect and exploitation than people without disability**. Many are trapped in situations of violence and abuse in the community and within a range of supported accommodation settings. Often violence against people with disability is characterised as ‘service incidents’ and inadequately dealt with ‘in-house’. Often there is little support and nowhere else to go. Flaws in legislation and policy also mean that people with disability are not provided with mechanisms for justice and redress.

**Mainstream domestic violence services are not uniformly equipped to assist people with disability.** In 2011, 43% of all women who experienced personal violence in NSW had disability or a long-term health condition[[1]](#footnote-1). A person may be restricted from using domestic violence, homelessness, refuge, or shelter services because policies limit or deny their access, buildings are inaccessible, interpreters are not provided or their support needs cannot be met.

**Incidents of violence and abuse against people with disability are frequently not investigated as crimes by police and lawyers, resulting in there being no mechanism for justice or redress.** This is due to attitudinal barriers including a lack of disability awareness and a failure to acknowledge people with disability as reliable witnesses. People with disability are therefore more likely to experience multiple episodes of abuse because perpetrators perceive little likelihood of sanction, police intervention or punishment if caught.

**People with psychosocial and/or cognitive impairment are vastly overrepresented in the NSW criminal justice system.** They are 3 to 9 times more likely to be imprisoned than people without disability and young people with psychosocial and/or cognitive impairment in NSW are 6 times more likely to be in prison than their peers.[[2]](#footnote-2) The criminal justice system should not be used as a management tool for people with disability in lieu of intensive early intervention and integrated supports and services.

**The NSW Disability Inclusion Act 2014 requires disability service providers in NSW to report allegations of abuse, neglect and exploitation of people with disability to the NSW Ombudsman.** This safeguard is limited to state funded services that provide accommodation, and excludes new non-government services emerging under the NDIS. In addition, the NSW Ombudsman powers do not include sanctions, penalties and the pursuit of redress for people with disability.

**WHAT IS NEEDED**



**An independent inquiry into violence, abuse and neglect of people with disability in NSW supported accommodation and residential settings.** This inquiry should address the gender and age-related dimensions of violence and abuse; investigate the adequacy of current NSW safeguard arrangements, suchas mandatory reporting to the NSW Ombudsman; and assess the adequacy of disability, justice and other service system responses. The inquiry should also canvass integrated NSW protection and response mechanisms that can interface with the NDIS Quality and Safeguards Framework, as well as mainstream NSW violence prevention and protection frameworks.

**NSW domestic violence policies, including the It Stops Here reforms[[3]](#footnote-3), must reflect the current legal definition of domestic violence, which recognises that perpetrators of domestic violence can include carers or co-residents of people with disability including those who live in supported accommodation settings.**The hard-won changes to the current Crimes (Domestic and Personal Violence) Act 2007 recognise the range of settings in which domestic violence can occur, but the policies, agencies and services designed to support survivors do not reflect the lived experience of people with disability.

**Implementation of enhanced practice and prevention measures to end violence and abuse experienced by people with disability.** The existing disability-specific measure in the ‘It Stops Here’ domestic violence reforms should be supplemented with disability awareness and responsiveness requirements. This should include disability awareness and skills training targeted at first responders to victims of violence such as police, community workers and those positioned to identify and assist victims of violence, including social workers, carers, health care professionals and disability service staff; as well as people working in the criminal justice system.

**Funding for mainstream services that support people escaping violence should be contingent on the achievement of performance indicators requiring services and facilities to be accessible and inclusive of people with disability*.*** Domestic violence services must address physical, informational, communication, procedural and attitudinal accessibility in order to ensure equality of access for people with disability.

**Development of a NSW Disability Justice Strategy[[4]](#footnote-4) to identify and address the legislative, policy and practice barriers** that prevent people with disability from seeking and achieving redress through the justice system; and that address the over-representation of people with disability in the criminal justice system.

**Holistic prevention programs are needed to end the incarceration of people with disability.**  Programs which address underlying issues such as a lack of early intervention and adequate and appropriate specialist disability support provision must be developed and implemented in tandem with the NDIS. The NSW Government must ensure the Criminal Justice Program (CJP) continues and that the support requirements of people with disability are met regardless of NDIS eligibility. ****

1. “Women in NSW 2014” Women NSW, Family and Community Services, p. 164 [↑](#footnote-ref-1)
2. Eileen Baldry, Ruth McCausland, Sarah Johnson, Anna Cohen (2013) “People with mental health disorders and cognitive impairment in the criminal justice system: Cost benefit analysis of early support and diversion”. <http://apo.org.au/research/people-mental-health-disorders-and-cognitive-impairment-criminal-justice-system-cost> [↑](#footnote-ref-2)
3. http://www.women.nsw.gov.au/violence\_prevention/Domestic\_and\_Family\_Violence\_Reforms [↑](#footnote-ref-3)
4. For more information, see [*Equal before the law – Towards Disability Justice Strategies*](https://www.humanrights.gov.au/publications/equal-law) (2014) Australian Human Rights Commission. [↑](#footnote-ref-4)