



# Breaking the Cycle



Using Advocacy-Based Referrals to Assist People  
with Disabilities in the Criminal Justice System

'Breaking the Cycle'  
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with Disabilities in the Criminal Justice System

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# Acknowledgements

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Many people contributed their time, skills and personal stories to the project. Particular thanks go to the people who shared stories about their lives and their contact with the criminal justice system. The stories have been used by the research project to try and assist other people who are repeat presenters before the Independent Third Person (ITP) Program. Thanks also go to the family members, ITP volunteers and professionals who took the time to be interviewed as part of the project.

The project benefited from the assistance of a reference group that was formed to provide expert advice to the researchers. The reference group was made up of representatives from the Youth Referral and Independent Person Program (YRIPP), Victoria Police, the Department of Human Services, Reinforce, VALID, Monash University and the ITP Program. OPA thanks the reference group for the information and feedback they provided over the course of the project.

'Breaking the Cycle' was a one-year research project undertaken by OPA. It arose as a response to the key systemic human rights and criminal justice issues identified by OPA's ITP Program. The program trains and manages volunteers to assist people who are believed to have cognitive impairments and mental illnesses in their interviews with Victoria Police. Through its management of the ITP Program, OPA has identified that there are a significant number of people with disabilities who are repeatedly presenting before the criminal justice system. The project explores the circumstances of these people, and investigates what can be done to assist them in 'breaking the cycle' of poverty, social isolation and contact with crime.

The structure and content of the report have been shaped by the interviews conducted by the project. Forty-six interviews were conducted with a diverse range of individuals, including people who have used the ITP Program, family members of people who have used the program, ITP volunteers, and professionals who work in the disability and criminal justice fields. The interviews have been used as the basis for the stories and case studies that appear throughout this report. The stories, in particular, explore the lived experiences of people with disabilities who have had repeat contact with crime. The stories emphasise that these people come from very complex and difficult situations. As one ITP volunteer put it, the difficulties faced by many of these people are often "outside our range of experiences". Some of the difficulties include acute social isolation, poverty, homelessness, lack of opportunity, being a victim of abuse or sexual assault, repeat contact with the police and, for some people, time in prison. However, the stories told by the people who took part in the project are also stories of hope. Many people indicated strong desires to get their lives on track. People identified that the key ingredients necessary to living a positive life included having a decent home, a network of supportive family and friends, and paid work. Some people also spoke about their desire to 'give back' to their community, and emphasised that they would like the opportunity to assist other people who are in need.

As many volunteers acknowledge, the impact of the ITP role can be difficult to measure and quantify. Therefore, an important outcome of the research is that it gives an insight into the ways in which ITP volunteers make a difference to the lives of people with disabilities who come into contact with crime. Invariably, the clients who took part in the research spoke very highly of ITPs. People emphasised that having an ITP 'on their side' made them feel 'safe' and confident that their rights would be protected in the police interview process. The interviews also reveal that ITP volunteers tend to have very positive relationships with their clients. The report explores how these relationships can be used as an opportunity to launch people into the support and assistance they require to live a productive and fulfilling life.

In addition to the interviews, the project undertook a literature review, examined recent policy initiatives that are relevant to the ITP client group, analysed ten years' worth of data from the ITP Program, and conducted a survey with 55 members of Victoria Police. Some of the findings of this research include:

- Ⓢ People with cognitive impairments and mental illnesses can be particularly vulnerable to having repeat contact with crime.
- Ⓢ Just under one third of ITP clients are 'repeat presenters' before the program. These people account for roughly 60 per cent of the total number of ITP interviews.

- ④ Many people within the ITP client group are known to services. However, service provision to this group of people is inadequate. People in the ITP client group are often under-supported, or ineffectively supported, by services. Advocacy interventions are required to ensure that services work more effectively for these people.
- ④ In Victoria, there are a number of referral and advocacy initiatives that operate at the ‘front end’ of the criminal justice system. Potentially, some of these programs could be utilised by some people in the repeat presenter client group. However, it appears that a significant proportion of ITP clients will not be assisted by these initiatives. The key difficulty with these initiatives is that they are not targeted towards the needs of the ITP client group. In particular, these programs do not adequately address the advocacy needs of ITP clients.
- ④ Police have identified the need to offer referrals to people who are believed to have cognitive impairments and mental illnesses. Most of the police who took part in this research indicated that volunteers should make referrals following an interview for ITP clients, rather than police. This is because ITP volunteers are perceived by clients to be independent and objective, and because they operate outside of the criminal investigation.
- ④ The ITP Program has a clear opportunity to provide an early intervention strategy targeted at people with disabilities who are at risk of having repeat contact with crime. The program has the strong desire and the right ethos to assist people with disabilities in the criminal justice system.

Based on these findings, the project developed an evidence-based, cost effective model for an advocacy and referral scheme that can be implemented by the ITP Program. The project undertook action research to test and refine this model scheme. This action research produced key lessons that will assist the proposed scheme in working effectively with the ITP client group. These key lessons included the finding that ITPs should use their face-to-face meetings with clients as an opportunity to obtain as much relevant referral information as possible. This information would assist the proposed scheme to assess the client’s needs, and to initiate and maintain contact with clients. In addition, it was found that the advocacy and referral scheme needs to be made up of dedicated staff who are able to provide clients with the support and encouragement they need to effectively engage with services. Based on these findings, the report proposes that OPA should seek funds to enable the ITP Program to implement a two year pilot advocacy and referral scheme that assists a target of 100 clients per year.

## A. Recommendations for the ITP Program

### ITP Advocacy and Referral Scheme

i. Subject to OPA securing appropriate funding, the ITP Program should develop an advocacy and referral scheme for clients who have had, or who are clearly at risk of having, repeat contact with crime. This will involve establishing a two-year pilot project that assists a target of 100 clients each year. The pilot will require:

- one full-time ITP Advocate at Victorian Public Service (VPS) at level four
- one part time (0.2) Administration Support Officer at VPS level two
- additional costs associated with training ITP volunteers to make referrals, developing and updating referral toolkits for volunteers, and funding to enable an ITP client to attend committee meetings.

### Koorie Strategy

ii. A Koorie Liaison Officer role should be incorporated within the ITP Program. Their role would include promoting the program in Indigenous communities and recruiting Indigenous ITPs.

iii. As part of its Koorie Strategy, the ITP Program should conduct training and information sharing with key stakeholders such as the Victorian Aboriginal Legal Service and the Regional Aboriginal Justice Advisory Committee network.

### Training and Development

iv. ITP training should include a component on sexual assault. The program should liaise with the Victorian Centres Against Sexual Assault (CASA) with regards to this training.

v. ITPs should always ensure that the person being interviewed understands their legal rights (including the right to legal representation).

vi. ITPs should routinely give clients the details of OPA's Advice Service. Clients should be encouraged to access this service if they are in need of advice.

vii. The ITP Program should be more widely promoted among disability, welfare and specialist justice services, and among people with cognitive impairments and mental illnesses themselves.

## Data Collection and Management

viii. The ITP Program's data collection and recording techniques need to be improved in order to accurately record the:

- numbers of clients who are Indigenous
- numbers of culturally and linguistically diverse (CALD) clients
- key criminal matters clients are involved with (for example, breaches of intervention orders).

The program should also improve its data management processes. This may involve integrating the program's data within OPA's existing database.

## Reimbursement of Volunteers' Expenses

ix. The honorarium should be amended to adequately compensate ITPs who attend over 15 interviews each year.

## B. Recommendations for Victoria Police

### Ongoing Training

i. Victoria Police should commit to receiving ongoing ITP training at the police academy.

# Introduction

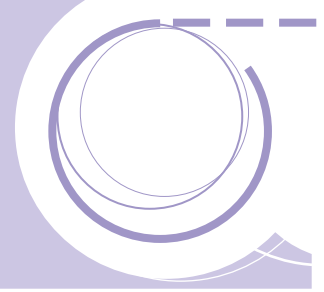
The ITP Program is managed by OPA and provides trained volunteers to assist people who are believed to have cognitive impairments and mental illnesses during their interviews with Victoria Police<sup>1</sup>. Through its involvement with the ITP Program, OPA has identified that a significant number of people with disabilities are repeatedly presenting before the program as alleged offenders, victims and, to a lesser extent, witnesses. The problem of ‘repeat presenters’ (people who have used ITPs more than once, or who are clearly at risk of doing so) has caused challenges for the program. For example, some volunteers have reported feeling frustrated that they are seeing “the same people, again and again” being interviewed by police. In part, this frustration stems from the sense that the ITP Program has a very limited capacity to assist people once their police interview has concluded. As one volunteer put it “You sit with them during their interview. You spend time getting to know them and, after all that, you just walk away”. There is no doubt that this is a missed opportunity.

This report examines the circumstances of people with cognitive impairments and mental illnesses who are vulnerable to having repeat contact with crime. The stories and case studies that appear throughout the report give the reader an insight into the challenges experienced by this diverse and complex group of individuals. However, this report does not merely seek to identify the problems experienced by people in this cohort. A key aim of the report is to explore what can be done to better assist these individuals. To this end, the report has developed a model for an evidence-based and cost effective advocacy and referral scheme that can assist people who are repeat presenters before the ITP Program. As this report demonstrates, there is a strong need to develop an advocacy and referral scheme that is targeted towards the specific needs of the ITP client group. Such a scheme could promote people’s ability to lead a positive and fulfilling life and, in turn, could potentially assist some people in reducing their contact with crime. There is, therefore, a strong human rights impetus to developing and funding an ITP advocacy and referral scheme.

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1. There is no single, accepted definition of the terms ‘cognitive impairment’ and ‘mental illness’. In broad terms, a ‘cognitive impairment’ can be defined as any impairment due to intellectual disability, brain injury or dementia: see section 50(1) Crimes Act (Commonwealth). The term ‘mental illness’ is not clearly defined under the *Mental Health Act 1986* (Victoria). Under the involuntary treatment criteria in section 8 of the *Mental Health Act 1986*, a person with a ‘mental illness’ is someone who “appears to be mentally ill” and “requires immediate treatment” for that illness. The terms ‘cognitive impairment’ and ‘mental illness’ are used for ease of reference throughout this report. It is recognised that people with different types of cognitive impairments can have distinct characteristics, and can face very different types of challenges in their lives

# The Research



## Funding

The project was funded by a grant from the VLF and would not have been undertaken without this support. OPA thanks the VLF for their support of this project.

## Aims

This research was a response to the problem of people who repeatedly present before the ITP Program. The aims of the research were twofold. First, the research set out to gain an understanding of the experiences of, and the challenges faced by, people with disabilities who are in repeat contact with crime. To facilitate this outcome, the report provides a forum for people with disabilities who have used the ITP Program to share their stories, in their own words. These stories offer an insight into the lived experiences of people with disabilities who are involved with the criminal justice system.

The second – and key – aim of the research was to develop a practical response to the problems experienced by people who repeatedly present before the ITP Program. To this end, the project developed a model for an advocacy-based referral scheme that can be implemented by the ITP Program to try and assist people in reducing their contact with crime and getting their lives on track.

## Limitations

Primarily, this report is primarily based on qualitative research, including 46 interviews and survey. This relatively limited data sample means that the report provides simply a ‘snapshot’ of the circumstances of people with disabilities who are in repeat contact with the criminal justice system.

It should also be recognised that the research focuses on people who have used the OPA ITP Program. Therefore, the research does not investigate the circumstances of people who have only been assisted by non-OPA ITPs.

A further limitation stems from the time frame for the research. This project was conducted over the course of one year. This time frame meant that it was not possible to maintain long term involvement with the people with disabilities who took part in the project. Accordingly, it was not possible to measure whether the proposed advocacy and referral scheme may have an impact on reducing people’s contact with crime.

The project was able to draw on some quantitative data about the numbers and characteristics of people involved in ITP interviews. This data was extracted from the ITP Program's internal database. This data gives a broad-brush picture of interviews involving repeat presenters before the ITP Program. However, as discussed further in the report, this data faces various limitations. Therefore, certain aspects of this data need to be approached with a note of caution.

For these reasons, the evidence in this report is suggestive, rather than conclusive. Nonetheless, the report succeeds in drawing attention to the problem of repeat presenters before the ITP Program, and outlining the steps that can be taken to better assist this group of people.

## Methodology

### Research Methods

This methodology of this project utilised elements of grounded theory and action research.

#### Grounded Theory

In-depth, semi-structured interview techniques were used to enable people to tell their stories in their own words. The interviews were recorded and transcribed verbatim by the researcher. The transcripts were analysed and coded using grounded theory analysis. This coding was used to identify the key themes raised in the interviews and to present these themes in a clear format (that is, in the summary coding frameworks that appear throughout the report).

The data from the interviews has also been used to shape the content and the structure of the report. Therefore, the secondary data collected by this project (such as the literature review) has been used primarily to complement and expand on the key themes identified in the interviews.

#### Action Research

Elements of action research were used by the project to develop a responsive and practical referral model that can be implemented by the ITP Program. This action research approach gave participants (including ITP clients, family members and volunteers) the opportunity to have an input into the referral models that were canvassed and tested by the project.

### Ethical Framework

This project involved undertaking research with some of the most vulnerable people in society. The role of ethical scrutiny and support was, therefore, particularly important. Ethics approval for the project was received from the Department of Justice Human Research Ethics Committee in November 2010. This ethics approval enabled the project to conduct research with people who had used the ITP Program, family members of people who had used the program, ITP volunteers, and professionals in the disability and criminal justice fields (excluding police).

Extensive planning was undertaken to ensure that the project protected the safety and privacy of all research participants, but particularly those who had used the ITP Program. In order to achieve these goals, the interviews were guided by the following principles:

- gauging people's interest and eligibility to take part in the project
- ensuring people understood the project before commencing with the interviews
- minimising the risk of harm to participants
- conducting interviews at a time and place that suited participants. Interviews with clients and family members were usually conducted in the person's area, at a local café. A significant number of interviews were conducted in regional areas, including Croydon, Geelong, Ballarat, Bendigo, Warrnambool, Traralgon and Bacchus Marsh
- interviewing participants in a sensitive and diplomatic manner
- acknowledging the value of participants' time. Clients and family members were paid \$66 for taking part in the interviews for this project
- 'giving back' to participants. Where possible, the project made referrals for, or gave information about services and support to, clients and family members
- ensuring the interview material was used in a way that protected people's privacy. The report therefore refers to all participants by pseudonyms, and has omitted or changed any information that might reveal people's identities to the general readership of the report (such as the name of the town a person lives in, for example).

## Finding Interview Participants

Finding ITP clients to take part in the research was one of the most significant challenges for this project. In part, this was due to the fact that the researcher was not able to obtain clients' contact details from OPA's internal records. As the ITP Program's relationship with clients generally ceases once the police interview is over, the program does not, as a matter of course, record clients' contact details. Consequentially, the project had to cast its net far and wide to find clients and family members to take part in the research interviews.

A mail-out was sent to ITP volunteers asking them to distribute general and Indigenous plain English flyers about the project to clients who they believed were potentially suitable interview participants (see Appendix 1). As the research flyers were being distributed at police stations, it was not appropriate to ask clients for their contact details under these circumstances. For this reason, clients had to contact the researcher directly if they were interested in taking part in the project.

A number of disability, welfare and legal organisations were approached to see if they could assist in recruiting potential interview participants for this project<sup>2</sup>. Some of these organisations agreed to publicise the project generally and/or to discuss the project directly with clients who were potentially suitable participants. Other organisations indicated that they did not have access to information about whether people had used the ITP Program and, therefore, it was unlikely that they would be able to assist with the recruitment of participants for the project.

OPA staff were also enlisted for assistance. Emails were sent to staff asking them if they knew of any current or former guardianship clients who had used the program, or family members of people who had used it.

After approximately eight months of implementing and following up on these recruitment techniques, the project was able to locate and conduct interviews with the 20 clients and family members who took part in this research.

All ITP clients who were approached to take part in the project indicated that they were interested in being interviewed. In the event, two of these potential participants did not take part in the project. On both occasions, the family members of the potential interview participants decided it was not appropriate for these people to be interviewed. The various roles that family members play in the lives of people with disabilities are explored in this report.

## Who was Interviewed?

### ITP Clients

The project interviewed 16 people who had used the ITP Program (see Appendix 2 for further information). These people were asked questions about their backgrounds, their interests, and their experiences with the ITP Program and the criminal justice system. Their opinions were also sought about referrals, and about what measures they believed would help them live a positive life.

ITP clients were selected for interviews on the basis that they were interested in taking part in the project, and the researcher and/or their supporters believed that they had the capacity to take part in the project without being exposed to a significant risk of harm.

The project aimed to interview people who had been in repeat contact with the criminal justice system. Fourteen of the 16 ITP clients fell into this category. The remaining two clients had used the ITP Program, but had not had repeat contact with the criminal justice system.

### Family Members

Four family members were interviewed about their experiences supporting a person who had used the ITP Program, and who had been in repeat contact with the criminal justice system (see Appendix 3 for further information).

### ITP Volunteers

The project interviewed ten volunteers with the ITP Program (see Appendix 4 for further information). These participants were asked questions about the characteristics of people who were repeat presenters before the program, the benefits and limitations of the program, and about whether they thought the program should take on a referral component.

### Professionals

Sixteen professionals from the disability and criminal justice fields took part in this project (see Appendix 5 for further information). The interview questions for this cohort were tailored to each professional's area of expertise. In broad terms, professionals were asked to reflect on their experiences working with people with disabilities who are in repeat contact with the criminal justice system, their views on the ITP Program, and what mechanisms can be put in place to assist people with disabilities in the criminal justice system.

## How the Interviews were Used

The interview materials provided the basis of the case studies that appear throughout the report. Some of the interviews with ITP clients were turned into stories that give people the opportunity to talk directly about their lives. These stories have been edited for the sake of narrative cohesion. However, they aim to maintain the integrity of interview participants' own words. Therefore, idiosyncratic uses of grammar (including colloquial references to the name of the ITP Program) have been preserved to maintain the flavour of the conversations that took place between the interview participants and the researcher.

## Reference Group

A reference group was comprised to provide expert advice and support to the researchers. The group had representatives from Youth Referral and Independent Person Program, Victoria Police, the Department of Human Services, Reinforce, VALID, Monash University and the program. It met three times.

## Data from the ITP Program

The project analysed data relating to ITP interviews that took place between 1 July 2000 and 30 June 2010. This data was used to build a picture of the numbers and characteristics of people who are involved in repeat presentations before the ITP Program.

## Victoria Police

The project underwent a comprehensive process for obtaining ethical and organisational approval to conduct research with members of Victoria Police. This process included submitting three research applications to the Victoria Police Human Research Ethics Committee, the Research Coordinating Committee and the Census Steering Committee. In July 2011, final research clearance was obtained from the above committees. This clearance enabled the project to conduct interviews with up to five members of Victoria Police, and to post an electronic survey about the ITP Program and referrals on the Victoria Police intranet.

In the event, the project was not able to conduct any interviews with members of Victoria Police. This was due to an industrial action that occurred at the time that the interviews were scheduled to take place. However, representatives from OPA (including the researcher for this project and staff from the ITP Program) had several meetings with the police members managing the Police and Community Triage (PACT) and SupportLink pilot projects that are referred to in this report. These meetings provided background information about the drivers for establishing these initiatives.

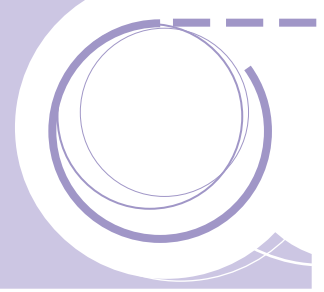
The project also conducted a survey of police members. This survey was posted on the Victoria Police intranet, and invited sworn members throughout Victoria to have their say about ITPs and referrals. Members were informed that the survey would take about five minutes to complete, and that the results would be lodged online and were completely anonymous. The survey was available on the Victoria Police intranet for a period of 15 days (but was only intermittently visible on the homepage as the survey needed to be rotated with other messages). After the response period ended, the survey results were collected by Victoria Police and provided to the researcher. A total of 55 responses to the survey were received. This was a very positive response rate in light of the industrial action, and reflects members' interest in the topic of ITPs and referrals.

## Literature Review

A literature review was undertaken in relation to human rights, disability and the criminal justice system, early intervention strategies (including arrest referral programs) and advocacy. This literature review provides the theoretical background for the primary data that was collected by the project.

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2. These organisations included the Mental Health Legal Centre, Villamanta Disability Rights Legal Service, Victorian Aboriginal Legal Service, Department of Human Services, St Luke's, Victorian Association for the Care and Resettlement of Offenders, Salvation Army, Jesuit Social Services, Public Interest Law Clearing House, Elizabeth Hoffman House, Melbourne City Mission and Corrections Victoria.



## The Impetus for the Program

The quest to find appropriate responses to the challenges faced by people with disabilities in the criminal justice system is a key theme in disability research and policy. This theme came to the fore in the 1980s, driven by a plethora of research which indicated that people with disabilities were both highly represented, and highly disadvantaged, in the criminal justice system<sup>3</sup>. The research from this period tended to focus on intellectual disability. It was reported that people with intellectual disabilities faced a number of difficulties in their interviews with police. For example, people with intellectual disabilities were found to have the tendency to want to please authority figures. The desire to please could result in people responding to police questions in a way that they perceived was expected. The research also found that people with intellectual disabilities had the tendency to mask their inability to fully understand the contents of the police interview. These difficulties could result in people giving inaccurate – and sometimes false – information to police<sup>4</sup>. As a result, the criminal justice investigation could be hampered and the rights of people with disabilities could be severely compromised.

In 1987, OPA published a landmark report which revealed the challenges faced by people with intellectual disabilities in the criminal justice system. The report, titled 'Finding the Way', made a number of recommendations aimed at protecting the rights of people with intellectual disabilities. These recommendations included the:

- need for police guidelines to be revised to enable independent advocates to be present during police interviews with people with intellectual disabilities
- production of a legal rights guide for people with intellectual disabilities
- establishment of an advocacy service for individuals with intellectual disabilities who are interviewed by police. It was recommended that this advocacy service be managed by OPA in conjunction with citizen advocacy groups<sup>5</sup>.

OPA's research into disability and the criminal justice system<sup>6</sup> provided the impetus for the development of the ITP role. As a result of the significant advocacy efforts undertaken by OPA and others, in 1988 an amendment was made to the then Police Standing Orders. The ITP program was established pursuant to the 1988 amendment to the standing orders. The amended standing orders indicated that, where a police officer believed a person may be intellectually disabled, that person should be interviewed in the presence of an ITP<sup>7</sup>. In 1991 the police standing orders were amended to extend the use of ITPs to people with mental illnesses, acquired brain injuries and dementia.

# How the ITP Program Works

## Aims

The ITP Program aims to assist people with cognitive impairments and mental illnesses who are interviewed by Victoria Police. The program also aims to assist police in their interviews with these persons. In order to meet these aims, the program provides trained volunteers to:

- facilitate communication between the person and the police
- assist the person to understand their rights
- support the person through the police interview process<sup>8</sup>.

The role of the program should be understood in the context of OPA's broader Mission Statement, which is to uphold the rights and interests of people with disabilities and to foster a just and inclusive society that values, respects and promotes the dignity and human rights of all people.

## The Requirement for an ITP

The Victoria Police Manual sets out the circumstances in which ITPs are required to attend police interviews. The manual states that an ITP "is to be present at the interview of any person with an impaired mental state or capacity". The manual does not define what constitutes an "impaired mental state or capacity" (though it does imply that these characteristics are linked to a "mental disorder")<sup>9</sup>.

## Eligibility

Any person who is believed to have a cognitive impairment or mental illness must have an ITP present when they are interviewed by Victoria Police in the capacity of an alleged offender, victim or witness. This is regardless of the person's age. Therefore, although Independent Persons (IPs) generally assist young persons during their interviews with Victoria Police, if the young person is believed to have a cognitive impairment or mental illness, an ITP must support the person in their police interview<sup>10</sup>.

## How Do Police Identify the Need for an ITP?

There are no diagnostic criteria that must be met before a person can access an ITP. This is in recognition of the fact that police are not clinicians. Therefore, if police believe that a person may have some kind of impairment that affects their ability to communicate and understand information, an ITP must be called. In order to assist police in identifying when an ITP is required, OPA and Victoria Police produced a guide called the 'Ready Reckoner'. The Ready Reckoner gives police advice on how to identify whether a person may have a cognitive impairment or mental illness. In addition, the Victoria Police Manual provides that:

“Members may identify that a person has a mental disorder by their words or actions, by asking the person directly, by checking police records of any previous interactions, or by contacting their nearest Mental Health Triage to check whether the person is, or has been, a client of a mental health service”<sup>11</sup>.

Victoria Police have advised that police training reinforces this guidance.

## The Law on ITPs

The ITP role is not enshrined in legislation<sup>12</sup>. However, not involving an ITP could compromise the integrity of the evidence raised in the interview. On this point, case law recognises the importance of ITPs in protecting the rights of people with disabilities during the police interview. For example, the Supreme Court of Victoria has held that the failure of police to use an ITP when one is required may diminish the credibility of any evidence obtained in that interview<sup>13</sup>. This is because the absence of an ITP raises serious questions regarding the “propriety, reliability and fairness” of the police interview<sup>14</sup>. Accordingly, Victoria Police policy requires that members arrange for an ITP to be present during the interview with any person whom they believe may have a cognitive impairment or mental illness.

## OPA’s Role

OPA has been responsible for the ITP Program since its inception in 1988. The role of the ITP Program is, inter alia, to recruit, train, support and manage ITP volunteers, to keep records about ITP interviews, and to educate various agencies – including the police – about the role of the program. In addition, OPA aims to continually improve the ITP Program, and to pursue opportunities for promoting equal access to the program. For example, in 2010, the ITP Program launched its Koorie Strategy to address the under-utilisation of the program by Indigenous people<sup>15</sup>. As part of the Koorie Strategy, the ITP Program has developed culturally appropriate promotional materials for Indigenous people with disabilities, and has cultivated relationships with key members of Indigenous communities.

## ITP Volunteers

A key role of the ITP Program is to recruit and train ITP volunteers. Prospective volunteers undergo an initial interview with the ITP Program to assess their interest in, and eligibility for, taking on the ITP role. Prospective volunteers who get past this initial interview are required to undergo training with the program. This training includes taking part in a role play with a real police officer and a person with a disability. At the end of this training, ITP volunteers need to be able to:

- apply their knowledge of disability to the ITP role
- facilitate communication between people with a disability and the police
- identify and resolve issues arising from the police interview
- collect and record information associated with the police interview
- work within the criminal justice system.

After successfully completing this training, volunteers become qualified OPA ITPs. Volunteers also receive periodic update training to assist them in developing their skills.

OPA recognises that ITP volunteers make a significant contribution to the work of the office in protecting and promoting the human rights of people with disabilities. Volunteers do not undertake this work for financial gain. However, they should not be left out of pocket as a result of performing the ITP role. Currently, ITPs receive reimbursements that are calculated on a sliding scale according to the number of interviews they attend. The difficulty with this system is that the sliding scale cuts off once a volunteer has attended 15 interviews in one financial year. Therefore, volunteers who attend more than 15 interviews receive the same reimbursement as volunteers who attend fewer interviews. Accordingly, the reimbursement system does not adequately reflect the resources that some volunteers invest in the ITP role. It could therefore be argued that this system of reimbursement fails to comply with domestic and international volunteering standards<sup>16</sup>.

### Recommendation: Reimbursement of Volunteers' Expenses

The honorarium should be amended to adequately compensate ITPs who attend over 15 interviews each year.

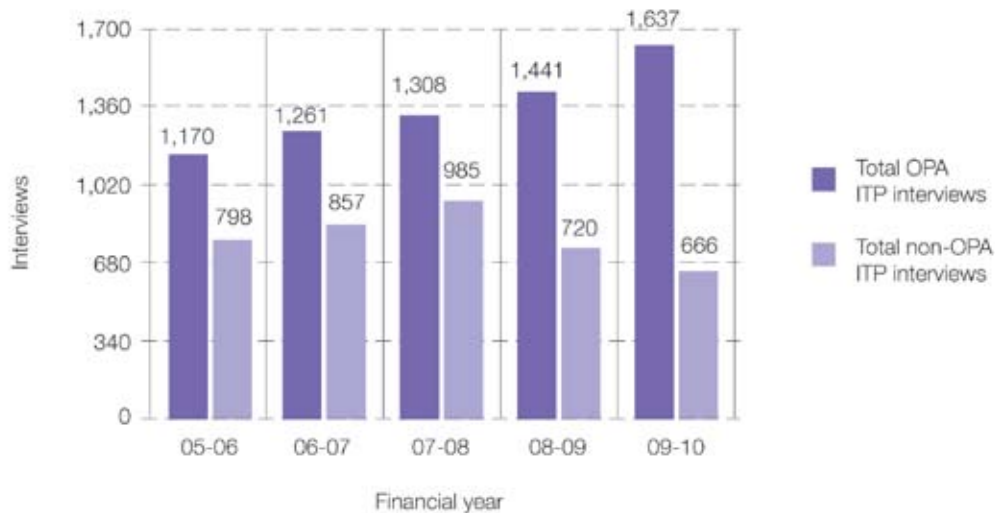
## Non-OPA ITPs

An ITP is defined in the Victoria Police Manual as “a relative or close friend, or a trained volunteer from the Office of the Public Advocate”<sup>17</sup>. Therefore, police have discretion whether to use an OPA ITP or non-OPA ITP<sup>18</sup>. In the survey conducted by this project, members of Victoria Police explored some of the benefits associated with non-OPA ITPs<sup>19</sup>. For example, it was noted that a family member or close friend can offer a level of “comfort” and “familiarity” to the person being interviewed. In addition, some police advised that they have experienced difficulties in obtaining OPA ITPs. These respondents felt that non-OPA ITPs were more readily available, and could cut down on the amount of time that it took for the interview to proceed.

Nonetheless, OPA's position is that, as a rule, it is preferable to use a trained ITP volunteer. (Trained ITPs can be used instead of, or in addition to, a friend or family member.) The benefits associated with trained ITPs is that they are:

- independent of the person, their family and the matter under investigation
- objective, with no emotional involvement or bias
- familiar with police procedures
- better able to help the person understand their rights and options<sup>20</sup>.

Given the concerns that exist around informal supporters, such as family members, being used to assist people with disabilities in the criminal justice process<sup>21</sup>, it is encouraging to see that trained OPA ITPs now appear to be used in police interviews far more frequently than informal non-OPA ITPs. For example, data from Victoria Police and OPA indicates that the proportion of interviews attended by OPA ITP volunteers is steadily increasing (see Graph A1, below)<sup>22</sup>.



Graph A1: Interviews with OPA ITP volunteers compared to interviews with informal non-OPA ITPs (1.7.2005 – 30.6.2010)

## Developing the ITP Program

There is a sense that, in its formative years, the ITP Program was very much ‘finding its feet’. For example, an evaluation carried out in 1992 found that the program’s effectiveness was hampered by a general lack of awareness of its existence, and by the sense that police were unwilling to allow ITPs to effectively participate in the interview process<sup>23</sup>. The program was also hampered by the limited number of ITP volunteers, and by their lack of availability to attend interviews across the state and after business hours. Furthermore, OPA’s records suggest that the program initially had under-developed processes for training and managing volunteers. These ‘teething problems’ were reflected by the fact that, in the early years of the program, OPA ITP volunteers were not broadly utilised by the police<sup>24</sup>.

Evidence from both OPA’s records, and the interviews conducted by this project, suggest that these difficulties have improved. However, as this report discusses, there are still fundamental questions relating to the ITP Program that would benefit from further analysis and clarification. As early evaluations of the ITP Program pointed out, there can be a lack of definition relating to the ITP role<sup>25</sup>. Many of the questions raised in the early evaluations of the ITP Program are still relevant today. For example, are ITP volunteers advocates of sorts and, moreover, should they be?<sup>26</sup> Do ITPs help protect people’s legal rights and, if so, in what ways? Is ‘facilitating communication’ between the person and the police always a good thing? Furthermore, is it appropriate for volunteers to fulfil the ITP role, or should this be a paid position? While some of these questions are explored in this report, others fall outside the purview of this particular project. However, it is worth bearing these questions in mind, as they provide an insight into the practical and philosophical tensions within which the ITP Program operates.

## Key Findings

The overview of the ITP Program indicates that:

- The ITP role was introduced into Victoria Police policy and procedures in order to address the significant disadvantages that people with cognitive impairments and mental illnesses can experience during their interviews with police.
- The role of an ITP is to facilitate communication between the person and the police, to assist the person to understand their rights, and to support the person through the police interview process. The role is also to assist the police in communicating with people who are believed to have cognitive impairments and mental illnesses. On a broader level, the program contributes to OPA's mission to assist people with disabilities to attain and enjoy their human rights.
- An ITP should attend all interviews between Victoria Police and people of any age who are believed to have a cognitive impairment or mental illness. There is no legislative right to use an ITP. However, the failure to use an ITP potentially undermines the reliability and fairness of any evidence obtained in the interview.
- Police have discretion whether to use a trained OPA ITP or a family member or close friend of the person being interviewed. OPA's advice to police is that it is preferable to use an OPA ITP because they understand police processes, and because they are independent and objective.
- Evidence from the program and from Victoria Police indicates that police use trained OPA ITPs more often than friends and family members of the person being interviewed.

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3. For an overview of this theme, see: Wright, F. and Sykes, D. 'Fits and Starts: People with a Disability and the Criminal Justice System' (Paper presented at the Disability and Criminal Justice Conference, Melbourne, July 2005) p.5. See also Hayes, S. and Hayes, R. *Simply Criminal* (1984).

4. Department of Health and Community Services (Vic) *The Independent Third Person Program: Evaluation* (Lampshire and Rolfe, 1995) p.iii.

5. OPA, *Finding the Way: The Criminal Justice System and the Person with Intellectual Disability* (1987) pp.xii-xvii.

6. See: OPA, *The Right to Be Heard: Obtaining Evidence from Intellectually Disabled People* (1988); Johnson, K. Andrew, R. and Topp, V. *Silent Victims: A Study of People with Intellectual Disabilities as Victims of Crime* (OPA, 1988); Osman, L.M. *Finding New Ways: A Review of Services to the Person with Intellectual Disability in the Victorian Criminal Justice System* (OPA, 1998).

7. Department of Health and Community Services (1995) p.iii.

8. OPA, *Independent Third Persons* (undated) available at <http://www.publicadvocate.vic.gov.au/services/108/>, at 16 September 2011.

9. Victoria Police, 'Interviewing Specific Categories of Person', *Procedures and Guidelines*, Victoria Police Manual (undated) p.3.

10. YRIPP trains and supports people working as IPs across Victoria. IPs provide support to young persons who are interviewed by the police in the capacity of alleged offenders. For more information, refer to YRIPP, *About YRIPP* (undated) available at <http://www.cmy.net.au/YRIPP/AboutYRIPP>, at 16 September 2011. It is also worth noting that several of the ITPs who were interviewed as part of this project also volunteered as YRIPP IPs. These participants noted that volunteering for both programs was a way for them to maintain and develop their skills. A couple of people reported that, on at least one occasion, they were called out to attend interviews in the capacity of IPs, but had to 'change hats' prior to the police interview commencing. These volunteers said that, after speaking to the young persons, it became apparent that these persons had some form of cognitive impairment or mental illness. These volunteers informed the police of the situation, and then proceeded to provide support in their capacity as ITPs.

11. Victoria Police (undated).
12. OPA has emphasised that the right of people with cognitive impairments and mental illnesses to use an ITP should be legislatively articulated. See: Bedson, L. and Hartnett, L. Submission to the Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and their Families and Carers (OPA, 2011) p.11.
13. R v Laracy [2007] VSC 19 (9 February 2007).
14. R v Laracy at para.54.
15. Schultz, J. Barry, M. and Barnes, C. Koories and Disability: The Double Disadvantage – The Utilisation of the Independent Third Person (ITP) Program in the Goulburn Valley Koorie Community (OPA, 2003).
16. Domestic and international volunteering standards confirm that volunteers should not be out of pocket as a result of performing their volunteer role. See Volunteering Australia, Volunteer Rights and Volunteer Checklist (2009) available at [http://www.volunteeringaustralia.org/files/P7HS9KJCJ8/Vol\\_rights\\_English.pdf](http://www.volunteeringaustralia.org/files/P7HS9KJCJ8/Vol_rights_English.pdf); European Youth Forum, European Charter on the Rights and Responsibilities of Volunteers (undated) available at [http://www.europolitics.info/pdf/gratuit\\_en/299434-en.pdf](http://www.europolitics.info/pdf/gratuit_en/299434-en.pdf).
17. Victoria Police (undated).
18. Police procedures confirm that a trained ITP “must be used” in cases where a relative or close friend “cannot be contacted”, “is unsuitable” or “may impede the interview process”. Victoria Police (undated).
19. See pages 114-115 of this report.
20. Victoria Police and OPA, Responding to a Person Who May Have a Cognitive Impairment: Ready Reckoner (undated). Likewise, an early evaluation of the ITP Program recommended that trained ITPs should be used in police interviews in preference to a relative or friend of the person being interviewed. The evaluation advised that police procedures be amended to reflect this change. The evaluation also stated that if the interviewee would like a family member or friend to be present, this should be in addition to, rather than instead of, the trained ITP. See: Department of Health and Community Services (1995) p.ix.
21. These concerns are similar to the issues involved with using friends and family members as translators during sensitive conversations and police interviews with people from non-English speaking backgrounds. For example, friends and family members can sometimes exhibit a lack of confidentiality and objectivity about the proceedings, and may even have a conflict of interest with the person for whom they are translating. See: Soondar, J. The Best Practice Guide: When Using Interpreters (East London NHS Foundation Trust, 2008). For an account of the ways in which informal support people can sometimes act as “gatekeepers” to justice for people with cognitive impairments, see Camilleri, M. [Dis]Able Justice: Why Reports of Sexual Assault Made by Adults with Cognitive Impairment Fail to Proceed through the Criminal Justice System (University of Ballarat, 2009).
22. The figures in Graph A1 are a summary of Victoria Police and OPA records on the numbers of interviews attended by ITP volunteers and non-OPA ITPs. As the graph demonstrates, the proportion of interviews attended by OPA ITPs has steadily risen, while the numbers of interviews attended by non-OPA ITPs decreased in the 2008-2009 and 2009-2010 financial years. One of the possible reasons for this is the new call centre that is used by the ITP Program and YRIPP. The call centre has streamlined the process for contacting OPA ITPs and YRIPP IPs. Police now contact the call centre, and the call centre then contacts either an ITP or an IP volunteer to assist the person being interviewed. Prior to the call centre, police had to contact volunteers directly in order to find appropriate support for the person being interviewed. The call centre has significantly increased the ease with which police are able to contact ITP and IP volunteers.
23. Deane, K. Sitting on a See-Saw: An Evaluation of the Independent Third Persons Program (University of Melbourne, 1992) p.16.
24. For example, OPA's records indicate that in the 1994-1995 financial year, ITPs attended just 290 police interviews. By comparison, in the 2000-2001 financial year, ITPs attended a total of 793 interviews. In the 2009-2010 financial year, ITPs attended a total of 1637 police interviews.
25. See Department of Health and Community Services (1995) p.17, and see generally Deane, K. Sitting on a See-Saw (1992). The Victoria Police Manual defines the role of the ITP as being to “facilitate communication between the police and the impaired person during the interview” and to “provide emotional support and ensure that the person understands their rights and the caution”. This definition – although useful – does not capture the broader questions relating to the purpose and boundaries of the ITP role. These broader questions were explored in the aforementioned Department of Health and Community Services evaluation of the ITP Program. In response to these questions, the Department of Health and Community Services evaluation outlined comprehensive recommendations for clarifying the purpose and boundaries of the ITP role. Some of these recommendations included that: the ITP should play an active role in facilitating communication, rather than being a passive observer; the ITP should be clearly attending for the benefit of the interviewee; and the ITP should remain present for all aspects of the police interview, including fingerprinting, charging, bail and other procedures. For further information, see Department of Health and Community Services (1995) pp.40-41.
26. This was a question raised by some of the interview participants in this project (for example, see page 86 of this report).



# (Un)Equal Before the Law: A Literature Review

## A Human Rights Approach

The evidence in this report has been collected and analysed using a human rights approach to disability. A human rights approach affirms the inherent worth of every individual. It holds that all people with disabilities have the right to enjoy equality of opportunity and to effectively participate in, and be fully included in, society.<sup>27</sup> A human rights approach recognises that the challenges experienced by many people with disabilities are a result of disabling systems and environments, rather than being due to an inherent 'lack' in the individual. Similar to the social model of disability, this approach does not deny the reality of impairment or its impact on the individual.<sup>28</sup> However, it does seek to challenge "physical and social environments to accommodate impairment as an expected dimension of human diversity."<sup>29</sup>

In 2008, Australia ratified the United Nations *Convention on the Rights of Persons with Disabilities*, thus formalising its commitment to advancing the human rights of people with disabilities. As Phillip French points out, key focus areas of the convention are law and justice:

"The Convention reaffirms that persons with disability have the right to recognition everywhere as persons before the law. However, it goes further, requiring states to ensure effective access to justice for persons with disability. This is a new, positive, obligation on states that recognises that the traditional formal veneer of equality before the law has done little, in fact, to secure the human rights of persons with disability. Among other things, the Convention will require the provision of reasonable accommodation to persons with disability in order to facilitate their effective participation in the justice system in whatever role they encounter it. It will also require appropriate disability-related training of personnel responsible for the administration of the justice system. Many other aspects of the Convention will also have a direct bearing on how the justice system interacts with persons with disability, including provisions related to the general accessibility of facilities and services, the recognition of alternative communication systems, the provision of accessible information, and the participation of persons with disability in policy setting and program development."<sup>30</sup>

Therefore, the Convention requires that Australia implement practical measures that enable people with disabilities to enjoy substantive equality before the law. On a broader level, the Convention confirms that positive steps must be taken to enable people with disabilities to enjoy as much freedom, respect, equality and dignity as possible.<sup>31</sup>

## Systemic Disadvantage

Many people with cognitive impairments and mental illnesses experience a range of systemic disadvantages that can increase the likelihood that they will have contact with crime.<sup>32</sup> While estimated rates of disability among offenders vary, they are consistently higher than for the

general community.<sup>33</sup> There is also evidence that offenders with cognitive impairments and mental illnesses are treated less fairly by the criminal justice system,<sup>34</sup> and have higher rates of recidivism compared to other offenders.<sup>35</sup>

People with cognitive impairments and mental illnesses are also more likely to be victims/survivors of crime. For example, research indicates that they are more likely to be sexually assaulted than people in the general population, and also face significant barriers to reporting these crimes and to progressing these matters through the criminal justice system.<sup>36</sup> In this respect, many people with disabilities face the 'double disadvantage' of being both more likely to come into contact with crime and also more likely to experience systemic disadvantages within the criminal justice system.<sup>37</sup> Australia's human rights obligations therefore require that steps are taken to address the deep and persistent inequalities which result in people with disabilities being highly represented, and disadvantaged, in the criminal justice system.<sup>38</sup>

## Addressing Disadvantage

"A large proportion of the resources necessary to tackle conditions known to contribute to criminality – such as social exclusion, low educational engagement and attainment, drug, alcohol and mental health problems, unemployment and a lack of housing – are outside of the criminal justice system."<sup>39</sup>

The search to find better ways of responding to crime and victimisation has led to an increasing emphasis being placed on early intervention strategies which seek to address some of the root causes of people's contact with the criminal justice system.

## Early Intervention

People with disabilities have the right to actively participate in the life of the community. Yet, without the intervention of specialised services and support, many people with disabilities can lead socially isolated and impoverished lives, their potential is not reached, and some people may come into contact with crime. Unfortunately, efforts to assist this group of people are often uncoordinated, crisis-driven and therefore do not bring about long term changes in people's lives.<sup>40</sup>

Research indicates that early intervention and holistic support strategies are required to effectively assist people with cognitive impairments and mental illnesses in the criminal justice system.<sup>41</sup> These intervention and support strategies obviously require an initial outlay of funds (which means that, in times of economic uncertainty, such initiatives tend to be regarded as 'non essential' budget items). However, there are promising signs that, while these strategies work on an individual basis, they can also result in significant cost savings across government and society.<sup>42</sup>

Queensland Advocacy Incorporated has undertaken a cost benefit analysis of intervention strategies aimed at alleged offenders with disabilities.<sup>43</sup> This project draws on the use of case studies which outline alternative 'scenarios' for pathways into services and support. These scenarios examine – and put a price on – people's levels of service usage at different points of contact with the criminal justice system. Based on these scenarios, it was found that it was most cost effective to provide services to people at the early stages of their contact with crime (for example, when a person is committing minor offences but has not yet been to prison). It was also found that, with early intervention, even the "most expensive support program" could generate

a financial “net benefit to government”.<sup>44</sup> This report correlates with the findings of research undertaken by Revolving Doors in the United Kingdom. Revolving Doors has found that early intervention strategies are a sound economic investment.<sup>45</sup> Their research also suggests that early intervention strategies may contribute to lower levels of re-offending for clients who are willing to have long term engagement with services.<sup>46</sup>

## Referral Programs

In most cases, the police represent a person’s first point of contact with the criminal justice system. Therefore, the police interview is widely regarded as an opportunity for early intervention, and for launching people into services and support. Flowing on from this, there is an increasing interest in developing referral systems that are linked to the police interview. Many jurisdictions in Australia – including Victoria – have implemented referral systems that are linked to the police interview. However, the majority of the literature in this area focuses on the U.K. arrest referral schemes. Moreover, it has been noted that the validity of the research that does exist in the Australian setting is uncertain.<sup>47</sup> For this reason, this section of the report examines the lessons that have been gleaned from the U.K. experience.

## Arrest Referral Schemes

The U.K. has led the way in terms of referral schemes that can be implemented at the front end of the criminal justice system.<sup>48</sup> Police stations throughout the U.K. are now fitted with arrest referral schemes that target alleged offenders who are identified as being illicit drug users.<sup>49</sup> These schemes aim to provide offenders with an early pathway into specialist drug treatment services.<sup>50</sup> These schemes utilise trained referral workers who provide offenders with advice and assistance with a view to referring them to a drug treatment service. Referrals are made on a voluntary basis. However, as drug treatment is often linked to diversion from prosecution, there is typically a strong incentive for the person to take up the referral.<sup>51</sup>

Evaluations of the U.K. arrest referral schemes indicate that these schemes can be cost effective and can contribute to lower levels of re-arrest for some people.<sup>52</sup> On a broader level, it has been suggested that such schemes can lead to positive outcomes for offenders, their families, police and the broader criminal justice system, and the service sector.<sup>53</sup> However, it is difficult to tell how far these findings – particularly those relating to recidivism – can be applied to other contexts. It should be noted that the U.K. arrest referral schemes only apply to alleged offenders, and are based on the principle that there is a clear link between substance abuse and offending behaviour.<sup>54</sup> It is therefore unclear whether arrest referral schemes may assist offenders who do not have substance abuse issues. It is also unclear what impact these schemes may have for people who are interviewed as victims or witnesses. It is also worth noting that an evaluation by the Home Office found that people who were referred to drug treatment by an arrest referral scheme were significantly more likely to drop out of treatment when compared to self-referred or GP-referred drug users.<sup>55</sup> This could indicate that, in some instances, referrals that are not linked to criminal justice outcomes may be a more effective method of engaging people with services on a long term basis.

## Ingredients of a Successful Referral Scheme

Evaluations of arrest referral schemes have identified some best practice principles that may be applied to other schemes. On a general level, the U.K. experience indicates that, in order for referral schemes to be effective, they should:

- be properly resourced
- have appropriate services to refer people to
- be proactive
- have a clear understanding of the purpose of the referral service
- have a clear idea of who the target group is, and be able to respond to the specific needs of this group
- take into account the specific issues faced by women, young people and people from culturally diverse backgrounds
- recruit and train suitably skilled referral workers
- build relationships with key agencies and agree on fundamental issues such as referral arrangements and information sharing
- work collaboratively, and implement partnerships on both a strategic and operational level (for example, through steering groups)
- pilot the referral program at one or two sites and evaluate the service as it develops.<sup>56</sup>

In addition, an Australian evaluation of arrest referral schemes has found that such schemes must:

- provide timely, flexible, holistic and client-directed interventions
- be based on a thorough knowledge of the local service sector
- have secure and stable funding
- utilise an efficient and user-friendly database that enables easy data entry, client record management and outcome measurement.<sup>57</sup>

## Advocacy

A consistent theme in the literature is that people with disabilities who come into contact with the criminal justice system need access to timely and appropriate referral and support services, including advocacy.<sup>58</sup> Advocacy can be a somewhat nebulous concept; it can mean different things to different people.<sup>59</sup> However, it has been argued that, at its core, advocacy is the act of “speaking up and out, on behalf of oneself and other people.”<sup>60</sup> In this sense, disability advocacy is not simply about formally representing the interests of others. It is also about supporting vulnerable people to become advocates in their own lives (‘self advocates’).<sup>61</sup>

Research indicates that advocacy and self advocacy can be mechanisms for better enabling people with cognitive impairments and mental illnesses to:

- understand and exercise their rights
- get access to services
- develop social and support networks
- gain self-confidence
- maintain and build positive interests and abilities, including access to paid employment
- develop life skills, including communication and advocacy skills, and knowledge about appropriate behaviours.<sup>62</sup>

In the criminal justice context, advocacy can be a necessary component for ensuring that people with disabilities have equal access to the justice system, and that they are treated fairly within this system. In a broader sense, advocacy and self advocacy may function as 'protective' factors that, in some instances, could help to minimise the contact that people have with crime.<sup>63</sup>

## Key Findings

The literature review indicates that:

- The *Convention on the Rights of Persons with Disabilities* confirms that Australia must take positive steps to ensure that people with disabilities attain substantive equality before the law.
- Currently, people with cognitive impairments and mental illnesses experience systemic disadvantages which can increase their chances of coming into contact with crime. In addition, people with disabilities are highly disadvantaged in the criminal justice system. Addressing these systemic disadvantages is, therefore, a pressing human rights issue.
- People with disabilities in the criminal justice system require access to early intervention strategies and holistic services and support, including advocacy.
- The police interview represents an opportunity to refer interviewees to the services and support they require.
- In order to be effective, referral schemes should be well-resourced, proactive, and responsive to the specific needs of the target group.

27. Article 3, United Nations Convention on the Rights of Persons with Disabilities 13 December 2006 (entered into force 3 May 2008). See also: Nussbaum, M. *Frontiers of Justice: Disability, Nationality and Species Membership* (2000).

28. French, P. *Disabled Justice: The Barriers to Justice for Persons with a Disability in Queensland* (Queensland Advocacy Incorporated, 2007) p.13.

29. French, P. (2007) p.13. Likewise, the Convention on the Rights of Persons with Disabilities, Preamble (e), confirms that "disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others".

30. French, P. (2007) p.3.

31. Articles 3 - 5 Convention on the Rights of Persons with Disabilities. See also sections 3, 8, 10, 12, 13, 21, 22 Charter of Human Rights and Responsibilities Act 2006 (Victoria).

32. It has been argued that this contact with the criminal justice system must be viewed in the context of people with disabilities' preceding status of social isolation and exclusion. See: Baldry, E. Dowse, L. Snoyman, P. Clarence, M. and Webster, I. 'A Critical Perspective on Mental Health Disorders and Cognitive Disability in the Criminal Justice System' in Cunneen, C. and Salter, M (Eds) *Proceedings of the Second Australian and New Zealand Criminology Conference* (2008).

33. For example, rates of major mental illnesses, like schizophrenia and depression, are estimated to be three to five times higher among alleged offenders compared to the general community: Victorian Law Reform Commission, *Review of the Bail Act: Final Report* (2007) p.200. Likewise, people with acquired brain injury have been found to be over-represented in the prison system: Australian Institute of Health and Welfare, *Disability in Australia: Acquired Brain Injury* (2007) p.3; Department of Justice, 'Acquired Brain Injury in the Victorian Prison System' (2011) 4 Corrections Research Paper Series.

34. People with intellectual disabilities are more likely to be arrested, questioned and detained for minor public order offences when compared with other offenders: *Beyond Bars, People with an Intellectual Disability and the Criminal Justice System: Fact Sheet 10* (2007). See also: French, P. (2007); Toombs, D. Caple, A. and Gordon, S. 'Rough Justice: The Collision Between the Mentally Ill and the Queensland Criminal Justice System' (Paper presented at the 31 International Congress of the International Academy of Law and Mental Health, New York University Law School, 28 June - 4 July 2009).

35. For example, one study found a 73 per cent recidivism rate for people with intellectual disabilities, compared to a 52 per cent recidivism rate for non-intellectually disabled offenders. For a further analysis of the literature on recidivism rates for offenders with intellectual disabilities, see: Holland, S. Persson, P. McClelland, M. and Berends, R. *Intellectual Disability in the Victorian Prison System: Characteristics of Prisoners with an Intellectual Disability Released from Prison 2003-2006* (Department of Justice, 2007) p.12.

36. See: Goodfellow, J. and Camilleri, M. *Beyond Belief, Beyond Justice: The Difficulties for Victim/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (2003); Victorian Law Reform Commission, *Sexual Offences: Final Report* (2004); Camilleri, M. (2009). See also the case study 'Gatekeepers', on page 68 of this report.
37. These disadvantages may be heightened for people with cognitive impairments who are Indigenous or who come from culturally and linguistically diverse (CALD) backgrounds. For example, a recent study of the Victorian prison population found that a significantly greater proportion of prisoners with an intellectual disability were Indigenous (when compared with non-intellectually disabled prisoners). See: Holland, S. et al (2007) p.6. See also: Cripps, K. Miller, L. and Saxton-Barney, J. 'Too Hard to Handle': Indigenous Victims of Violence with Disabilities' (2010) 7 (21) *Indigenous Law Bulletin* 3.
38. Article 4, Convention on the Rights of Persons with Disabilities.
39. House of Commons Justice Committee in Revolving Doors Agency, *Towards a Shared Future: A Commissioning Guide* (2010) p.16.
40. MEAM (Making Every Adult Matter) A Four-Point Manifesto for Tackling Multiple Needs and Exclusions (2009) p.10; Bedson, L. and Hartnett, L. (2011) p.18.
41. Mason, C. and Robb, W. *Preparing Pathways to Justice: Intervening Early for Vulnerable People with Impaired Capacity* (Queensland Advocacy Incorporated, 2010) p.35. See also: Braithwaite, T. *Multiple Needs: Service Users' Perspectives* (Revolving Doors Agency, 2009).
42. MEAM (2009) p.11.
43. Mason, C. and Robb, W. *Pathways for People with a Disability in the Criminal Justice System: Using a Benefit Cost Analysis to Reframe the Approach to Policies and Programs* (Queensland Advocacy Incorporated, 2007).
44. Mason, C. et al (2007) p.31.
45. The U.K. charity, Revolving Doors, is developing an empirical, economic model outlining the costs of various intervention and support strategies for people with multiple needs. This model is based on 'scenarios' outlining various levels of service usage at different stages of people's contact with the criminal justice system. These scenarios outline the costs to government based on people's probability of contact with services, the unit cost of each contact, and the frequency of contact with services. This model is in the developmental stages, and is being prepared for a peer review. However, the model indicates that investing in early intervention services could result in significant savings to government. See: Williamson, D. *Financial Analysis Model and Links to Emerging Policy* (Revolving Doors Agency, undated). Revolving Doors has also produced a model outlining the financial costs of supporting women with multiple needs in the criminal justice system. This research shows that an investment of £18 million per year in women's centres could save the public purse almost £1 billion over five years. See: Page, A. *Counting the Cost: The Financial Impact of Supporting Women with Multiple Needs in the Criminal Justice System* (Revolving Doors, 2011) p.4.
46. For example, an analysis of the Revolving Doors Link Worker scheme found that recorded levels of offending for a sample of 82 long term clients fell by 22 per cent compared with a three year period before and after these interventions. See: Anderson, S. *Summing Up: Revolving Doors Agency's Key Learning 2000-2009* (Revolving Doors Agency, 2010) p.9.
47. Thomas, J. E. *Diversion and Support of Offenders with a Mental Illness: Guidelines for Best Practice* (Justice Health, Victorian Government Department of Justice and the National Justice Chief Executive Officers' Group, 2010), p.23.
48. Victoria is currently trialling a police referral scheme called SupportLink (see 'Policy Context', in the following section). This is a fairly recent initiative that, at the time of writing this report, had not yet been evaluated. Therefore, it is too early to draw any conclusions about the SupportLink referral scheme.
49. These arrest referral schemes have been operational since the 1980s and are now run by all police forces in England and Wales. Scotland has also implemented arrest referral schemes. Bull, M. (2003) pp.23-24.
50. Sondhi, A. O'Shea, J. and Williams, T. *Arrest Referral: Emerging Findings from the National Monitoring and Evaluation Programme* (Home Office, 2002) p.1.
51. Russell, P. and Davidson, P. *Arrest Referral: A Guide to Principles and Practice* (Effective Interventions Unit, 2002) p.5.
52. Sondhi, A. et al (2002) p.1. See also Bull, M. *Just Treatment: A Review of International Programs for the Diversion of Drug Related Offenders from the Criminal Justice System* (Queensland Government, 2003) pp.25-26.
53. Wellings, E. *Arrest Referral Program Evaluations: Report 4 – Emerging Findings of Victorian Arrest Referral Programs* (The University of Melbourne and Crime Prevention Victoria, 2004) pp.41-42.
54. Russell, P. and Davidson, P. (2002) p.5.
55. Sondhi, A. et al (2002) p.2.
56. Russell, P. and Davidson, P. (2002) p.7-9; Edmunds, M. Hough, M. Turnbull, P.J. May, T. *Doing Justice to Treatment: Referring Offenders to Drug Services* (Home Office, 1999) p.45.
57. Wellings, E. (2004) pp.vi and 45.
58. See: Victorian Law Reform Commission (2007) p.202; French, P. (2007); Federation of Community Legal Centres Victoria, *Advocacy: Making Rights Reality* (2006).
59. For example, legal advocates, systemic advocates and social justice advocates often carry out distinct functions. Nonetheless, there can be firm links and similarities between these forms of advocacy.
60. Forum of People with Disabilities, *Advocacy: A Rights Issue* (2001) p.5.
61. Forum of People with Disabilities (2001) p.8.
62. French, P. (2007), pp.41, 107, 108; Brennan, M and Brennan, R. *Cleartalk: Police Responding to Intellectual Disability* (1994); Simpson, J. Martin, M. and Green, J. *The Framework Report: Appropriate Community Services in NSW for Offenders with Intellectual Disabilities and Those at Risk of Offending* (2001), p.30.
63. Weatherburn argues that it is incorrect to speak of 'causes' of crime. Referring to 'risk factors' and 'protective factors' is a more accurate way to conceptualise the reasons why people might come into contact with crime. See: Weatherburn, D. 'What Causes Crime?' (2001) 54 *Crime and Justice Bulletin* 1.



# Policy Context: Early Intervention

In Victoria, as in many other jurisdictions, criminal justice policy has increasingly been framed around the twin goals of early intervention and effective support.<sup>64</sup> There are a host of initiatives in Victoria that aim to provide timely assistance and access to support services for people with cognitive impairments and mental illnesses who come into contact with the criminal justice system. This section of the report highlights some recent pilot projects that provide referrals and advocacy at the front end of the criminal justice system and that are particularly relevant to the ITP client group. These pilot projects have been highlighted because they are particularly relevant to the ITP client group, and because these projects are discussed further in this report.<sup>65</sup> However, it should be recognised that, in addition to these recent pilot projects, Victoria has a host of long-standing referral and diversionary initiatives that operate at various stages in the criminal justice process, and that may be relevant to people in the ITP client group.<sup>66</sup>

## SupportLink

SupportLink is an electronic referral system that is being trialled by Victoria Police in Melbourne East, Swan Hill and Mildura.<sup>67</sup> This is a one year pilot that runs until 24 October 2011 (but may be extended). SupportLink enables police to make consensual, non-crisis referrals on behalf of any person who is in contact with Victoria Police. Referrals can be made to a range of social services including drug and alcohol, mental health, men's issues, parental support and elder abuse services. In order to make a referral, police complete an online referral form which is then accessed by the relevant referral agency. The agency attempts to contact the person within the agreed time period, and lets police know whether contact was made and whether the person accepted the agency's services.

## PACT

Police and Community Triage (PACT) is a pilot referral and case management program that is being run by Victoria Police in partnership with community agencies.<sup>68</sup> The pilot commenced in January 2011 and runs until January 2012 (but may be extended until June 2013). In order to be eligible for PACT, a client must be:

- referred to PACT by the police (or self-referred if a former client), and;
- from the Glen Eira, Bayside or Kingston areas, and;
- have repeat contact with the police due to their multiple and complex needs.<sup>69</sup>

Similar to the U.K. arrest referral programs, PACT referrals are voluntary and independent of the police.<sup>70</sup> The aim of PACT is to reduce clients' contact with the police, and to enhance clients' health, social and welfare outcomes by facilitating their engagement with local services.<sup>71</sup> Like SupportLink, PACT is in the process of being independently evaluated.

## Making Rights Reality

The Federation of Community Legal Centres has launched a pilot project called 'Making Rights a Reality for Sexual Assault Victims with a Cognitive Impairment'.<sup>72</sup> The project is taking place in Melbourne's south eastern metropolitan region and runs until 2013. As part of this project, South Eastern Centre Against Sexual Assault, Springvale Monash Legal Service and disability agencies will provide intensive assistance to victims/survivors of sexual assault who have cognitive impairments. These victim/survivors will be provided with advocacy and support throughout the criminal justice process, legal advice and support, referrals, and communication and disability support. The aim of the project is to facilitate access to justice for victim/survivors who take part in the project, and to develop broader, evidence-based recommendations for law and policy in Victoria.

### Key Findings

The overview of the policy context indicates that:

- In Victoria there are several pilot projects that are aimed at expanding early intervention and support initiatives for people who are in contact with the criminal justice system. These pilot projects are being trialled in select regions of Victoria.

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64. See, for example: Victorian Law Reform Commission (2007); VicHealth, Preventing Violence Before it Occurs: A Framework and Background Paper to Guide the Primary Prevention of Violence Against Women in Victoria (2007); Department of Justice, Justice Mental Health Strategy (2010); Perez, E. 'Peace of Mind: Implementing the Victoria Police Mental Health Strategy' (2011) Autumn NewParadigm 10.

65. Refer to the chapter 'Responding to the Needs of Repeat Presenters'.

66. See, for example, the overview of the Court Integrated Services Program and the Koori Court, in Thomas, J. E. (2010), pp.108 and 117-119.

67. For further information, refer to SupportLink, SupportLink (undated) available at <http://www.supportlink.com.au/default.aspx>, at 9 September 2011.

68. Southern Health, Police and Community Triage – Connecting the Community (undated) available at [http://www.southernhealth.org.au/page/Media\\_\\_Events/Latest\\_Developments/Police\\_and\\_Community\\_Triage\\_-\\_connecting\\_the\\_community](http://www.southernhealth.org.au/page/Media__Events/Latest_Developments/Police_and_Community_Triage_-_connecting_the_community), at 16 September 2011.

69. PACT, PACT – Police and Community Triage: Connecting the Community (Service Brochure, 2011).

70. PACT (2011).

71. PACT(2011).

72. Women Donors: Investing in Women and Girls, Making Rights a Reality for Sexual Assault Victims with a Cognitive Impairment Online Project Showcase (undated) available at [http://www.womendonors.org.au/index.php?option=com\\_sobi2&sobi2Task=sobi2Details&catid=7&sobi2Id=24&Itemid=165](http://www.womendonors.org.au/index.php?option=com_sobi2&sobi2Task=sobi2Details&catid=7&sobi2Id=24&Itemid=165), at 5 September 2011.



# What the Interviews Tell Us

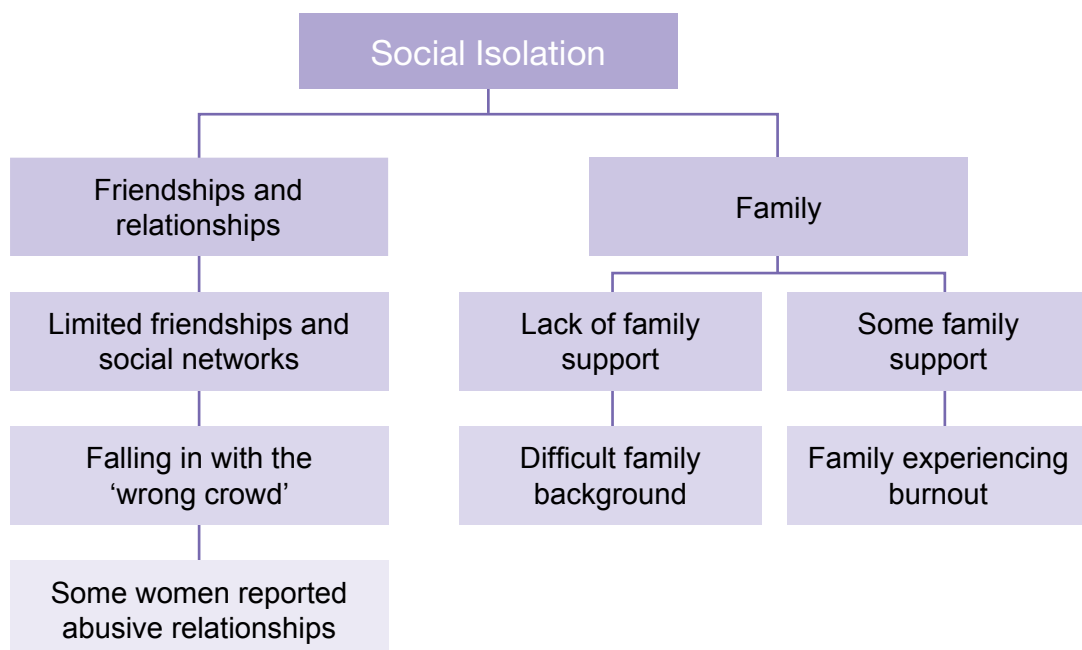
## Interviews with People Who Have Used the ITP Program

This project interviewed 16 people who had used the ITP Program (see Appendix 2 for further details). Fourteen of these people reported that they had had repeat contact with the criminal justice system. Like most repeat presenters before the program, the interview participants were mostly young men who had been interviewed by the police as alleged offenders. The project experienced significant difficulties in trying to obtain a broad cross-section of interviews with women, people who had used the program as victims or witnesses, and people from CALD and Indigenous communities. For these reasons, the below analyses look at the themes that were common to all participants (rather than making distinctions between alleged offenders and victims, for example). These analyses reveal that, while there are key differences within the cohort, there are also some overarching themes, such as people’s social isolation, poverty and their strong desires to find ways to get their lives on track.

### “By Myself”

#### People’s Experiences of Social Isolation

##### Summary Coding Framework 1: ITP Clients’ Experiences of Social Isolation



## Social Isolation

Many of the interview participants revealed that they led rather solitary lives, and that they had few opportunities to participate in the community. A striking theme that emerged in the interviews was just how few support networks people had.<sup>73</sup> Some people in the group indicated that they didn't have any friends, just paid workers whose job it was to engage with them a few times a week. For example, Dave indicated that, although he had a worker, he was not linked in with meaningful activities and he spent the majority of his time alone. Dave said that he would like to join a social program that did "fun things like going bowling, meeting people, having coffee, things like that". Other people said that they had some social networks, but acknowledged that they had fallen in with 'the wrong crowd':

"I started getting into drugs and alcohol at school. My friends at school weren't into that. I'm not in touch with my school mates now. Most of my mates now are into drinking and getting into trouble and stuff." [Jaden](#)

Two of the four women who were interviewed as part of the project reported having been in abusive relationships. One of these women, Janet, said that all of her relationships had been abusive. For this reason, she could no longer trust men, and had no intention of getting into a relationship again:

"I don't want to be with anyone. I just want to be by myself and get on with my life."

Some of the interview participants indicated that they came from difficult family backgrounds, including backgrounds of abuse and neglect. A couple of people reported that their families had long histories of contact with the criminal justice system:

"Me, as a kid, all I can remember is the police. There was a lot of drug history in our family, years ago in the 80s. Every time the police came to the door, the door would come flying off, then the coppers would come in with guns. A lot of me so-called brothers-in-law were armed robbers. I've seen a lot of the police." [Kieran](#)

Other people said that, although they had supportive families, they could not keep relying on their families for assistance:

"My Mum helps out as best she can. She's getting old and that now. I can't keep on relying on her for help. I try to do most of it myself." [Luke](#)

By comparison, two interview participants reported having strong family ties, being in intimate relationships and enjoying friendships in the community. These participants were also the people who had only been interviewed by the police on one occasion. These people reported that, although they had faced challenges in the past, their lives were now getting on track.

## Three Relationships are Enough for Me

### Janet's Story

My first relationship was with Robert Parker. I was married to him. We had two children. Robert used to tie me up and bash me. He was overdosing me on me medication as well. He wouldn't let me go out anywhere. So I said 'enough is enough' and I left him.

A couple of weeks down the track I went out with this other guy, Jason. It didn't work out between me and him, so I've got an intervention order on him at the moment. We have to go to court about it, so I don't know what's going to happen. I'm starting to worry about it. I'm up and down, up and down all night. Back and forwards, back and forwards in my room, or I walk in the passage. It drives me mad.

The last relationship I had was with Barry. I'm not going out with him no more. He's hurt me. He's pushed me down on the ground, nearly splitting my head open. He's been ringing me up when I don't want to talk to him. I don't take the chance of running into him. Sometimes he gets, what do you call it...very violent. I haven't been going out so I don't see him. That's why I want to get an intervention order on him.

I've really had a rough time-and-a-half this time. I've been through three relationships already. Three relationships are enough for me. I'm not going through the pain again.

I've been getting counselling. That was really good. My counsellor is a really good person to talk to. I can sit down and work out my problems and that with her.

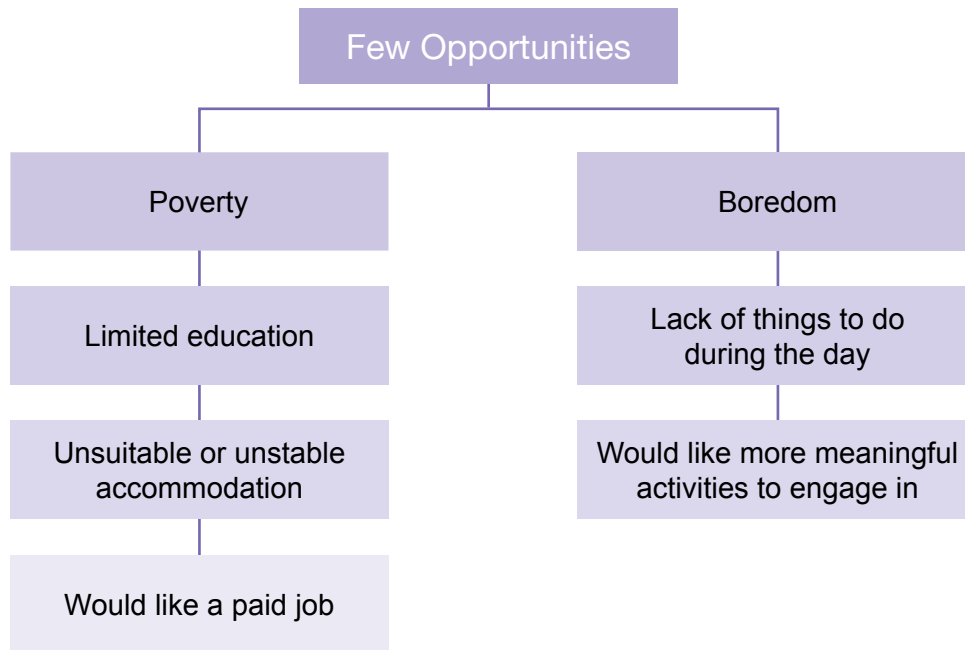
My kids are really important to me. Both of my children are in welfare. I see them, but not as much as I want to. My little boy is having problems at the moment. He kicks, he hits. He can't talk. The carers don't know what to do about him. But he goes to school, and he loves that. My little girl is doing really well. I'm proud of her. I'm proud of both my kids.

I like where I'm living. I like the staff here. They treat you really well. I like the programs I'm going to. But I want to get out of here and get my own unit. I want to live independent. I want to learn to do more cooking. I want to do my own laundry and groceries and washing. I want to do it myself.

# “Living Day to Day”

## People’s Experiences with Lack of Opportunity

### Summary Coding Framework 2: ITP Clients’ Experiences with Lack of Opportunity



### Few Opportunities

Poverty and boredom were difficulties that many people struggled with on a daily basis. When asked what things would help improve their lives, ‘money’ and ‘decent housing’ were at the top of most people’s lists.

Many participants reported having left school at an early age. For some people, dropping out of school was accompanied by increased contact with the criminal justice system. While some people said they had enjoyed going to school, others indicated that they had trouble integrating into this environment:

“I went to school three days a week because I was violent with the teacher. Then I did special school, one-on-one”. [Dave](#)

Only two of the 16 interviewees reported that they were currently in paid employment. However, a couple of the younger people said they were attending school and were working towards achieving their career goals:

“I actually want to do a hospitality course and become a chef.” [Patrick](#)

“I’d probably like to work with young people. Being involved in the system, I sort of know what they’re going through.” [Jake](#)

Nearly all people indicated that they were unhappy with their current housing situation. The accommodation types varied widely between the participants, and included living in the family home, private rental accommodation, public housing and supported accommodation:

“I’m living in a boys’ home. It’s had its ups and downs.” [Jake](#)

“I live by myself in a hotel. It’s ok. Not good and not bad. The hotel is a really rough place, really rough. There’s fights nearly every night. I’ve lived there nearly two years. I’m on the public housing waiting list. I’ve been waiting, like, six years. They say it’s not long now.” [Irene](#)

“It’s really me living-wise that’s causing me problems. I’m not happy where I am. That’s when I go out and start running amok.” [Luke](#)

A couple of people reported that, in the past, they had experienced homelessness. Therefore, while their current accommodation may have been less than ideal, it was still a ‘step up’ for them:

“I lived on the streets for a long period of time. My life came unstuck when I was living on the street, committing crime, taking drugs, doing everything wrong. That was how it all went from the age of 14 onwards.” [Dave](#)

Two people, however, reported that they were happy with their homes. One person lived with his partner in a “really nice” community housing flat. The other person lived in shared supported accommodation:

“I live with a group of people. I’ve lived there for six months. It’s going good. They cook dinner for you. You do your own clothes washing. We go out. I play basketball, Special Olympics.” [Allan](#)

The two people who lived in supported accommodation, Allan and Janet, said that they went to day programs and enjoyed opportunities to engage in a variety of activities during the day. However, Allan said that what he really wanted was to “get a job and get some money”. Another person, Eric, had a leadership role in a self advocacy group for people with acquired brain injuries. Eric reported that being a self advocate gave his life meaning and purpose.

Many of the other interview participants, however, indicated that they were at ‘a loose end’. For example, when asked what he liked doing, Frank replied:

“Not very much at all... All I do is drive around and waste petrol all day.”

A couple of people who said that they had little to do during the day reported that they filled their time by drinking alcohol and hanging out with ‘the wrong crowd’. This aimlessness contributed to these people’s sense that they were just “living day-to-day” and could not make meaningful plans for the future.

## I Really Don't Want to Go Back to Prison

### Jaden's Story

I got kicked out of home when I was 15. I was losing it before then, drug use and stuff and antisocial behaviour. I'm a bit violent sometimes. Yeah, I'm pretty violent when I drink.

I left school when I got kicked out of home. I wasn't good at school, but I was good at sport and stuff. Since I left school I've been hanging round with the wrong people. Most of my friends now are just people I've met at refuges I've been at. I'm not in touch with my school mates now.

Since I got kicked out of home I've been living everywhere. I've lived in about 30 or 40 places like refuges, hostels and rooming houses. I was in prison for a bit. The longest time I've lived somewhere since I moved out of home has been prison, and that was for four months.

I went to prison pretty much as soon as I turned 18. I was out drinking with me mates, and we ended up stealing a slab. Later on we were walking around and we ended up hijacking a car. We seen this car – this nice car – with a man sitting down in it. We told him to get out of the car or we'd stab him. We drove the car around and ended up crashing it. I went straight into remand after that.

The last interview I had the police called a Third Person 'cos they reckoned I had mental problems or something. I've had heaps of police interviews, but that was the first time I'd had a Third Person. It was very helpful. The Third Person spoke to me before the interview and gave me support. She run me through what the interview was going to be like.

I've been interviewed without a Third Person, without anyone there. It's harder, you know, doing it by yourself. The police put you on the spot and sometimes you don't know what to say. I was alone when I was interviewed the time before I went to prison. I was very drunk when they were interviewing me. I didn't do very well in that interview. That's when I could have used a Third Person, you know what I mean. The police don't show as much respect if you're on your own. They think that 'cos someone's with them, they've got to look like they're good people – good police people. By yourself, they look at you like you're shit.

A typical day for me is, I dunno... I hang out with me mates a lot, drinking. I drink a lot and get into a lot of trouble. I'm on the dole. I'm a bit lost.

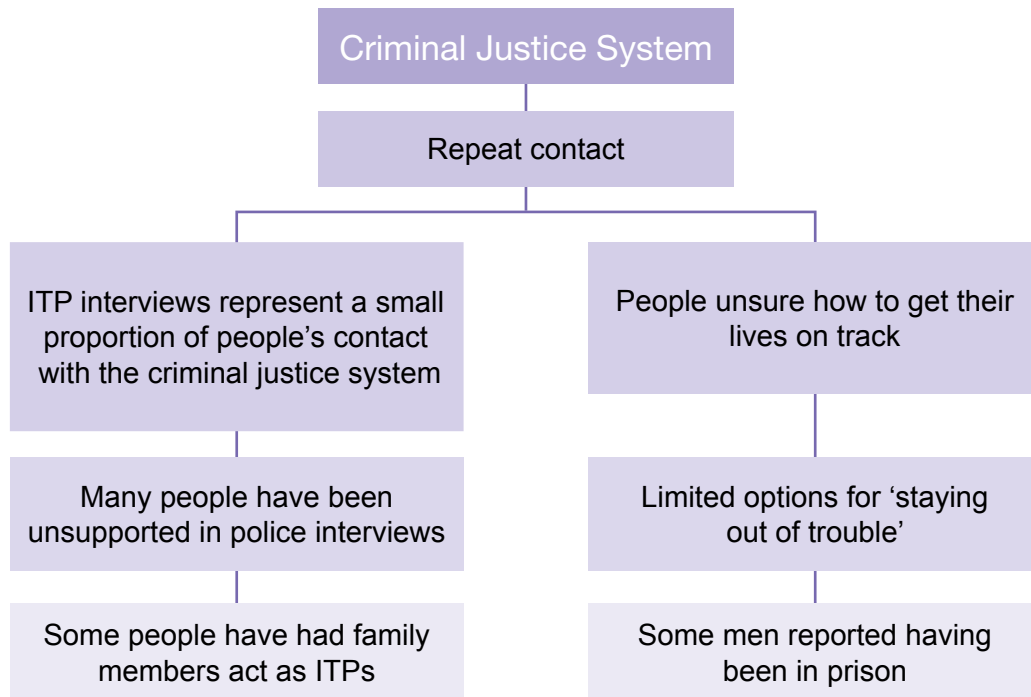
I want to race greyhounds. I love dogs, greyhounds are ace. I haven't been able to have a dog where I've been living at the moment, in a bed-sitter.

I've been on the waiting list for a house from the government for about three years. One has just come through and I'm moving on the weekend. But I'm not sure though, 'cos I might be getting locked up soon, so would it have been worth it? I really don't want to go back to prison.

# “I See a Lot of the Police”

## People’s Contact with the Criminal Justice System

### Summary Coding Framework 3: ITP Clients’ Experiences with the Criminal Justice System



### Criminal Justice System

A strong theme that emerged in the research was the fact that, typically, OPA ITP interviews only represent a small proportion of a person’s overall contact with crime and/or the criminal justice system. This may be because:

- Crimes are not reported or are underreported to the police. This problem can be exacerbated for people with cognitive impairments and mental illnesses who have experienced violence or sexual abuse.<sup>74</sup>
- Family members or friends have performed the ITP role during police interviews, rather than OPA ITPs.
- People have attended some police interviews alone, unsupported by either a family member or an OPA ITP.
- People have interactions with the police outside of the formal interview process. For example, some people who were alleged offenders reported that they often had contact with the police when they were “driving around” or “walking down the street”. These people believed that, because their criminal histories were known to police, they were a “target” for ongoing police scrutiny. Likewise, participants who were victims/survivors of crime spoke about having contact with the police outside of the interview process. For example, one victim of assault reported engaging in pre-interview conversations with the police before having the opportunity to make a formal statement about the crime that had been committed against her.<sup>75</sup>

## Couldn't Understand Her

### Case Study

Brenda is a young woman with an intellectual disability who lives in a country town in Victoria. She is a victim/survivor of intimate partner violence. Brenda has taken an intervention order out against her former partner who was extremely abusive.

One night, Brenda attended the police station because her former partner had been violent towards her. Brenda was reportedly “sobbing and wanting to talk about what happened”. The police did not investigate Brenda’s concerns and she left the station without having the opportunity to formally report the breach of the intervention order. When Brenda’s Advocate Guardian later investigated this issue, she was told that Brenda had indeed “turned up” at the police station but because the police “couldn’t understand her” they had “sent her away”.

Brenda’s former partner continued to breach the terms of the intervention order. This culminated in Brenda being sexually assaulted by her former partner. The sexual assault was reported to the police and a female police officer attended the Supported Residential Service (SRS) where Brenda lived. The police officer admonished Brenda for seeing her former partner and said “You know you’re not supposed to see him”. Brenda thought she was in trouble and ran away. Brenda’s Advocate Guardian notes that there was a power imbalance between the police and Brenda. For Brenda, this power imbalance meant that “as soon as she saw the uniform, she got scared.” Brenda’s Advocate Guardian believes that it would have been beneficial for an ITP to assist Brenda to speak to the police during this pre-interview conversation. The Advocate Guardian believes that the presence of an ITP would have helped empower Brenda to speak up and tell her story to the police.

## Family Members as ITPs

Several participants who took part in this project – particularly the younger people – reported having had family members perform the ITP role. These participants believed that there were some positive aspects to being supported by someone they knew. In particular, people indicated that they felt at ease telling their story in front of their family member. However, on balance, these participants focussed on the difficulties associated with non-OPA ITPs.<sup>76</sup> For example, Aaron, who suffers from severe anxiety problems, reported that having his mother act as his ITP made him feel “comfortable”. However, for Aaron, the downside of having his mother attend his police interviews was that:

“I tend to get angry about some of the things Mum says. So it is kind of good not having her there every now and then.”

A couple of people, like Aaron, felt that it was easier for them to be objective during the police interview when their family members were not present.

One of the research participants, Jake, drew attention to the fact that family members can sometimes provide inadequate protection for the rights of the person being interviewed. During his discussions with the researcher, Jake reported that:

“My brother has used the [ITP] program a fair bit. I know he started a lot younger than I did. He started being interviewed around 13.”

Jake went on to add that he had used this same brother as his ITP “a few times” when he was interviewed by the police. OPA’s records confirm that both Jake and his brother have had contact with the ITP Program on several occasions, and that both are reported to have an intellectual disability. Jake’s case highlights the need for thorough screening to occur before family members and friends are used as ITPs.<sup>77</sup>

## Attending Police Interviews Alone

A significant proportion of people who took part in this project (11 of the 16) said that they had experienced attending police interviews alone, without the support of either an ITP volunteer or a friend or family member. Two people reported that they had been interviewed by the police outside of Victoria and, therefore, they did not have access to the ITP Program on these occasions. One person reported that he had had extensive interviews with the police when he was younger, prior to sustaining his brain injury. This person said that, on acquiring his brain injury, he had always accessed an ITP during his police interviews. In the remaining cases, it was unclear why people had been interviewed by the police without the support of either an OPA or a non-OPA ITP.

All people who had experienced being interviewed by the police without any support person present confirmed that this was a very difficult – and often frightening – experience:

“I found it really nerve racking, really hard. It was hard to understand what they’re saying and stuff.” [Rachael](#)

“When you’re interviewed alone, ya can’t explain it. As soon as they get you in the interview room, they’ll either bash ya, or they tell ya what they want to know, even if you haven’t done it. Say when they ask you a question and you answer it, they just think you’re lying. They’ll turn the tape off and harass you again.” [Luke](#)

Another person, Evan, reported that he had been interviewed alone after witnessing the murder of his mother. Needless to say, this interview had a very traumatic effect on Evan:

“When I had the interview with the homicide, they let me out for a break and stuff. But the interrogation was so bad it took me nearly a week to get over it. All the questions they were asking me...it was pretty bad. They were stressing me out so much.”

## Prison

Half of the men who were interviewed as part of this project (six of the 12) reported having been to prison (see, for example, the stories of Dave, Luke and Jaden). None of the women participants reported having been to prison.

## Getting on Track

All of the people who took part in this project displayed a strong desire to get their lives on track. However, many of them lacked the resources or the ability to work towards living a positive life. For some people, the way to try and ‘stay out of trouble’ was simply to isolate themselves from the outside world:

“After this episode, I haven’t even been leaving the house. This is the first time I’ve come out of the house for nearly a month and a half. Just so I don’t get in trouble.” [Interviewer: “That must get pretty boring”]. “It does, but I don’t get in trouble if I just stay home.” [Luke](#)

Clearly, people like Luke would benefit from more active support and encouragement to try and assist them to ‘break the cycle’ of social isolation, boredom and contact with crime.

## The Life of Crime

### Dave’s Story

I was born and raised in Queensland. I had a mother and father who were alcoholics. My brothers were drug addicts and users. I thought, if I live on the streets I’ll be more free – free as a bird. I won’t have any hassles. But living on the streets is a real rough life. It’s called ‘street survival’.

I lived on the streets for a long time. When I lived on the street it was a real rough life. I was always trying to fend for myself, committing crimes and running into the law. When you live on the streets, you’ve got to commit crime because you don’t have much money. Then you run into the law.

Living on the streets wasn’t an easy life. Always, every day, you’ve got the police going back and forth. You’re always in police interviews. The police never leave people alone that live on the streets. This is what I hate about it. Police have got to understand that, eventually, enough’s enough. They’ve got to leave you alone eventually.

My first police interview was when I was 14. That was for break and enter. From the age of 14, the police interviews just went on and on. It was living ‘the life of crime’. It’s good to have the life of crime, to keep it going for a while. But the next minute your jail sentence builds up to years and years.

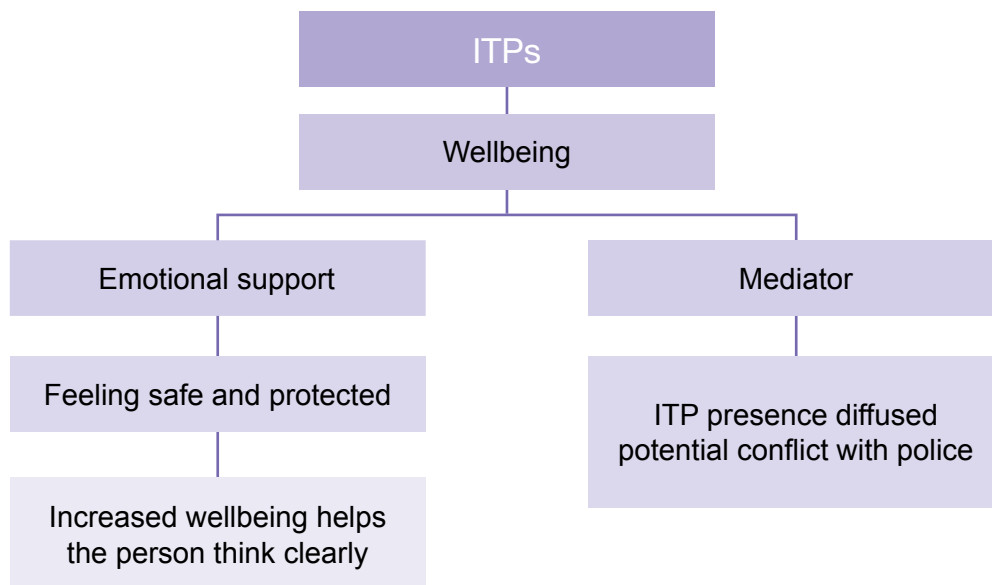
I’ve been in jail lots of times, about 25 or 35 times. You’re in jail, you get three meals a day and a bed to sleep in. The only thing you don’t have is your freedom. It’s a big thing to lose, but you don’t sit there and cry about it. Jail is like a big family. You come back and say ‘Alright brothers, I’m back again’. You’re friends in jail but not out here in the community. Things change a lot out here.

I think that if disability services see that someone’s got the life of crime, they should step in and say ‘Why don’t we help the fella?’. There should be more activities. You’ve got all these support workers, but that’s not enough. You live on your own, travel on your own, you see your workers three times a week and that’s it. The rest of the time you’re on your own. You need to have a network of friends. You need to have a network of people you can trust.

I’m trying to get my life in order, but at the moment I can’t get my life in order, that’s for sure. The police won’t leave me alone. It’s one thing if you’re living the life of crime, but I’m not living the life of crime no more. Once you’ve got that marked on your paper – that’s it. The cops will never leave you alone. So at the moment, I’m just trying to manage every day and take one day at a time.

# “Very Reassuring and Comforting” People’s Views on ITPs and Wellbeing

## Summary Coding Framework 4: ITP Clients’ Views on ITPs and Wellbeing



### Increased Wellbeing

The feedback from people about their experiences with ITPs was overwhelmingly positive. Virtually all people reported that having an ITP present during their police interview made them feel safer, calmer and more confident:

“The Third Person, she was lovely. Actually, she was really wonderful. She made me relax a lot, and made me feel safe, secure. I felt more confident having her there. It was very, very good, you know what I mean. If she wasn’t there, I’d be really scared.” [Irene](#)

“Each time you have an ITP there, they go through the same procedure, which is a calming process as well. It’s like telling a patient what process they’re going to go through before they go to the theatre – it’s a calming procedure. It puts the person’s mind at rest before they have to go on to whatever’s next.” [Angela](#)

Feeling safe and supported could, in turn, have a positive impact on the person’s ability to think clearly and to communicate with the police:

“I’ve had interviews on my own. I tell you what, I was very scared, nervous, I wasn’t confident. I thought I was going to jail. Because I was so nervous, the answers were coming out as if I was lying. Because when I’m nervous I just go ‘blah blah’. With the Third Person I felt more confident, safer. [Interviewer: “Did that help you with explaining things to the police?”] Much better, yes, 110 per cent better. It’s amazing what a difference it can do.” [Irene](#)

“If the police want a statement that’s rational and that makes sense as much as it humanly can, they need an ITP there to do the calming process.” [Angela](#)

However, as one person observed, there are limits to the support that an ITP can offer to the person being interviewed:

“The Independent Third Party comes in, and all they are there for is to sit in on the interview. They’re not there to look at your injuries. They look after your wellbeing, but only in the interview. Once the Independent Third Person is removed from the police station and you remain in custody, you’re just another dirty prisoner that belongs to them.” [Dave](#)

## The Conductor of the Orchestra

### Angela’s Story

My ITP was just wonderful. I’ve used an ITP twice and I had the same woman both times. I told her ‘We have to stop meeting like this’.

My ITP met with me before the interview commenced. She was very reassuring and comforting. Her demeanour was very soothing. She made sure that my rights were protected. She actually did more than what the job description requires. She did little things I suppose, like get you coffee, tea, and ask: ‘Is there anything else I can get you?’. She was very professional and was welcomed at the police station, which was nice to see.

I think ITPs should be there every time someone gets interviewed. I think it’s wonderful and people can only benefit from the service. There’s an assurance, basically, that the person will be cared for because the ITP is there. The ITP can make sure that there’s no, perhaps... Well, look, so much can go on between two people when one has got a uniform on and the other one hasn’t. The police will get a more accurate and correct and calmer statement if the ITP is there.

I’ve had interviews without an ITP. I’ll be a realist here, anything can happen. Anything can happen. You don’t care what side of the table you’re sitting on, but anything can happen. It’s hard to answer things sometimes, especially after you’ve been arrested and have to go and have the interview. Conducting the interview can be traumatic too, depending what the circumstances are. The ITP can certainly sort that matter out on the spot. You’re not completely alone and isolated. It’s nice to have an extra support person there that will ensure that both parties are going to behave. So the ITPs play a role for the police force too, because it saves them a lot of trouble. The ITP is like the conductor of the orchestra – that gives you the general idea.

An ITP referral service is a good idea, absolutely. That would be fantastic. You can’t force a horse to drink water, but you can say: ‘This person might be able to help you and here’s the number’.

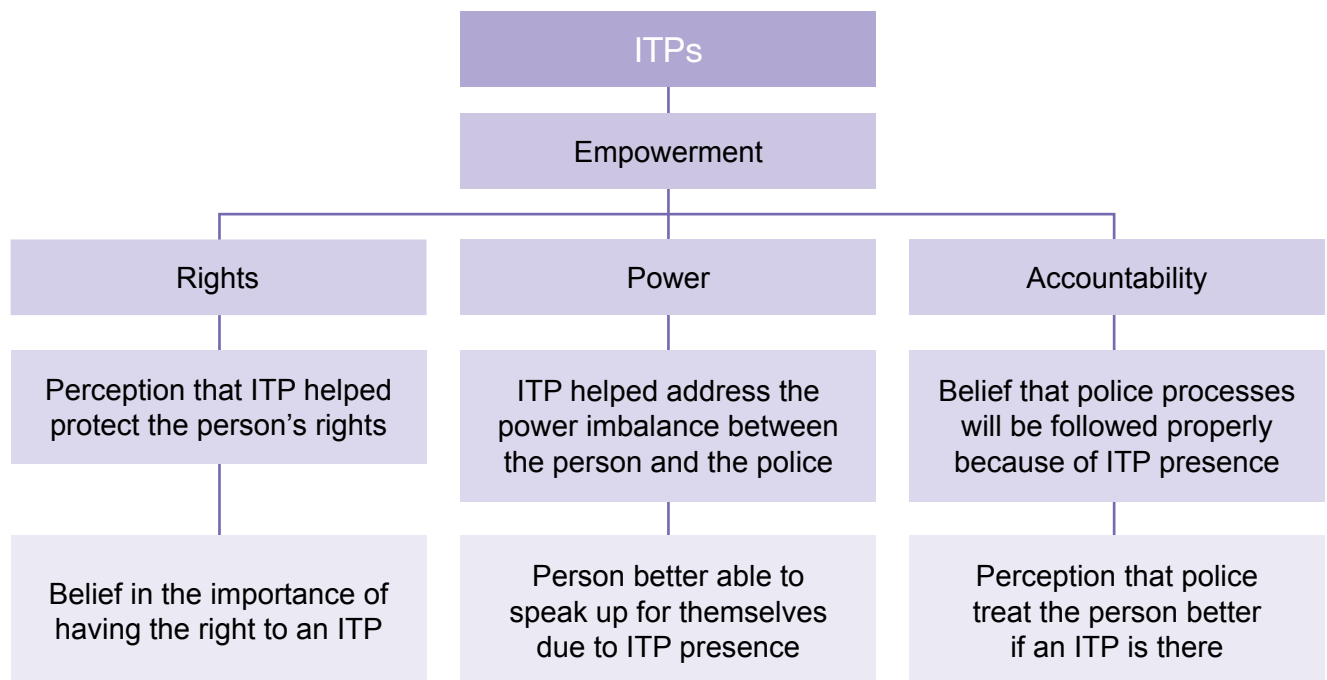
It would be helpful to have access to a pool of information. It can be hard to even go to Human Services and find one part that can help you. Everything is split up into different departments. So if you’ve got a general enquiry, for instance, where do you go? It doesn’t work.

I can imagine that other people would have trouble getting access to services, but I haven’t. I’m perhaps a bit more motivated than the average person. I’m very busy and I’ve always been very resourceful. I had a major car accident a few years ago, but I believe that I’m the same. I haven’t changed, apparently. I’m still a resourceful person. I’m just a bit more ruthless about how to access information, and very impatient.

# “Someone On My Side”

## People’s Views on ITPs and Empowerment

### Summary Coding Framework 5: ITP Clients’ Views on ITPs and Empowerment



### Empowerment

As discussed previously, most of the people who were interviewed as part of this project reported that they had sat through police interviews alone, without the assistance of a support person. These people said that, without an ITP, they sometimes feared for their safety, experienced increased difficulties in communicating, and felt a heightened sense of conflict with the police. These factors contributed to the power imbalance between the person and the police:

“If you’re there by yourself, you sort of feel as if you’re singled out because there’s two coppers there interviewing you. You don’t know what’s going on so you feel a bit scared as well. Being in a small room, I feel claustrophobic. Being there on my own, I just want to get out of there. I did that to the coppers once. I just walked out of the room for a bit and then came back.” [Evan](#)

People indicated that many of these difficulties were alleviated when an ITP was present. For example, it was noted that an ITP could help address the power imbalance between the person and the police:

“If the IT person [sic] is there, they treat you equally. But if the IT people [sic] are not there, or they leave, then that’s when they start to treat you rough.” [Dave](#)

Several people emphasised the importance of having the ITP as someone “on my side”. For these people, the ITP’s support made them feel empowered, and strengthened their ability to speak up for themselves during the police interview. These people also believed that they were treated better by police when an ITP was there. In this sense, the ITP was regarded as a ‘watchdog’ that could ensure that police processes were followed properly:

“When you’ve got the Third Person in there, it does make it a lot better. It’s a different situation. When I got that person in the room, the interview just goes so smooth, you know, without no roughness, and without no tape getting turned off.” [Luke](#)

A few clients said that, having had positive experiences with ITPs in the past, they were now ready to alert police to the fact that they needed an ITP. On this point, Kieran noted that the mere act of telling the police that he needed an ITP had the effect of changing the power dynamics between himself and the police:

“Basically they shit themselves, because they knew they had to do things by the book... That’s when they backed off.”

Likewise, Irene commented that:

“I’ve had about seven interviews all up. I’ve had a Third Person two times. As soon as I knew you were supposed to have one I was onto it – bang – both times.”

For these clients, having access to an ITP was viewed as an important entitlement:

“It’s publicly acknowledged that you have an extra human right, I suppose.” [Angela](#)

## They Are Pretty Rough

### Luke's Story

I reckon I've had more than 40 police interviews. It started when I was 13. I was mainly driving cars without a license. I went to jail over driving charges. As soon as I turned 18 they locked me up. I was in prison for six months.

Sometimes you get the nice coppers, sometimes you get the real prick ones. When you get the nice ones they talk to you a lot better. The prick ones... well, they are pretty rough. It's a bit wrong what they do. Fair enough, they're out to do their job, but they do it the wrong way. The worst thing is, you can't do nothing about it. What are you supposed to do about it? Go see your solicitor and say 'They just bashed me'? Your solicitor is not going to do nothing. If there's no proof or evidence of it, there's nothing you can do about it.

When you've got the Third Person in there, it does make it a lot better. It's a different situation. When I got that person in the room, the interview just goes so smooth, you know, without no roughness and without no tape getting turned off, no going out and coming back in the room. It's just one interview, straight up.

With the Third Person, it was really good. I wasn't yelling at the coppers. I wasn't getting aggressive, like I normally would. 'Cos I've had interviews where the coppers get real cranky and that. And when they get cranky, it just sends me cranky. If they speak to me like crap, I'm gonna speak to them like crap, and that's when it gets out of hand. With a Third Person there, they just seem to snap out of it. They snap out of their little roughness, or whatever you want to call it.

If a Third Person offered me help I'd take it for sure. 'Cos you don't really come across help like that. You've got to go looking for it, and I'm not a person to go looking for help. I reckon that most of the people who get targeted by the police probably do need help. They're probably just like me and don't want to go out looking for help.

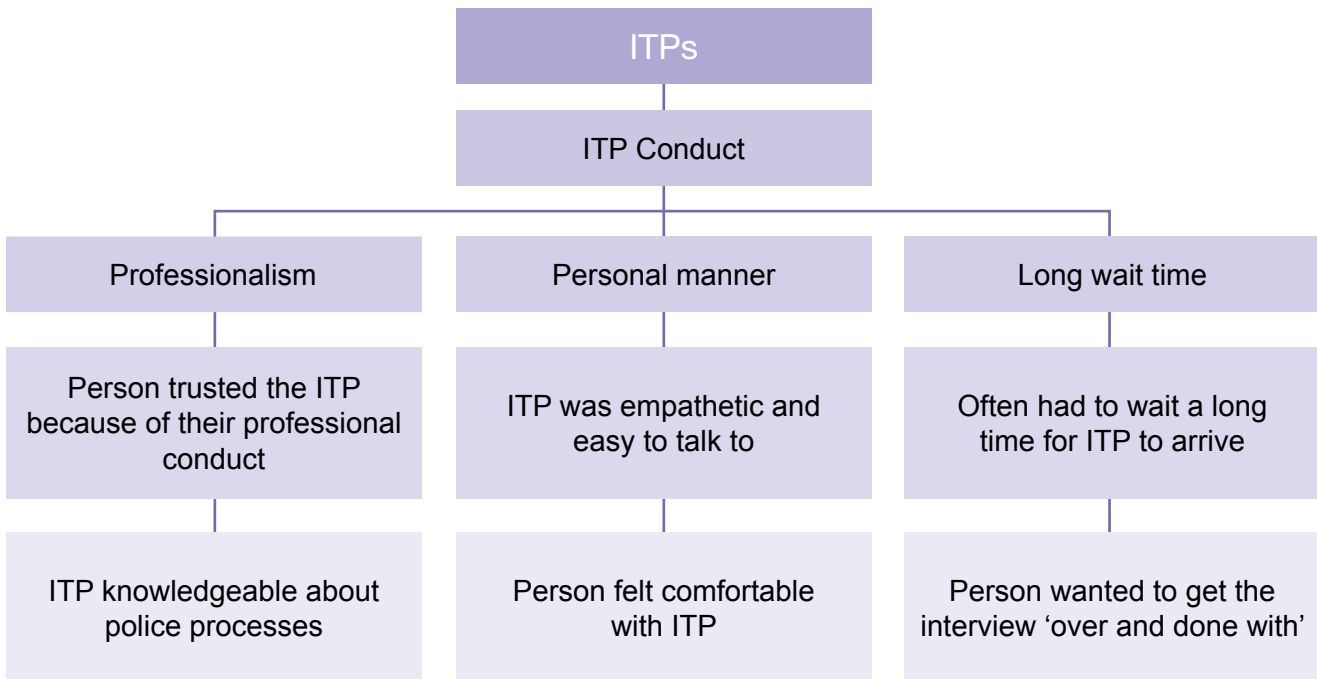
I'm living in a flat at the moment with a friend and her two kids. It makes it hard for me to bring my kids around, because they clash. I've got to get me own place where me kids can come visit. Me kids keep me out of trouble a fair bit. When I've got the kids I don't go to me mates' houses and that. I just spend time with me kids.

I'm always moving around and that, all the time, back and forwards. I want to move to a different town, somewhere where I can settle down. This town is alright. It's a nice town, but with the people you hang around, it's just too much trouble. It's mainly like, you know, the combination of where you're living and who you're hanging around. If you've got a stable place and the proper people to hang around, you're pretty well right.

# “Very Professional”

## People’s Views on the Conduct of ITPs

### Summary Coding Framework 6: ITP Clients’ Views on the Conduct of ITPs



### Conduct of ITPs

People indicated that they respected their ITPs because they were professional, empathetic and easy to talk to. Some people noted that, the first time they used an ITP, they felt uncomfortable. However, these difficulties were overcome once people sensed that they could trust their ITP:

“The first night I had an ITP I was in a freaked out state of mind and I didn’t want to listen to anyone. I’d never had it before and I wasn’t in the right state of mind. The next few times it was a lot more casual and relaxed. I knew I could trust her.” [Aaron](#)

Only one person reported having had a negative experience with an ITP. This person, Evan, said that the first time he had an ITP “she didn’t explain things properly”. Evan reported that:

“She goes, ‘I’m on this time limit’ and she would say the stuff really fast. When people say stuff really fast you can’t understand what they’re on about.”

A more common difficulty reported by people was the delays they experienced in waiting for ITPs:

“No offence, but it did take a while for her to come. She was the only one available in the area and she was a fair distance away. I waited 45 minutes to an hour for her to come.” [Rachael](#)

“We have to wait for 40 minutes for the IT person [sic] to turn up, and that’s not right. Because what happens to us while we’re waiting? They don’t bring coffee; they don’t bring nothing in... The IT person [sic] turns up and I say ‘Look, mate, I’ve been waiting over half an hour for you to get here. While you weren’t here, the cops are trying to get all these crimes out of me.’” Dave

The strong desire to get the interview “over and done with” heightened people’s anxiety while they were waiting for an ITP to arrive at the police station. However, most people acknowledged that, once the ITP did arrive, they were worth the wait.

## She Listened

### Fred’s Story

I had a car accident and ended up with a severe traumatic brain injury. I spent six months in rehab. Since then, it’s been pretty trying. I’ve gone from having my own house, to living with my family. I used to have a job, but I can’t work anymore. I forget things. I find it hard to learn new things.

At the time when I got taken to the cop shop, I was getting upset over nothing. It’s a condition I’ve got now; I have trouble controlling my emotions. On this day I lost it for some reason and kicked the ‘f’ out of the fridge. I said I was going to kill everyone. After that I calmed down because I took out my anger. But the cops ended up coming and taking me to the cop shop. I had calmed down by the time I got to the cop shop, but I was still angry, you know.

I was in the cop shop for a while. That’s when the cops spoke to me about my head injury. They said “We need to get a Third Person in to help you understand”. I was a bit daunted. I said “Look, I can understand”. It was as though they didn’t believe what I was saying. I thought to myself “I’m not a little boy, I understand”. But the police encouraged me to have a third party. I don’t know if they understood a bit, maybe.

The third party who came was an older lady. It was a good thing she came. It seemed like she understood. I was comfortable talking to her – that was the main thing. Even though I didn’t know her, she made it comfortable. She was really good. She listened. She went over things that the cops said through the interview. She was there for me. So yeah, it helped. It definitely, definitely helped.

If my third party had offered me help when I needed it, I would say yes. She made me feel comfortable so I would say yes for sure.

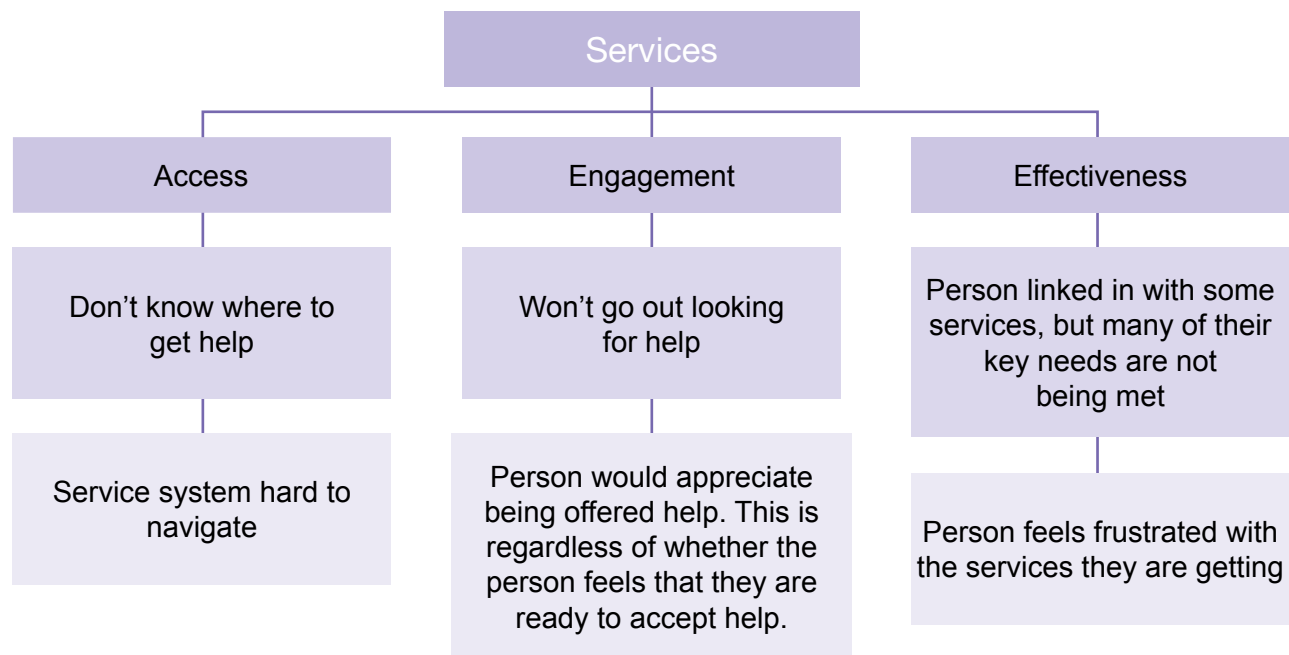
I’m a lot different to what I was then – it’s been a big difference. I went to a transitional living centre to learn to be independent again. Because of that scenario with the cops, it was a good time to go. It’s definitely helped with my life in general and with my relationship with my wife. We’re still working on it with a social worker, but it’s helped.

I stayed angry for days, back then. Now I can get over it. They wanted me to go there when I first got out of hospital, but I wasn’t ready. You have to look at life different, and I wasn’t at that stage in my rehabilitation. It wouldn’t have been a success. When I went I was ready for it, so yeah, it was good.

# “Getting Help”

## People’s Experiences with Services

### Summary Coding Framework 7: ITP Clients’ Experiences with Services



### Unmet Service Needs

Most of the people who took part in this project were proverbially ‘known to services’. Only two people indicated that they had never been linked in with help. However, what the interviews revealed was that people in this cohort typically had a cluster of needs, and only some of these needs were being addressed by the service system.<sup>78</sup> For example, many people reported that, while they were linked in with some services, they still had outstanding issues for which they were not receiving assistance (such as housing, employment and counselling, for example). The clear message from the interview participants was that, just because they were linked in with services, this did not mean that they were getting all the help they needed.

### Good and Bad Workers

People emphasised that there was a wide divergence in the skills and helpfulness of the professionals they had worked with. According to Jake, “good workers” are “people who know what you’re going through”. By comparison, the “bad workers” are “the ones who don’t know what you’re going through, who don’t do anything”. Sometimes, the compatibility between the person and the professional was an issue:

“A few of the workers I’ve had don’t know how to put their words properly and you take it in the wrong context. I get confused. With a couple of workers I just didn’t like them.” [Aaron](#)

By comparison, getting a worker who the person liked and trusted could make a real difference to the person's life:

“Just yesterday I hooked up with another worker. She's going to assist me with a few issues like legal stuff, housing and dentist. I had a previous worker and she wasn't that good, so I changed. She wasn't that helpful at all. She caused me a lot of grief. I thought: what's the point of having a case manager if she's not going to do the job.” [Irene](#)

## Navigating the Service System

Unsurprisingly, people reported that the service system is very difficult to navigate. Some people said that, even if they wanted to go out looking for help, they would not know where to begin. One of the participants said that she was proactively seeking assistance with housing and access to counselling, but that these efforts were to no avail:

“Everyone I spoke to about getting help, they're like ‘I don't really know how to’ or ‘I don't think you really need help’. And I'm like, ‘well, thank you very much’.” [Rachael](#)

## Willingness to Engage

There were mixed views relating to people's willingness to engage with services. Some people indicated that they would “really appreciate” the chance to be linked in with assistance. Others, however, indicated that they did not want to receive help from services:

“I don't really like getting help off anyone. I sort of like to do it myself.” [Aaron](#)

People indicated that it was important to be offered help, even if they did not want to accept this offer. For example, Aaron acknowledged that, although he did not want to be referred to services, “it would definitely help to have that sort of system set up”.

## A Catch 22

### Kieran's Story

A few years ago, I got knocked down in front of a pub. I don't remember what happened. Apparently it was just me and me mate having an argument, a bit of push and shove. I went back and ended up in a gutter. That's what caused me head injury.

Since me head injury, everything has just snowballed. I class meself as depressant. I suffer really badly with anxiety, stress levels and that. I've had times where I just wanted to end it all. I nearly OD'd meself. I don't want to go down that path again.

I've been in a bit of trouble with the law and that, over the years. I'm known as a bit hot-headed when it comes to the police side of things. I'm the sort of person who won't take shit from no-one. I get like that. I get really agitated when I feel like people are treating me like shit, or putting me down... The police don't like me and I don't like them. I don't trust them. They say that I might be a bad person, or whatever, or that I don't treat them with respect, but they do the same thing to me.

The first time I had a Third Person he talked to me and that before the interview. He told me that I didn't have to answer the questions and that. It is reassuring knowing that you've got someone there, knowing that they're there to help you understand. The Third Person helped with the way that questions were put to me. Once they were in there, the tone of the conversation changed, and that. The police treated me respectfully, not being smart arses.

There are a lot of things that frustrate the crap out of me. I had case management a couple of times. But I even got sick of that, because I'd have a case manager, then I'd ring up and they'd tell me that now I've got a different case manager. So you'd have to tell them your story again. The same conversation over and over and over again. It was more frustrating for me than anything. I thought: I'm doing more damage to meself trying to relay things from one person to the next. I told them I wanted one permanent case manager, but they said they couldn't do that.

I'm on medication and stuff like that. I'm on the morphine; I've been on it for a hell of a long time. That plays on me, too. I don't like that. I smoke huge amounts of marijuana. They're saying that, because I've got a history of marijuana use, it's going to be hard to keep me out of jail. They reckon I might have to do detox. I find that a 'Catch 22', too. I've always smoked marijuana. How can you put someone on a program and tell him 'alright, you're not allowed any more drugs'? How can you tell someone to do that if they don't want to do it? I've always felt like that. The more I'm pushed into something, the more I'll retaliate.

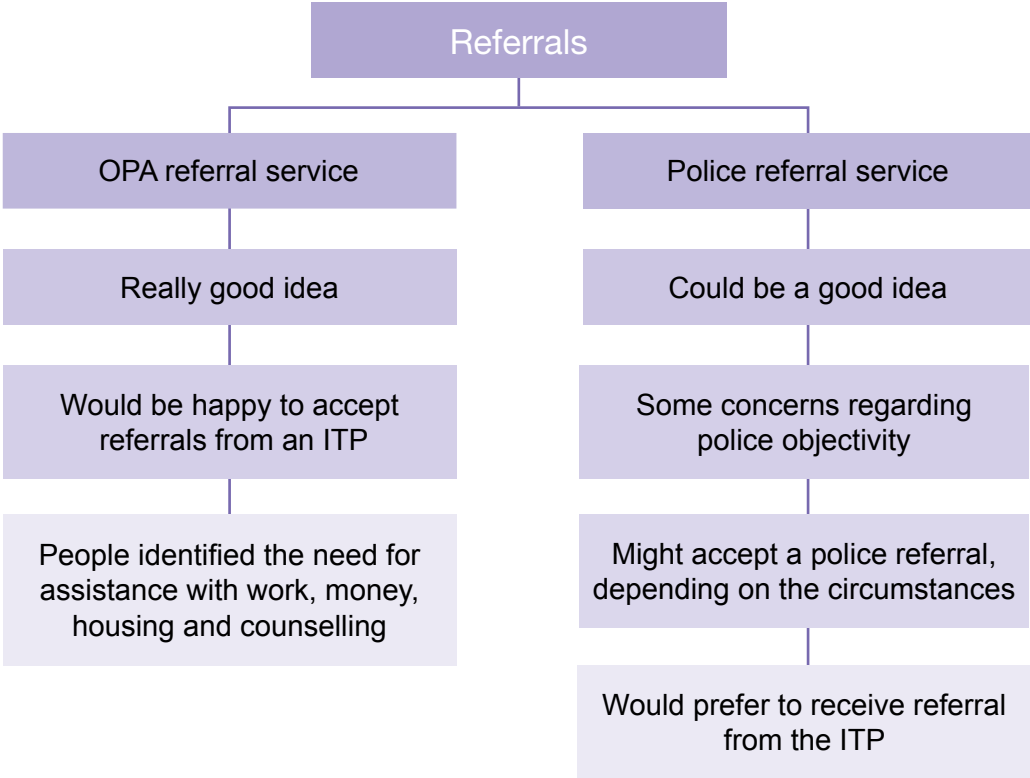
My solicitor's saying to me 'Come on, you're too old for all this crap; you've got to think of your grandkids'. I've got two grandkids, and they're the ones that keep me going through all this. I'd do anything for them.

I'm just living day-to-day at the moment. I'm having major issues with the place I'm living in. If I had my own house, I'd be happy. I'd stay home. I wouldn't be going out to the pubs and things like that.

# “A Really Good Idea”

## People’s Views on Referrals

### Summary Coding Framework 8: ITP Clients’ Views on Referrals



### ITP Referrals

Participants agreed that the police interview could be used as an opportunity to link people in with services and support. All participants felt that the ITP Program would benefit from developing a referral component:

“It’s a really good idea because you’re getting people at the point of crisis. There’s a lot of merit and potential in that.” *Eric*

Many people indicated that, because they trusted their ITP, they would be happy for their volunteer to try and link them in with the assistance they needed:

“Many people get nervous, embarrassed or shy from asking for help. But with a volunteer, it’s like, you’re not just anybody, you’re a trained person and you understand what the situation is.” *Irene*

The key ITP referral areas that people identified were help with practical issues such as financial assistance, getting paid work, accommodation and counselling:

“Young people out on the streets might need help with accommodation and support with money and food.” *Jake*

## Police Referrals

People were asked whether they saw a benefit in the police making referrals in the context of the police interview. There were mixed views about this. Some people said that, in principle, a police referral service was a good idea. However, they had reservations about how this would work in practice. Eric, in particular, was able to speak very articulately about the perceived benefits and limitations associated with police referrals:<sup>79</sup>

“In theory it’s a good idea because it shows that they’re not just there to arrest people. I’m just a bit dubious about the police referring people on the basis of their own assumptions.”

Eric

When asked whether they would accept a referral from the police, some people said that it depended on how the interview went, and whether they believed they had been treated fairly by the police. However, others, such as Jake, said that they simply “wouldn’t take any help from the police”.

All participants said that they would prefer to accept help from their ITP volunteer, rather than police. For example, Kieran felt that ITPs should “be in charge” of referrals in order to “keep the police right out of it”. Likewise, Eric indicated that he would be more likely to accept a referral that came from a person who was independent from the criminal justice process:

“I’d have to say I’d prefer to get help from the Independent Third Person, because you just know there’s no possibility where they’re trying to protect their own position. It’s truly transparent and, yeah, independent.”

Eric also pointed out that the relationship between the police and the person being interviewed could be somewhat fraught. For this reason, a referral that came from the police might be viewed with suspicion:

“The night I was interviewed I was really pissed off with the police. I was very frustrated. I thought ‘You don’t know what’s going on, you’re just making assumptions’. There’s no way I’d let them make a referral in that frame of mind.”

Eric went on to add that:

“There’s that stigma, I suppose, after the police have charged you. They might decide you’re drunk and refer you to a drug and alcohol service. So you wouldn’t necessarily trust a police officer who’s just arrested you. You just don’t know what their motivations are.”

It was not just the alleged offenders who said they would prefer to receive referrals from their ITP, but also people who were victims/survivors. For example, Janet has been interviewed by the police in the capacity of a victim of sexual assault and intimate partner violence. Janet reported that she has a positive relationship with the police:

“They are really good, really helpful. If you’ve been bashed, all you’ve got to do is call the police and they’ll come straight to ya.”

Nonetheless, Janet indicated that the police brought back a lot of “bad memories” associated with her abusive relationships. For this reason, Janet said that whenever she sees the police she “gets the shakes really bad”. Accordingly, Janet said that she would feel safer and more comfortable accepting a referral from her ITP.

## It's Hard to Get Help

### Rachael's Story

I'm a factory hand for a disability organisation. I package things like chocolates. I like it, the people are really good.

I've used a Third Person twice. The Third Person explained to me what my rights were. She didn't really say that much, 'cos even though she was there, personally I didn't think she needed to be there. But for legal reasons she was called in, because of my disability. The police said I had to have a Third Person because of my disability and it's on their heads if I don't have one. But I understood everything. She pretty much said I understood, anyway. It's mainly filling out forms and sometimes understanding things that I have trouble with.

The first interview I had with a Third Person was for not a very good reason. I can't remember much from that interview. The second time was for something I did. My ex was stalking me. I did everything I could to get him to back off but he didn't back off. So out of anger and everything, and just spur of the moment without even thinking, I got a Stanley knife and scratched his car. I did it to say 'Look, back off and leave me alone'. That's why I had the second interview.

I'm used to having a parent be my Third Person. Sometimes it's actually bad having your parents there. Between my dad and my mum, they sometimes say stuff which is irrelevant but people take it on board. Mainly my medical side of it all. That's why I'm glad they weren't there last time, 'cos they'd bring up my medical stuff and say 'That's why she did it'. So it was good having a volunteer for that interview. The volunteer helped 'cos it made it a lot more easier and comfortable and she explained over everything.

A lot has happened to me over the last few years. There's a few things I want to get help with. I've spoken to people about getting counselling, but no one believes that I need it. My doctor won't give me a referral for free counselling.

Help with housing would also be good. A lot of people won't rent to me because I don't earn much money and most of my money comes from the pension. I actually don't want to rent. I want to buy my own place.

It's hard to get help. The people I go to for help know my history and know my mum's history. They sometimes think that we're pulling their strings because my mum used to lie. So they fail to believe anything I say. The good thing about my Third Person was that she was independent. She didn't know my life story and she listened to me. She didn't just think 'Oh, she must be lying'.

## Key Findings

The interviews with people who have used the ITP Program indicate that:

- A person's ITP interviews tend to represent only a small proportion of their overall contact with crime and/or the criminal justice system.
- Many people struggle with poverty, social isolation and lack of opportunity.
- Typically people have a 'cluster of needs' for which they require assistance.
- It is rare for this group of people to be unknown to the service system. However, service provision to them is usually patchy. Some people are linked in with services, but these services are not working effectively for them. In other instances, people may have multiple needs, and only some of these needs are being addressed by the service system.
- The police interview provides an opportunity to link people in with assistance. Housing, money and employment were the key referral areas identified by people.
- People are very supportive of the ITP Program taking on a referral component. On the whole, people indicated that they would trust their ITP to offer to link them in with the help they needed.
- In principle, some people were supportive of the idea of a police referral service. However, all people said they would be more likely to accept help if it was offered to them by their ITP.
- Some people do not wish to engage with services, and would not accept a referral from either their ITP or from the police. However, people agreed that it was important to be offered help, even if they did not wish to accept this offer.

## I Can Speak Up for the People Who Can't Speak Up

### Eric's Story

I was at the shops one night, buying some cigarettes. I was assaulted by a couple of guys who were drunk and bored and wanted cigarettes. That's how I got my ABI.

The accident left me homeless. I couldn't return home because I was having problems with my memory and sequencing. It was very hard to get stable. You were given all this advice on the proviso that you had a family to go home to. I ended up in an SRS. That was a bit confronting, because I was young at the time and I was confronted by old ladies who would abuse me, say sexual things to me, demand cigarettes. I thought 'Oh my god, I'm not doomed to this because of my ABI'.

At the start I had a lot of speech problems and I couldn't walk properly. People would say 'Look, this person is being aggressive'. I can still have problems sometimes when I go into hotels. I've got a bit of a limp, now, and people will say 'You've had too much to drink'.

A police officer said to me 'It's a shame you weren't injured in a car accident, then you'd be TAC funded'. It causes a bit of a problem. With some people, there's a bit of an attitude, like 'Oh, I'm funded by the TAC'. I got criminal compensation, which was nothing, really.

I got linked in with a self advocacy group for people with ABI. At first I thought 'This is just another service where you're just a number and they'll ask you if you are still able to use a sharp knife now that you've got an ABI'. But it's been really great. Our group helps people with housing and working. It's a safe environment with likeminded people – no-one judges people. And we've started getting the message out there about ABI.

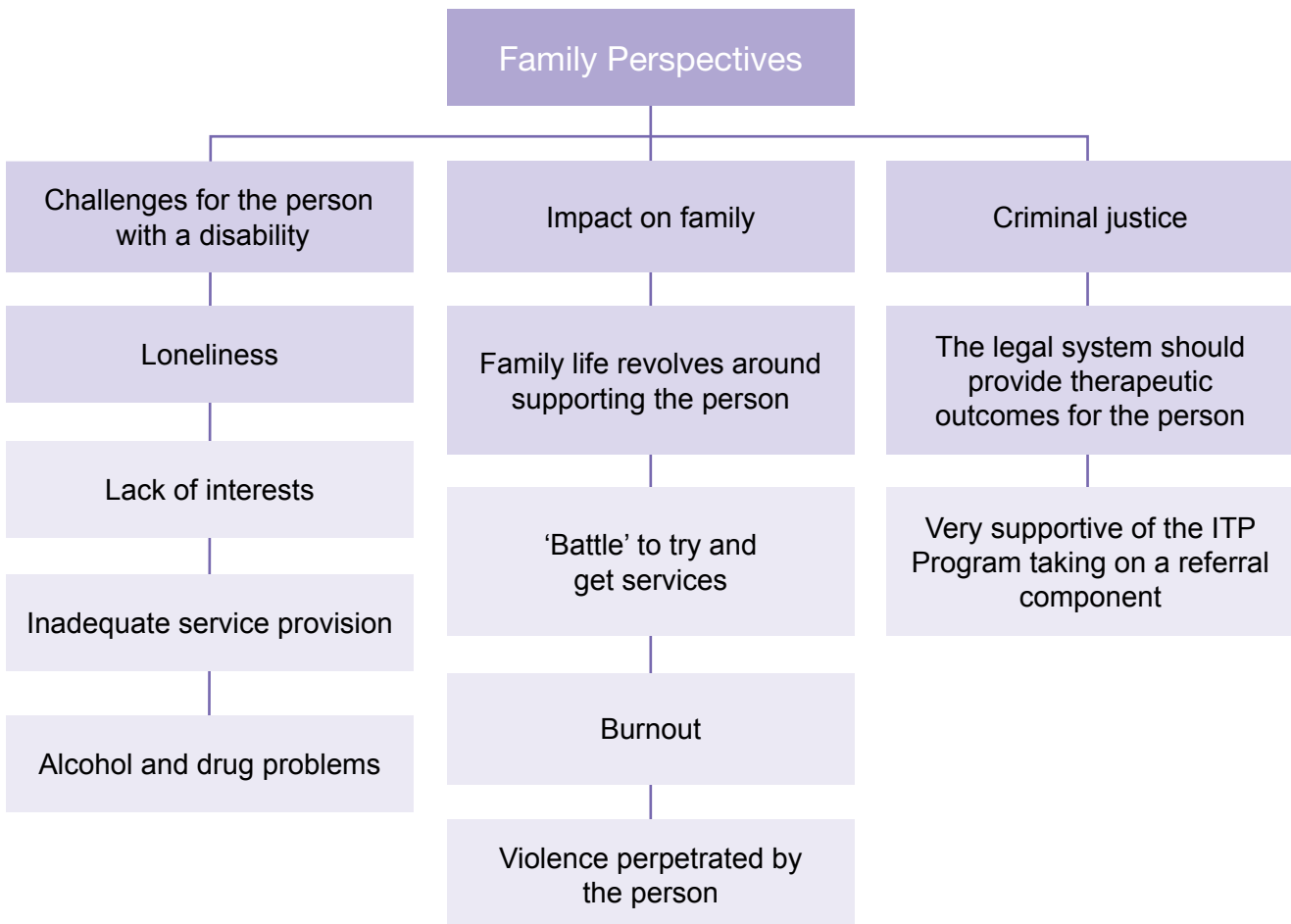
The head injury is something I can't escape; I just have to manage it. As they say, some doors close and others open. It's not all bad. I'm lucky because I'm pretty educated and that. I can speak up for the people who can't speak up. By helping them, I'm helping myself.

## Interviews with Family Members

This project interviewed four family members of people who had had contact with the ITP Program in the capacity of an alleged offender (see Appendix 3 for further details). All four participants were actively involved in supporting their family member. The interviews reveal that these families are struggling to cope, and they feel let down by both services and the criminal justice system.

## “We’re Not Getting Any Closer to Finding the Answers” Family Perspectives

### Summary Coding Framework 9: Families’ Perspectives



## Challenges for the Person with a Disability

All four family members expressed concerns about the loneliness and social isolation experienced by the person they cared for. The participants indicated that, aside from family, the person they cared for had very few social and support networks:

“Life can get pretty lonely at times. Johnny doesn’t make friends easily, and he never gets invited to birthday parties or that sort of thing. He’s always had to make social contact by pushing his way in and, of course, that just makes it worse.... We tried taking him to a holiday camp, but he just wasn’t accepted by the kids there because they’re so called ‘normal kids’. There have been a number of instances like that.” Phillip

“He doesn’t have any friends because he’s been in jail all his life. I remember even when he was out of jail he was a loner, always on his own.” Julie

Boredom was viewed as a key factor leading to people’s involvement with the criminal justice system.<sup>80</sup> Although family members had tried to support the person in engaging with meaningful activities, these efforts were not fruitful:

“He doesn’t fit in anywhere. We’ve been trying to get him engaged in something. He needs to be involved in something. It’s the same with school and stuff, he just doesn’t fit in. So he’s left with the thugs. We can see that they’re manipulating him but there’s nothing we can do about it.” Meg

“He doesn’t have any interests. Once he said he would go travelling, but then he lost interest. He needs, like, a really strong role model.” Julie

Three family members reported that the person they cared for had drug and alcohol problems. These substance abuse issues were viewed as the person’s way of trying to cope with their circumstances:

“He uses alcohol and pills to try and cope with his mental illness. Sometimes he used to score heroin as well. I think he has to get off his face just to deal with society. He used to drink on top of that as well, then he’d get upset and lash out.” Julie

“Drinking helps Mike cope with his brain injury. It makes him feel less vulnerable, like he can fit in with other people.” Leanne

## Impact on Family

The family members who took part in the interviews were strongly committed to providing support to the person with a disability. Indeed, for many of the interview participants, family life revolved around trying to meet the person’s needs, and trying to address the issues that led to the person having contact with the criminal justice system:

“For the last two to three years, our lives have revolved around containing him, and the violence, and trying to find answers. We’re not getting any closer to finding the answers.” Meg

“I’m on the carer’s pension. I’ve made the decision that I will not pursue any work at all until he’s off our hands. You just need someone around to watch him constantly.” Phillip

Three of the four family members reported that they had experienced violence perpetrated by the person:

“He’s using violence as the last resort. He’s crying out for the help, and he wants to be contained. He’s a teenager and has massive anxiety problems, so he’s never going to go forward himself and say ‘I’m booking myself into hospital’. So it all ends up boiling over into frustration and violence.” [Meg](#)

“Me and my partner have done everything we could to help him, but there’s only so much we can do. We’ve got two kids, so we have to think about them, too. Anthony comes and smashes up the house, so it’s been crazy.” [Julie](#)

These difficulties were exacerbated by a lack of support from services:

“We’ve been screaming at the system, trying to get help for him. It’s been dead end, after dead end, after dead end.” [Meg](#)

“Support from services has tended to be very patchy, very come and go. The Department of Human Services has got involved whenever there’s been a crisis. When the crisis settles down, the department dips out. It’s pretty hopeless.” [Phillip](#)

“No one wanted to help him.” [Julie](#)

Navigating the service system and trying to get help for the person with a disability was, in itself, a significant drain on family resources:

“We know that Johnny needs help, and we need help too. But you have to jump up and down and scream ‘til you’re blue in the face in order to get it... I’ve always thought that people in our position need long-term case managers who can do advocating for us and chasing up, because you just get exhausted.” [Phillip](#)

“I’ve dealt with so many agencies now who don’t follow through on what they’re supposed to do. You get sick of ringing up and chasing these people...” [Meg](#)

As a result of these pressures, all family members indicated that they were experiencing burnout. Likewise, they said that they were struggling to cope with the complexity of the person’s situation and behaviours. For these reasons, some family members were unsure how long they could continue supporting the person with a disability:

“We’re still supporting him, but it’s way over our heads.” [Meg](#)

“Family are the most positive thing he’s got in his life. But Mum and Dad are getting on now. I want him to be in good hands so Mum and Dad don’t have to worry about him. I’ve always been there for him, but now I’ve got kids there’s only so much I can do. If he puts the kids in danger I have to kick him out.” [Julie](#)

## Criminal Justice

Family members confirmed that the person they cared for had had a significant level of contact with the criminal justice system:

“Anthony was in a boys’ home when he was younger. The first time he went to jail was when he was a kid. He’s been in and out of jail his whole life.” [Julie](#)

“Mike is out on the street all the time as a direct result of his brain injury. He gets charged with public behaviour type offences.” [Leanne](#)

“Aaron has probably had about ten police interviews. It only started recently, but it’s continually spiralling and everyone is sitting back and waiting for the bomb to go off, basically.” [Meg](#)

All family members expressed the view that the criminal justice system should aim to provide therapeutic outcomes for the person. Family members proposed that this could be achieved by, for example, using the justice system to facilitate the person’s access to services:

“Our hope through the whole court thing was that the magistrate might be able to say that Johnny needed to be assessed properly in order to get the assistance he needs.” [Phillip](#)

However, most people’s experience was that the law was not an effective mechanism for providing therapeutic outcomes for the person.<sup>81</sup> For example, Meg noted that:

“As far as laying the charges and everything went, we were pushed to do that by the police and the psychologists saying ‘he will get more help, he will get more help’. Well, we’ve done that, and we’re still at a dead end.”

Other family members hoped that, at the very least, the justice system could provide a level of protection for the person by containing them:

“We’ve said ‘Just pray to god the police pick him up and lock him up so he’s in safe hands’. Otherwise, you just don’t know where he is.” [Julie](#)

## Family Members Acting as ITPs

Two of the four family members who took part in this project had acted as ITPs for their sons. One of these family members, Meg, had acted as an ITP for her son, Aaron, on about eight occasions. Meg felt that, as a mother, it was her “responsibility” to assist Aaron in his interviews with the police.<sup>82</sup> The first time that Meg found out about the ITP Program was when she pressed charges against Aaron for allegedly assaulting her and her husband. The police advised Meg that she could not act as an ITP in this interview, as this would be a conflict of interest:

“They said, ‘Call in an Independent’. I said, ‘Look, he doesn’t want an Independent, he’s specifically asked for me and I promised I’d come in with him’. They said ‘You can’t, because you’re involved’.”

Both Meg and Aaron were initially resistant to the idea of the OPA ITP attending the police interview. In particular, Meg was concerned about Aaron being supported by a person that neither of them had met:

“I didn’t have any confidence at one stage that it was a good program and they were good people. I just had to hope.”

However, after meeting the ITP, Meg felt reassured:

“I trust that woman [the ITP]. My mind would be 100 per cent at ease if she was in there with him. I know her best interest is for the person.”

Meg was asked whether, having had a positive experience with the ITP Program, she would now feel comfortable with Aaron being supported by an OPA ITP. Meg felt that, although there were advantages associated with OPA ITPs, she would prefer to continue supporting Aaron herself:

“The good bit was that it took the fight away and took the conflict away from us. But I don’t like the guilt feeling that someone else has to be there. I feel that it’s my child, my responsibility, I have to do it. But it definitely takes the conflict away from it.”

The other family member, Leanne, had acted as an ITP for her son, Mike, on one occasion. She describes this experience as being “fine” and says that the police were “very helpful”. Like Meg, Leanne saw her key role in the interview as explaining her son’s circumstances to the police and providing emotional support to her son. Neither Meg nor Leanne felt that they had the capacity to assist their sons to understand their rights in the police interview.

## Referrals

Family members were asked to comment on the prospect of the ITP Program developing a referral component. All family members were very supportive of this prospect:

“I think it’s an excellent idea – a very important principle for sure.” Phillip

“It sounds fantastic to me. Once we walk away, he’s just going to face those charges and then go home again. He’s not going to chase that help himself.” Meg

A couple of family members indicated that it was important for the proposed referral service to have an advocacy function. For example, Leanne believed that the advocacy of an organisation such as OPA could facilitate access to services for the person with a disability:

“Just because a person is being supported by family members, it doesn’t mean they don’t need assistance. Often family members don’t know what help is out there. Service providers don’t listen to family members. They pay attention when a professional, such as the Public Advocate, intervenes.” Leanne

Likewise, Julie noted that advocacy was important because people in her brother’s position “need someone to speak up for them”.

## Gatekeepers

### Case Study

Freya is in her 50s and has lived in the same community residential unit for most of her adult life. She reportedly loves living there, and considers it her home. Freya has cerebral palsy and an intellectual disability. She is largely non-verbal and expresses herself using a very limited vocabulary and physical gestures. Freya's house supervisor, Harriet, has known her for some time, and says that she and Freya are able to communicate relatively well.

One day Harriet found Freya in her room, extremely distressed. Freya indicated that she had been sexually assaulted by a staff member at the residential unit. Harriet immediately contacted the police and Freya's elderly parents.

The police attended the community residential unit to meet with Freya, her parents and Harriet. Freya indicated that she wanted to talk to the police without her parents being present. According to Harriet, Freya kept saying to her father "Out, out. Talk, talk.". Freya's parents believed that Freya was simply "telling lies" about the sexual assault, and said that they would not consent to either a police interview or a forensic examination taking place. Harriet asked the police "Why do the parents have a say in this? Isn't it a criminal matter?". The police said that parental consent was required before interviewing a victim of sexual assault with a cognitive impairment, just as parental consent was required before interviewing "a child". The police left without speaking to Freya alone.

Harriet continued to advocate for Freya's right to access the criminal justice system. Eventually, Harriet made contact with a "really good" member of the Sexual Offences and Child Abuse Unit. As a result of these advocacy efforts, Freya finally had the opportunity to be interviewed by the police. Harriet acted as Freya's ITP in this interview and says that she helped "translate" Freya's story to the police. However, the police indicated that the interview was inconclusive and, by this time, there was no medical evidence to support Freya's story.

Although the alleged perpetrator was removed from Freya's residential unit, he continues to work as a carer for people with disabilities. Harriet believes that the criminal justice system needs to find better ways of responding to people with complex communication needs:

"They have a different way of explaining themselves and we need to make the system better so that people who do these things can't get away with them".

## Gatekeepers

### Postscript

Freya has been linked in with an OPA advocate. Among other things, the advocate is assisting Freya to address the trauma associated with the reported assault. This advocate has enabled Freya to get counselling in response to the assault. Previously, Freya's parents had indicated that she "wasn't allowed" to get counselling.

Through her link with OPA, Freya found out about the research and indicated that she wanted to be interviewed as part of this project. After lengthy discussions between the researcher, Harriet and the OPA advocate, a plan was put in place to enable Freya to be interviewed without exposing her to an undue risk of harm.

On the morning of the interview, the researcher attended Freya's residential unit at the agreed time. A staff member told the researcher that the interview was not taking place. Apparently Freya's parents had threatened to pull her out of the residential unit if the interview proceeded. The research team agreed that it was too ethically contentious for the interview to take place under these circumstances and, therefore, the researcher did not make any further attempts to speak to Freya. However, Harriet says that Freya was "extremely upset" that she didn't get the opportunity to tell her story to the researcher herself.

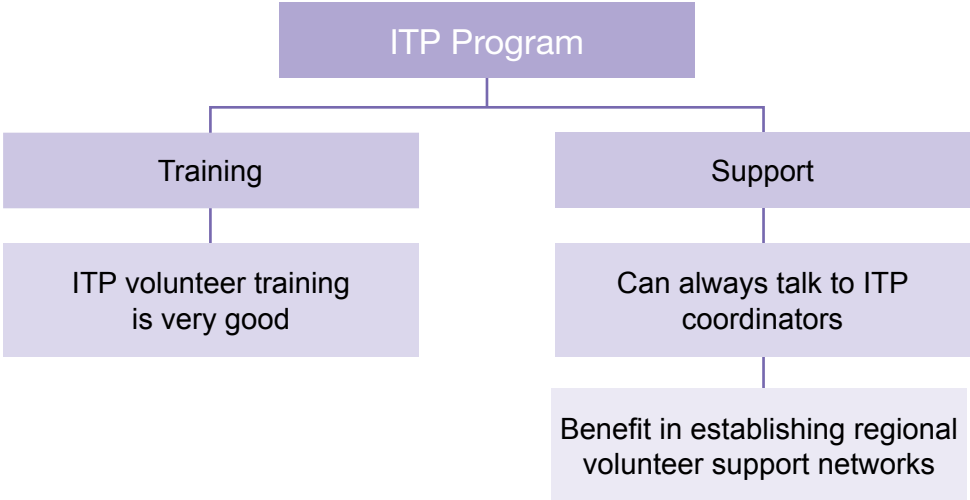
# Interviews with ITP Volunteers

The project interviewed ten volunteers from the ITP Program (see Appendix 4 for further details). On the whole, ITPs said that they found their volunteer positions worthwhile, and they spoke very positively about the way that the program is managed by OPA. While volunteers were generally pleased with how the ITP Program operates, many of them indicated that a referral service was the 'missing link' in the program.

## “Very Helpful”

### Feedback from ITPs on the ITP Program

#### Summary Coding Framework 10: ITPs' Views on the ITP Program



### Training and Support

People spoke very positively about the training and support they received as ITP volunteers. On the whole, people believed that the training they received from OPA was very comprehensive and prepared them well for the ITP role:

“The ITP training was fantastic – very professional and very clear. It was very practical, with a lot of group work. Although I really dreaded the role play, it was actually very helpful. When I went out to a real interview I sat there and thought ‘This is just the way it was in the training’.”  
Marjorie

One person, however, pointed out that the training could have explored some of the nuances of the ITP role:

“The training was quite good, but they could have clarified the role of the ITP. For example, the way in which we act to influence the police and to observe police proceedings. It wasn’t particularly discussed in the training, but it feels like a significant part of the role.” **Bill**

People were also satisfied with the level of support they received from OPA. Many people pointed out that they could “always call the ITP coordinators” if they had any questions or if they needed to debrief after a difficult interview. When asked if there was anything that OPA could do to make their lives easier as volunteers, some people said that they would like the opportunity to meet regularly with other ITPs in their local area.<sup>83</sup> Many people believed that there would be a benefit in establishing regional social and support networks that were run by volunteers and that would organise informal meetings between ITPs. It was felt that these meetings would give volunteers the opportunity to maintain and develop their skills and to provide support to each other.<sup>8</sup>

## Life as an ITP

### Leon’s Story

I’ve been an ITP for seven years. ITPs get the initial training and also ongoing training, so you’re never left untrained.

I find the ITP coordinators very supportive. If you have something go wrong, or a particularly nasty interview – like homicides or assaults – they’ll always ring you to see how you’re travelling and to see if you need any other supports. And that’s a great credit to them.

I’ve found that a number of our police still don’t actually understand what an ITP is. They may understand it in an intellectual sense, but not in a real sense. As an ITP, you need to manage that. You also need to understand police processes so you can make sure they’re complied with. And you need to be a little bit assertive sometimes, so you can say ‘no’ to the police. It’s fairly easy after you do it the first time. But actually stopping police and saying ‘no’ is always difficult the first time. Sometimes the interviewing officers are at the end of a shift and they will say ‘Can we hurry this up?’ and you have to say ‘No, we can’t. We need to take all the time we need to take’.

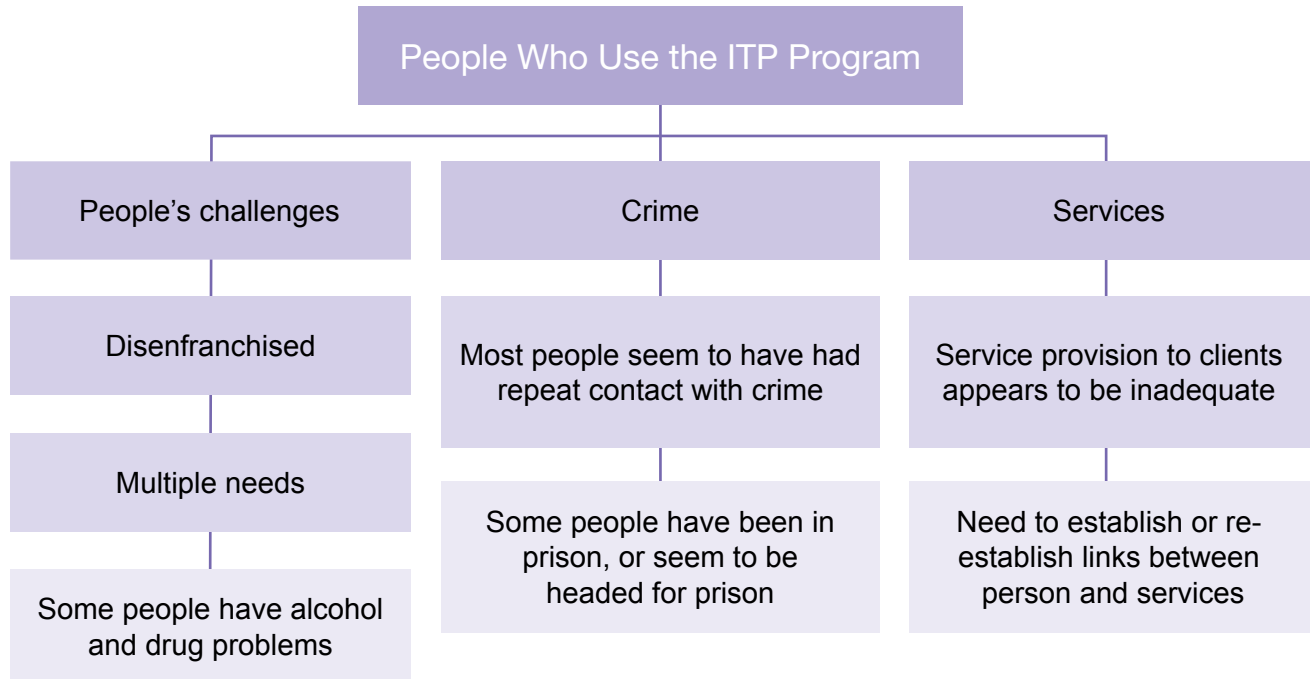
You’ve also got to have the ability to quickly establish a relationship with a number of different people – certainly the person you’re there to support. As I see it, my role is simply a support role for the person. It’s often difficult, because it’s a troubling time for them too. Sometimes the person is simply tired. A lot of the people we meet are, if not street kids, certainly ‘fellow travellers’ in that they’re close to homeless. They live a fairly daunting lifestyle.

Often I come out of an interview and think ‘I’m not sure this person has been treated properly by the system’. I’ve done all that I’m entitled to do, but I feel that the system has let the person down in some way. I believe that, as a community, we need to get support for these people earlier. We need to invest in them at the earlier stages of their involvement with crime, rather than wait for the late stages. After all, it’s not the lucky country for everyone, is it?

# “Red Flags”

## Feedback from ITPs about People Who Use the ITP Program

### Summary Coding Framework 11: ITPs’ Experiences with Clients



### People’s Challenges

Volunteers reported that the people they support in police interviews tend to be disenfranchised, isolated, and seem to live their lives “on the fringes of society”. ITPs felt that, on the whole, clients appear to lack strong family and support networks:<sup>85</sup>

“The people I see tend to be quite isolated. Their families have given up on them; they don’t understand or they reach frustration point with them. Perhaps because people are a little bit different they don’t make friends easily.” [Marjorie](#)

Many volunteers confirmed that clients tend to have a “bundle of issues” rather than isolated problems:

“The clients I see have multiple needs. I tend to get people from lower socio-economic backgrounds, a lot of people who are in public housing and people who are periodically homeless.” [Marjorie](#)

ITPs also believed that a proportion of people (though certainly not the majority) had substance abuse issues:

“Some of them are drug users. Not dealers – they don’t seem to be making money out of it. They seem to be doing drugs to cope with their lives.” Leon

## Even More Trouble

### Case Study

Andrea is in her 40s and lives in a boarding house. Andrea is well known in her local community. She is someone who ‘sticks out’ and is generally considered a ‘nuisance’. Some of the local shopkeepers have taken restraining orders out against her. Andrea sometimes steals goods from the local shops and she has a habit of making faces at people on the street. Sometimes she spits at people. Andrea has been interviewed by the police over 50 times for alleged offences such as shoplifting, public nuisance and offensive behaviour.

Andrea likes being around people. She goes to clubs so she can be around people, action and music. When Andrea goes out clubbing she tends to stay out late and miss her bus home. When this happens, she usually spends the night sleeping on a bench because she doesn’t have any money for a taxi home. Andrea’s behaviour can sometimes make her a target for unscrupulous people. She has been assaulted on several occasions.

Andrea has had the same ITP several times. Andrea’s ITP says that she has serious concerns for her welfare:

“Andrea has no-one. She’s friendless, she’s a loner and she’s going to get into even more trouble as she gets lonelier. I wish I could get someone to follow her case up. But at the moment I can’t, because the ITP Program doesn’t have a referral service.”

## Crime

According to volunteers, it is rare for them to support people who are being interviewed by the police for the first time. Volunteers believed that most ITP clients have had repeat contact with crime:

“I think it would be fairly accurate to say that almost all of them have had some previous involvement with the criminal justice system – and that’s not just alleged offenders, but often also the victims and witnesses.” [Leon](#)

Needless to say, people can come into contact with crime for a variety of reasons. However, volunteers ultimately felt that social inequality and poverty, together with the vulnerability that is experienced by many people with disabilities, were some of the root causes of the problem:

“A lot of these people come from low socio-economic backgrounds. Sometimes their co-offenders are family members or people they live with, or they are victims of people that they live with.” [Andrea](#)

“Lack of awareness is the biggest thing. For example, some of the girls who are sexually assaulted are just not aware of the dangers of the situations they are in. Also, the accused people often don’t see the seriousness of what they’re doing.” [Catherine](#)

“If I was to sum it up in one word, I’d say ‘frustration’. Frustration with their community. Frustration with their position in the community. Most of them are simply outside our range of experiences.” [Leon](#)

### Years of Abuse

#### Case Study

Between the ages of 12 to 18, Jessica was sexually abused by her mother’s partner, Andy. Jessica’s mother would often leave her at home with Andy for extended periods of time. According to Jessica, Andy would abuse her while her mother was out doing the grocery shopping or visiting friends. Sometimes Jessica’s mother would tell her to get into bed with Andy to ‘keep him company’. It is unclear whether Jessica’s mother knew about the abuse.

Jessica has an intellectual disability and she doesn’t like to rock the boat. As a child, “she always did what she was told”. However, when Jessica got older, she decided that she couldn’t take it any more. She told Andy that she was going to phone the police and tell them what he had done. Andy threatened her with a knife and told her that he would kill her if she told anyone about the abuse.

When Jessica was 21, she got access to mental health assistance. Her psychiatrist was the first person she told about the abuse. As a result of the encouragement and support that Jessica got from her psychiatrist and case worker, she reported the abuse to the police. An ITP supported Jessica in her interview with the police. According to her ITP, Jessica had “obviously suffered terribly” as a result of the sexual and emotional abuse she endured.

Many volunteers expressed the hope that the clients they saw in police interviews would somehow manage to get their lives on track. However, in many instances, volunteers could see that clients were on a destructive path:

“There was one fellow that was a repeat offender. He was about 35 years old. He said ‘I want to go to jail because it’s the only place I’ll get help’. And he really did need a lot of help. He didn’t have any support networks, and he wasn’t linked in with services.” Phillip

“It’s important to believe in people’s ability to keep out of crime. Though sometimes I have thought ‘You’re in a vicious cycle’.” Jason

“It’s sad, and it shouldn’t be happening – not in this day and age. I see these people, I sit close to them. And it’s red flags all the time, but they don’t know they’re red flags.” Marjorie

## Services

According to volunteers, some clients appear to be linked in with services, whereas others do not:

“You get two groups of people with cognitive disabilities: the ones within the systems and the ones that are out on the streets.” Sam

“I always ask people if they have a case manager or someone they can go to for support, and mostly they don’t. And that’s what bothers me. Because after they leave school, that’s crisis time as far as contact goes, and they tend to drift.” Marjorie

Some volunteers acknowledged that it could be difficult to ascertain whether a person was actually receiving support:

“It’s hard to tell if people are linked in with services. Sometimes people say that they aren’t, but then you talk to them and it turns out that they must be.” Andrea

It was also pointed out that, even if clients did appear to be ‘linked in’, this did not necessarily mean that the support they were receiving was effective and tailored towards their needs:

“A lot of people do seem to be linked in with services, but I think that services can sometimes just maintain the status quo. They don’t provide proactive support.” Jason

“People with multiple needs can fall through the gaps. Just because you have a case worker, it doesn’t mean they’ll help you with whatever pops up.” Andrea

People also reported that, while some clients appeared to have received services in the past, these relationships had broken down:

“When people tell me that they have ‘had’ services, rather than ‘have’ services, I wonder why that is. Have they walked away from the system, or has the system walked away from them?” Leon

Volunteers also acknowledged that some clients were very reluctant to engage with the service system, but that, with the right support and encouragement, some of these obstacles could be addressed:

“Some of them aren’t engaged with services because they’re hurt and they’re angry. Life hasn’t panned out well for them. They’re unemployed. They’ve been hauled up by the police regularly. They’ve been moved on. They’re unwelcome people – they don’t fit into our society very well. So they’re hard to engage with, but there are ways to do it.” [Bill](#)

## No Support

### Case Study

Adrian is in his 40s and has bipolar disorder. He has been in trouble with the police on numerous occasions. Adrian does not have any contact with his family and he is not linked in with services. According to his ITP, Adrian “sees a psychiatrist to pick up his medication, and that’s it. That’s the only support he’s got”.

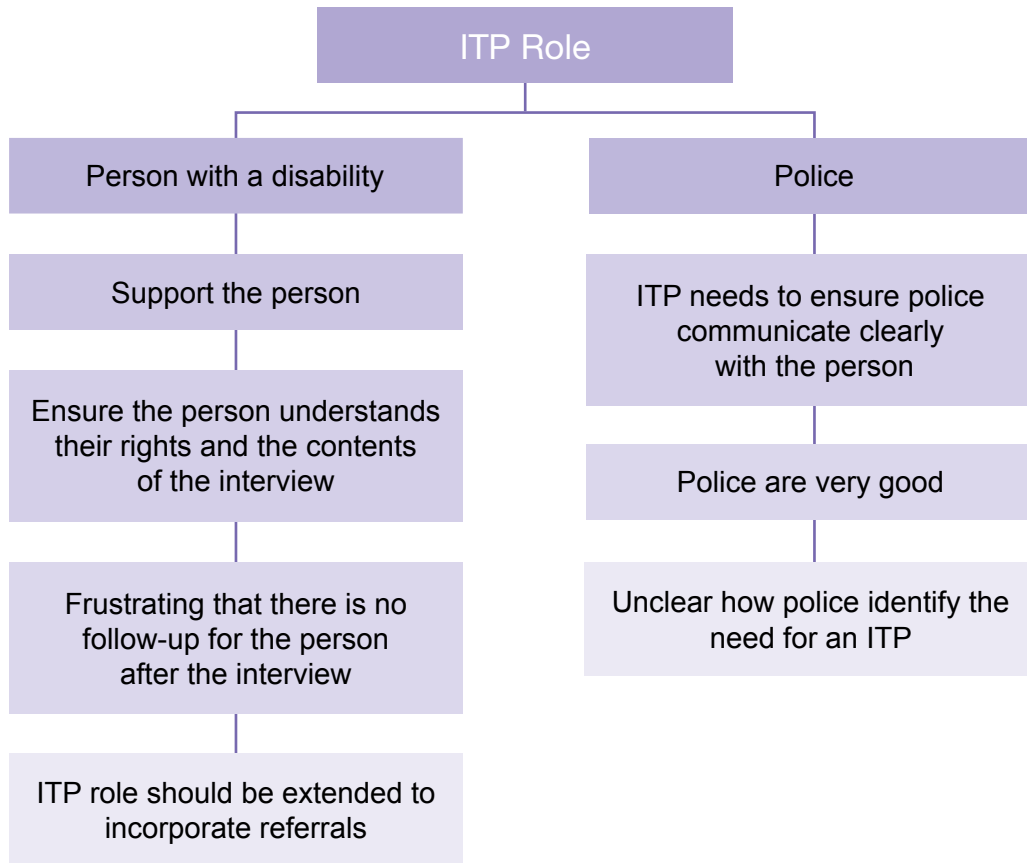
One day, Adrian was driving down the street when he saw his ex-girlfriend drive by in her car. Adrian thought that he saw a man with her in the car and he became very jealous. He rammed his ex-girlfriend’s car four times. The car was very seriously smashed. Afterwards, Adrian could remember ramming into the car, but said he couldn’t believe it happened four times.

Adrian’s ex-girlfriend has now taken out an intervention order against him. Adrian is reportedly “devastated” by what has occurred. Adrian’s ITP says that Adrian “is stunned by the waste of his life, and the fact that he hasn’t achieved anything”.

# “At the Cross Roads”

## Feedback from Volunteers about the ITP Role

### Summary Coding Framework 12: Volunteers’ Views on the ITP Role



### Role of the ITP

According to volunteers, the key role of an ITP is to support the person with a disability through the police interview process, and to try and make sure that the person understands, and is able to exercise, their legal rights:

“Often clients feel reassured because they’ve got someone on their side, or at least not on the police side. It’s important to have the ability to check whether people can understand their rights. In one instance the person didn’t understand, so I made sure that the interview didn’t proceed.” [Bill](#)

Many people noted that the impact of the ITP’s presence for the person with a disability was very difficult to quantify. One volunteer, however, believed that the ITP presence could potentially have some therapeutic benefits for the person being interviewed:

“When I go in, I can see people relaxing. The overall atmosphere becomes a little bit more humanised and less punitive. It seems to change the atmosphere of the interview in a positive way which, again, can have rehabilitative effects because the client knows that people care.” [Jason](#)

## Police

Overall, the feedback from volunteers about the police was positive. Volunteers felt that police valued the support and assistance they were able to offer during the interview process:

“The police are very good – very protective of me as well as the clients I serve.” [Catherine](#)

“The police here are fantastic. They always check whether the person being interviewed needs a drink, needs to go to the toilet, and has taken their medication, et cetera. I find that those things tend to be covered by police, but I’m very ready to speak up if they’re not. Sometimes police will ask me for assistance during the interview to make sure that they are phrasing things clearly.” [Melissa](#)

It is important for ITPs to have a good working relationship with the police. Indeed, part of the ITP role is to assist police communicate with the person with a disability. However, the feedback from one volunteer indicated that his relationship with the police was perhaps a little too collaborative. For example, this ITP said he believed it was sometimes beneficial for clients who were alleged offenders to “tell their side of the story” to the police, and this volunteer took pride in the fact that they “only ever had one ‘no comment’ interview”. This person confirmed that he was aware that it was not his role to give legal advice, and that he had never told clients how to proceed with their police interviews.<sup>86</sup> However, this feedback raises the concern that some volunteers may not have a clear understanding of the boundaries of the ITP role.

There can be significant difficulties in trying to determine what a person’s disability might be. For this reason, police are not required or expected to diagnose a person’s disability. However, some ITP volunteers believed that police can sometimes ‘make assumptions’ about what a person’s disability actually is. A few volunteers identified that some police appeared to have a limited understanding of the role of the ITP Program, and issues to do with disability. One person believed that this lack of understanding about disability meant that, in some circumstances, entries about clients on the police LEAP system did not always seem to be accurate:

“Police need to be more careful on their system. If they don’t know what the person’s disability is, they shouldn’t make assumptions. Sometimes people with cognitive impairments get lumped into one category.” [Andrea](#)

## Identification of Disability

Volunteers were unsure how police identified that a person may have a cognitive impairment or mental illness and therefore required an ITP. In some cases, volunteers said that police had indicated that they called for an ITP because the person was flagged on the LEAP system as having a disability. In other cases, the person’s circumstances seemed to alert police to the need for an ITP:

“I’m not sure how police identify whether the person has a disability. Often the parent or carer will tell them. Sometimes the police will say that the person is on anti-depressants. Sometimes they’re vague about what the difficulty is, but there’s something that makes them think the person has a disability.” [Catherine](#)

“At one point the police called me to assist a guy that was ‘a bit vague’. The police said that it was on the LEAP system, so they had to call me in. There was no diagnostic label for him.”  
Jason

“As soon as the police get wind that there might be a cognitive disability, they say, ‘Do you want an Independent Third Person?’. They want to cover their backsides, so they go down that track.” Bill

One volunteer pointed out that using the LEAP system to identify the need for an ITP could be somewhat circular:

“Police understanding in relation to when an ITP or IP is required is patchy. Police usually call an ITP if this is flagged on the system. This only works if the person has been in contact with the police before. So it does work more smoothly if you have a flag on the system, but how does the flag get there?” Andrea

The Victoria Police Manual identifies the LEAP system as one source of information as to whether a person may have a cognitive impairment or mental illness. However, in a recent study about the ITP Program, volunteers reported that police are perceived as relying primarily on the LEAP system to identify a person’s disability. If police do primarily rely on the LEAP system to identify disability<sup>87</sup>, this raises the concern that there are some people with disabilities who are being interviewed by the police, but who have not yet been identified as requiring an ITP. The question is: how many people are missing out on the support of ITPs?<sup>88</sup> Furthermore, what are the barriers that can restrict people’s access to the ITP Program,<sup>89</sup> and what is the best way of addressing these barriers? In response to these difficulties, one volunteer suggested that it would be a good idea to promote the ITP Program more widely throughout the disability community.<sup>90</sup>

“I wonder whether workers know much about the program. I suspect that they don’t. The program should be promoted among workers so they can tell their clients about it. Ideally, every person with a cognitive impairment should know that if they’re involved with a crime they can get help.” Andrea

## ITP Referrals

### Need for Referrals

Many volunteers raised the concern that, currently, they do not have the capacity to assist clients beyond the police interview stage. These volunteers identified that there was a pressing need to develop a referral component for the ITP Program:

“My only frustration with the program is, as it stands, there’s very, very limited follow up for the person. The process just isn’t there. I’d feel better knowing that someone was making contact with the clients.” Catherine

“When they end up in a police station, they need help. A referral at that crucial time – at the cross roads – would, I believe, be spot on for helping to keep people out of trouble. If you can stop stuff happening down the track, it’s a good investment, not just in terms of money but in terms of people, too.” Marjorie

“If the ITP Program is there to help these people, then this referral service is something that would be of great advantage to do”. [Leon](#)

### Appropriateness of ITP Referrals

On the whole, volunteers believed that they were in a good position to link clients in with help:

”A referral through the ITP would be very beneficial. It’s not a threatening legal link, but it’s a link that you have the authority to pursue. People can start to feel a bit better because someone cares. You’ve got their back.” [Catherine](#)

Some volunteers pointed out that their positive relationships with clients could increase the likelihood that the person would accept a referral to services:

“If you want to engage with the client, the interview is a good bonding situation, because you’re seen as being on their side.” [Bill](#)

It was also pointed out that an ITP referral service should not require too much additional work from volunteers. For example, most people believed that it was not appropriate to expect volunteers to make the referrals to services. Rather, it was felt that volunteers should pass clients’ details on to the ITP Program. Paid staff would then be responsible for linking clients in with assistance, and for keeping track of referrals. Many people indicated that this type of ITP referral service would ultimately ease the pressure on volunteers. This is because volunteers would have fewer concerns about clients if they knew that OPA was looking into their circumstances.

### Timing of Referrals

Volunteers were asked to consider whether ITP referrals should be offered to clients before or after the police interview. In response to this question, volunteers were unanimous in saying that referrals should be offered after the police interview had concluded:

“I wouldn’t want to do a referral at the start. They’re really anxious, they’re frightened, they’ve got no idea what’s going to happen to them. They relax more once the interview is over.” [Bill](#)

“If you did the referral before the interview, you’d be opening a whole can of worms. It could compromise your independence. You then get a different focus, really.” [Jason](#)

Some people who had volunteered with YRIPP as well as the ITP Program, confirmed that YRIPP referrals are offered to clients after the police interview had concluded. Participants noted that this process enables volunteers to make more targeted and effective referrals:

“It’s better to do the referral after the police interview, when you’ve got a better idea of where the person is going and what they need. You can’t really do it in the first five minutes because you haven’t had time to assess the situation.” [Melissa](#)

### Effectiveness of Referrals

One volunteer, Jason, expressed doubts about the effectiveness of making referrals for people with disabilities. This doubt stemmed from Jason’s lack of faith in the disability service system:

“I would feel a bit ill-at-ease making referrals. Because I’ve done a lot of work in the disability field and I always found that some of the services people were referred to were lacking in care. They weren’t that effective.”

However, Jason did concede that it would be useful for ITPs to be able to refer people to services outside of the disability system:

“I would like to see people referred to more family counselling, that sort of thing. That would potentially be more effective. Re-establish that contact, because families should be the major supporters. But family can also be the major cause of problems as well, so it’s difficult... Referrals to drug and alcohol would also be useful, as would counselling.” [Jason](#)

A few people emphasised that, in order to make effective referrals for clients, it was necessary to provide advocacy for those who needed it:

“The people that I’ve had dealings with are on the merry-go-round. Some of them have got case managers, so there’s not a lot you can offer them. Sometimes you figure out that even if they’re linked in with services they’re not going anywhere. And that’s where there’s a role for OPA.” [Melissa](#)

## Key Findings

The interviews with ITP volunteers indicate that:

- ITPs receive high quality training and support from the ITP Program.
- There is a benefit in the ITP Program establishing local support groups for volunteers.
- Most of the volunteers who took part in this project had an in-depth understanding of the challenges faced by people with disabilities who come into contact with crime.
- ITPs typically support people who are disenfranchised and have multiple needs.
- A high proportion of people who use ITPs appear to be repeat presenters before the program.
- Service provision to the ITP client group is inadequate. Some people appear to be linked in with services, but these services are not working effectively for them. Other people appear to have used services in the past, but these relationships have broken down.
- ITPs are strongly supportive of the program developing a referral component. Referrals should be offered to people after the police interview has concluded. This process would enable ITPs to make an initial assessment of the person’s needs, and would preserve the independence of the ITP role.
- Referrals for ITP clients may need to be accompanied by advocacy on the part of OPA

# Interviews with Professionals

The project interviewed 16 professionals from the disability, legal and social welfare fields (see Appendix 5 for further details). These interviews confirmed that people with cognitive impairments and mental illnesses can be vulnerable to having repeat contact with crime. People in this cohort typically have multiple needs, and are widely regarded by services as being the ‘most difficult’ client group to assist.

## “Cluster of Needs”

### Professional Feedback - Disability and Criminal Justice

#### Summary Coding Framework 14: Professionals’ Experiences with People with Disabilities in the Criminal Justice System



## Contact with Crime

The interviews with professionals confirmed that people with disabilities are highly represented in the criminal justice system, and can be particularly vulnerable to having repeat contact with crime. Some of the 'risk factors' associated with contact with crime were reported as being:

- poverty, boredom and loneliness
- poor or unstable housing:

“A home is incredibly important. It’s hard to know which is the chicken or the egg, but housing going into crisis is often a sign that everything else is collapsing – it can be a bit of a barometer for what is going on.” [Revolving Doors Agency](#)

- a limited ability to make the connection between actions and consequences. This lack of understanding may lead to people continually committing crimes or placing themselves in risky situations. It may also result in people missing court appointments, or breaching bail conditions or court orders:

“Sometimes it might be that the client doesn’t understand the order. But it’s also about people not having the capacity to change their behaviour. A piece of paper from the court is not suddenly going to give the person the skills to deal with provocation or anger in a more productive way.” [Service Manager, Criminal Justice Support Network](#)

- The person’s vulnerability and social isolation may lead to them being exploited or abused by unscrupulous people. Some professionals reported that people with disabilities can find it difficult to make friends and maintain peer groups. Therefore, “if a criminal group of people want to make friends with them, they’re going to make friends with them”.
- The person has insufficient support, and therefore has not had to opportunity to learn about appropriate behaviours.<sup>91</sup>
- community fears and prejudices relating to people who “seem different”. The community may be more likely to report these people to the police.
- Having contact with crime is, in itself, a risk factor for having further contact with crime. This goes for both alleged offenders and victims.
- Many people in this cohort have had a long history of contact with crime. Furthermore, for this client group, the boundaries between being an alleged offender and a victim are often unclear:

“A lot of defendants will disclose, just casually, that they have been victims in the past, for example of assault, domestic violence, or sexual assault. So many people disclose that just in passing.” [Service Manager, Criminal Justice Support Network](#)

## Services

As discussed previously, it is rare for ITP clients to be unknown to services. Nonetheless, service provision to this group of people tends to be patchy:

“A lot of clients don’t have adequate services in place, perhaps because they’ve never been linked in, which is often the case for clients with acquired brain injury. Or, for example, they’ve previously been registered with Disability Client Services and they’ve chosen not to continue. Or they’ve been homeless or transient and haven’t had any stability.” [Senior Lawyer, Victoria Legal Aid](#)

Some clients may have “been through services a lot of times” and “the links have been broken”. In other instances, clients may be receiving services, but these services are not supporting them effectively:

“What you’ll find with people who keep having contact with the criminal justice system is that they’re not sorted. If they keep bouncing back to the system, there’s an issue that needs intervention. Often, it’s no answer that, just because the person’s got a case manager, they must be alright. That’s absolutely not to be presumed.” [Disability Advocate](#)

Professionals reported that people in this cohort typically have “a cluster of needs”, and that only some of these needs are addressed by services. Often, services regard this client group as simply being “too hard” to assist:

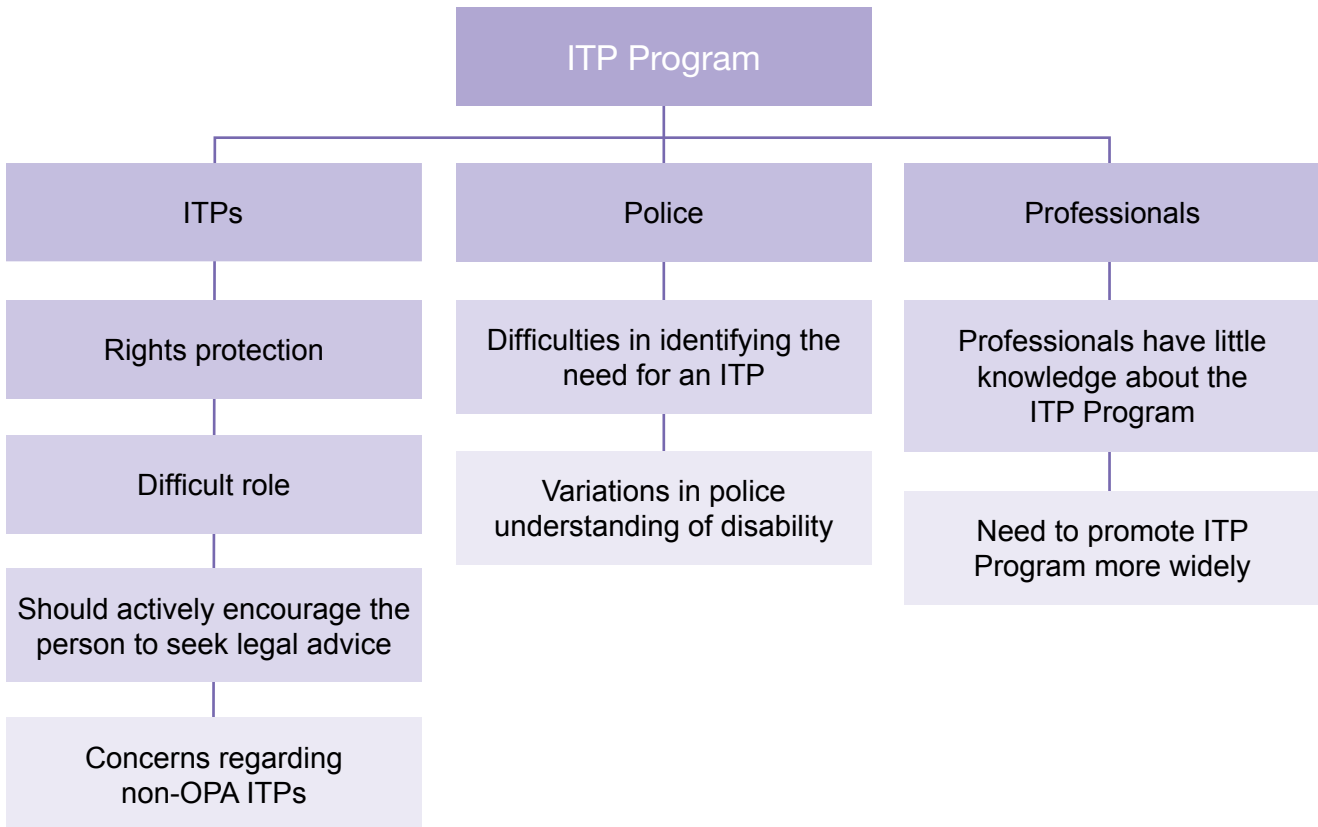
“You’ve got a whole range of community agencies that are short of funding, and your criminal justice clients are your most complex, so if agencies can make them not fit their intake criteria, they do so in order to not have to deal with them. Regardless of all these glossy brochures you see printed in terms of polices, when you’re in the coalface, you do see that that’s the group that falls over.” [Court Support Officer](#)

Many professionals reported that people in the ITP client group typically required the assistance of advocates to help “open up doors” for them and facilitate their access to services. On a broader level, systemic advocacy was viewed as being necessary to address the deficiencies that exist within the provision of services to this cohort.

# “A Difficult Role”

## Feedback from Professionals about the ITP Program

### Summary Coding Framework 15: Professionals’ Views on the ITP Program



### Rights Protection

Many participants acknowledged that the ITP Program has an important role to play in strengthening the rights of people with cognitive impairments and mental illnesses who are interviewed by the police:

“Sometimes, even though the person might understand their rights, having someone there with them might give them a bit more confidence to exercise their rights. Someone there telling them that ‘It’s ok if you don’t want to say anything to the police’ or helping them find a lawyer, or saying that ‘If you want to contact someone I can help arrange that’.” [Assistant Coordinator of the ITP Program](#)

Several people, however, indicated that the ITP role was an onerous one. A few participants felt that the ITP role was too demanding for volunteers, and should in fact be a paid position. One person, who had acted as an ITP in the early years of the program, believed that the role was inherently flawed:

“Every single one of the interviews I attended I thought was dodgy. I thought our role was inappropriate. I felt that a person with a cognitive disability should have their rights really strongly upheld, and the way to do that is to call a solicitor to come in. Other than being an official witness of the process – and we were never called ‘an official witness’ – I was never sure what our role was.” [Disability Advocate](#)

Other people highlighted the tensions that can exist for ITPs in having to mediate between the person with a disability and the police. On this note, a couple of participants felt that ITPs did not always clearly acknowledge that their primary role was to support the person with a disability, and not the police:

“We have some concerns that the ITPs aren’t as assertive as they could be, and they tend to be sort of charmed by the police a bit, perhaps.” [Senior Lawyer, Victoria Legal Aid](#)

Perhaps one of the ways to address this tension is to openly acknowledge that the ITP role does contain an advocacy function:<sup>92</sup>

“ITPs are certainly not legal advocates, but I’ve always felt that there’s a degree of advocacy in the role. One of the reasons why I was keen to tell ITPs that they were advocates of a sort is that it’s always better for ITPs to do a little bit too much, rather than not enough. So they should be, at times, pushing some boundaries. Not overstepping those boundaries, but just pushing them.” [Previous Employee of the ITP Program](#)

“If the ITP is not an advocate, what does that really mean? How could they not be an advocate for the person?” [Advocate Guardian, OPA](#)

Another possible way of addressing this tension is for ITPs to receive training about the purposes of, and strategies devised in, police interviews. Some of the lawyers who took part in this project felt that this information would better enable volunteers to be a watchdog for the person’s rights:

“It’s the good cop, good cop approach. They tailor their questioning and demeanour to what they perceive is going to be most effective to extract information. If it’s a person with a disability, of course they’re going to be accommodating. Their sole purpose in an interview, really, is to extract information in order to lay a charge. That doesn’t mean that the police are bad, they’re just doing their job. But volunteers need to recognise that that’s their job.” [Lawyer, Villamanta Disability Rights Legal Service](#)

Participants also felt that the program should ensure that every effort was made to link the person in with legal assistance:

“When the ITP advises the person of their rights, the person should be given stronger encouragement to contact a lawyer. That person has to be protected. They’re the most vulnerable in the community.” [Lawyer, Villamanta Disability Rights Legal Service](#)

“In an ideal world, wouldn’t it be great if there was someone from OPA following up with the client to find out how they went, how are you going with things, are you linking in anywhere, including legal representation.” [Court Support Officer](#)

## Recommendation: Training and Development

ITPs should always ensure that the person being interviewed understands their legal rights (including the right to legal representation).

## Family Members as ITPs

Some participants raised concerns that family members and friends who act as ITPs may be ill-equipped to protect the rights of the person being interviewed:

“Anecdotally, there seems to be a significant number of people who have had an ITP, but it was a family member. I’d say that’s a big flaw in the system... Calling friends and family members ‘ITPs’ is, well, I don’t think that untrained people ought to be called ITPs.”  
[Telephone Advice Worker, Villamanta Disability Rights Legal Service](#)

It was pointed out that family members and friends may “push people into saying things they think they should say” or conversely “stop them from saying things”. There were also concerns that untrained ITPs may be less willing to be assertive with police. In light of these concerns, some participants indicated that police procedures should be changed to advise that OPA ITPs should be used in preference to, or in addition to, untrained ITPs.

## Equity of Access

Identification of the need for an ITP was seen to be a key issue by interview participants.<sup>93</sup> Several of the professionals who took part in this project indicated that they had had clients with cognitive impairments and mental illnesses who had been interviewed by the police without an ITP or any other support person present.<sup>94</sup> These participants acknowledged that identifying the need for an ITP can be far from straightforward. However, they also pointed out that negative attitudes are sometimes a barrier to police identifying – and following up on – the need for an ITP. On this point, participants indicated that knowledge about, and empathy towards, people with disabilities varied among police. While some of the more experienced officers were reported to be “very good” and “very flexible” in their approach, some of the younger officers appeared to lack an understanding of issues relating to disability. In addition, some interview participants raised the concern that the lack of police resources could restrict people’s access to the ITP Program:

“I think the ITP Program is under-utilised because police are time poor. I’d like to think they use the Ready Reckoner, but I actually think they’re resource-poor so they just do what they can. But I also think that if someone is intoxicated, or under whatever influence, the police are less likely to go that extra yard. And that’s particularly the case with people who are Indigenous.” [Acquired Brain Injury Clinician](#)

Ensuring that every person who needs an ITP gets access to an ITP is, therefore, a clear equity issue.<sup>95</sup> Some participants suggested that, in order to address this issue, the ITP Program needs to be more widely promoted among people with disabilities and the service sector:

“Unless there’s a champion, it doesn’t get promoted. OPA should get into disability organisations and champion it. Get out amongst the community services, because they’re the ones holding all these people now. The ABI services can’t cope, so these people are in a lot of the generic services.” [Acquired Brain Injury Clinician](#)

Some participants also emphasised the need for police to receive information and education about the ITP Program. These participants pointed out that ITP training is necessary to educate police about the role of the program, and to address barriers (such as lack of knowledge and negative attitudes) that can prevent people from accessing the program). On this point, it should be noted that OPA has traditionally provided ITP training and education to Victoria Police at the police

academy. However, at the time of writing this report, the commitment of Victoria Police to receiving this training at the academy was uncertain. Therefore, OPA is seeking a formal commitment from Victoria Police that they will receive ongoing ITP training at the police academy.

### Recommendation: Training and Development

The ITP Program should be more widely promoted among disability, welfare and specialist justice services, and among people with cognitive impairments and mental illnesses themselves.

### Recommendation: Ongoing Training

Victoria Police should commit to receiving ongoing ITP training at the police academy.

## Many Police Interviews, but No ITP

### Case Study

Marty is an Indigenous man who lives in rural Victoria. When Marty was at school, he was a really good rugby player. Lots of people said that there was a good chance that, one day, he could play football professionally. However, at the age of 16, Marty was hit by a truck and acquired a brain injury. Marty started drinking heavily after his accident and stopped playing rugby.

Marty is now in his 40s and is an alcoholic. Marty is linked in with services in his region but apparently “they don’t do much for him”. Marty has never received compensation for his accident. It is now too late to apply for TAC funding.

The police repeatedly pick Marty up and charge him with being drunk and disorderly. On one occasion, Marty tried to buy alcohol from a bottle shop, but was refused service. The proprietor said that Marty got aggressive after being refused alcohol, so he called the police. When the police arrived they tried to handcuff Marty and he spat at them. After this incident, Marty spent three months in prison.

Marty has now been released from prison and has an OPA Advocate Guardian. Although Marty has had numerous police interviews, OPA’s records indicate that he has never had an OPA ITP. Marty’s Advocate Guardian believes that Marty appears to have attended his police interviews alone, without any support from his family or anyone else.

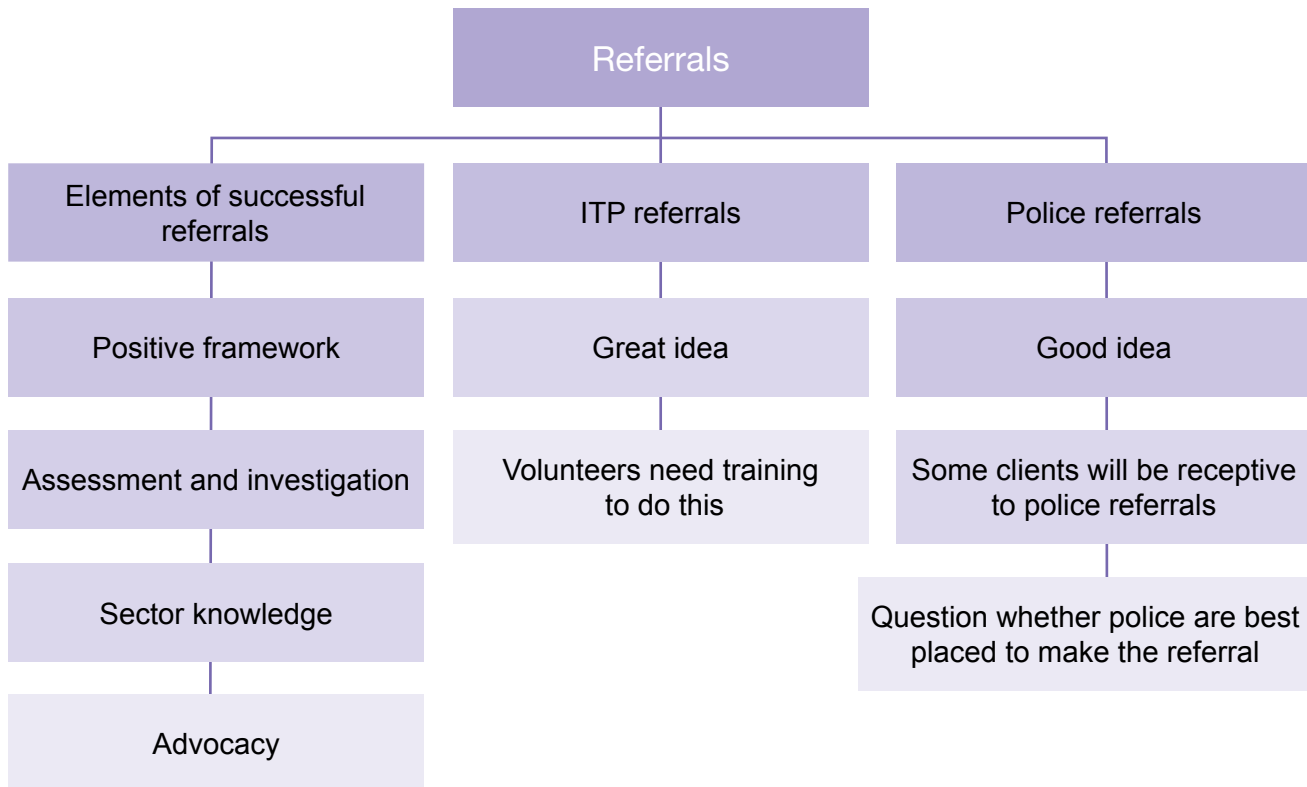
The Advocate Guardian is now trying to work with Marty to put together the pieces of his life and figure out how best to help him. His Advocate Guardian says that:

“The ITP Program as it is now would really have assisted Marty because it’s another set of eyes, another watchdog making sure his rights are upheld. But if the ITP Program had been used for Marty, and had also had that extra referral component, that would have been great. It would have meant that our office could have become involved with Marty at a much earlier stage. We might have been able to get him TAC funding and the services he needs. It could have put his life on a different course.”

# “A Building Block”

## Feedback from Professionals about Referrals

### Summary Coding Framework 16: Professionals’ Views on Referrals



### Elements of Successful Referrals

Professionals agreed that people with disabilities who are in contact with the criminal justice system would benefit from being offered referrals to services and support. Several key elements were identified as being necessary to ensure that referrals responded to clients’ needs, and would be as successful as possible. These key elements are discussed in turn, below.

#### A Positive Framework

People are far more likely to engage with referrals if these are couched in a positive framework. This means that referrals cannot simply be driven by risk management, or by the desire to keep people ‘out of trouble’. Rather, referrals should send a message to the person that they matter, and that they have the capacity to lead a productive and fulfilling life.

In order to send this message to the person, the referrer should build a rapport with the person. This rapport should enable the referral to be made in an atmosphere of trust and collaboration:

“From our perspective, the rapport that the volunteer builds with the young person right from the start helps to enable a referral conversation, and increases the chance of the young person trusting the IP to link them into that service.” [Statewide Coordinator, YRIPP](#)

It is also important to send a clear message to the person with a disability that they matter, and that the referrer will try to assist them to pursue their goals and interests:<sup>96</sup>

“It’s not just about keeping people out of trouble, it’s about supporting them to do something positive.” [Lawyer, Villamanta Disability Rights Legal Service](#)

“People often say to us that a positive relationship with an individual who is seen to help them is a building block, whoever that individual is. What name the person has on their name badge is less important to the client than knowing that ‘Someone is on my side. Someone thinks I’m important. Someone is going to help me’.” [Revolving Doors Agency](#)

### Assessment and Investigation

In order to make a targeted and effective referral, it is important to have an in-depth conversation with the client. The aim of this conversation is to unpack the client’s circumstances and to identify what support they are currently getting and what further assistance they might need:

“The young person might say ‘I’ve already got a worker’. Then the IP would develop a conversation with the young person and see whether they’re not happy with their worker, or whether there’s other things that are going on. The young person might say ‘Look, I haven’t seen my case manager for over a month’. That’s when the IP would try to refer them to another service.” [Regional Coordinator, YRIPP](#)

Professionals acknowledged that the ITP client group can be extremely difficult to maintain contact with. Many clients have unstable lives and low incomes and, therefore, it is rare for clients to have long-term home addresses and phone numbers.<sup>97</sup> For this reason, the volunteer’s contact with the person at the police station is the “golden opportunity” to obtain as much information about the person as possible:

“More information is better, because that would give OPA a working chance of getting in touch with the person... When the volunteer’s got them there, that’s your big moment. You never let go of a client. You want to be able to get as much information as possible while you’ve got the person in front of you – that’s the golden rule. It’s all designed to assist clients, so most clients aren’t going to be offended by that.” [Court Support Officer](#)

After this information has been obtained, a further level of investigation should occur in order to corroborate the information the client has given the referrer, and to build a fuller picture of the person’s support needs. As an employee of the ITP Program pointed out, OPA is in a good position to carry out this investigation, as some of these clients will be already known to the office:

“At a rough guess, maybe about 30 per cent or 40 per cent of people who have had an ITP interview have had some sort of contact with OPA, not necessarily through guardianship, but possibly through the Advice Service or the Community Visitors Program.” [Assistant Coordinator, ITP Program](#)

### Sector Knowledge

A good knowledge of the service sector is paramount for ensuring that the person receives an appropriate referral. As the interviews conducted by this project have shown, many people with disabilities (and their families) have experienced a loss of faith in the service system. Inappropriate

referrals can compound this loss of faith and, in some circumstances, make people less likely to re-engage with services in the future. For this reason, it is important for referrers to have a good knowledge of the service system so that they don't "send people on a wild goose chase":

"We receive a significant number of calls in relation to inappropriate referrals. It's pretty common for people to feel like they've been pushed from pillar to post." [Telephone Advice Worker, Villamanta Disability Rights Legal Service](#)

Likewise, it is important for the referrer to be honest with the client, and to manage their expectations about the type of help they are likely to receive from services.

## Advocacy

Many clients will require an element of advocacy to increase their chances of effectively engaging, or re-engaging, with the service system. 'Advocacy' will mean different things to different people. Some clients will require support and encouragement to assist them to make contact with services. Others may require an advocate (such as OPA) to help facilitate their access to services:

"Once people know you're from the Public Advocate's office they do change, they do listen, they do provide information. Having an advocate from OPA can really open up doors for people. It's about accountability." [Advocate Guardian, OPA](#)

The assistance of an advocate may also be required to help re-establish the person's relationships with services. In these cases, an agency such as OPA could (with the person's permission) act as the link that helps services to gain a fuller picture of the person's circumstances:

"Sometimes the service isn't aware of what's going on. Or it may be that the service doesn't know what to do about it. Sometimes services feel that people are too hard, too difficult to assist. Often the person has multiple disabilities, or has alcohol and drug problems mixed into it, so there's a bounce as to who is the primary service provider." [Disability Advocate](#)

## ITP Referrals

Participants agreed that the police interview provides an opportunity to launch people into the information, services and support they need. Many people felt that ITPs were uniquely able to act as a link between the person with a disability and the service system:

"The volunteer has got the front-running at that point. They actually know about some of the circumstances of the person being interviewed. So you would think that, if at all possible, you would develop systems in the future that might be able to launch that person into supports." [Court Support Officer](#)

It was also pointed out that ITP volunteers would require training in order to learn how to make effective referrals:

"It would help if the ITP were able to become a little bit more developed about the key clues as to who will pick the person up. My experience is that agencies are so sophisticated at the front end to screen out, not to screen in. So it's handy in terms of the ITPs' development and training to be able to look for those key clues." [Court Support Officer](#)

In addition, the ITP Program should monitor the outcomes of referrals in order to give this feedback to volunteers, and to enable the program to continually improve its service to clients:

“If you were to take an action research approach, that would be far more fruitful than just a straight referral program. So if you were able to refer the person and then follow up on how that referral went, that would be a constant learning process and would lead to a refining of your practice. It’s also important to involve the volunteer and say ‘This is what happened, and this is the difference your referral made to that person’s life’. That way, people would be motivated to skill themselves up.” [Telephone Advice Worker, Villamanta Disability Rights Legal Service](#)

“Some volunteers don’t see making referrals as part of their role. Some of them seem to think it’s an intrusion, or that it’s jeopardising their independence. So, what I try and do is give feedback to the volunteers about the positive outcomes of referrals, the importance of referrals and the fact that they do work.” [Regional Coordinator, YRIPP](#)

It was also advised that the ITP Program would need to think about the ability of volunteers to respond to the diversity of clients’ backgrounds. For example, some Indigenous clients may be more receptive to taking up referrals that were offered to them by an Indigenous ITP:<sup>98</sup>

“I think the main thing would be to have Indigenous volunteers from the community. I think that would really be the main thing, because in the context of the police interview – where everyone is quite intimidating – it would help to have someone there from the community.” [Lawyer, Victorian Aboriginal Legal Service](#)

On this point, it is worth noting that, as part of its Koorie Strategy, the ITP Program has identified the need to recruit volunteers from Indigenous communities. However, this is an ongoing challenge for the program and, at the time of writing this report, the program did not have any active ITPs who identified as being Indigenous. This indicates that the program needs to take further steps to improve Indigenous people’s knowledge of, and access to, the program.

### Recommendations: Koorie Strategy

A Koorie Liaison Officer role should be incorporated within the ITP Program. Their role would include promoting the program in Indigenous communities and recruiting Indigenous ITPs.

As part of its Koorie Strategy, the ITP Program should conduct training and information sharing with key stakeholders such as the Victorian Aboriginal Legal Service and the Regional Aboriginal Justice Advisory Committee network.

## Police Referrals

Participants were asked about their thoughts on a police referral service that could be utilised by ITP clients. Many people indicated that, in principle, a police referral service was a good idea:

“I don’t mind that idea actually, I quite like it. It’s a change of model in our society, and I think it’s not a bad change.” [Court Support Officer](#)

Police referrals were viewed by some participants as an important “safety net” that could assist people who would not otherwise have the opportunity to be linked in with services. However, there were mixed views about whether people who are interviewed by the police would be willing to engage with police referrals:

“Some young people might be receptive to getting a referral from the police”. [Regional Coordinator, YRIPP](#)

“If it was the police who interviewed and charged them, and afterwards they turned around and said ‘Now we want to give you some help’ well ... it depends. It depends on how the interview went, and how the client got treated or how they perceive they were treated by the police. A lot of our clients don’t have very positive experiences with the police, so I don’t know. But it’s another option.” [Lawyer, Mental Health Legal Centre](#)

Some participants raised concerns that police may not be well-equipped to get an accurate picture of the person and their referral needs:

“You can’t ascertain over the course of a police interview what the person’s needs are. I just fear that it might be just something that’s tacked on at the end – a matter of ticking the box, rather than giving it due care. It might become just a procedure, rather than recognising that this is something that is very important for the person.” [Lawyer, Villamanta Disability Rights Legal Service](#)

“If it’s an automated system, the police aren’t doing any sort of assessment; it’s up to the agency to do the assessment. If the volunteer has picked up that there’s an issue that needs to be addressed, it can reduce the amount of time that the person has to wait around to be linked in to an appropriate service.” [Regional Coordinator, YRIPP](#)

The power imbalance between police and clients could also impact on the tenor of the referral that was offered to the client:

“I think that an OPA referral service would have a very different goal to the police service, and would have a very different relationship with the clients. If the police were to make a referral, the client might feel like they’ve been forced to go to the service by someone who has just charged them and sent them to court. Whereas if there’s a referral made by our office, they might be more likely to work with that service. It would be less coercive. I think people would be more likely to take up a non-police referral, and it would seem that OPA could be a backstop to that.” [Previous Employee of the ITP Program](#)

Overall, participants felt that an ITP referral program would be in a better position to make an assessment of, and effectively respond to, the person’s needs:

“The ITP Program would be making the referral after a consultation with the client, whereas the police would be making a referral after the police interview. They don’t have a separate interview to assess the person’s needs and wants.” [Lawyer, Villamanta Disability Rights Legal Service](#)

“I don’t think police necessarily have the training, the skills, the philosophy or the motivation to do it. My perception is that they’re coming from a different place. Look, it can’t hurt... It’s a great idea, but let it not be the only thing. An ITP referral service would, I think, be far, far more effective.” [Telephone Advice Worker, Villamanta Disability Rights Legal Service](#)

Some participants also pointed out that the involvement of OPA could facilitate clients’ access to services:

“If the person has an ITP involved, I’d prefer OPA to make the referral. I just think it carries a bit more weight. Because there’s been a query raised already that the person’s impaired, and if you’ve got the Public Advocate’s office making a phone call, people will sit up and take notice.” [Court Support Officer](#)

## Key Findings

The interviews with professionals indicate that:

- People in the ITP cohort are likely to have multiple needs.
- Service provision to this group of people is inadequate.
- Advocacy is needed to try and ensure that services work more effectively with people.
- ITPs can help strengthen the reality of people's rights. However, there are steps that need to be taken to improve the ITP Program. For example, some ITPs may benefit from training about police interview techniques. ITPs should also place a stronger emphasis on supporting and encouraging people to access legal advice.
- There are difficulties in identifying the need for an ITP. These difficulties mean that some people are missing out on the services of ITPs. One way to address this difficulty is for the ITP Program to be more widely promoted among people with disabilities, and within the legal and service sectors.
- Participants acknowledged that it can be very difficult to identify the need for an ITP. However, it was suggested by some participants that negative police attitudes and lack of resources can act as barriers that restrict people's access to the ITP Program.
- There is a need to provide referrals and advocacy to people with cognitive impairments and mental illnesses who come into contact with the criminal justice system. The police interview provides an opportunity to link people in with help.
- Referrals should be couched in a positive framework, and should be made in an atmosphere of trust and collaboration.
- ITPs are in a good position to make referrals for people with cognitive impairments and mental illnesses who are interviewed by the police.
- A police referral service is a good idea and an important 'safety net' for people who are in contact with crime. However, it is preferable that people who use the ITP Program receive referrals from ITPs, rather than police. This is because the ITP Program is able to properly assess the person's needs, and to make collaborative, trust-based referrals on behalf of people who have outstanding support needs.

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73. For a further analysis of these issues, see, for example Johnson, K. Hillier, L. Harrison, L. and Frawley, P. Living Safer Sexual Lives: Final Report (La Trobe University, 2001).

74. See, for example: Dillon, J. Violence Against People with Cognitive Impairments: Report from the Advocacy/Guardianship Program at the Office of the Public Advocate, Victoria (OPA, 2010); Healey, L. Howe, K. Humphreys, C. Jennings, C. Julian, F. Building the Evidence: A Report on the Status of Policy and Practice in Responding to Violence against Women with Disabilities in Victoria (2008); Federation of Community Legal Centres Victoria (2006).

75. Note that ITPs are only required to support people during police interviews and formal statements that are made to the police. There is no requirement for police to arrange for ITPs to attend pre-interview conversations with people who are believed to have cognitive impairments and/or mental illnesses. However, the ITP Program strongly encourages the police to utilise the expertise of ITPs during these pre-interview conversations.

76. For a further exploration of these issues, see Rachael's Story on page 59 of this report.

77. The Victoria Police Manual confirms that police should consider the appropriateness of the person's family member or friend performing the ITP role.

78. For an exploration of how services respond to 'multiple needs', refer to: Braithwaite, T. Multiple Needs: Service Users' Perspectives (Revolving Doors Agency, 2009); Finn, W. Hyslop, J. and McInerney, T. Multiple Health, Multiple Needs and the Police: Findings from the Link Worker Scheme (Revolving Doors, 2000).

79. The clients who were interviewed as part of this project had very diverse communication styles. Some clients, like Eric, were able to weigh up, and articulate, the benefits and limitations of police referrals. By comparison, other clients offered a far more basic analysis of police referrals. For this reason, Eric has been quoted at length in this section of the report. However, it should be noted that Eric's preference to receive referrals from ITPs, rather than police, is representative of most other clients' views on the matter.

80. Likewise, in a study involving offenders with intellectual disabilities, families cited boredom as a key factor driving people's offending behaviour. The families who took part in this study called for support for people with intellectual disabilities as soon as they make contact with the police. See: Cockram, J. Jackson, R. and Underwood, R. 'People with an Intellectual Disability and the Criminal Justice System: The Family Perspective' (1998) 23(1) *Journal of Intellectual and Developmental Disability* 41.

81. It should be noted that none of the family members who took part in this research had any knowledge of, or experience with, the Assessment and Referral Court List. The List is a court-linked intervention that is being piloted in the Magistrates' Court in Melbourne. The List aims to facilitate therapeutic outcomes for people with cognitive impairments and mental illnesses who are in contact with the criminal justice system. In order for the person with a disability to be eligible for the list, they must be charged with a non-serious and non-violent offence, and they need to be likely to benefit from a problem-solving court process and an individual support plan. The List can facilitate the person's access to case management and other support that aims to address some of the underlying causes of their contact with the criminal justice system. For further information, see: Magistrates' Court of Victoria, Assessment and Referral Court List (ARC) (undated) available at <http://www.magistratescourt.vic.gov.au/wps/wcm/connect/justlib/magistrates+court/home/court+support+services/magistrates++assessment+and+referral+court+list>, at 16 September 2011.

82. For Aaron's perspective on this issue, refer to page 42 of this report.

83. Currently, ITPs are given the names and contact details of other ITPs in their area. However, the people who took part in these interviews indicated that they did not proactively arrange meetings with other ITPs. These participants felt that a more official system needed to be put in place to enable ITPs to meet with each other on a regular basis.

84. A recent report on the ITP Program found that there was the need for a further level of support for ITPs at the police station. To this end, it was suggested that two separate support people could attend police interviews. See Spivak, B. and Thomas, S. 'Police Contact with People with an Intellectual Disability: The Independent Third Person Perspective' *Journal of Intellectual Disability Research* (in-press). By comparison, the ITPs who took part in this research indicated that they felt confident attending police interviews alone, but that they saw a need for support outside of the police interview (*vis-à-vis* regional volunteer support networks). Note, also, that the establishment of local ITP support groups was recommended in an early evaluation of the program: Department of Health and Community Services (1995) p.iv.

85. Of course, this may be because the people who do have strong support networks tend to use family members as ITPs.

86. It should also be noted that the attitude and body language of this volunteer could have sent a clear message to the person with a disability about what was expected from them during the police interview (for example, that they should 'go ahead and talk' to the police).

87. See Spivak, B. and Thomas, S. (in-press). If police do primarily rely on the LEAP system to identify the need for an ITP, this could be a contributing factor towards the high proportion of 'repeat presenters' before the ITP Program.

88. The interviews with clients undertaken by this project found that a high proportion of clients reported that they had experienced attending police interviews alone, without any support person present. However, these interviews provide only a small 'snapshot' of this issue, and do not provide any indication of the numbers of people who may be missing out on the services of ITPs. As this project is primarily a study of the ITP Program, it was not possible to collect comprehensive data on the people who, for various reasons, have not had access to the program.

89. On this point it should be noted that some people choose to use family members and friends as ITPs, and, therefore, they have not used the ITP Program. However, as this report discussed earlier, it is not always appropriate for family members and friends to act as support people during the police interview process.

90. An early evaluation of the ITP Program recommended that the program be more widely marketed to key service providers and consumer groups, particularly those relating to mental health disabilities, acquired brain injury and senile dementia. See: Department of Health and Community Services (1995) p.iv.

91. Some of the interview participants indicated that many people with cognitive impairments would benefit from education and support to enable them to make informed choices about sexuality and relationships, and to express their sexuality in positive ways. See also: Johnson, K. et al (2001).

92. The Victoria Police Manual states that the ITP role is not an advocacy role. However, some of the interview participants who took part in this project questioned whether, in practice, the ITP role does contain an advocacy function. It was argued that, while ITPs should not give legal advice, they should advocate to protect the rights of people with cognitive impairments and mental illnesses. Part of this advocacy function includes ensuring that the person understands their legal rights. If the ITP believes that the person does not understand their legal rights, they must communicate this concern to the police.

93. For a discussion of the difficulties in identifying whether a person has a mental illness, and the need to build an awareness of mental health issues in the police force and also among ITP volunteers, refer to Mental Health Legal Centre, *Experiences of the Criminal Justice System – the Perspectives of People Living with Mental Illness* (2010).

94. OPA also has concerns that not everyone who is entitled to use the ITP Program is getting access to the program. These concerns were highlighted in a recent submission to the parliamentary inquiry on access to justice for people with intellectual disabilities and their families. See Bedson, L. and Hartnett, L. (2011) pp.23-26. See also Disability Services Commissioner, *Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and their Family and Carers – Submission 09/2011*(2011), p.5.

95. Part of this issue involves ensuring that people from Indigenous and CALD backgrounds have knowledge about, and equal access to, the ITP Program. This is important given that people with cognitive impairments from Indigenous or CALD backgrounds may be particularly disadvantaged in the police interview. See, for example: Bartels, L. *Police Interviews with Vulnerable Adult Suspects* (Australian Institute of Criminology, 2011) pp.3-4; and Sotiri, M. and Simpson, J. 'Indigenous People and Cognitive Disability: An Introduction to Issues in Police Stations' (2006) 17(3) *Current Issues in Criminal Justice* 431.

96. Research has shown that people who have lower levels of hope are at a greater risk of becoming involved with crime. There is evidence that having a positive outlook on life is a protective factor for potential negative behaviour. See: Martin, K. and Stermac, L. 'Measuring Hope: Is Hope Related to Criminal Behaviour in Offenders?' (2009) 34(5) *International Journal of Offender Therapy and Comparative Criminology* 693.

97. During the course of this project it was observed that even people's mobile phone numbers tended to change frequently. It was suggested that this may be because people have lost their phones, or because they had outstanding charges on their phones and therefore switched to a new phone provider.

98. The project was only able to interview one Indigenous person who had used the ITP Program. This person indicated that she trusted her ITP (who was not Indigenous) and would have been willing to accept a referral from her ITP. Obviously, the level of trust and understanding between Indigenous interviewees and non-Indigenous ITPs will differ widely from person to person.



# The Client Group: What are the Characteristics of Repeat Presenters?

## A Quantitative Analysis of Repeat Presenters

This section analyses quantitative data from the ITP Program in order to construct a profile of the clients who have used the program more than once.

### ITP Data

For each ITP interview that they attend, volunteers must complete an interview report sheet. Interview report sheets have the capacity to record basic information about ITP interviews, including:

- interview date
- name of ITP
- name of interviewing police officers
- client's name
- offence type
- client's gender
- client's disability
- client's cultural identity
- additional comments.

Interview report sheets are filled out by hand and then submitted to the ITP Program. After being received by the program, they are manually entered into the ITP database. The database provides a central mechanism for recording and managing information about ITP interviews.

The ITP database provided the source of the quantitative data utilised in this project. The project used the database to extract information about all the ITP interviews that took place between 1 July 2000 and 30 June 2010. This data was then analysed in order to build a picture of the characteristics of ITP interviews that involved people who presented before the program more than once during this ten-year period.

### Limitations

The early years of the ITP Program were characterised by very poor data collection and recording techniques. Accordingly, the project did not analyse any data about interviews that took place before July 2000. From 2005 there was a marked improvement in the program's data recording methods. For this reason, the project undertook a more detailed analysis of the offence types for interviews that took place between 1 July 2005 and 30 June 2010.

To ensure that a complete set of interview reports was retrieved from the database, the project did not seek any information about interviews that took place after 30 June 2010. This is because, at the time of extracting the information, the more recent interview reports were still in the process of being entered into the database.

A further limitation stems from the format in which the ITP database collates information. Primarily, the database collates and sorts information according to interview types. This fact, combined with the focus of this research – on repeat presentations – meant that the quantitative data lent itself more readily to an analysis of interviews than people. For example, the proportion of people who presented before the program in multiple interview categories (that is, as alleged offender and/or victim and/or witness) meant that it was more accurate to count the numbers of *interviews* involving, say, alleged offenders, rather than the numbers of *people* who were alleged offenders. Calculating the numbers of offence types by interviews thus avoids the double-counting of a person who is both an alleged offender and a victim, for example. Accordingly, the majority of the below graphs reflect an analysis of ITP interview types. It was, however, possible to extract some basic information about the characteristics of people who repeatedly present before the ITP Program.

Although the ITP Program has greatly improved its data collection and recording methods, there is still room for further improvement. For example, volunteers are now encouraged to find out and record clients' cultural identities. However, as yet, the ITP database does not contain a great deal of information about ethnicity. For this reason, the report does not undertake an analysis of the cultural background of ITP clients.

### Recommendation: Data Collection and Management

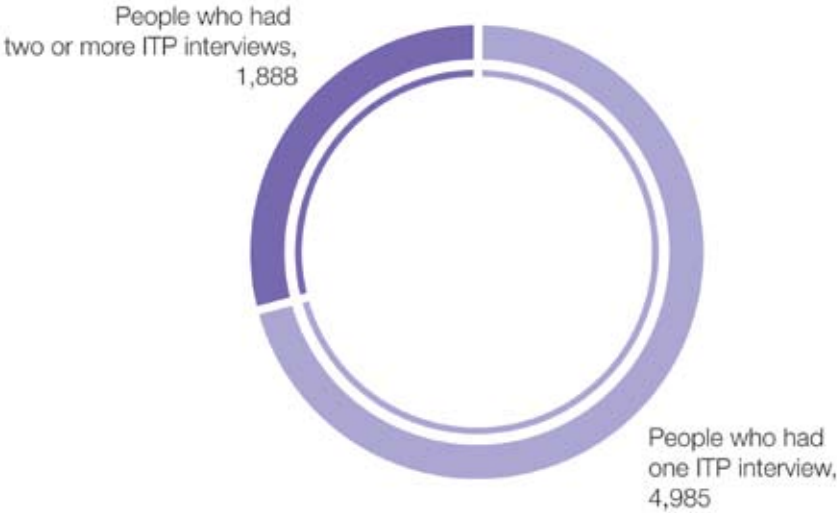
The ITP Program's data collection and recording techniques need to be improved in order to accurately record the:

- numbers of clients who are Indigenous
- numbers of culturally and linguistically diverse (CALD) clients
- key criminal matters clients are involved with (for example, breaches of intervention orders).

The program should also improve its data management processes. This may involve integrating the program's data within OPA's existing database.

# Number of People Who Are Repeat Presenters

Between 1 July 2000 and 30 June 2010, the ITP Program assisted a total of 6,873 people with their police interviews. Of this cohort, 1,888 people used the program more than once during this ten-year period. This means that 27 per cent of the total number of ITP clients assisted during this period can be classed as repeat presenters (see Graph B1, below).



Graph B1: People who are Single Users vs. People who are Repeat Presenters (1.7.00 – 30.6.10)

While it is possible to calculate the numbers of people who are repeat users of the ITP Program over a broad period of time, it is more problematic to try and achieve a year-by-year account of these figures. This is because, by their very nature, people who are repeat presenters before the program are likely to appear in more than one year’s set of data. However, in order to get an idea of the approximate number of repeat presenters that the program sees each year, the project created a snapshot of these figures for the 2005-06 and 2009-10 financial years (see Table B1, below).

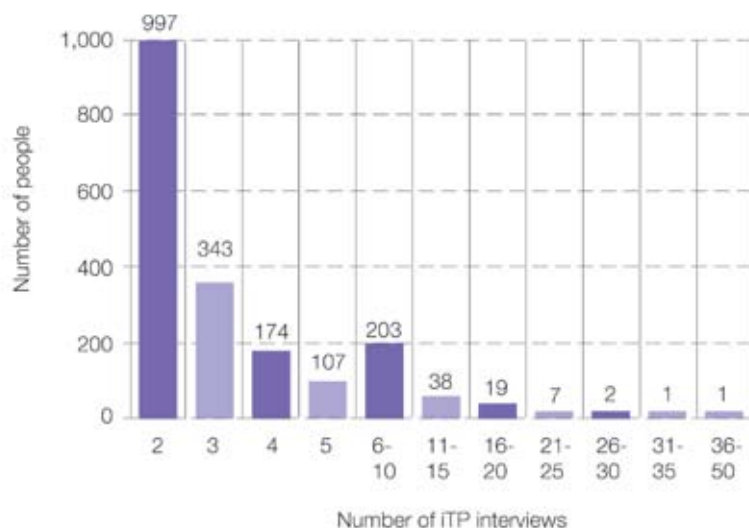
Financial Year	Number of people who are repeat presenters before the ITP Program
2005-06	406
2009-10	538

Table B1: Number of People Who are Repeat Presenters

This snapshot captures people who used the ITP Program in either 2005-06 or 2009-10, and who appeared before the program at least one other time between 1 July 2000 and 30 June 2010.

## Number of Interviews per Person

The graph below illustrates the numbers of ITP interviews attended by people who were repeat presenters before the program between 1 July 2000 and 30 June 2010. As this data examines repeat presentations, it does not capture people who used the program only once during this ten-year period.



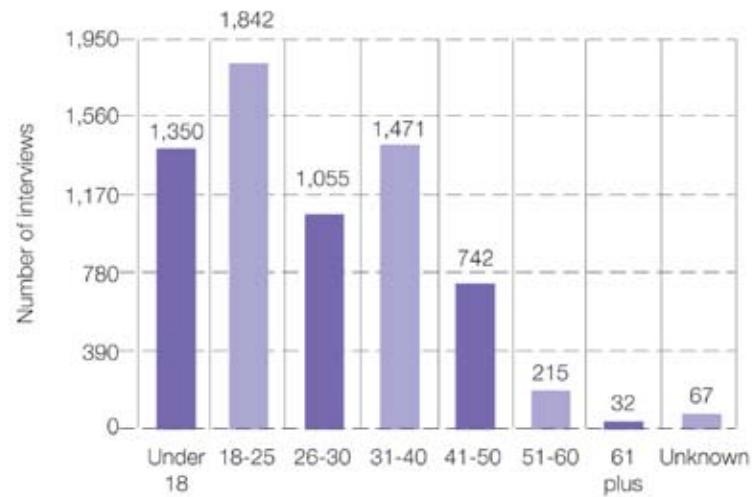
Graph B2: Number of Interviews per Person (Repeat Presenters, 1.7.00 – 30.6.10)

About half the people in this cohort (53 per cent) used the ITP Program twice. Eighteen per cent used the program three times, 14 per cent used the program four to five times, and another 14 per cent used the program six or more times.

While this graph indicates that most repeat presenters use the ITP Program two or three times, it is important to remember that this data represents only a proportion of people's overall contact with the criminal justice system. For example, some clients may have interactions with the police that do not result in an interview taking place, while other clients may attend a police interview with a friend or family member rather than an OPA ITP.

## Age

The below graph illustrates people's ages at the time of their ITP interview.



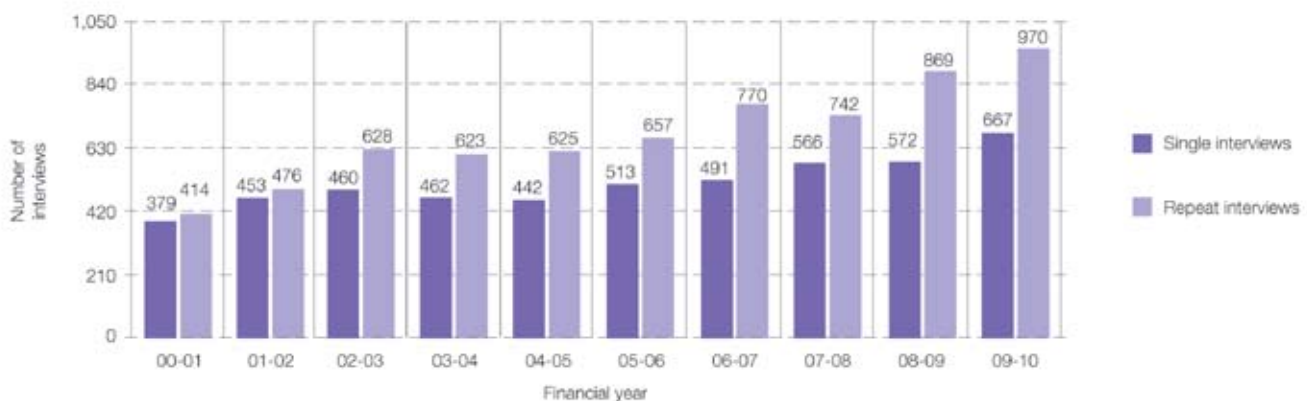
Graph B3: People's Ages (Repeat Presenters, 1.7.00 – 30.6.10)

As this graph demonstrates, the majority of repeat presenters before the ITP Program are young people. Nearly half (47 per cent) of the repeat presentation interviews conducted between 1 July 2000 and 30 June 2010 involved people who were under 26 years of age. Sixteen per cent of interviews involved people aged 26 to 30, and 22 per cent of interviews were conducted with people who were 31 to 40 years of age.

## Single Interviews compared to Repeat Interviews

The graph below compares the incidents of single interviews and interviews involving repeat presentations over a ten-year period. The 'single interview' data captures interviews involving clients who used the ITP Program only once between 1 July 2000 and 30 June 2010. By comparison, the 'repeat interview' data represents interviews involving clients who used the program two or more times over this ten-year period. This means that if, for example, a client was interviewed once in 2003 and another time in 2008, both interviews would be identified as 'repeat interviews' in this graph. Although the data provides a longitudinal picture of ITP usage, it does not consider any interviews that fall outside of this sample period. So if, for example, a client was interviewed once in 2008 and another time in 2011, only their 2008 interview would be captured in this data. Accordingly, the client's 2008 interview would be represented as a 'single interview' in this graph.

When read in conjunction with Graph B1, above, the data indicates that, while the majority of *people* will use the ITP Program on only one occasion, the majority of *interviews* involve repeat presentations before the program.



Graph B4: Single Interviews vs. Repeat Interviews (1.7.00 – 30.6.10)

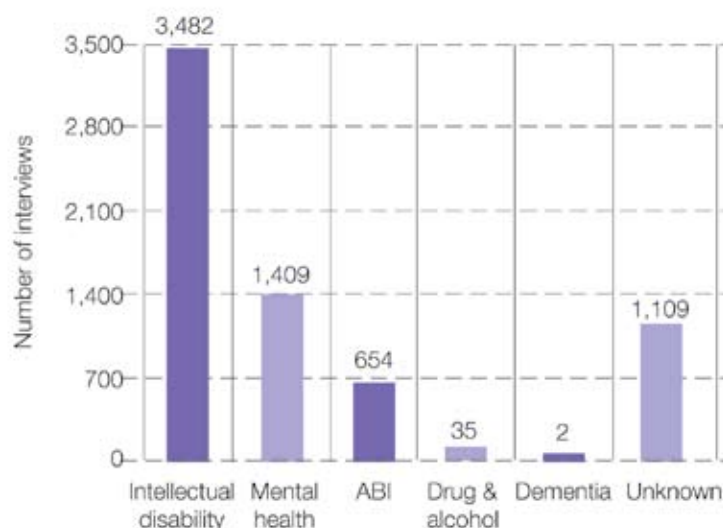
The graph indicates that interviews involving repeat presentations account for a substantial proportion of the overall interviews attended by ITP volunteers. For example, according to this data, in the 2009-10 financial year, 59.2 per cent of ITP interviews involved people who had used the program more than once between 1 July 2000 and 30 June 2010.

## Disability

There is no requirement that a person has a diagnosed disability in order to be eligible for assistance from an ITP. If police believe that the person may have some type of cognitive impairment or mental illness, they should arrange for an ITP to be present during the interview. This lack of diagnostic criteria as an entry-point into the ITP Program means that volunteers do not need to ascertain the precise nature of the person's disability. Volunteers are trained to only make a record of the person's disability if this information is offered either by the person themselves or by another party (such as the police or the person's family member(s), for example). If this information is not offered to the volunteer, the client's disability should be recorded as 'unknown'. Volunteers are explicitly instructed not to try and form their own diagnosis of the person's disability.

Volunteers, therefore, tend to obtain information about the client's disability from either the client, the client's family, or the police. These different sources of information can sometimes lead to various perspectives on what the client's disability actually is. For example, take the case of Damien. Between 2001 and 2009, Damien appeared before the ITP Program ten times. The ten interview records for these incidents contain a variety of disability descriptions: in two records Damien's disability is 'unknown'; in one record he stated to have an acquired brain injury; on two occasions he is identified as having an intellectual disability; one record indicates that Damien has an intellectual disability and a mental illness; and in four interview records he is reported to have an intellectual disability and also to be drug-and-alcohol affected. Damien's case illustrates that there can be significant difficulties in identifying the precise nature of the person's disability. For this reason, the below data should be approached as simply a 'rough guide' to disability.

The below graph examines repeat interviews by disability types for the period between 1 July 2000 and 30 June 2010. For ease of reference, the below data does not contain information about dual disabilities. If an interview record indicated that a client had two disabilities (such as an intellectual disability and a mental illness) only the primary disability (the intellectual disability) would be captured in the below data.



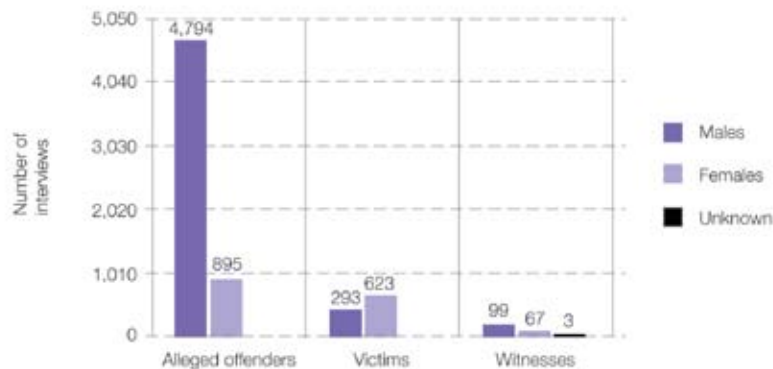
Graph B5: Interviews by Disability (Repeat Interviews, 1.7.00 – 30.6.10)

According to the above data, about half of the repeat interviews (52 per cent) during this period involved people who were believed to have an intellectual disability. Twenty-one per cent of interviews involved people who reportedly had a mental illness and 10 per cent of interviews were with people who were believed to have an acquired brain injury. In 16 per cent of interviews, the client's disability was recorded as 'unknown'.

## Gender and Offence Types

The ITP Program tends to work with alleged offenders who are male. The program assists fewer victims, and these victims tend to be female. Only a small number of witnesses are assisted by the program. These trends are broadly reflected in the characteristics of clients who repeatedly present before the program.

The below graph examines interviews involving clients who were repeat presenters before the ITP Program between 1 July 2000 to 30 June 2010. The graph represents the numbers of interviews conducted with men and women who were alleged offenders, victims or witnesses.

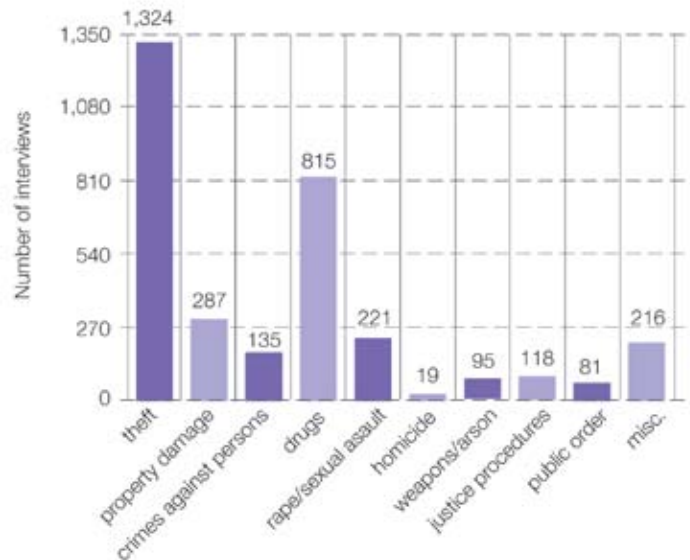


Graph B6: Interview Types by Gender (Repeat Interviews, 1.7.00 – 30.6.10)

The graph demonstrates that, over this ten-year period, 84 per cent of repeat presentation interviews involved alleged offenders. The majority of these alleged offenders (71 per cent) were male. By comparison, 13 per cent of repeat presentation interviews involved victims. While alleged offenders are overwhelmingly male, women accounted for 68 per cent of the victims in this cohort. Only a small number of repeat presentation interviews (3 per cent) involved witnesses.

## Alleged Offenders

The below graph provides an overview of the offence types for alleged offenders who were repeat presenters before the program between 1 July 2005 and 30 June 2010.



Graph B7: Offence Types for Alleged Offenders (Repeat Interviews, 1.7.05 – 30.6.10)

### Property Crimes

The majority of alleged offenders (40 per cent) in this cohort were involved in theft and theft-related crimes. These crimes included shoplifting, burglary, theft of a motor vehicle, handling stolen goods, and being equipped to steal.

Nine per cent of interviews related to property damage. These crimes included criminal damage, trespass and damage to stolen motor vehicles.

### Victim Crimes

Twenty-five per cent of interviews in this cohort related to crimes against persons. These crimes included assault, attempted assault, threats to kill, recklessly endangering a life, and abduction.

Rape and sexual assault represent a further 7 per cent of interviews involving alleged offenders. In this data, the rape and sexual assault category also includes attempted rape, attempted sexual assault and indecent assault.

A very small number of interviews (0.5 per cent) related to homicide and attempted homicide.

### Drugs

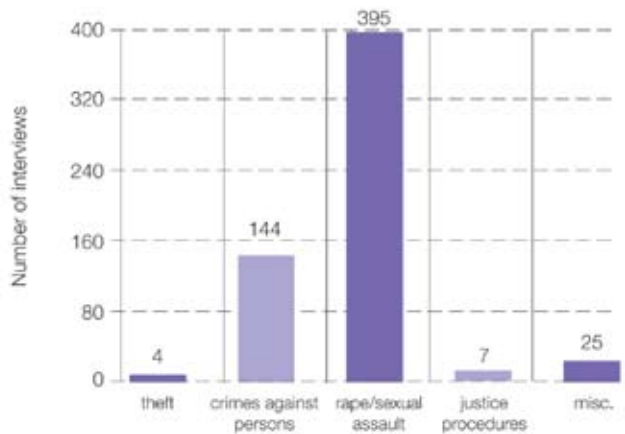
Only 4 per cent of interviews involved allegations relating directly to drugs (including possession, use and trafficking).

## Other Crimes

A small proportion of interviews (3 per cent) related to arson and the possession of weapons. Justice procedures (consisting largely of crimes such as breaches of intervention orders and resisting arrest) made up 3.5 per cent of interviews. Public order offences (which include trespassing, offensive language and disorderly conduct) made up 2.5 per cent of interviews. The remaining 6 per cent of interviews related to miscellaneous crimes including traffic offences, bomb hoaxes, interviews that were bail hearings, and interviews that did not proceed.

## Victims

The graph below provides an overview of the types of crimes that were perpetrated against victims who were repeat presenters before the program between 1 July 2005 and 30 June 2010.

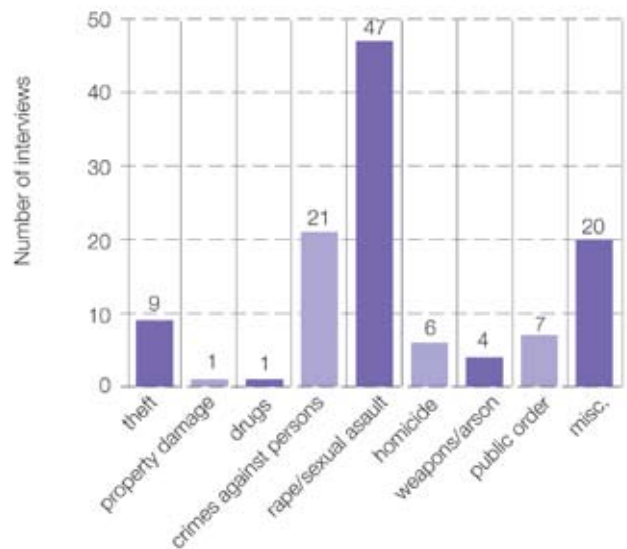


Graph B8: Types of Crimes Perpetrated against Victims (Repeat Interviews, 1.7.05 – 30.6.10)

The majority of interviews in this cohort (69 per cent) related to victims of rape and sexual assault. One quarter of interviews (25 per cent) involved victims of crimes against persons (the majority of which were assault and harassment). A small proportion of interviews (1.5 per cent) related to victims of justice procedures (such as breaches of intervention and domestic violence orders). Only 0.5 per cent of interviews related to victims of theft, and 4.3 per cent of interviews related to miscellaneous offences (including interviews that did not proceed).

## Witnesses

The below graph provides an overview of the types of crimes witnessed by people who were involved in repeat ITP interviews between 1 July 2005 and 30 June 2010.



Graph B9: Types of Crimes Witnesses were Interviewed For (Repeat Interviews, 1.7.05 – 30.6.10)

It is noteworthy that a very high proportion of interviews in this cohort (40 per cent) related to witnesses of rape or sexual assault. Witnesses of crimes against persons made up 18 per cent of this cohort, whereas 17 per cent of interviews related to miscellaneous crimes (including interviews that did not proceed).

### Key Findings

The data from the ITP Program indicates that:

- Just under one third of ITP clients are repeat presenters. These people account for roughly 60 per cent of the total number of ITP interviews.
- About half of the people who are repeat presenters have had contact with the ITP Program twice. About one third of repeat presenters have had contact with the program three to five times.
- Around half of repeat presentation interviews involve people who are believed to have an intellectual disability.
- The majority of repeat presenters are young men who are alleged offenders. About half of the interviews involving alleged offenders relate to property crimes. By comparison, crimes perpetrated directly against victims represent roughly one third of the interviews involving alleged offenders.
- A proportion of repeat presentations involve people who are interviewed as victims. Victims tend to be women who have been raped or sexually assaulted.
- Only a small number of repeat presentations involve witnesses. These interviews tend to involve both women and men who have witnessed a rape or sexual assault.

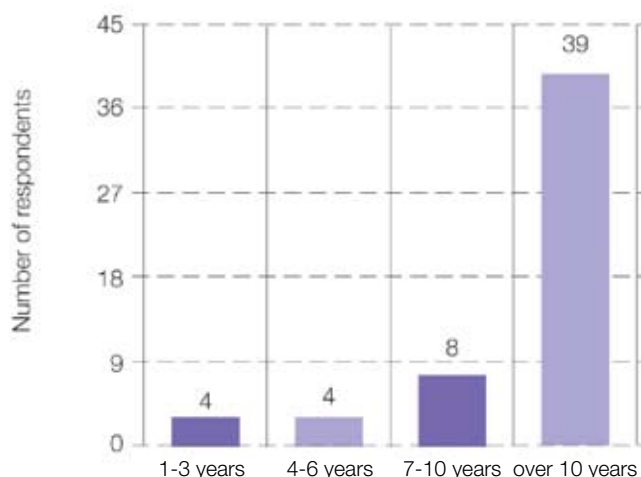
# ITPs and Referrals: What Police Say



In July 2011, a survey was posted on the Victoria Police intranet inviting sworn members throughout Victoria to have their say about ITPs and referrals. The survey was available on the intranet for a period of 15 days. A total of 55 members responded to the survey.

## Years of Service

The majority of respondents who took part in this survey were experienced members who had served for over ten years with Victoria Police.



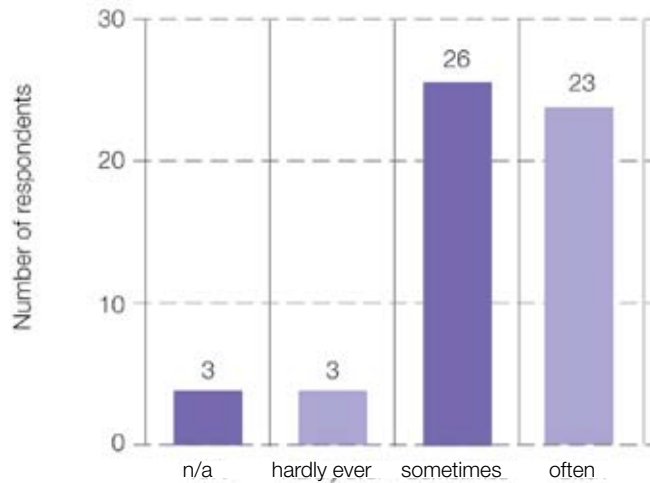
Graph C1: How many years have you served with Victoria Police?

## Area

Most respondents to the survey (38 people) were located in metropolitan areas of Melbourne. Only a small number of respondents (17 people) were located in regional or rural areas of Victoria.

## People with Disabilities

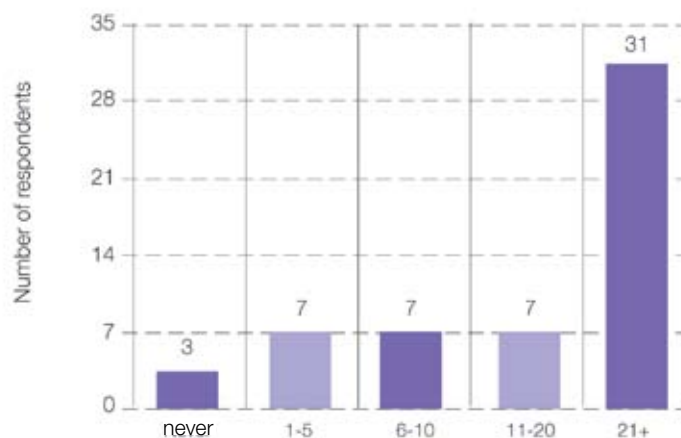
Unsurprisingly, the survey results indicate that interacting with people with disabilities can be a significant part of police work. Twenty-three respondents reported that they were 'often' in contact with people who were believed to have cognitive impairments and mental illnesses. Twenty-six respondents said that they 'sometimes' had contact with this cohort. Only a small proportion of respondents (three people) reported that they 'hardly ever' came into contact with people with disabilities (this may have been due to the role they were performing).



Graph C2: How often do you encounter people who you believe may have a cognitive impairment due to disability or mental illness during the course of your police work?

## ITP Program

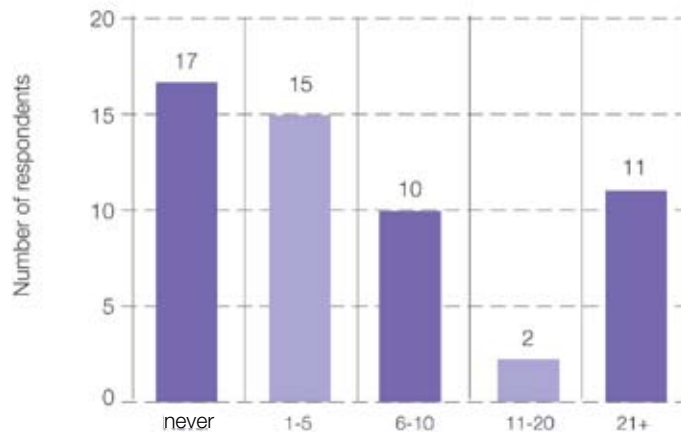
Nearly all respondents had used the ITP Program during the course of their work duties. Around half the respondents (31 people) reported that they had used the ITP Program 21 or more times. Only three respondents said that they had never used the program.<sup>99</sup>



Graph C3: How often have you used the OPA ITP volunteers program?

## Friends and Family as ITPs

Overall, the respondents reported using friends and family as ITPs less often than they used OPA ITP volunteers. Eleven respondents said that they had used the ITP Program over 21 times. Many respondents (15 people) reported using friends and family as ITPs only a handful of times. Around the same proportion of respondents (17 people) said that they had never used friends and family members as ITPs.



Graph C4: How often have you used friends or family members of the person being interviewed as the ITP?

## Factors Influencing Choice of ITP

The key factors which influenced whether respondents used an OPA ITP, or a friend or family member as the ITP, were availability, time and convenience. Many respondents believed that friends and family members were best able to meet these criteria:

“If there is easy access to a friend or family member who is willing to assist, I would choose that option to save time.”

“Mainly the time frame. If family were available and deemed as suitable, this would be the first point of call.”

“The difficulty in getting an [OPA] ITP has made me consider using family members or the person’s carer.”

However, some respondents felt that ITP volunteers could offer a greater level of objectivity than family members:

“Family members can be too emotional and don’t understand their role within the police interview, so in those circumstances the ITP is perfect.”

One person felt that it was inappropriate to use family members as ITPs:

“They’re not independent, unbiased or objective and usually know little about police procedures. In some instances, a mentally impaired person will not feel comfortable discussing the matters for which they are being interviewed in the presence of a family member.”

The above person felt that police guidelines should be amended to indicate that preference should be given to using an OPA ITP, rather than a family member of the person being interviewed.

## Benefits of OPA ITPs

Most respondents felt that the chief advantage of OPA ITPs was their independence. On this point, it was noted that ITPs had:

“No hidden agenda. Also, the person being interviewed may feel more at ease with an ITP. Telling their story in front of family or friends may be embarrassing or could cause ongoing resentment.”

Unlike family members, OPA ITPs are not “emotionally involved” in the case and would be unlikely to “prompt answers” from the person being interviewed.

A good knowledge of police processes was also seen to be a key benefit of OPA ITPs:

“The ITPs I’ve had always knew how an interview ran, and knew the legal requirements of members and offenders. Very switched on.”

Three respondents, however, felt that there were no benefits in using an OPA ITP in preference to a family member or close friend.

## Benefits of Friends and Family

Using friends and family members as ITPs was perceived to offer a level of “comfort” and “familiarity” for the person being interviewed. Respondents reported that, in some circumstances, friends and family members could calm the person down. In addition, they “may have a greater understanding of how to relate to the accused”. Using friends and family members as ITPs was also viewed as a “time saving measure” for some police.

However, as some respondents pointed out, the effects of having a friend or family member present during the interview was not always predictable:

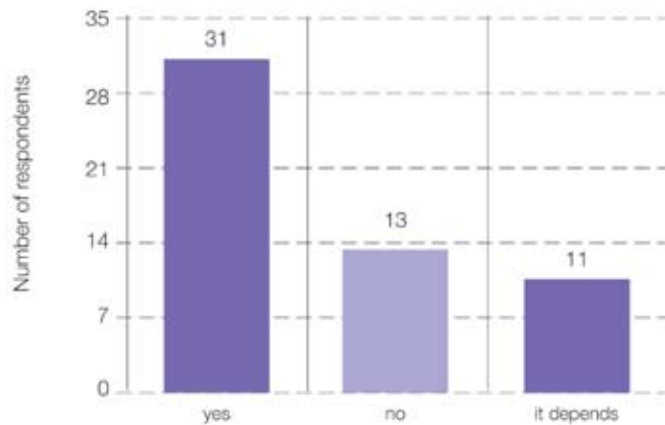
“Occasionally having a person known to them has assisted in making them feel comfortable. But, on the other side, this can also upset them or make them close up as they think they may be in trouble...”

Four respondents did not see any particular benefits in using friends or family members as ITPs in preference to an OPA ITP. One of these respondents stated that:

“I can see more negatives than positives in using a friend or relative.”

## Need for Referrals

Respondents were asked whether there was a need for referrals to be made on behalf of people with cognitive impairments and mental illnesses who were interviewed by police. Over half the respondents (31 people) identified that there was a need for referrals to be made for people with disabilities who are interviewed by police. Thirteen respondents could not see a need for referrals, and 11 people said that the need for referrals depended on the circumstances of the case.



Graph C5: Are there people being interviewed who you believe may have a cognitive impairment, and who require referral(s) to social and other services?

The respondents who answered 'it depends' were invited to elaborate on their answer. Most of these respondents indicated that the people with disabilities that they came across in the course of their police work were already linked in with services. Therefore, it was felt that there was not a pressing need for referrals for this group:

“Never seen one yet who hasn’t already been helped or being helped.”

“Sure, we interview loads of people with cognitive impairments. However, the requirement for a referral is very subjective. Most wouldn’t need a referral as they’re already in the ‘system’.”

“Some are linked in already. Most we deal with have substance abuse issues which is an ‘out’ for most service providers. No-one will assist a person who is substance affected.”

## Capacity of Police to Make Referrals

Well over half the respondents (35 people) said that they had the capacity to offer referrals to people during the course of their police work. Twenty people reported that they did not have the capacity to make referrals. A couple of the respondents noted that, although they did not have the capacity to make referrals, they were aware of the SupportLink system which was being trialled by Victoria Police.

## Types of Referrals Police Can Offer

Respondents were asked to elaborate on what types of referrals they were able to make during the course of their police work. Over half the respondents (30 people) said that they could make basic referrals only. Twenty-one people said they could make referrals to a range of social and welfare services.

One respondent noted that they could only make “verbal” referrals as they were “too focussed on other paperwork to do anything in writing”. Another respondent said that:

“The new SupportLink referrals program being tested at our station has made this very easy and has shown great benefits.”

## Appropriateness of Police Referrals

Over half the respondents (33 people) felt that the ability to offer referrals is an appropriate part of the police role. Twenty-two respondents believed that it was not appropriate for police to make referrals.

A few respondents could see clear benefits in police making referrals for people. For example, one person noted that making referrals was a “very important process of policing. The more services available, the better the outcome”. Another person noted that:

“I believe that it is part of our job description to assist people where required, especially if it means they are off the streets, so there is less chance of re-offending.”

Some respondents qualified their support for police referrals by saying that such referrals were only appropriate under certain circumstances:

“I don’t believe in mandatory referrals as every case should be judged on its merit.”

“As long as it does not become another paper chase and stats-gathering exercise by police.”

“Providing information and offering basic referrals, yes. It should not be the role of police to ensure that services are engaged.”

Other respondents indicated that the ability to make referrals was outside of their area of expertise:

“We are not social workers.”

“It should be Department of Human Services or family. I am not trained in mental disabilities or assessments.”

## Benefits in ITPs Making Referrals

Respondents were asked whether they believed that there were benefits in ITP volunteers making referrals (rather than police). The majority of respondents (45 people) indicated that there were benefits in volunteers being the ones to make referrals for people. Some of the reasons for this included:

“The OPA ITP is impartial. Particularly when dealing with impaired people as offenders, there is more value for the information and advice to come from someone outside the criminal process.”

“The person receiving the referral won’t think that it’s some sort of police ‘agenda’.”

“OPA would have a greater knowledge of current service providers and hopefully a knowledge of the services provided.”

“We generally don’t have the time.”

“I don’t see it is our role. [Making referrals] confuses the role of law enforcement and investigation.”

“ITPs can be trained and usually have a high level of patience with persons with impairments. If they build a trust to assist the person in the interview, then they can continue with that bond and assist them.”

## Likelihood of Accepting Referrals

Most respondents (44 people) believed that people would be more likely to accept referrals from ITP volunteers, rather than from police.



Graph C6: Do you think that people would be more likely to accept a referral from an OPA ITP volunteer rather than from police?

## Expanded Role for the ITP Program

On the whole, respondents were positive about the prospect of the ITP Program taking on a referral function:

“It’s a very good idea. The ITP is usually seen as independent from the police and not trying to ‘stitch them up’.”

“When police call ITPs it is because they need to interview an impaired suspect. So the police role would be seen by the suspect as one of strictly a law enforcer. To then move into the role of referral provider for other services would be blurring the lines – keeping this role for ITPs would be better.”

“It won’t make a difference to the police processing of the accused, but it may assist the impaired individual. It may assist the community in relation to the impaired individual re-offending.”

It was further noted that having ITPs make referrals could result in “time savings” for members, thereby allowing them to return to the “core functions” of police work.

Some respondents had concerns that making referrals could potentially compromise the independence of ITPs and the interview process:

“Care should be taken by the volunteer to avoid becoming ‘involved’ in the continuing welfare of the interviewee so as to clearly remain ‘independent’ as per the ITP role.”

“If referrals are to be discussed with the person, it is imperative that it only occurs after the interview so as not to influence the person during the interview.”

“Some people may see this as interfering rather than just assisting in the police interview.”

A couple of respondents qualified their support for this expanded function of the program by warning that ITP referrals should not make inroads into police time. For example, one respondent noted that:

“There are obvious advantages for those offenders who wish to accept assistance. The downside is a lengthening of the processing time. Get the offender processing out of the way and provide a facility where the ITP can spend time with the suspect. I would not see this part of the process as the offender being in police custody. I would not want police resources being tied up while this process occurs.”

One respondent could see no benefits in an expanded role for the ITP Program:

“Why do you wish to reinvent the wheel? These people have already been picked up at school, or by hospitals or doctors.”

Another respondent took the opportunity to state that the ITP role should in fact be a paid position, rather than a volunteer function:

“I have an issue that we expect people to volunteer (on weekends and late at night) when it should really be done by the Justice Department.”

## Referral Service and Choice of ITP

Over half the respondents (32 people) reported that the existence of an ITP referral service would not make them more likely to use an OPA ITP (as opposed to using a friend or family member as the person's ITP). Twenty-two respondents said that a referral service would make them more likely to use an OPA ITP.

There were varied reasons as to why the existence of a referral service would not impact on respondents' choice of ITP:

"Every case must be judged on its merit. If the person would be more comfortable with a family member, and that decision does not affect the investigation or hinder it, then that decision is suitable."

"It could depend on the availability of an ITP compared to a friend or relative. We often have great difficulty in obtaining the services of an ITP. If we knew that we could have them attend on a regular basis, we would use them more often."

"Because of demand to get the van back out on the road, whichever is quickest will always affect the decision."

"In rural areas, ITPs are not adequately compensated for travel or time."

"I already use OPA volunteers as much as possible. The introduction of a referral service would not influence this."

Some respondents indicated that they would take a 'wait and see' approach to the effectiveness of an ITP referral service, before deciding whether this would impact on their choice of ITP:

"Time delay in obtaining the service [of an ITP] would still be the overriding consideration. Having said this, if an OPA referral service was seen to be effective (i.e. offenders were taking up the offers provided) I think my views would change. Further, I would only support the referral process if it took place after the suspect had been processed and formally disposed of so the van could return to other duties. Perhaps OPA could have a room to discuss issues and make referrals independently of the processing crew."

## Knowledge about the ITP Program

Taken as a whole, the survey results indicate that, while many members have a good understanding of the ITP Program, there may be scope to improve some people's knowledge in this area. This is because some of the answers to the survey questions seemed to conflate OPA's Independent Third Person Program with YRIPP's Independent Person Program.<sup>100</sup> One possible reason for this is that, in their haste to complete the survey, respondents may have momentarily mixed up the functions of the two programs. Another possible reason is that the names of the programs' respective volunteers – ITPs and IPs – are confusingly similar. The survey results indicate that there would be a benefit in clearly differentiating between the titles of the programs' respective volunteers.<sup>101</sup> The survey also raises the possibility that some members may benefit from further education to help them effectively engage with both YRIPP and the ITP Program.

## Key Findings

The survey results from Victoria Police indicate that:

- Interacting with people with cognitive impairments and mental illnesses can be a significant part of police work.
- The police who took part in this survey indicated that they tend to draw on the OPA ITP Program more often than friends and family members of the persons being interviewed. The key benefits of OPA ITPs are reported to be their independence and knowledge of police processes.
- Many police have identified the need to offer referrals to people who are believed to have cognitive impairments and mental illnesses. However, police also recognised that a proportion of these people are already linked in with services.
- Police have some capacity to offer referrals to people. Most police reported that making referrals is an appropriate part of the police role.
- The majority of the police who took part in this research indicated that ITP volunteers were better placed to make referrals than police. This is because ITP volunteers are perceived to be independent and to operate outside of the criminal investigation.
- Most police who took part in this research believed that people would be more likely to accept referrals from ITP volunteers, rather than police.
- On the whole, police were supportive of the ITP Program taking on an additional referral function. However, they stated that this referral function should not compromise the independence of ITP volunteers and should not make inroads into police resources.
- Most respondents said that the existence of an ITP referral service would not influence their decision as to whether to use an OPA or non-OPA ITP in interviews with persons believed to have a cognitive impairment or mental illnesses. This is because respondents indicated that they were influenced by other factors in deciding whether to use an OPA or non-OPA ITP. The key factors which influenced whether respondents used an OPA ITP or a friend or family member as the ITP were availability, appropriateness and convenience.

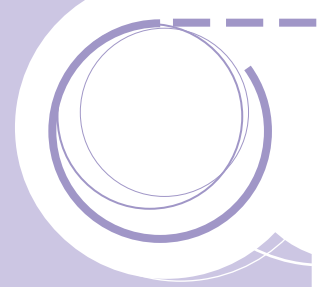
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99. It is important to recognise that this does not necessarily mean that police members did not involve an ITP during any interviews they conducted with persons who were believed to have cognitive impairments or mental illnesses. Rather, it could mean that police members exercised the alternative option in current policy to have a family member or close friend perform the ITP role.

100. For example, one respondent expressed the view that the ITP Program should consider broadening its “strict criteria” in order to provide support for victims as well as alleged offenders. In actual fact, the ITP Program provides assistance to alleged offenders, victims and witnesses who are believed to have a cognitive impairment. By comparison, YRIPP provides support only to alleged offenders who are under the age of 18. Another respondent to the survey expressed concerns that, on a few occasions, the capacity to make referrals has caused ITPs to “think they are running the show”. However, OPA ITPs do not currently have the capacity to make referrals, whereas YRIPP IPs do.

101. On this note, the Victorian Law Reform Commission has recently advised that the role of a YRIPP ‘Independent Person’ is better described as that of a ‘Support Person’. See Victorian Law Reform Commission, Supporting Young People in Police Interviews: Final Report (2004) p.7.

# Responding to the Needs of Repeat Presenters



To recap, this project has identified that there is a significant group of people who repeatedly present before the ITP Program. The project has also demonstrated that many of these people are not linked in with adequate supports and that their attendance at the police interview provides an opportunity to refer them to the services they require. This begs consideration of whether the specific needs of the ITP client group can be met by existing referral schemes. If there are areas of unmet need, how should these be addressed?

## Existing Referral Schemes

As discussed previously, the key referral and support services that are directly linked to the police interview are the recent Victoria Police initiatives: SupportLink and PACT. The Making Rights Reality project also provides referral and support services that may be utilised by some people in the ITP client group. This section examines the extent to which these existing referral schemes can meet the needs of repeat presenters within the ITP client group.

### Victoria Police Initiatives

#### Benefits

Potentially, all people who are interviewed in a SupportLink police service area have access to this referral service.<sup>102</sup> If police interview a person in a SupportLink area and identify that this person needs to be referred to services, police can make an electronic referral using the SupportLink system. The person must consent to this referral being made. As SupportLink is a fairly recent initiative within Victoria Police, it is too early to evaluate the outcomes of this pilot project. However, it has been reported that police members have responded positively to this referral service.<sup>103</sup> It has also been suggested that, in the Australian Capital Territory (where the system has been operating for some time), SupportLink referrals are well-integrated into police practice and discourses.<sup>104</sup>

For ITP clients, the benefit of the SupportLink system is that it may offer a timely, streamlined pathway into services and support. Furthermore, SupportLink is based on the principle of equity of access. Therefore, police can use the referral service, regardless of whether people are supported by an OPA ITP or a non-OPA ITP (or, indeed, if they attend the interview without any support). The fact that SupportLink does not have exclusionary intake criteria (beyond the need for the person to consent to the referral) is, therefore, a key strength of this referral service. Furthermore, police can refer ITP clients with complex needs including repeat contact with the criminal justice system to PACT. Victoria Police have advised that PACT can provide clients with a range of services, including assessment, case management, advocacy and support. In this respect, SupportLink and PACT can work together to address some of the challenges faced by people with disabilities who are in repeat contact with crime.

## Limitations

The key question relating to SupportLink is whether ITP clients will respond favourably to referrals that are made by the police. As this project has found, ITP clients' willingness to engage with police referrals will vary. Some of the factors that can influence whether clients are willing to accept police referrals include:

- the person's history of contact with the police (for example, has the person had positive interactions with the police?)
- the dynamics between the person and the interviewing police
- whether the person perceives that they have been treated fairly in the context of the police interview
- the outcome of the police interview.

Given their extensive involvement with the police, it seems reasonable to assume that repeat presenters may be less likely to engage with police referrals than with ITP referrals. Indeed, the interviews undertaken by this project lend weight to this assumption. As the stories in this report illustrate, a number of the clients who took part in this project reported having had difficult interactions with the police. This is not necessarily a criticism of the police. Rather, it reflects the nature of the relationships and the interactions between police and interviewees (particularly alleged offenders, who are interviewed by the police because they are suspected of breaking the law). Consequentially, some clients indicated that they would not be willing to engage with police referrals. Furthermore, all clients confirmed that they would prefer to receive referrals from ITP volunteers, rather than from police. These clients indicated that ITP referrals are preferable because volunteers are independent and objective. In addition, many of the police who took part in the survey for this project believed that clients would be more willing to engage with ITP referrals. The reasons cited for this included clients' perceptions that ITPs are independent and operate outside of the criminal justice investigation.

This project has also found that ITP volunteers tend to have very positive relationships with the people they support in police interviews. An ITP referral scheme could capitalise on these positive relationships. In particular, these relationships could enable referrals to be made in a trusting and collaborative framework. By comparison, a power imbalance exists between police and interviewees. In light of this power imbalance, it is unlikely that police referrals could be viewed as being truly 'collaborative'. The authoritative position of the police means that there is a real chance that some clients will be unwilling to accept help from the police or, conversely, that they will feel coerced into accepting referrals.

In order to be effective, referral and advocacy schemes should respond to the specific needs of the target group.<sup>105</sup> As this project has demonstrated, many people in the repeat ITP client group are already known to disability and mental health services. Rather than requiring a straightforward referral, what these clients need is a holistic advocacy strategy.<sup>106</sup> Victoria Police have advised that PACT has the capacity to undertake advocacy and assertive outreach on behalf of clients. However, there is an outstanding question as to whether clients would view PACT as favourably as advocacy undertaken by the ITP Program. Again, an ITP advocacy and referral scheme has the advantage of being able to capitalise on the positive relationships that exist between ITP volunteers and clients. Furthermore, as OPA has the mandate of being a disability advocacy organisation, it seems reasonable to assume that OPA is the more appropriate party to provide advocacy on behalf of ITP clients.

## Verdict

There is no doubt that the capacity to make referrals is an important development within Victoria Police. SupportLink and PACT are early intervention strategies that are aimed at assisting people who are interviewed by the police and who need to be linked in with services and support. However, as this research has shown, repeat ITP clients have a specific set of referral and support needs that fall outside of the purview of the police, and that can best be met by an independent referral and advocacy scheme.

## Making Rights Reality

### Benefits

The Making Rights Reality project aims to establish a 24-hour advocacy service for people with cognitive impairments who need assistance reporting a sexual assault to the police.<sup>107</sup> This project grew out of research which demonstrated that advocacy is required to address the significant barriers that people with cognitive impairments face in gaining access to justice. This service is still in the developmental stages but, when implemented, will be the first of its kind in Victoria and beyond.

The key strengths of this project are that it is independent and specifically tailored to the needs of people with cognitive impairments who experience sexual assault. Clients of this project will benefit from intensive support from CASA's counsellor/advocates, including advocacy and referrals to services. Clients will also be linked in with legal advice and assistance from the Springvale Monash Legal Service. In this respect, the project encompasses a holistic approach to addressing the needs of victims with cognitive impairments.

### Limitations

Making Rights Reality responds to the needs of people with cognitive impairments who are victims of sexual assault. It will not assist people who present at police interviews as witnesses of sexual assault, or victims of crimes other than sexual assault. Likewise, the project will not assist clients who are alleged offenders (and who represent the majority of ITP clients). Therefore, a significant proportion of ITP clients will not be eligible to use this service.

## Verdict

Making Rights Reality has the potential to assist and empower some victims of sexual assault with cognitive impairments. However, it is unclear how many clients the project has the capacity to assist. Moreover, the project will not assist people who present at police interviews as alleged offenders or witnesses, or people who are victims of crimes other than sexual assault. For this reason, Making Rights Reality is not a substitute for an advocacy and referral scheme run by the ITP Program. However, Making Rights Reality could complement an ITP referral service and, indeed, there is scope for the two schemes to work together. ITP volunteers have a direct link with people with cognitive impairments who are interviewed as victims of sexual assault. Potentially, the ITP Program could make referrals to the Making Rights Reality project (as well as to CASA's general services). Likewise, there is a clear benefit in CASA and the ITP Program sharing skills in relation to disability and criminal justice issues. In particular, ITPs would benefit from receiving training from CASA in relation to sexual assault.<sup>108</sup> This training would help ensure that ITP volunteers utilised a consistent and well-informed approach to supporting victims of sexual assault in police interviews.

## Recommendation: Training and development

ITP training should include a component on sexual assault. The program should liaise with the Victorian Centres Against Sexual Assault (CASA) with regards to this training.

## Conclusion

The current referral services that exist at the front end of the criminal justice system could potentially address the needs of some repeat ITP clients. However, there are a great many clients who are unlikely to benefit from these referral services (either because they are ineligible for assistance, because these services do not cater for their needs, or because of the difficulties associated with police referrals). These gaps in existing schemes indicate that there is a need to develop an advocacy and referral service that responds specifically to the needs of ITP clients. Furthermore, OPA is the most appropriate agency to develop a referral service that meets the needs of ITP clients. As this project has demonstrated, OPA has the desire, the ability, and the right ethos to assist people with disabilities who are at risk of having repeat contact with crime.

## Possible Referral Models

This project has established that repeat ITP clients have a particular set of referral and support needs that can be best met by the ITP Program. The outstanding question is: what should this referral service look like? The following section of the report canvasses possible referral models, and pinpoints the key aspects of a model that would work best for ITP clients.

### Model One: Direct Volunteer Referrals

#### What the Model Looks Like

The ITP Program would implement the type of referral service that is currently utilised by YRIPP. This model would preserve the essential components of the ITP role. However, after the police interview had concluded, the volunteer would have a referral conversation with the person with a disability. If the person agreed to a referral being made, the volunteer would fax a signed referral form directly to the relevant agency. The agency would then contact the person to arrange an appointment. If the person did not consent to a referral being made, the volunteer would give the person information to enable them to contact the agency themselves. The ITP Program would employ metropolitan and regional coordinators to establish and maintain relationships with referral agencies, and to keep track of the referrals made by volunteers.

#### Benefits

Potentially, this model provides a timely and streamlined referral pathway. It would enable ITPs to fax referrals directly from the police station to the relevant agencies. The model would also facilitate a level of consistency between the ITP and YRIPP referral processes. Accordingly, the ITP Program could possibly draw on YRIPP's extensive knowledge base and service contacts in this area. Likewise, this consistency could be of benefit to volunteers who act as both ITPs and IPs, as the latter already have experience implementing this type of referral service.

## Limitations

The key limitation of this model is that volunteers could only make referrals for agencies that the ITP Program had established agreements with. This model runs the risk of being too rigid, as volunteers could not go outside the boundaries of these existing referral relationships. In this respect, the model does not facilitate an individualised approach to making referrals. This lack of flexibility would result in the ITP referral service having difficulty responding to the different needs of alleged offenders, victims and witnesses, as well as other differences relating to clients' disability, gender and geographical location, for example.<sup>109</sup> Moreover, this model does not meet the advocacy needs of ITP clients.

## Verdict

While this model works well for the YRIPP Program, it does not respond to the needs of ITP clients. As this research has shown, ITP clients require a holistic, advocacy-based approach to referrals. While ITP volunteers can function as the link between the client and services, they should not make these referrals directly themselves. Making referrals should be a paid position that is carried out by someone who has a good knowledge of the service sector, and who has the time and the expertise to advocate on behalf of clients.<sup>110</sup> Nonetheless, it is clear that YRIPP has extensive knowledge and expertise in relation to making referrals on behalf of disenfranchised clients (including clients from CALD and Indigenous backgrounds). If the ITP Program were to develop a referral component, it would clearly benefit from drawing on YRIPP's experience in this area.

## Model Two: Assertive Outreach

### What the Model Looks like

Volunteers would refer clients to outreach workers employed by the ITP Program.<sup>111</sup> The role of outreach workers would be to assertively engage with people in order to build their trust, to address any practical needs they might have, and to advocate for their access to services. Outreach workers would offer clients flexible links of engagement, and would adopt an 'anytime, anyplace' approach to client meetings. As well as providing advocacy on an individual basis, outreach workers would engage in systemic advocacy. This goal would be facilitated by establishing a strategic oversight board consisting of senior representatives from the service sector. The board would provide a mechanism for outreach workers to give feedback to services about their strong points, and about the gaps and the flaws in the service system. This model would also establish a service-users board. The service-users board would consist of current or former ITP clients, and would enable clients to play a part in shaping the ITP referral program, and in bringing systemic issues to the attention of service providers and policy makers.

### Benefits

Elements of this type of outreach and support model has been successfully utilised by the Revolving Doors Agency in the U.K.. The Revolving Doors experience has demonstrated that assertive outreach tactics can assist clients to lead positive lives and, in some cases, could help minimise their contact with crime. Furthermore, this model is inherently flexible and, as such, has the capacity to respond to the different needs of ITP clients.<sup>112</sup>

## Limitations

This outreach and support model is likely to be resource intensive. Given the numbers of people who repeatedly present before the ITP Program, it is necessary that the program develops a cost-effective referral service that can be sustained over a long term basis. While an ITP referral service should engage in some outreach work, it is not feasible for this to be a key focus of the program's work.<sup>113</sup>

A further – and more central – limitation is that the outreach and support model potentially crosses over into the terrain of case management. A key element of OPA's independence is that the organisation does not provide direct services to clients:

“Historically, OPA hasn't provided case management. I think in maintaining independence, OPA does not provide services, because part of our role is to be a watchdog for services.”  
Previous Employee of the ITP Program

This type of case management role would potentially compromise OPA's independence, and take it away from its core functions. For this reason, it is more appropriate that the case management should sit with the government and community agencies that are already undertaking this function.<sup>114</sup>

## Verdict

While elements of this model may be incorporated into an ITP referral service, the program needs to develop a referral model that does not duplicate the functions of existing government and community agencies and that maintains OPA's independence from services. Furthermore, the model needs to be developed with a view to financial sustainability. The ITP Program is not looking to implement a referral service that is so resource intensive it cannot be sustained in the long term.

## Model Three: Volunteer Advocates

### What the Model Looks Like

The ITP role would be extended to encompass a stronger advocacy function both within and outside of the police interview.<sup>115</sup> Prior to the police interview, the volunteer would link the person in with telephone legal advice from a pool of pro bono lawyers managed by OPA. The volunteer would also listen to the telephone legal advice and reiterate this advice to the person before – and during – the police interview. Therefore, if the lawyer had advised the person to make a 'no comment' interview, the volunteer would repeat this advice to the person in the police interview. After the interview, the volunteer would advocate for the person to be granted bail, where relevant. The volunteer would also pass the person's details on to the ITP Program to enable the person to be linked in with services and support. The person would have the option of being linked in with a volunteer court support officer that was trained and managed by OPA. The court support officer would provide the person with emotional and practical support throughout the court process by performing functions such as reminding the person about court dates, and providing them with support on the day.

## Benefits

This model is holistic and is grounded in a human rights framework. Not only would the ITP Program link clients in with social and legal services, it would also take practical steps to try and ensure that clients achieved equality before the law. As such, this model goes some way towards implementing Victoria's human rights obligations towards people with disabilities.

## Limitations

Effectively, this model would require the ITP Program to create two new streams of volunteers: court support officers and pro bono lawyers. This is impractical given the numbers of clients that the ITP Program assists.<sup>116</sup> The ITP Program has sufficient numbers of volunteers to provide support to people with disabilities during their interviews with Victoria Police. However, it would not be feasible for the program to recruit additional volunteers to take on the court support role, nor would it be appropriate to ask existing volunteers to expand their workload to encompass this role. It is not necessary to develop a court support program, as this would duplicate services that already exist in Victoria.<sup>117</sup> Although there is a need to link clients in with legal advice, it is not appropriate for OPA to play a role in providing this advice to clients. Establishing a legal support network would take OPA away from its core functions, and could potentially compromise its status as an independent statutory body.

It should be noted that elements of this model have been successfully deployed by the Criminal Justice Support Network in New South Wales. However, the ITP Program operates in a very different context to the New South Wales program. The New South Wales program only assists people who are believed to have an intellectual disability. Therefore, its client base is smaller than that of the ITP Program.<sup>118</sup> A further difference lies in the fact that the New South Wales program has a fundamentally different ethos to the ITP Program. The New South Wales program is run by a community legal centre, and volunteers are trained to be advocates within the police interview process (the focus of this advocacy is to reinforce the client's legal rights and, more often than not, to prevent the police interview from proceeding). By comparison, the key strength of the ITP Program – and, indeed, of OPA itself – lies in its independence. Asking volunteers to adopt an adversarial approach to the police interview would compromise this independence and would fundamentally alter the role of ITPs. This is not something that OPA is seeking to do.

## Verdict

The New South Wales volunteer program has both a smaller client base and different ethos to the ITP Program. In light of these differences, the ITP Program should not replicate the New South Wales model. However, there are elements of the New South Wales model that could be successfully integrated into the ITP Program. In order to promote clients' right to equality before the law, the ITP Program should place a stronger emphasis on ensuring that clients are linked in with legal advice and, where appropriate, should refer them to the Victorian Court Support Network. In addition, it should be recognised that ITPs are advocates of sorts. In order to maintain the independence of volunteers, this advocacy function should take place outside of the police interview. This advocacy should involve capitalising on the opportunity that volunteers have to assist people who are vulnerable and in repeat contact with crime. While it is not reasonable to expect ITPs to provide follow-up support to individuals beyond the police interview, ITPs are an appropriate conduit for referral information to be passed on to OPA.

## The Preferred Model – The ITP Advocacy Scheme

In light of the benefits and limitations of the above models, this project has developed a model for a referral and advocacy scheme that is targeted to the needs of repeat ITP clients, and that is practical and cost effective.

### What the Model Looks Like

This model preserves the independence of the ITP role. ITPs would continue to support people with cognitive impairments and mental illnesses in their interviews with Victoria Police. In addition, volunteers would perform the function of identifying people who were eligible to receive assistance from the ITP Advocacy Scheme. A person would be eligible to use the scheme if the following criteria were met:

- the person is an ITP client, and;
- they are likely to be a repeat presenter before the program (that is, they have had repeat contact with crime, or they are clearly at risk of doing so), and;<sup>119</sup>
- they have insufficient or ineffective supports in the community, and;
- they are likely to benefit from assistance from the ITP Program, and;
- they consent to a referral being made, and;
- the ITP Program has the capacity to assist the person.

If a person met the above criteria, the volunteer would have a referral conversation with the person after the police interview had concluded. This conversation would involve mapping out the person's service and support needs, and obtaining the person's contact details. If a person did not meet the above eligibility criteria, they would be given the details of OPA's Advice Service. People would be informed that if they needed any information or advice they could contact the Advice Service.<sup>120</sup>

If a person agreed to a referral being made, a trained advocate would contact the person promptly. The ITP advocate would have an in-depth conversation with the person to establish:

- What led to the point of crisis?
- What else is going on in the person's life?
- Does the person need to be put in touch with a lawyer?
- Does the person have any immediate welfare issues that need to be addressed?
- Is there anyone else the advocate can speak to about the person's circumstances (with the person's permission)?
- Is the person currently linked in with services? If so, are these services working effectively for the person?
- Did the person receive services in the past? If so, could these relationships be re-established?
- Does the person have any informal support networks?
- What other services and support can the person be linked in with?
- What are the person's goals and interests? How can the person be supported in living a positive life?

After this assessment, the advocate would further investigate the person's circumstances. This could involve finding out:

- Is the person known to OPA?
- Has the person been formally diagnosed as having a disability?
- Has the person given an accurate account of the support they are receiving?

Having conducted this screening process, the advocate would be in a position to identify whether the person had any outstanding support needs and, if so, what these were. If the person did have outstanding needs that could be addressed by the scheme, the ITP Program and the person would enter into an advocacy agreement. The advocacy agreement would outline the agreed goals, and the likely timeline, of the advocacy strategies that would be engaged on the person's behalf.

In the context of the ITP Advocacy Scheme, advocacy would involve promoting the wishes, rights and best interests of the person, and trying to facilitate the person's effective engagement with services and support networks. On a specific level, this may include:

- making referrals to services and support networks (including disability advocacy and self-advocacy networks where relevant)
- advocating for services to assist the person (for example, where services maintain that the person does not meet their eligibility criteria, or where there are excessively long waiting lists for services)
- re-establishing links between the person and the services they received in the past
- working to improve relationships between the person and the services they are currently receiving
- problem-solving and finding creative ways to assist the person
- assisting the person to engage with informal support networks (this may involve, for example, linking the person in with family counselling or mediation)
- supporting and encouraging the person to engage with services and support networks.

The ITP advocate would keep track of referrals and, with the client's permission, ask services to give feedback on the outcomes of these referrals. The advocate's involvement with the client would cease when the agreed advocacy goals had been met.

As well as advocating on behalf of individuals, the scheme would have a role to play in systemic advocacy.<sup>121</sup> This goal would be facilitated through an advisory committee consisting of key stakeholders from the disability, advocacy, criminal justice and service sectors.<sup>122</sup> If possible, the committee would contain at least one representative who had used the ITP Program.<sup>123</sup> The purpose of the committee would be to develop and maintain relationships with key agencies, and to give feedback on systemic criminal justice and service sector issues. The ITP advocacy scheme would also give feedback to OPA's Policy and Research Unit, thus contributing to the broader systemic advocacy undertaken by the organisation.

In this model, the role of an ITP advocate would be to:

- provide an empathetic, approachable and knowledgeable point of contact for clients
- make advocacy-based referrals on behalf of clients
- track the outcomes of referrals on both an individual and systemic level
- provide ITPs with training, information and support relating to referrals
- give de-identified feedback to ITPs about the outcomes of referrals
- develop and maintain relationships with services in metropolitan and regional areas
- draw on OPA's broader knowledge-base and services, where relevant<sup>124</sup>
- provide feedback to services and to OPA's Policy and Research Unit about systemic issues in the service sector and the criminal justice system
- provide a nuanced response to the different needs of people in the ITP client group (for example, alleged offenders and victims)
- respond to the referral and support needs of clients in both metropolitan and regional areas
- continually evaluate and improve the effectiveness of the ITP advocacy scheme.

## Benefits

Under the *Guardianship and Administration Act 1986* (Victoria), OPA has the authority to advocate on behalf of clients, to assertively engage services on a client's behalf, and to follow up on the outcomes of referrals to services.<sup>125</sup> Therefore, there is a clear legislative basis for expanding the role of the ITP Program to encompass an advocacy-based referral service. Furthermore, the program is in an ideal position to make referrals for ITP clients. As this project has established, ITPs tend to have positive relationships with clients and, importantly, are viewed by clients as being 'on my side'. The ITP Program could build on these relationships in order to encourage and support clients to effectively engage with services. This 'personal touch' could cement the link between the person and the support they need to try and live a positive life.

OPA's status as an independent statutory organisation also gives it a degree of authority with services. As one research participant pointed out, OPA's authority can "open doors" for disenfranchised clients. OPA's independence and authority demonstrate that the organisation has both the ability and the right ethos to facilitate clients' access to services and support.

It should also be emphasised that OPA staff have a very good knowledge of the issues relevant to ITP clients. OPA staff are accustomed to advocating on behalf of clients who 'fall through the gaps' of services, as well as clients who are disadvantaged in the legal system. Therefore, an ITP referral service would not need to build its knowledge-base from scratch; rather it would draw on OPA's significant expertise relating to disability advocacy, the service system and the law.

## Limitations

This referral model has been developed in relation to a very specific client group. An ITP advocacy scheme would only assist people who are ITP clients, and who have either had repeat contact with the criminal justice system or who are clearly at risk of doing so. This specific client group is targeted because they are the most in need and because, given the necessary resources, the ITP Program has the ability to assist these clients. It is, however, acknowledged that not everyone will stand to benefit from this proposed referral scheme. For example, people who use family or friends as ITPs will not have access to the scheme.<sup>126</sup> Likewise, the scheme will only be able to assist people who are willing to engage with services. ITP volunteers and advocates will, of course, be trained in using techniques that encourage clients to accept and follow through with referrals. However, if clients are adamant that they do not want to accept help, they cannot be forced into doing so.

A further difficulty stems from the limitations that exist in the broader service system. As one interview participant pointed out "It's all very well developing a referral service, but you need to have somewhere to refer people to". Advocacy – on both an individual and systemic level – is an important strategy for responding to these service sector limitations. However, it is acknowledged that, even with the assistance of a trained advocate, some people will not receive all the assistance they need.

## Verdict

The strengths of this model are that it responds to the specific needs of the repeat ITP client group, maintains the independence of volunteers, and reflects the broader ethos of OPA. Likewise, it proposes a practical and cost effective method for assisting the target client group. For these reasons, the ITP advocacy scheme is the model recommended for adoption by the ITP Program.

## Resources

As discussed above, the ITP advocacy model seeks to assist clients who are likely to be repeat presenters before the program. In terms of resources, the key issues for the proposed referral service are: how many clients is the service seeking to assist, and what resources will it require?

The primary data collected by this project assists in estimating how many clients may be eligible to use the proposed referral service. In the 2009-2010 financial year, the ITP Program assisted approximately 538 people who could be classed as repeat presenters before the program. In addition, there will be some ITP clients who are not captured in this 'repeat presentation' data, but who nonetheless have had repeat contact with crime, or who are clearly at risk of having further contact with crime. It is important to recognise that some of these clients may also require access to the ITP Advocacy Scheme.<sup>127</sup>

Potentially, the ITP Advocacy Scheme could have a large client base. However, it should be borne in mind that only a proportion of potential clients will both need and want to use the scheme. As an aside, the research interviews conducted with ITP clients illustrate the fact that only a proportion of clients will take up an offer of assistance from the scheme. It will be recalled that 14 research interviews were conducted with ITP clients who had been in repeat contact with the criminal justice system.<sup>128</sup> Of these 14 interviews, eight clients presented with outstanding referral needs. Of these eight clients, three people indicated that they were willing to accept referrals from the ITP Program as part of this research project. This data does not by any means reflect a scientific analysis of the proportions of clients who will accept referrals. However, it does highlight the fact that there will be a relatively high proportion of people that the ITP Program will not be able to assist. Having taken these considerations into account, it is proposed that the ITP advocacy scheme will require funding to assist 200 to 250 clients per year. This figure reflects the likely number of ITP clients who will fall within the scheme's eligibility criteria, and who will be willing to engage with the proposed scheme.

The proposed advocacy and referral scheme will require the following resources:

- one full time (1.0) ITP Advocate at VPS level 4
- one part time (0.6) ITP Advocate at VPS level 4
- one part time (0.5) Administration Support Officer position at VPS level 2
- additional costs associated with training ITP volunteers to make referrals, developing and updating referral toolkits for volunteers, and funding to enable an ITP client to attend committee meetings.

These resources would enable the ITP referral and advocacy scheme to assist approximately 200 to 250 clients each year.

## Key Findings

The analysis of the referral needs of repeat presenters indicates that:

- Potentially, some ITP clients may be assisted by the referral and advocacy schemes that are currently being piloted in some regions in Victoria. At the time of writing this report, it was unclear whether these schemes would gain permanent status and, if so, whether they would be rolled out Victoria-wide.
- The existing referral and advocacy schemes are not tailored specifically towards the needs of the repeat presentation client group. This raises the concern that a proportion of repeat presenters will fail to benefit from these schemes.
- OPA has both the desire and the ability to implement an advocacy and referral scheme for ITP clients who have had repeat contact with crime, or who are clearly at risk of doing so. Importantly, an ITP advocacy and referral scheme could capitalise on the positive relationships that exist between volunteers and clients. These positive relationships could be used to launch clients into services and support.
- This project has developed a model for an advocacy and referral scheme that responds to the specific needs of repeat presenters before the ITP Program. This scheme is cost effective, practical and maintains the independent position of both ITP volunteers and OPA more broadly.

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102. At this stage, the SupportLink initiative is a trial. If it is made permanent, it is likely that it will be extended beyond the existing Police Service Areas.

103. For example, members of Victoria Police in the SupportLink Police Service Areas are reported to be positive about the scheme, and are incorporating SupportLink referrals into their everyday practice. Campbell, T. Jackson, B. Pollard, M. and Smillie, A. 'New eReferral: Police to Victims' Support Agencies' (Presentation at Meeting the Needs of Victims of Crime, Sydney, 19 May 2011).

104. Campbell, T. et al (2011).

105. Russell, P. and Davidson, P. (2002) p.7-9; Edmunds, M. et al (1999) p.45.

106. On this point, some of the police who took part in the survey for this project indicated that many of the people with cognitive impairments or mental illnesses who are interviewed by police would not benefit from a referral to services because these people are already 'in the system'.

107. Federation of Community Legal Centres Victoria (2006) p.15.

108. The Making Rights Reality report recommended that "ITP training should contain a compulsory competency in sexual assault. OPA should liaise with CASA House or the CASA Forum in regards to developing sexual assault training for ITPs." Federation of Community Legal Centres Victoria (2006) p.15.

109. For example, one person who was interviewed as part of this project, and who volunteers with both YRIPP and the ITP Program, indicated that the YRIPP referral component was "quite limited" and was not in touch with some of the key services in his local area.

110. Most of the ITP volunteers who took part in this project indicated that making referrals should be a paid position.

111. Some of the elements of this model are taken from an interview conducted by this project with the Revolving Doors Agency.

112. For further information about Revolving Doors, see: Anderson, S. (2010).

113. Elements of this model have been successfully implemented by the Revolving Doors Charity in the U.K.. However, this charity operates within a different financial, historical and political context to the ITP Program.

114. It is acknowledged that, currently, these agencies can have a limited capacity to provide case management to clients who need it. However, this difficulty should not be addressed by the ITP Program taking on a case management function. Rather, OPA should continue to advocate for improvements to the service system as a whole.

115. Some of the elements of this model are taken from the interview conducted by this project with the Service Manager, Criminal Justice Support Network, New South Wales.

116. For example, in the 2009-2010 financial year, ITP volunteers attended 970 interviews involving repeat presentation clients. During the same period, ITPs attended a further 667 interviews involving single presentation clients.

117. Court Network, Welcome to Court Network (undated) available at <http://www.courtnetwork.com.au/>, at 16 September 2011.

118. The fact that the New South Wales program is governed by diagnostic entry criteria (the perceived presence of an intellectual disability) is reported to be a key limitation of the program. Not only does the program lack the funding to assist people with other types of cognitive impairments and mental illnesses, this diagnostic criteria also causes difficulties for police. It has been stated that police do not feel confident in determining whether a person may have an intellectual disability (as opposed to another type of impairment). For this reason, New South Wales police are often reluctant to call volunteers out to assist in situations that may be beyond the scope of the Criminal Justice Support Network. In addition, it appears that many police object to the direct advocacy role that volunteers play in police interviews. For these reasons, the New South Wales program reportedly has a low uptake by the police.

119. As the referral service operates within an early-intervention framework, it is important that it assists people who have used the ITP Program on more than one occasion, as well as people who are clearly at risk of using the program on more than one occasion. In addition, it would not be feasible for volunteers to confirm at the police station how many times a person has used the ITP Program. This is because volunteers do not have access to the client information on the ITP database. Furthermore, it can be difficult to get an accurate picture of OPA ITP usage from clients. During the course of this project, many clients had trouble estimating the number of times that they had used the ITP Program. This project also found that ITP volunteers tend to be good at picking up risk factors which indicate that a person is likely to have repeat contact with crime. See, for example, the case study 'We've Lost Her', on page 138 of this report.

120. The Advice Service is open to members of the public and can offer information and advice on a broad range of topics affecting people. For further information, see: OPA, Advice Service (undated) available at <http://www.publicadvocate.vic.gov.au/services/102/>, at 16 September 2011.

121. Revolving Doors has emphasised that "Projects that support people who fall through the gaps in services are themselves at risk of falling through the gaps in funding." Therefore, these projects need to be clear from the start that they will not only advocate on behalf of clients on an individual basis, but will also aim to influence and shape the service sector environment that supports these clients. See: Revolving Doors Agency, Same Difference? Revolving Doors Agency's Approach to Replicating Innovation (2007) p.2. Likewise, part of OPA's mandate is to "promote, facilitate and encourage the provision, development and coordination of services" for people with disabilities. See section 15, Guardianship and Administration Act 1986 (Victoria).

122. The ITP Program already has an advisory committee that consists of representatives from the legal, criminal justice and service sectors. The ITP advocacy steering group could possibly be an extension of this committee.

123. This person would be paid for attending committee meetings. If this person required any assistance to enable them to effectively participate in the committee meetings (such as a paid carer) this cost would also be met by the ITP Advocacy Program.

124. OPA's services and skill-base include the Advocacy/Guardianship Program, Advice Service, Legal Officers, VCAT Duty Officer, Community Visitors' Program, Policy and Research Unit and the ITP Program.

125. Sections 15-16, Guardianship and Administration Act 1986 (Victoria).

126. During the course of this project, consideration was given to whether an ITP referral service should also target people who use friends and family members as ITPs. Clearly, there is an equity issue involved in determining that the referral service should be available to a very specific group of people with disabilities. However, on a practical level, it is not clear how an ITP referral service would make contact with people who use non-OPA ITPs. On this point, it should be noted that YRIPP's referral service only assists young people who use YRIPP IPs. Therefore, there is no available precedent to demonstrate how an ITP referral service would make contact with people who use non-OPA ITPs. It appears that the only feasible way to do this would be for police to refer people to OPA via SupportLink. This is not a practical option given that the person would need to be referred from the police to OPA, and then from OPA to services. Using the SupportLink system in this manner would provide an additional hurdle for people to get over before they finally made contact with services (thus decreasing the chances of them effectively engaging with services). In addition, people who only use family or friends as ITPs are an 'unknown entity' to OPA. If the ITP Program were to develop a referral service, it should commence by targeting a specific group of existing clients (i.e. repeat presenters before the ITP Program). After the referral service had been in place for some time, consideration could be given to whether the service should be expanded in order to assist other people with cognitive impairments and mental illnesses.

127. For example, a victim of sexual assault who may have only used the ITP Program on one occasion, but has clearly experienced a long history of abuse, and is at risk of experiencing further abuse. The proposed ITP referral service should be able to respond to the needs of clients such as this who perhaps have only been interviewed by the police on one occasion, but who nonetheless have had, or are at risk of having, repeat contact with crime.

128. A total of 16 research interviews were undertaken with ITP clients. However, two of the 16 clients who took part in the research interviews for this project could not be classed as 'repeat presenters'. These two clients had only been interviewed by the police on one occasion and did not appear to face a significant risk of having further contact with crime. Likewise, these two clients did not present with any outstanding referral needs.



# Action Research

## Putting ITP Referrals into Practice

This project undertook an element of action research in order to develop and refine the model referral scheme for the ITP Program.

### Testing the Model

Interview participants who had used the ITP Program, and who appeared to have insufficient support in the community, were given the option of being linked in with assistance. In addition, the ITP volunteers who took part in this project were asked to discuss the research with clients who had either had repeat contact with crime or were clearly at risk of doing so, and who appeared to have outstanding support needs. If a client consented to taking part in the project, volunteers were asked to pass the client's contact details on to OPA. As a result of these recruitment techniques, the researcher located ten ITP clients who indicated that they were willing to take part in the action research component of this project.

### The Losses

In the event, the project was unable to make referrals for five of the ten people who indicated that they wanted to be linked in with help. In three cases, the project could not get in touch with people due to incorrect or outdated contact details. In one case, the person's father withdrew his consent to his son taking part in the project. In the remaining case, the person's impetus for taking part in the project seemed to fall away once it transpired that he was going to receive assistance from a male staff member.<sup>129</sup> Some of these difficulties are elaborated in the below case study.

#### **We've Lost Her**

##### Case Study

Nicola was interviewed by the police as a witness of a sexual assault. An OPA ITP, Marnie, supported Nicola during her police interview. Marnie believed that Nicola was at risk of becoming a victim of sexual assault, and she asked the ITP Program to investigate what could be done to assist her. According to Marnie, Nicola is in her 50s, and has an alcohol-induced acquired brain injury and severe arthritis. Nicola had reported that she was living in a hotel, and she listed the hotel's phone number and address as her only contact details.

When the ITP Coordinator phoned Nicola's hotel, he was told that she was checked in for just one more night. He left a message for Nicola asking her to phone him. The coordinator called the hotel the next day, and was told that Nicola had checked out and had left no forwarding details. The coordinator lamented that "We've lost her".

OPA's records show that Nicola has recently used the ITP Program as a victim of assault. A different ITP supported Nicola on this occasion. As ITP volunteers do not routinely collect clients' contact details, the program has no way of getting in touch with Nicola.

## A Missed Opportunity

### Case Study

James has an intellectual disability and global developmental delay. The first few years of his life were characterised by abuse and neglect. At the age of six, James was removed from his birth parents and placed in permanent foster care.

James is now 16 years old and lives in a regional area with his foster parents. James was recently interviewed by the police in relation to an alleged assault he committed against his foster father, Bob. During this interview, James was supported by an OPA ITP. Bob also attended the police station, but did not sit in on the interview as this was a conflict of interest. The ITP identified that James was at risk of having further contact with the criminal justice system. Consequentially, James and Bob were given information about this research project.

Bob contacted the researcher and asked if there was anything that could be done to assist his son. Bob said that the assault was a “cry for help” and that he and his wife were “at their wits’ end”. Bob confirmed that James went to a special school, but he was not linked in with any other services. The researcher had several in-depth conversations with James. During these conversations, James revealed that wanted help with issues relating to sexuality and anger management.

OPA offered to provide James with advocacy and assistance to link him in with the support he needed. After extensive negotiations, the researcher and an OPA staff member scheduled a time to meet with James at home. The day before the interview, Bob cancelled this appointment. Bob felt that the meeting would be too disruptive for James, and could provoke further outbursts of anger on James’s part. Bob did not want to reschedule the meeting, and noted that “Nothing with James comes without trouble”. It was too ethically contentious to involve James in this research project under these circumstances. Therefore, OPA did not make any further attempts to contact James. Bob was given the details of OPA’s Advice Service, as well as other services that may be able to assist James in the future.

## The Gains

Referrals were made for five of the ten people who agreed to take part in the action research component of this project. These people were referred to a range of services including housing agencies, counselling, drug and alcohol services, legal assistance, disability advocacy and financial counselling. For example, one interview participant, Kieran, was referred to a community housing agency in his area. This community housing agency helped Kieran fill out an application for public housing, and Kieran is now on the waiting list for a one bedroom flat. Another person, Charles, was linked in with a disability advocacy service in his region. Charles has been in the mental health service system for some time, but these services have not worked effectively for him. The disability advocacy service indicated that they would give Charles advice about alternative mental health services, and also about possible accommodation options. The below case studies give a more detailed insight into two of the successful referrals that were made on behalf of ITP clients.

## It's Sort of Good that this Happened

### Case Study

Rachael has used the ITP Program twice. On the first occasion, Rachael was interviewed by the police as the victim of an assault perpetrated by her boyfriend. Following this assault, Rachael broke up with her boyfriend but, according to Rachael, he “wouldn’t stop harassing” her. Consequentially, she damaged her ex-boyfriend’s car in order to “warn him to stay away” from her. Rachael was interviewed by the police as an alleged offender in relation to this incident of property damage. The OPA ITP who supported Rachael on this occasion gave her the details of the ‘Breaking the Cycle’ project. Rachael indicated that she wanted to take part in the project as she needed assistance taking out an intervention order against her ex-boyfriend.

When the ITP Program contacted Rachael she reported that, as her ex-boyfriend was no longer harassing her, she did not need to take out an intervention order against him. On further investigation, it transpired that Rachael had other issues she needed assistance with. In particular, Rachael indicated that she wanted to receive counselling to address the trauma associated with her former relationship. Rachael said that she could not afford to pay for counselling, and her attempts to get a referral for free counselling from her GP had been unsuccessful. Rachael also reported that she wanted to buy her own house, but her low income made this very difficult.

OPA linked Rachael in with a local information and support service. The service is going to provide Rachael with some free counselling, and will also work with her to explore her accommodation options. The service also provides financial counselling, and Rachael is considering whether it is feasible for her to save money to buy her own property.

Rachael indicated that, previously, she had tried to get help for her problems, but these efforts were not successful. She confirmed that it greatly assisted having OPA intervene on her behalf. In this respect, Rachael saw her contact with the ITP Program as an opportunity to get help:

“It’s only from doing what I did that I found out about you guys. I never would have come across you otherwise. In a way, it’s sort of good that this happened.”

## I Just Want to Go Home

### Case Study

Rick is a young man with a mental illness. Rick's mother has taken out an intervention order against him. Rick was interviewed by the police in relation to an alleged breach of this intervention order. An OPA ITP supported Rick in his police interview. Rick told his ITP that he was homeless and wanted assistance finding appropriate accommodation. Rick's ITP took his contact details and told him that the ITP Program would try to link him in with help.

Rick met with the ITP Program to discuss his situation. Rick said that he had tried getting help on his own, but he was "just being shoved from one person to the next". Initially, Rick indicated that he wanted to get on the public housing waiting list. However, on further investigation, it became apparent that what Rick really wanted was "to go home". Rick said that, prior to the intervention order, he lived at home with his mother and younger brother. When the intervention order was taken out against him, Rick had to move out. Rick said that he was sleeping on a friend's couch, but he could not stay there much longer. Rick maintained that he had never been violent towards his mother. He believes that his sister instigated the intervention order in an attempt to have greater control over their mother's life and the substantial family inheritance.

Rick is receiving legal assistance and is soon going to court to try to get the intervention order lifted. The ITP Program has referred Rick to an alternative dispute resolution centre. The dispute resolution centre is working with Rick to try and arrange family mediation. Rick recognises that repairing these family relationships will be hard work, but he is committed to improving these relationships. At this stage, it is unclear whether Rick's family will be willing to attend mediation.

Rick also revealed that he has serious concerns about the welfare of his mother and brother. Rick believes that his mother may be suffering from dementia. His mother now lives alone with his younger brother who has Autism. Rick says that his mother and brother are not linked in with services. Rick has been put in touch with OPA's Advice Service to discuss how his mother and brother could be linked in with assistance. Rick is currently exploring how to address these issues, and says that he "really appreciates" the assistance he has received from OPA. Rick's case also illustrates that the Advice Service can be utilised as a useful resource for people who use the ITP Program.

### Recommendation: Training and development

ITPs should routinely give clients the details of OPA's Advice Service. Clients should be encouraged to access this service if they are in need of advice.

## Assessing the Losses and the Gains

The losses and the gains associated with these referrals are not clear cut. For example, some of the 'successful' referrals need to be approached with a note of caution. This is particularly so in the case of Kieran. As discussed above, Kieran is now on the waiting list for a one bedroom apartment. However, Kieran is not happy with this outcome. Kieran has indicated that he wants a two bedroom unit with a garden in order to accommodate his dog and visits from his grandchildren. When Kieran was told by the community housing service that he is only eligible for a one bedroom apartment, he reportedly "cracked the shits with them". Kieran's case illustrates that referrals will often need to be accompanied by advocacy and support to help people maintain their relationships with services. Advocacy may also be required to assist people develop a pragmatic approach to their service options.

By the same token, referrals that do not result in a person engaging with services should not be regarded as simply a loss. This is because the act of offering assistance to a person carries its own value. This offer can send a message to the person that someone cares about their situation. Over time, the person may become more willing to accept help if it is offered to them again.

It should also be noted that the action research component of this project operated under significant limitations. Firstly, given the time span of this project, it was not possible to engage with clients on a long term basis, or to properly assess the outcomes associated with the referrals. Likewise, this project did not have the resources to provide in-depth advocacy to all the clients who required it.<sup>130</sup> In spite of these limitations, the action research component of this project produced valuable lessons that can be implemented by a future ITP Advocacy Scheme. These lessons are outlined in the following section of this report.

## What We Learned about Making Referrals

Making successful referrals on behalf of people who are disenfranchised, and who tend to lead chaotic lives, is no easy task. However, as this project learned, there are ways to maximise the opportunity that the ITP Program has to assist people who are in need. This project has demonstrated that, in order to develop a high quality ITP referral and advocacy service, the following matters must be taken into account:

### **The More Information, the Better**

Maintaining contact with ITP clients was one of the most significant difficulties encountered by this project. Clients who were involved in this project tended to frequently change their contact details. For this reason, the project lost touch with a significant number of people. This experience demonstrates that the 'phone number and address' approach to client contact simply does not work.

In order for the proposed referral service to initiate and maintain contact with people, ITP volunteers need to capitalise on their face-to-face meetings with clients. These meetings should be used as an opportunity to obtain as much information from the person as possible. For example, ITPs should obtain alternative contacts from the person, as well as details about the person's broader support networks and service usage. This information would assist the ITP Program to find ways to reach a person if their contact details change. Likewise, it would give the program 'key clues' about what services and support the person needs to be linked in with. If a person did not

want to divulge this information, they will not be compelled to do so. However, volunteers would be trained to point out that this information is required simply in order to try and help the person. Furthermore, the trust established between the volunteer and the person would encourage the person to disclose relevant referral information.

### Referrals Must be Proactive

Some ITP clients and family members were given information about services and advised to initiate contact with services themselves. On the whole, these passive referrals were unsuccessful. In some circumstances, people seemed to lack the ability or the motivation to pursue these referrals. In other cases, people indicated that it was simply too difficult to make contact with services themselves.

The project found that proactive referrals are required to cement the link between the person and services. Proactive referrals involve making appointments with services on a person's behalf, and giving the person encouragement and support to attend these appointments. Being proactive also involves monitoring the outcomes of referrals and ensuring that the person's key referral needs have been addressed.

### Dig Deeper

In some cases, ITP clients who took part in this research presented with a single referral issue such as housing, for example. However, on further investigation, it would often transpire that this obvious referral issue did not reflect the person's only – or even key – areas of need. This emphasises that, in order to make effective referrals on behalf of ITP clients, it is necessary to spend time unpacking their circumstances and their support needs. This assessment should be carried out by a professional who has experience in working with people with disabilities, and who is an empathetic and active listener.<sup>131</sup>

### Getting Consent

The proposed referral service will only work with ITP clients who consent to a referral being made on their behalf. As a rule, this consent should be obtained directly from the person (regardless of whether they are an adult or under the age of 18<sup>132</sup>). A person will be deemed to have the capacity to sign a referral consent form if they indicate that they want to be linked in with services, and that they understand the implications of a referral being made on their behalf.

Of course, it is recognised that the issue of capacity to consent will not always be straightforward. In some instances, it may be unclear whether a person has actually understood the implications of signing a referral consent form. In these cases, an ITP advocate will need to explore this question with the person before deciding whether it is appropriate to proceed with the referral.

This project has also found that, at times, family members of the person with a disability may object to the person engaging with the ITP Program and with other services. If this is the case, and the person with a disability has given informed, written consent to a referral being made, the advocate will use their negotiation and advocacy skills to try address the family's concerns, while also advancing the wishes and best interests of the person. However, if the person with a disability has indicated that they are interested in a referral being made, but have not signed a referral consent form (for example, because their family has prevented them from doing so) the ITP Program will not be able to make referrals on the person's behalf. In these cases, it may be appropriate for OPA to investigate whether there are other strategies that can be put in place to try and assist the person.

## Dedicated Staff

Without the right resources, ITP referrals will not be effective. Referrals should be made by staff who have experience working with people with disabilities, and who have a good knowledge of the service sector. Furthermore, these staff should have a dedicated referral function. This project found that, when staff tried to juggle referrals with other work duties, referrals received a lower priority than other 'more urgent' work. Unless a referral service is comprised of dedicated staff, clients will not receive the support and encouragement they need to effectively engage with services. Likewise, advocacy will fall by the wayside.

## Be Positive, but Realistic

As discussed previously, referrals should be made in a positive framework, with a view to furthering the client's ability to lead a productive and fulfilling life. However, it is important to be realistic about the extent to which a referral service can assist people. As this project discovered, not everyone wants to engage with services. Furthermore, some clients may indicate that they want to be linked in with help, but will then change their minds, or lose the motivation to follow through with referral appointments. For this reason, it is important to acknowledge that, even with the right mindset and enough resources, a proportion of ITP referrals will be unsuccessful. The silver lining is this: even though a referral may be unsuccessful, it can still send the message to the client that someone cares about their situation, and that there is help available should they want to accept it in the future.

A further component of this 'reality check' involves managing client expectations. Referrers should be honest with people about the likely assistance they will receive from the ITP Program. This includes pointing out that, in some instances, the referral scheme will not be able to give the person the help that they want. Likewise, the person needs to receive a frank account of the limitations that exist within the broader service system. These limitations may mean that the person will face long waiting lists to get access to services and, in some instances, will not be eligible for assistance. Although the ITP Program will advocate for the person to get timely access to the support they need, these efforts will not always be successful. However, given that most ITP clients have experienced being let down by the service system, they are likely to appreciate receiving an honest account of their prospects.

## Proposed ITP Referral Forms

Some of the key lessons from the action research component of this project have been set out in the proposed ITP referral, consent and information forms (see Appendices 5 to 9). These forms have been developed in consultation with OPA staff (including OPA's legal team), ITP volunteers and the court support officer who took part in this project.<sup>133</sup> It should be noted that these forms have not yet been tested in practice and, therefore, they are merely prototypes.<sup>134</sup> The forms are as follows:

### Proposed Client Referral and Information Form

This form provides a checklist for volunteers to fill out on behalf of ITP clients who both need and want a referral to be made on their behalf (see Appendix 6). The purpose of the form is to facilitate the collection of information that will enable the ITP Program to make effective referrals on behalf of clients.<sup>135</sup> As this project has found, an important part of making referrals is the ability to maintain contact with the person. Therefore ITPs should, if possible, obtain the details of alternative contact

persons that could be used to try and keep in touch with the ITP client.<sup>136</sup> The form also builds a picture of the person's support networks and service links, thus assisting the program to identify and follow up on the person's referral issues.

The form requires volunteers to obtain quite detailed information about the person. ITPs would be trained to incorporate these questions into a general referral conversation with the person. As this form contains highly sensitive information, it would be used for internal purposes only, and would not be passed on to services.

### **Proposed Plain English Consent Form**

This consent form authorises the ITP Program to refer the person to services (see Appendix 7). In practice, the ITP would explain the contents of the form to the person, and talk them through the implications of signing the form. If the ITP believed that the person understood the contents of the form, both parties would sign the referral form. If there was a question regarding whether the person truly understood the implications of signing the form, volunteers would need to raise this issue with the ITP Program. The program would then explore this matter with the person before deciding whether to proceed with the referral.

### **Proposed Plain English Client Information Form**

This information form is for the person to keep for their records (see Appendix 8). The form provides the person with the contact details of the ITP Program, and a record of what they have agreed to (that is, the program making referrals on their behalf). The form also provides the person with the program's contact details, thus enabling them to contact the program if they have any questions about the referral process, or about how their information will be used.

### **Proposed ITP Referral Form to Give to Services**

This is a form for the ITP Program to give to the agency that they are referring the client to (see Appendix 9). The form gives the agency basic information about the client's contact details and referral needs. The form complies with privacy principles as it only gives agencies the minimum information they need in order to provide services to the client.

### **Proposed Agency Feedback Referral Form**

After a client had been referred to a service, the ITP Program would ask the service to fill in an online client feedback form (see Appendix 10). The feedback form would indicate whether the service was able to make contact with the client, and whether the client gained access to their services. This information is necessary to enable the ITP Program to keep track of referrals and to follow up on any outstanding referral issues that the client may have.<sup>137</sup> On a broader level, this feedback will enable the program to identify and respond to systemic issues within the service sector. It should also be noted that clients would be given the option of not consenting to this aspect of the referral process. Therefore, a client's access to the referral scheme would not be made contingent on the disclosure of this information.

## The Next Step

The proposed forms outline the basis on which the proposed ITP referral service could collect and use clients' referral information. While these forms provide a useful starting point for the ITP referral service, it should be noted that they are just that: a starting point. In order to further develop and refine these forms, they need to be tested in practice. Part of this process will involve establishing referral and information-sharing protocols between the ITP Program and the key referral agencies relevant to the ITP client group.

## Piloting the ITP Advocacy Scheme

This project has developed a model for an evidence-based and cost effective referral and advocacy scheme that can be implemented by the ITP Program. In order to refine and improve this model scheme, funds should be allocated to the ITP Program to run a two year pilot program. Two years funding are required to enable the program to attract high quality staff, to develop its referral resources and networks, and to build its client base.

A key part of this pilot program will involve testing how well the referral scheme responds to the needs of regional clients, as well as the different needs of alleged offenders, victims and witnesses.<sup>138</sup> In order to capture these diverse client groups, and to utilise and develop the capacity of all ITP volunteers to be involved in referrals, the pilot scheme should take place Victoria-wide. As discussed previously, it is estimated that a Victoria-wide ITP advocacy service would have a client base of approximately 200 to 250 people each year. However, it is recognised that – like all pilot projects – the ITP advocacy scheme would have to 'learn to walk before it can run'. The pilot project should therefore commence with a smaller client base to enable it to develop and refine its practice. For this reason, the ITP pilot project should assist a target of 100 clients per year.

Towards the end of the pilot, OPA will evaluate the effectiveness of the ITP Advocacy Scheme. This will be done by taking a 20 per cent sample of ITP advocacy clients. An OPA evaluator will review these clients' case notes to get an idea of how they were assisted by the scheme. The OPA evaluator will also get feedback from the relevant agencies to measure the outcomes of the referrals that were made for this sample client group. The Proposed Agency Feedback Referral Form will assist in assessing outcomes for these sample clients (see Appendix 10). The OPA evaluator will use this information to produce a report on the effectiveness of the ITP Advocacy Scheme.

### Recommendation for ITP Advocacy and Referral Scheme

Subject to OPA securing appropriate funding, the ITP Program should develop an advocacy and referral scheme for clients who have had, or who are clearly at risk of having, repeat contact with crime. This will involve establishing a two-year pilot project that assists a target of 100 clients each year. The pilot will require:

- one full-time ITP Advocate at Victorian Public Service (VPS) level 4
- one part-time (0.2) Administration Support Officer at VPS level 2
- additional costs associated with training ITP volunteers to make referrals, developing and updating referral toolkits for volunteers, and funding to enable an ITP client to attend committee meetings.

## Key Findings

The action research undertaken by this project indicates that:

- Making referrals on behalf of people who are repeat ITP clients is a highly skilled, and often difficult, task.
- The ITP Program has an opportunity to assist people with disabilities who are in repeat contact with the criminal justice system. In order to capitalise on this opportunity, the proposed referral service needs to build on the positive relationships that exist between ITP volunteers and clients. ITP volunteers should use their face-to-face meetings with clients as an opportunity to obtain as much relevant information from the client as possible. This information would enable the proposed ITP Advocacy Scheme to initiate and maintain contact with clients, and to gain an insight into clients' support needs. This information would also increase the chances that effective referrals are made on behalf of clients.
- The proposed ITP Advocacy Scheme needs to be made up of dedicated staff. These staff should screen and assess clients before making advocacy-based referrals on their behalf.
- This project has developed a model for an evidence-based, cost-effective advocacy and referral scheme that can be implemented by the ITP Program. In order to develop and refine this model scheme, funds should be allocated to the ITP Program to run a two-year pilot advocacy and referral program that assists a target of 100 clients each year.

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129. This person has a history of committing violence and sexual assault. After he displayed inappropriate behaviour towards a female staff member at OPA, he was referred to the (male) Assistant ITP Coordinator for assistance. The coordinator attempted to phone the client, but the client indicated that he wanted to speak to the female staff member, and he hung up. Since then, OPA has not been able to successfully engage with this client.

130. OPA had the resources to offer in-depth advocacy to one client who was taking part in the action research component of this project. This advocacy was offered to James (see case study on page 139 of this report). However, at the last minute, James's father withdrew his consent to his son taking part in the action research component of this project. Due to the tight timelines involved in this project, it was not possible to find an alternative ITP client to take part in this advocacy trial.

131. Active listening involves giving the person positive encouragement to tell their story. Likewise, it involves being attentive, reflecting on what is being said, and demonstrating respect for the person. See: Changing Minds, Active Listening, [http://changingminds.org/techniques/listening/active\\_listening.htm](http://changingminds.org/techniques/listening/active_listening.htm).

132. YRIPP works with young people who are under 18. YRIPP obtains consent for referrals directly from the young person.

133. These forms have been developed with reference to the requirements of the Information Privacy Principles and the Health Privacy Principles (Victoria), as well as OPA's powers and duties under the Guardianship and Administration Act 1986 (Victoria).

134. If these proposed forms were to be used in practice they would need to undergo further analysis and legal checks.

135. Under section 16 of the Guardianship and Administration Act 1986, OPA has the authority to make representations on behalf of a person with a disability, and to seek assistance in the best interests of a person with a disability from any government department or service provider.

136. Volunteers would explain to the person that these alternative contacts would only be used for leaving basic messages asking the person to contact the ITP Program. These messages would not divulge any information about the person's criminal justice involvement or referral issues.

137. OPA would be collecting this information pursuant to its legislative authority to seek assistance, and act on behalf of, a person with a disability. See section 16, Guardianship and Administration Act 1986.

138. Another aspect of the ITP pilot will be testing how ITP referrals and advocacy work in conjunction with SupportLink. It is anticipated that, if SupportLink is operating at the time of the ITP pilot referral project, it will be necessary for OPA and Victoria Police to establish a referral protocol. This protocol should aim to ensure that clients receive appropriate referrals, and that the two schemes do not duplicate referrals.

People who are repeat presenters before the ITP Program are a diverse group of individuals who face a broad range of challenges in their lives. In some respects, referring to these individuals as a 'group' belies their complexity. Nonetheless, this project has found that there are certain key characteristics that generally apply to these individuals. On the whole, people in the 'repeat presentation' cohort tend to have a cluster of needs. More often than not, these needs are inadequately addressed by the service system. While repeat presenters are usually known to services, it is rare to find that services are working effectively for these people. Indeed, the fact that these people keep cycling through the criminal justice system is a clear sign that something is amiss.

This project has explored possible responses to the problem of repeat presenters. The report has identified that many people in this cohort would benefit from receiving advocacy-based referrals from the ITP Program. As Marjorie, one of the ITP volunteers who took part in this project, pointed out:

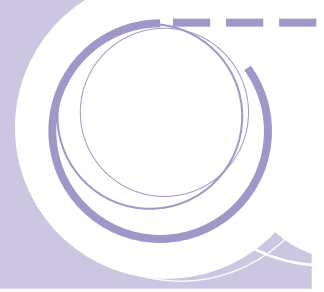
“It’s a big gap in the ITP Program, that there isn’t a referral service. It’s a vital service, and I know it will work. These people open up to me, and I can see that a lot of them are very willing to get help. They need access to services through the ITP.”

The intervention of the ITP Program is required, not only to link people in with services, but to assist services in adequately responding to the complexity of people’s needs. For this reason, the proposed referral scheme contains a strong advocacy component. As this report has demonstrated, advocacy can assist people in attaining and enjoying their human rights, including their right to equality before the law.

Of course, it is not suggested that the proposed advocacy scheme would be a panacea for the difficulties faced by people with disabilities who are vulnerable to having repeat contact with crime. One of the limitations of the proposed scheme is that it will only assist people who are willing to accept, and engage with, help. However, the collaborative nature of the proposed scheme is also its key strength. The scheme recognises that ITP volunteers tend to have very positive relationships with their clients. Importantly, ITPs are viewed by clients as being “on my side”. An ITP advocacy scheme could capitalise on these relationships and use them to facilitate people’s effective engagement with services and support.

It should also be pointed out that the issues here are not just with services. Perhaps one of the most striking and daunting challenges described by the clients who took part in this research was the sheer depth of their social isolation. The interviews conducted by this project revealed that people who are repeat users of the ITP Program tend to live on the fringes of society. A great deal of their contact with crime appears to occur because they are lonely, bored and impoverished. In light of this fact, the mandate of the proposed ITP Advocacy Scheme is not just to assist people in re-integrating into the service system: it is to assist them in re-integrating into community life. As this project has demonstrated, both ITP volunteers and OPA have a strong desire to assist people with disabilities in living a life that is productive and fulfilling and, it is hoped, one that involves minimal contact with crime.

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## Appendix 1

### Glossary

**ABI:** Acquired brain injury

**CALD:** Culturally and linguistically diverse

**CASA:** Centres Against Sexual Assault

**IP:** Independent Person: IPs provide support to young people during their interviews with Victoria Police

**ITP:** Independent Third Person: ITPs provide support to people of any age who are believed to have a cognitive impairment or mental illness during their interviews with Victoria Police. ITPs also provide assistance to police in their interviews with these persons. The ITP role can be performed by a volunteer who is trained and managed by OPA. If appropriate, a family member or close friend of the person being interviewed can perform the ITP role. For the purposes of this report, the term 'ITP' refers to volunteers with OPA.

**ITP Program:** Independent Third Person Program managed by OPA

**LEAP:** Law Enforcement Assistance Program

**non-OPA ITP:** An informal Independent Third Person who is not affiliated with OPA (for example, a friend or family member of the person being interviewed)

**OPA:** Office of the Public Advocate

**PACT:** Police and Community Triage

**Repeat presenter:** A person who has used the Independent Third Person Program more than once

**SRS:** Supported Residential Service

**TAC:** Transport Accident Commission

**The program:** The Independent Third Person Program

**VLf:** Victoria Law Foundation

**VPS:** Victorian Public Service

**YRIPP:** Youth Referral and Independent Person Program: YRIPP trains and manages IP volunteers

## Appendix 2

### Plain English Flyer for Potential Interview Participants



Office of the Public Advocate



#### **Would you like to take part in our research?**

Have you used the Independent Third Person Program?

If YES, what was it like to have someone from the Program sit in on your police interview?

The Office of the Public Advocate is doing research to find out about your experience.

If you would like to take part in the research, contact Magdalena McGuire on 9603 9512 or toll free on 1300 309 337 and she can call you back.

You can decide **not** to take part in the research.

If you do take part in the research, you will get \$66 to reimburse you for your time.

Office of the Public Advocate  
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[www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au)

## Appendix 3

### Schedule of Research Interviews with People Who Have Used the ITP Program

	Gender	Demographic	Disability <sup>139</sup>	ITP interview type(s)
1.	Female	Adult CALD	Acquired brain injury	Alleged offender: justice procedures, drug possession and use.
2.	Female	Adult	Intellectual disability	Victim: sexual assault.
3.	Female	Adult	Intellectual disability Mental health issues	Victim: sexual assault. Alleged offender: property damage.
4.	Female	Adult Indigenous	Intellectual disability	Alleged offender: assault.
5.	Male	Youth	Mental health issues	Alleged offender: theft.
6.	Male	Adult	Intellectual disability Acquired brain injury	Alleged offender: theft, property damage, assault, hoax calls.
7.	Male	Youth	Mental health issues	Alleged offender: assault, breach of bail.
8.	Male	Youth	Intellectual disability	Alleged offender: assault.
9.	Male	Youth	Acquired brain injury	Alleged offender: behaviour in public, theft.
10.	Male	Adult	Intellectual disability	Alleged offender: behaviour in public, wilful exposure.
11.	Male	Adult	Intellectual disability	Alleged offender: theft from motor vehicle, theft, property damage.
12.	Male	Adult	Intellectual disability	Alleged offender: assault, harassment, property damage.

	Gender	Demographic	Disability <sup>139</sup>	ITP interview type(s)
13.	Male	Adult	Acquired brain injury	Alleged offender: assault.
14.	Male	Adult	Intellectual disability Mental health issues Acquired brain injury	Alleged offender: theft, assault, property damage, burglary, sex (non-rape).
15.	Male	Adult CALD	Acquired brain injury	Alleged offender: assault.
16.	Male	Adult	Acquired brain injury Mental health issues	Alleged offender: drug possession, cultivation and use.

## Appendix 4

### Schedule of Research Interviews with Family Members

	Role	Person they support	Has the family member acted as an ITP before?
1.	Father	son with an intellectual disability who is an alleged offender	No
2.	Mother	son with mental health issues who is an alleged offender	Yes
3.	Mother	son with mental health issues who is an alleged offender	Yes
4.	Sister	brother with mental health issues who is an alleged offender	No

139. Note that information about clients' disabilities was either volunteered to the researcher by the clients, or was extracted from the ITP database. Therefore, this information is a general guide, and is by no means a clinical assessment.

## Appendix 5

### Schedule of Research Interviews with ITP Volunteers

	Gender	Background / experience outside of the ITP Program	Number of ITP interviews conducted by volunteer (calculated at time of the research interview)
1.	Female	professional experience in disability and criminal justice	19
2.	Female	volunteer experience in the criminal justice field	99
3.	Female	former teacher	15
8.	Female	former teacher	5
4.	Male	professional experience in disability	22
5.	Male	volunteer experience in the disability field	17
6.	Male	volunteer experience in the disability field	16
7.	Male	Justice of the Peace	19
9.	Male	volunteer experience in the disability field	16
10.	Male	professional experience in the disability field	10

## Appendix 6

### Schedule of Research Interviews with Professionals

	Title or Organisation	Professional Experience or Agency role
1.	Acquired Brain Injury Clinician	background in social work and acquired brain injury consultancy
2.	Advocate Guardian, OPA	OPA's Advocate Guardian Program provides statutory guardianship to people who have impaired decision-making capacity as a result of a cognitive impairment.
3.	Assistant Coordinator of the ITP Program	Responsible for day-to-day dealings with the ITP volunteers, involved in training police officers and others about the program, and dealing with enquiries from new people who are interested in volunteering with the program
4.	Court Support Officer	Provides disability-related assistance and support, primarily to the Magistrates' Court
5.	Disability Advocate	Family background in disability, and community work, youth work and psychiatry background
6.	Previous Employee of the ITP Program	Former Assistant Coordinator of the ITP Program
7.	Lawyer, Mental Health Legal Centre	The Mental Health Legal Centre provides a free and confidential legal service to anyone who has experienced mental illness in Victoria where their legal problem relates to their mental illness.
8.	Lawyer, Victorian Aboriginal Legal Service	Criminal lawyer with the Victorian Aboriginal Legal Service
9.	Lawyer, Victoria Legal Aid	Lawyer who has expertise working with clients who have cognitive impairments
10.	Lawyer, Villamanta Disability Rights Legal Service	Villamanta is a community legal centre that specialises in assisting people with intellectual disability. Villamanta provides a statewide telephone advice service and legal assistance in civil law matters relating to disability.  This lawyer is also engaged in private practice and has current experience in assisting people with cognitive impairments with criminal law matters.
11.	Regional Coordinator, YRIPP	Regional Coordinator, YRIPP Program
12.	Revolving Doors Agency	Revolving Doors is a charity working across England to change systems and improve services for people with multiple problems, including poor mental health, who are in contact with the criminal justice system.
13.	Senior Lawyer, Victoria Legal Aid	Senior lawyer who has expertise working with clients who have cognitive impairments

	Title or Organisation	Professional Experience or Agency role
14.	Service Manager, Criminal Justice Support Network	The Criminal Justice Support Network provides volunteer support workers for people with an intellectual disability who are in contact with the criminal justice system in New South Wales.
15.	Statewide Coordinator, YRIPP	Statewide Coordinator, YRIPP Program
16.	Telephone Advice Worker, Villamanta Disability Rights Legal Service	Providing advice to members of the public on Villamanta's Statewide telephone advice service

Appendix 7  
Proposed ITP Client Referral Information Form



Office of the Public Advocate

**Independent Third Person Program – Client Referral Information Form**

Confidential – for OPA internal use only

**Referrer details**

Name of volunteer: \_\_\_\_\_ Date: \_\_\_\_\_

**Client contact information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (Mobile) \_\_\_\_\_ (Landline): \_\_\_\_\_

Best time to call: \_\_\_\_\_ Email: \_\_\_\_\_

Facebook username (for sending messages only): \_\_\_\_\_

**Alternative Contact 1**

Name: \_\_\_\_\_

Relationship to client: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Ok to leave message with?  Yes  No

**Alternative Contact 2**

Name: \_\_\_\_\_

Relationship to client: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Ok to leave message with?  Yes  No

**Client demographics**

Date of birth: \_\_\_\_\_ Gender:  Male  Female

Living arrangements:  Family  Alone  Shared accommodation  No fixed address

Type of accommodation: \_\_\_\_\_

Country of birth: \_\_\_\_\_ Language/s spoken: \_\_\_\_\_

Cultural identity:  Aboriginal/Torres Strait Islander Other: \_\_\_\_\_

**Fax or email this referral to the ITP Advocate at the Office of the Public Advocate**

Fax: 03 9603 XXXX Email: [xxx@justice.vic.gov.au](mailto:xxx@justice.vic.gov.au)

To discuss this referral with the ITP Advocate, phone: 03 9603 XXXX



Office of the Public Advocate

**Daily activities**

Employed?  No  Yes, details: \_\_\_\_\_

Studying?  No  Yes, details: \_\_\_\_\_

Day program?  No  Yes, details: \_\_\_\_\_

Other: \_\_\_\_\_

**Health and disability**

Client's disability: \_\_\_\_\_

Disability identified by:  Client  Police  Family  Other \_\_\_\_\_

Name and location of client's GP: \_\_\_\_\_

Medication/s taken: \_\_\_\_\_

Other relevant info: \_\_\_\_\_

**Services**

Current case manager?  No  Yes, from DHS  Yes, other agency \_\_\_\_\_

Prior case management?  No  Yes, from DHS  Yes, other agency \_\_\_\_\_

DHS currently involved?  No  Yes Prior DHS involvement?  No  Yes

Income source/s:  Disability pension  Other Centrelink  TAC funded  Employment

Other service involvement: \_\_\_\_\_

**Legal**

Lawyer involved?  No  Yes, from VLA  Yes, other agency \_\_\_\_\_

Ever been to prison?  No  Yes, details \_\_\_\_\_

Client order/s:  No  Yes, Stalking intervention order  Yes, Domestic violence intervention order

Order/s (contin):  Yes, Guardianship  Yes, Administration

Order/s (contin):  Yes, mental health order (e.g. CTO)  Yes, Enduring Power Attorney \_\_\_\_\_

Order/s (contin)  Yes, other: \_\_\_\_\_

**Referral – key issues of concern**

Housing  Legal  Welfare  Health  Drug and Alcohol  Service provision  Employment

Advocacy  CASA  Indigenous services  Other \_\_\_\_\_

Referral details: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Appendix 8 Proposed ITP Plain English Consent Form



Office of the Public Advocate

### Consent Form for Access to Services and Support

I, \_\_\_\_\_

agree that the Independent Third Person Program will **refer me to services**.

I allow the Independent Third Person Program to give services **information** about me.

I understand that my information will only be shared on a **need to know** basis.  
This means that the Independent Third Person Program will only give services the information they need to be able to **help me**.  
The rest of my information will stay **private**.

I understand that this consent form will allow the Independent Third Person Program to:

- **talk to me** about what services I want;
- **contact services** for me;
- **give services information** about me (including my name, my contact details, why I need these services);
- **ask services to contact me** directly;
- **check in** with services to see if they can help me (this means that services will give the Independent Third Person Program information about me).

**Client** – Please tick the below boxes if you understand and agree with them:

My Independent Third Person has **explained** the contents of this form to me.

I **understand** this form.

I know that this form will allow the Independent Third Person Program to **refer me to services**.

I agree to services giving basic feedback about whether they were able to help me.

I am signing this form because I **want to** and no one is making me do this.

Client's name (printed) .....

Signature..... Date .....

**ITP** – Please tick the below box if you agree with it:

I am satisfied that the person understands the contents of this of this form.

ITP's name (printed) .....

Signature..... Date .....

This form is valid for 12 months.

**Office of the Public Advocate**  
Level 5, 436 Lonsdale Street, Melbourne, Victoria 3000  
PO Box 13175 Law Courts, Victoria 8010. DX 210293  
Tel: 1300 309 337 Fax: 1300 787 510  
[www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au)

## Appendix 9

### Proposed ITP Plain English Client Information Form



Office of the Public Advocate

CLIENT COPY

#### **Your Independent Third Person – Getting You Help**

##### **Independent Third Persons**

The Independent Third Person Program is run by the Office of the Public Advocate.

The program provides volunteers to sit with you during your police interview.

We can also try to link you in with help, if this is what you want.

##### **Getting help**

Your Independent Third Person can ask you if you would like to get help.

If you say yes, your Independent Third Person will ask for your phone number and address.

They will also ask you some personal questions (for example, about your health and people we can contact if we can't reach you).

This information will be used to try and get you help. It will also be used to help us stay in touch with you.

It helps us if you give your Independent Third Person as much information as possible. But you do not have to answer any questions you do not want to answer.

##### **What will happen**

An advocate from the Independent Third Person Program will contact you to find out how you are doing.

The advocate will try to get you the help that you need.

The advocate will tell you how they will try to get you help (for example, they have asked a housing worker to call you).

Sometimes, the advocate will not be able to get you the help you want. If this happens, the advocate will let you know the reasons why.

##### **Your privacy**

Your information will only be shared with services on a 'need to know' basis. This means that we will only give services the minimum information they need in order to help you.

If you have any questions about your privacy, please contact us on the number below.

##### **If you have any questions**

Contact the Independent Third Person Program. Our contact details are:

Phone: 9603 XXXX

Email: [xxxxx@justice.vic.gov.au](mailto:xxxxx@justice.vic.gov.au)

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## Appendix 10

### Proposed ITP Referral Form to Give to Services



Office of the Public Advocate

AGENCY COPY

#### Independent Third Person Program – Client Referral for Services

##### Client contact information

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (Mobile) \_\_\_\_\_ (Landline): \_\_\_\_\_

Best time to call: \_\_\_\_\_ Email: \_\_\_\_\_

Other contact info: \_\_\_\_\_

##### Alternative Contact 1

Name: \_\_\_\_\_

Relationship to client: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Best time to call: \_\_\_\_\_

Email: \_\_\_\_\_

##### Alternative Contact 2

Name: \_\_\_\_\_

Relationship to client: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Best time to call: \_\_\_\_\_

Email: \_\_\_\_\_

##### Client demographics

Date of birth: \_\_\_\_\_ Gender:  Male  Female

Disability: \_\_\_\_\_ Living arrangements: \_\_\_\_\_

Cultural identity:  Aboriginal/Torres Strait Islander Other: \_\_\_\_\_

##### Referral details

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please address any queries to the ITP Advocate. Phone 03 9603 XXXX. Email [xxx@justice.vic.gov.au](mailto:xxx@justice.vic.gov.au).

## Appendix 11 Proposed Agency Feedback Referral Form

### Independent Third Person - Referral Feedback Form

#### Feedback form

**\* 1. Agency name**

**\* 2. Agency postcode**

**\* 3. Client's name**

**\* 4. How did you attempt to make contact with the client? (Tick one or more options)**

Up to 3 phone calls

Over 3 phone calls

Email

Facebook

Letter to client

Left message with another party

Other (please specify)

**\* 5. Was contact made with the client?**

Yes

No (end of survey)

Additional comments

## Independent Third Person - Referral Feedback Form

### 6. Did the client want your services?

- Yes
- No (skip to Question 9)

If you answered no, why did the client turn down your services?

### 7. If you answered 'yes' to the above question, did the client receive your services?

- Yes, client received services
- No, client not eligible for services
- No, client failed to keep appointment

Other (please specify)

### 8. If the client received your services, can you indicate the outcome/s for the client?

- Client is successfully engaging with our service
- Client is engaging with our service, but with difficulties
- Client is failing to keep appointments
- Client received short-term assistance from our service
- Client is on a waiting list for our service
- Other

Insert comments if you wish:

### 9. Did you refer the client to any other services?

- Yes
- No

Insert details if you wish

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