



pwsa VICTORIA

prader-willi syndrome association

LAW, JUSTICE & PRADER-WILLI SYNDROME (PWS)

A guide to understanding rights and responsibilities within the Justice System



Supporting the person with PWS in their interactions with the legal system.

For families, support workers, disability support providers, advocates and life skills trainers.

Justice for people living with disability should not be governed by luck.

It is a basic right for everybody.¹

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SECTION 1

How our laws & justice system work in our community.

A person with PWS wants what everyone else wants:

- We all want to participate and go out and about in our community.
- We all want to feel safe in our community.
- We want to be treated equally as everyone else in our community.
- We want a say in how we live our lives in our community.

Just like everyone, the person who has PWS wants to belong to their community and be safe and happy in their community.

They want to be treated equally and have a say in what happens in their life just like everyone else.

In order to live in a happy and safe community, everyone needs to respect each other and treat each other well²

For this to happen there are laws that aim to keep us all safe and protect our rights.

Due to the complexities of PWS with its behavioural, emotional and social characteristics, there are often circumstances when the behaviours come into conflict with the rules of our community.

We know that PWS is a complex neuro-behavioural genetic disorder that causes the brain to function in a way that is not typical of other people. This brain dysfunction can cause problems that often lead to the involvement of law enforcement and other emergency workers.³

SECTION 2

Supporting a person through times of personal crisis.

Supporting a person with PWS to avoid adverse interactions with law and justice systems has several dimensions. This includes having the right support team in place, and directly building the skills of the person who has PWS.

The aim of the support network is twofold:

1 To have a back-up team, who all have an understanding of PWS and can be called on to support the person with PWS in times of crisis, using well-rehearsed strategies that are familiar to all members of the network team.

2 The existence of a reliable and consistent support network helps to give the person with PWS, the confidence and skills to call out for support in times of crisis.

The development of life skill strategies and support networks doesn't happen without careful planning. It needs input from teachers, support workers, psychologists and families who work together to prepare the person with PWS so they can take their place in their community and participate safely and cooperatively in their activities of choice.

The development of life skills and support networks is an ongoing process that begins at an early age and continues throughout adult life. It should be an ongoing process that is reflected in the goals of student's Individual Support Plans throughout the school setting and NDIS planning throughout adulthood.

Understanding of the rights and responsibilities and what will happen if the person with PWS breaks the law should be a part of the toolkit of information, that every person with PWS is equipped with, when they leave school.

There are resources available that can be used to build understandings of the legal system for people with a disability and their support networks.

The publication **“Support for Justice”** is a guide for people with a disability, their support professionals, family carers, friends and advocates.

This guide suggests three steps for supporting a person with an intellectual disability to exercise their legal rights and responsibilities:

1 Having a say about what happens in their life by building individual agency.

2 Understanding rights, responsibilities, and decision making.

3 Getting supported legal assistance.⁴

Another important part of a life skills toolbox is the understanding that they are not on their own and they can call on others to help them out in difficult times.

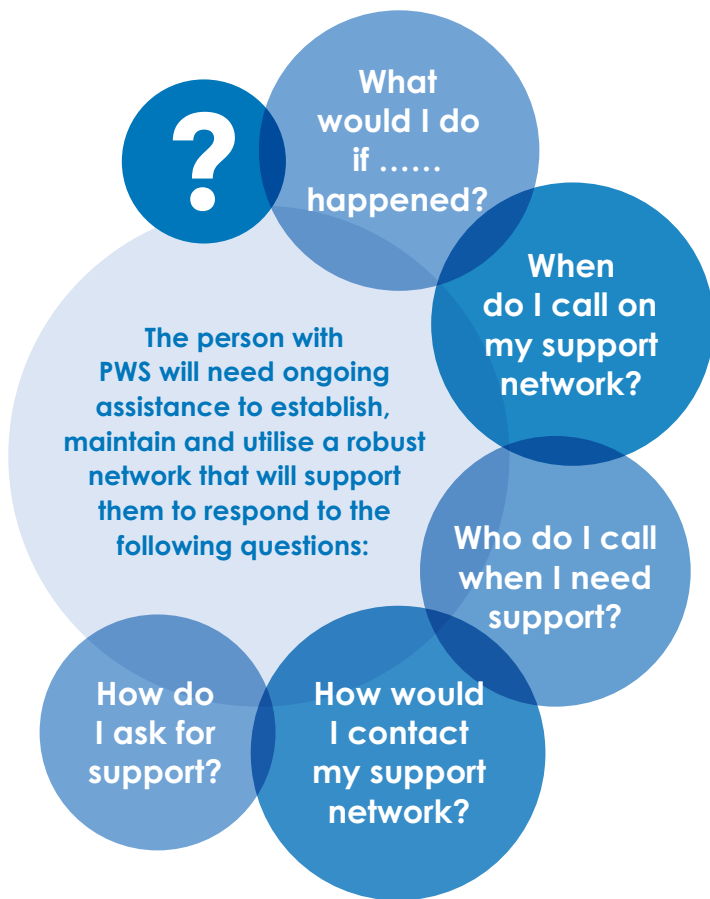
A support network is an essential safety net for times of personal crisis or when the PWS behaviours come into conflict with the rules of our community.

This understanding does not come from an occasional chat. Rather, these understandings are reinforced and represented in many contexts over an extended period of time.

Understanding of community rights and responsibilities and network support should be well established by the time they leave school as should be the mechanisms for building and maintaining the support network.

The network of support may include family members, family friends, psychologists, NDIS, mainstream providers and support workers.

Formally or informally, the support teams should establish mechanisms and strategies about how they will work with the person with PWS to rehearse how the support network will operate on a day-to-day basis. It takes time and effort to build a tried and trusted network of support. It does not happen without careful implementation and practice.



There are examples of Assistive Technology that can be used by the person with PWS to communicate with their support network, for example:

- ▶ Technological solutions/apps using a simple traffic light alert system.
- ▶ Predictive text/reductive text.
- ▶ Rehearsed phrase message that can alert the members of the support network that their support is needed.
- ▶ Using social stories and rehearsal strategies the members of the support network can practice how they can be called on to support the person with PWS in times of crisis.

There are more formal programs, including Circle of Support and Microboard's (COAM) Circles of Support programs that some families may consider more appropriate than less formal arrangements.⁵

How to support the person with PWS in times of crisis.

Each person with PWS will present differently, with varying levels of cognition and ability. Therefore, how you support the person with PWS will vary accordingly.

Without exception, when a personal crisis presents for a person with PWS, the presence of a support person with an understanding of PWS, will greatly increase the chance of a positive outcome and decrease the chances of the incidents escalating.

Every effort should be made to make sure there is a trusted, responsible adult from the person's support network, with a good knowledge of PWS, present through every step of the crisis or legal process.

The support person is more likely to achieve the best outcomes if they

- Remain calm and confident when communicating with the person.

Calm, matter-of-fact discussion about the situation is encouraged. Raised voices, threats or accusations will usually cause the person with PWS to become defensive, anxious, argumentative, and possibly aggressive.⁶

- Use easy to understand language to give a concise and consistent message throughout the crisis.
- Support them by answering questions concisely using easy to understand language.
- Avoid accusations, threats, or making false promises.
- Avoid entering into arguments.
- Do not use offers of food or drink to de-escalate behaviours.
- Try to de-escalate concerns and anxieties.
- Contact the legal guardian if they are not present so that legal and community support can be organized, as required.

By far the best way to support the person with PWS is to be physically there for them.



SECTION 3

When the Police need to talk to a person with PWS.

In Victoria, the police may request an interview to collect information about a reported crime.

The police may be investigating a reported crime and need to collect information to help with their investigations.

Sometimes the police will want to interview the person with PWS if they think that they may have broken the law.

The initial interaction between the person with PWS and the police is very important.

The findings of the Beyond Doubt inquiry into experiences of people with disabilities reporting

a crime, tell us that experience of reporting crimes is too dependent on the attitudes, knowledge and skills of the individual police member who happens to take the initial report. The report also highlights that "victims of crime with disabilities must be able to access consistent support when they need it and for as long as they need it, across the justice process."⁷

The police officer must read out your rights before they begin any interview. The person with PWS has the right to call a friend, relative or lawyer. This needs to be done as soon as the police officer initiates the caution. Do not wait.

In Victoria, the person with PWS has the right to have someone sit with them, while the police talk to them. This is called an Independent Third Person (ITP).

If you have a cognitive disability or mental illness, to be interviewed, the police officer must make sure you have an Independent Third Person with you. This is a trained person who is with you during questioning to help you understand. The Office of the Public Advocate can provide an Independent Third Person to be with you at the police station while you are interviewed.⁸

The police must get an ITP to sit with the person with PWS during an interview, or if they want to do something such as a strip search. The person with PWS is also able to have an ITP if the police want the person with PWS to give fingerprints or DNA, or if the person with PWS is doing a bail hearing at a police station with a bail justice.⁹

While an ITP is a very important part of the police interview with a person with PWS, it is not the same as the person with PWS obtaining pre-interview legal advice from a lawyer.

The person with PWS must speak to a lawyer before participating in a police interview.

If the person with PWS wishes to tell the police about something they were involved in, the interview is not the only chance to do this. For example, while you must give the police your name and address, the lawyer may advise that the person say “no comment” in response to other questions. If this is the advice, the person with PWS can make a statement to the police at a different time, after the interview.

If the person with PWS is asked to attend an interview and given advance notice, the person with PWS must have a contact number on their person, for example, written on their hand, in case the police refuse bail.

It is often the case that the person with PWS does not willingly disclose their disability.

Disclosure of PWS would normally trigger adjustments to the interview process.

Being approached or questioned by police is a very confusing and disorientating experience. For the person with PWS, it is a time of increased anxiety and stress-related behaviours which can quickly escalate to challenging behaviour outbursts.

Poor communication skills may make it difficult for the person with PWS to understand the interview process, retell their story or sequence events accurately.

The resultant questioning can lead to the perception that they are not being believed. With support, the person with PWS can be assisted to answer the questions without the increased stress of not understanding the question or conversely not being understood.

How well the person with PWS is supported through the initial interactions with the police interview can have real implications for future outcomes.



SECTION 4

Pre-interview advice for when a person with PWS needs to talk to the Police.

There may be times when the person with PWS would need to go to the police if they think they are a victim of a crime or if they witnessed a crime.

The reasons why the person with PWS would need to report a crime may include the following:

- They have been robbed.
- Someone damages something that belongs to them.
- They have been hurt by someone.
- Someone makes them feel unsafe or scares them.
- Someone touches them or does something to them that makes them feel uncomfortable or unsafe.
- Someone threatens to hurt them or someone close to them.
- They are witness to a crime.

In some cases, they may not recognize that they are a victim of a crime. It may be someone in their support network who identifies that the person with PWS is a victim of a crime that warrants reporting to the police.

Positive pathways – Police interview preparation

If you need to report a crime or if the person with PWS is a witness to a crime

- Respond promptly with calmness and confidence. This will be a highly anxious time for the person with PWS.
- Listen carefully and if you are unclear about details ask them to retell the events that happened.
- Try to establish the Who, How, When and Where details before you go to the police station.
- Support the person with PWS to make the first contact with the police. Write down the date & time of the interview appointment & the address of the police station where the interview will take place.
- Explain in advance what will likely happen at the police station – as few surprises as possible is the best approach.
- Often the person with PWS constructs understandings of the incident based on

unspoken and flawed assumptions. Encourage them to speak about what *they think* might have happened. This will reduce the risk of misunderstandings and self-incrimination.

- **Support the person with PWS to organize the following:**
 - A written copy of their name and address.
 - Some identification such as Key Pass, Proof of age card or passport.
 - Contact details of the person who helped them report the crime.
 - Arrangements to get to the police station at the appointment time to make their statement.
 - Make a written statement that can be read to the police if the person is more comfortable preparing something to be read in advance rather than answering questions.
 - An interpreter if required-the police can organize for one to attend the interview.
- **Seek legal advice as to whether you should support the person with PWS in the interview or whether you should request that the police ring the Office of the Public Advocate to request that an ITP (Independent Third Persons) volunteer attend the police station.**
www.publicadvocate.vic.gov.au

The Independent Third Person (ITP) may be the preferable option to the support person attending an interview from a legal perspective: Consider carefully and balance the value of someone feeling more comfortable with a known support person against the risk that that support person could become a witness to anything said by the person they are assisting in the interview and therefore may be called as a witness to give evidence.¹⁰

The ITP (Independent Third Person) is there to help the person with PWS understand what is happening and help them understand the questions the police will ask. They cannot give legal advice.

- **When you come to the police station to make the report, find out who will be conducting the interview.**
- **Share information about PWS, before the appointment with the police, to help the police understand PWS a little better.**

Reassure the person with PWS that the police and their support person will help them make their statement by:

- Listening and giving them time to tell them what happened.
- Asking questions concisely using Easy English.
- Rewording the questions to make sure you understand what they were asking.
- Giving them a break if they get tired.
- Showing respect, patience, and belief.
- Making sure the person is safe and feels as safe as possible.
- Being aware of the increased levels of anxiety the person with PWS will be experiencing.
- Being aware of the fear of consequences of reporting the crime may have on the person with PWS.

The ITP will have an initial pre-interview discussion with the person with PWS which occurs in private without the police present.

It is during this pre-interview that the ITP begins to establish a rapport and explains their role to the person. It is also when the ITP makes an assessment of the person's fitness for an interview. They will go over the usual caution, the rights, and the fingerprinting caution at this time. They will use simple language and they will ensure the person can explain all of these things using their own words. This information is recorded on a report form and submitted to OPA.

They'll talk to the person about how best to communicate with them and discuss what to do if they feel they need a break. After this pre-interview, the ITP meets with the police and will inform them on communication strategies, any welfare needs or concerns, and generally if they believe the person is fit for an interview or not.¹¹

- **If police suggest a referral to the Victims of Crime Help Line, support the person with PWS to follow through with the referral.**
- **Let the person with PWS know when they have finished giving the statement that the police will organize a follow-up phone call or meeting to let them know how their investigations into the crime are progressing.**
- **If police are unable to investigate the crime that was reported they will explain why.**

Supporting the person with PWS if they have been charged with a crime:

- Respond promptly with calmness and confidence. This will be a highly anxious time for the person with PWS.
- Listen carefully and if you are unclear about details ask them to retell the events that happened.
- Try to establish the Who, How, When and Where details before you go to the police station.
- Often the person with PWS constructs understandings of the incident based on unspoken and flawed assumptions. Encourage them to speak about what they think might have happened. This will reduce the risk of misunderstandings and self-incrimination. If this is a known issue for the person with PWS, consider suggesting the person read a prepared statement rather than make a verbal statement.
- Support the person with PWS to organize the following:
 - A written copy of their name and address.
 - Some identification such as Key Pass, Proof of age card or passport.
 - An interpreter if required-the police can organize for one to attend the interview.
- When you come to the police station, find out who will be conducting the interview.
- Share information about PWS, before the appointment with the police, to help the police understand PWS a little better. Information can be given verbally but it is advisable to also provide a copy of the brochure “Understanding PWS” or access to the information pack “PWS First Response Kit”.¹²
- Reassure the person with PWS that the police and their support person will help them make their statement.

In addition to the above preparation, the support person should have a clear understanding of the rights and legal responsibilities of the person with PWS. If unsure, seek clarification on the following points before the interview:

- Why the person with PWS is being questioned?
- Who is interviewing the person with PWS? You should request the name of the police officer(s) or Protective Services Officer(s) (PSO) and at which police station they are based. You can also ask for this information in writing.
- Check that the police have checked the database to see if the person with PWS is on the Voluntary Disclosure register.
- If the support person present is not the legal guardian or parent, request that the police make every effort to contact parents or Legal Guardian.
- Find out about the legal responsibilities of the person with PWS. The person with PWS is legally required if asked by a police officer or PSO to give their name and address. If they give a false name they can be charged and fined.
*This is the only thing they are legally required to say. The rest can be a ‘no comment’ statement. The person with PWS has the right to silence and the police cannot use this against you.*¹³
- It is important to know that the person with PWS understands that there is no such thing as an off the record statement.
*You can also say ‘no comment’ even if you spoke to the police officer before the interview. It will not help your case when you answer some questions but not others. If you stay silent or say, ‘no comment’, do that for every question.*¹⁴
- Re-enforce that the person with PWS should wait until the lawyer arrives before answering any other questions.

“People with intellectual disabilities, including people with PWS, may not understand this warning and may implicate themselves in the way that they answer questions. People have been known to confess to things they did not do, perhaps because of the stress at the time or because they did not understand what was happening or what was being asked of them”¹⁵

- The person with PWS must not be pressured to go with the police unless they are arrested.
- If they are arrested, the police must explain clearly & concisely why the person with PWS is being arrested.

- **The police must offer a caution which must include telling the person with PWS that they may contact someone to support them. The support person may be a family member, a support worker or a lawyer.**
- **The police are allowed to take fingerprints if the person with PWS is over 15. If you are aged between 15-17, a parent or guardian must be with them when the police ask to take your fingerprints. A parent or guardian, or ITP, must also be with the person with PWS when fingerprints are taken.**
- **Seek legal advice as to whether you should support the person with PWS in the interview or whether you should request that the police ring the Office of the Public Advocate to request that an ITP (Independent Third Persons) volunteer attend the police station.**
www.publicadvocate.vic.gov.au

The Independent Third Person (ITP) may be the preferable option to the support person attending an interview from a legal perspective: Consider carefully and balance the value of someone feeling more comfortable with a known support person against the risk that that support person could become a witness to anything said by the person they are assisting in the interview and therefore may be called as a witness to give evidence.¹⁶

- **It is very important that the ITP trained by the Office of the Public Advocate has access to information about PWS before the police interview. The information about PWS will help them put the alleged crime into the context of PWS characteristics and behaviours.**

Information can be given verbally but it is advisable to also provide a copy of the brochure **“Understanding PWS”** or access to the information pack **“PWS Information for Emergency Services”**.¹⁷

The ITP will have an initial pre-interview discussion with the person with PWS which occurs in private without the police present.

It is during this pre-interview that the ITP begins to establish a rapport and explains their role to the person. It is also when the ITP makes an assessment of the person’s fitness for an interview. They will go over the usual caution, the rights, and the fingerprinting caution at this time. They will use simple language and they will ensure the person can explain all of these things using their own words. This information is recorded on a report form and submitted to OPA.

They’ll talk to the person about how best to communicate with them and discuss what to do if they feel they need a break. After this pre-interview, the ITP meets with the police and will inform them on communication strategies, any welfare needs or concerns and generally if they believe the person is fit for an interview or not.¹⁸

How to support the person with PWS during the interview

- The Independent Third Person (ITP) or support person can request medical treatment/mental health assessment for the person with PWS if they deem there is a need.

The ITP volunteer/support person will:

- ▶ **Stay with the person with PWS while they are being interviewed.**
- ▶ **Help explain what is happening and why they are being interviewed.**
- ▶ **Check that they understand the questions & ask that the question be restated if unsure.**
- ▶ **Communicate with parents or support worker.**
- ▶ **Request a break during the interview if required.**
- ▶ **Show respect, patience, and belief.**
- ▶ **Be aware of the increased levels of anxiety the person with PWS will be experiencing.**

Up to date and current medical information about an illness or mental health issues and general PWS information is very important as authorities will use this evidence to decide what to do next.

The support network should make sure the legal team has access to the contact details of the doctors and specialists that treat the person with PWS.

They should also collect up to date, accurate medical records, and other information about PWS that may be requested by the legal team.



SECTION 5

When the person with PWS is charged with a crime – Engaging a lawyer.

If the person with PWS is arrested they will require legal assistance.

This can be organized by parent/guardian/or independent adult. This legal assistance may involve pre-interview advice, or assistance after the person has been charged with an offence.

“

The government funds legal services to help people who need it the most. People with a disability are included as priority clients. So, when the police or Independent Third Person (ITP) volunteer contacts Legal Aid they must mention they are calling on behalf of someone with an intellectual disability. This will open up options and services that are not available to other people.¹⁹

”

The law is very complicated, and the support of a lawyer is essential to help the person with PWS through the legal process.

It is very likely that the person who is allocated to support the person with PWS legally will have little or no understanding about PWS so it is essential that the support person can supply information about PWS before the first appointment to help the lawyer understand PWS a little better.

Information can be given verbally but it is advisable to also provide a copy of the brochure **“Understanding PWS”** or access to the kit **“PWS Information for Emergency Services”**.²⁰

When the support person contacts Legal Aid or a similar legal organization, they will let you know when they will come to talk to you and give you instructions about what to do until they arrive.

- **An important role of the support person is to tell the person with PWS the lawyer's name, when the lawyer will speak to them and what will likely happen at the meeting with the lawyer.**
- **Reassure the person with PWS that the lawyer is there to support them by:**
 - Listening to them and giving them time to tell them what happened.
 - Asking questions concisely in easy-to-understand language.
 - Rewording questions to ensure understanding.
 - Giving rest periods if they get tired.
 - Showing respect, patience, and belief.
 - Making sure they feel as safe as possible.
 - Being aware of the increased levels of anxiety they will be experiencing.
- **The lawyer will check that they have understood why he/she needs to help them and the potential seriousness of the situation.**
- **The lawyer will give advice about the law and the legal system in a way that can easily be understood and explain what the next steps will be.**
- **If extra information/tests are required, the lawyer will help the person with PWS to collect documents and other information that can help fix the problem.**
- **Although the support person will have an important role in assisting and will be welcome to attend meetings between the person with PWS and the legal representative, the legal representative will, in most cases, take instructions from the person with PWS. The legal representative cannot follow the instructions of the support person, even if the support person knows the mutual client extremely well.**

A lawyer may do things including:

- **Negotiating the charge(s) with the prosecution (police) – sometimes this will result in a withdrawal of the charge(s).**
- **Representing the person with PWS in the courtroom if the case proceeds to court.**
- **Making an assessment as to whether the person with PWS is able to give instructions, understand the trial and receive a fair trial.**

If fitness to stand trial is an issue, it may be necessary to obtain an independent expert opinion from medical specialists, behavioural psychologists, or psychiatrists to determine whether the person with PWS is likely to understand the trial process.

The lawyer will identify if there are issues that are examined formally and include expert evidence from a psychologist or psychiatrist that may be requested by the court or may be arranged by the person's lawyer to determine the person's capacity. If there are concerns about the person's competency or evidence of mental health issues, the courts may decide not to continue, and a different course of action may be suggested.²¹

If it is decided that the person with PWS is unable to understand the trial process or if there is evidence of mental health issues, the court may decide not to proceed with a trial and a different course of action is followed.

For the criminal justice process to be fair, there is an expectation that the person being prosecuted is legally represented, is able to participate in the preparation of their defence, understands the charges and the difference between pleading guilty or not guilty, knows the roles of the different people in court (i.e. judge, prosecutor, defence lawyer) and understands the different stages of any hearing and how to behave during the court process. In the lead up to a court appearance questions may be raised as to whether they are fit to stand trial (i.e. understands the significance of the trial on their life) and is fit to plead (i.e. understands what pleading means, understands the nature of the charge and the court process.²²



SECTION 6

When the person with PWS needs to go to court to face criminal charges.

- If the case goes to court, the lawyer will support the person with PWS to understand the process and the options available to them.
- An important role of the support person is to explain to the person clearly and concisely what they can expect to happen when they go to court — the use of storyboards and role play can help the person with PWS make sense of the complicated court proceedings. Using storyboard or other visual representations will assist to explain:
 - ▶ Who will be in the courtroom?
 - ▶ Where in the courtroom they will sit?
 - ▶ Where the lawyer, support person, judge and other court officials will be sitting and what their job will involve?
- Before the court appearance, the lawyer will tell the person with PWS about the people involved in the legal system and other people that might be in a courtroom.
- He/she will explain in easy-to-understand language what will happen once they are inside the courtroom to help them understand the proceedings and answer any questions they may have. It is important to explain, before the court appearance the role of the prosecution lawyer.
- If the person with PWS is not able to understand what will happen or is confused or anxious, the lawyer will repeat the explanation clearly and concisely using illustrations or other visual representations.
- The lawyer will advise the person with PWS whether to plead guilty or not guilty. He/she will also explain to help them understand what it means to plead guilty and what the likely sentence (punishment) might be.
- The lawyer will have collected information and documents that will be used in court. He/she will have got expert opinions from doctors, psychologists, or psychiatrists about PWS which will help the magistrate or judge arrive at a fair decision that takes account of the person with PWS' cognitive disability.

- The lawyer should be provided with information concerning the complex and often bizarre behaviours of PWS which are seen in times of acute anxiety and this information should be shared with all those supporting the person with PWS.



Facing a court trial for anyone will provoke anxiety and the person with PWS may react badly when faced with a Judge. Screaming, yelling abuse, refusal to conform, may be normal behaviour for them to try to prevent something bad from happening, but may escalate the case against them. Retaliation against a safe environment may also show up in numerous ways from self-soiling, self-abuse, yelling, or trying to set fires.²³



- Collaboration with the support person/lawyer and court officials is very important.
- Organise to have additional support available such as a psychiatric clinical adviser who works within the justice system, or a support coordinator working between the courts and residential placement - as well as the lawyer to support the person with PWS during this time.

The court will hear a lot of information to help decide the following:

▶ If the person with PWS is likely to act dangerously again.

▶ If what the person with PWS did was serious enough that society expectation would determine that some punishment was necessary.

▶ If the need for psychiatric treatment was needed rather than punishment.

If pleading guilty or found guilty the court may seek material in mitigation so that a more lenient or different sentence can be justified.

Courts may have the option to divert someone from the criminal justice system to a supervised setting in the community or the care of health staff so that they can receive medical or psychiatric treatment.



The lawyer and others supporting the person with PWS will seek outside opinions about diversion options based on the consensus of professional opinion and research that suggests “Correctional facilities (prisons/ jails/detention centres) are unhealthy environments for people with PWS. They provide minimal food security, high energy food, reduced opportunities for exercise or participation in preferred activities, stress management an appropriate sensory stimulation. People with PWS may also be highly vulnerable in such situations to adopting poor habits of other inmates and be at risk of abuse²⁴



- The lawyer will explain the court’s decision in easy-to-understand language. They will also explain the option to appeal the decision, and whether an appeal is recommended.

The court will decide what consequence for breaking the law would be appropriate to stop the person from breaking the law again.

This may include:

- **Diversion:** where the person gets a chance to avoid a criminal record.
- **An undertaking to be of good behaviour** for a certain period, or a **justice plan** with special conditions that the person is required to follow in the community.
- **An order to pay money** to repair damage or costs for the person that was hurt.
- **A fine.**
- **A community corrections order:** Some community corrections orders involve hours of community work, but others are treatment only orders that involve the person having to be supervised in the community and receive treatment from relevant medical professionals, such as a psychologist. Some community corrections orders involve both community work and treatment.
- **A term of imprisonment:** a term of imprisonment may be followed by a community corrections order or a period of probation, both of which involve supervision of the person when they re-enter the community.



SECTION 7

When the person with PWS faces criminal charges but is unfit to plead.

- If a person is found unfit to participate in the trial, they may be subjected to an ongoing supervision order rather than receive one of the above penalties. This supervision order may be in the community or a custodial setting, such as a hospital.
- If it is decided that the criminal charges are serious, the police, and later the courts, may decide that the person should be held in custody (usually in prison) until the case goes to court.

If this happens, your lawyer can discuss an application to stay in the community or other residential facility until the case is heard. This is called an application for bail.

SECTION 8

Quick Reference Guide²⁵

This resource is intended to assist in navigating the multiple services and programs available in Victoria when supporting a person with a disability who is in contact with the Criminal Justice System.

LEGAL SERVICES

Disability Discrimination Legal Service <http://www.ddls.org.au/>

The Homeless Persons' Legal Service - specialist legal service that provides free legal assistance and advocacy for people who are homeless and charged with minor criminal offences <https://justiceconnect.org.au/about/>

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. <https://mhlc.org.au/>

Victoria Legal Aid (VLA) - VLA provide legal advice and representation at court. There are VLA Duty Lawyers available at many courts and tribunals across Victoria. Legal aid is prioritised for people who have an intellectual disability, acquired brain injury or mental illness. VLA Assistance can be provided at the Victorian Civil Administrative Tribunal (VCAT), Administrative Assistance Tribunal (AAT), Mental Health Tribunal, Magistrates Court, Family Court and Children's Court <https://www.legalaid.vic.gov.au/>

Victorian Aboriginal Legal Service (VALS) - VALS plays an important role in providing referrals, advice/information, duty work or casework assistance to Aboriginal and Torres Strait Islander peoples in the State of Victoria. Solicitors at VALS specialise in one of three areas of law, being Criminal Law, Family Law and Civil Law - <https://www.vals.org.au/>

Villamanta Disability Rights Legal Service - Villamanta's mission is to protect and advance the rights of Victorians with a disability by advising, informing, and representing them and acting as an advocate on disability-related legal and justice issues - <http://www.villamanta.org.au/Rights and Advocacy Support:>

Community Legal Centres www.fclc.org.au

Office of the Public Advocate - The Office of Public Advocate (OPA) works to safeguard the rights and interests of people with disabilities. They provide an advice service for people with disability, their families, carers, and friends. <https://www.publicadvocate.vic.gov.au/>

Public Advocate Independent Third Persons program – An Independent Third Person (ITP) is available for a suspect, victim or witness of a crime who has a cognitive impairment during a police interview. ITPs are volunteers trained by the Office of the Public Advocate who support people with a cognitive disability or mental illness. Police are responsible for arranging an ITP to be present.

Victims of Crime - www.victimsofcrime.vic.gov.au/easy-english-resources

COURT SUPPORT SERVICES

Assessment and Referral Court List, Melbourne Magistrates' Court (VIC) - The Assessment and Referral Court List is a specialist court list designed to meet the needs of accused persons who have a mental illness and/or a cognitive impairment and aims to help people address underlying factors that contribute to their offending behaviours. A referral must be made before a matter can be heard in the ARC. An assessment by an ARC case manager is also required to ensure the person meets the eligibility criteria. <https://www.mcv.vic.gov.au/about-us/assessment-and-referral-court-arc>

Court Integrated Services Program (CISP) - The Court Integrated Services Program aims to provide the person with disability appearing before court with a variety of services and supports such as social welfare, mental health, housing services and drug treatment. <https://www.mcv.vic.gov.au/find-support/bail-support-cisp>

Drug Court -post-sentence program focusing on the rehabilitation and treatment of offenders with a drug and/or alcohol dependency. https://www.mcv.vic.gov.au/about_us/drug-court

Mental Health Court Liaison Service - The Mental health Court Liaison Service is a court-based assessment and advice service that can provide short term assistance before sentencing to people with social and health needs, case management support to assist with causes of offending behaviour and priority access to treatment and community supports. https://www.forensicare.vic.gov.au/wp-content/uploads/2016/09/Forensicare-MHCLS6pp-DL_v6-Final-Spread.pdf

Victoria Legal Aid -a free guide for people going to Magistrates Court for less serious criminal offences. <https://www.legalaid.vic.gov.au/find-legal-answers/free-publications-andresources/your-day-in-court>

SPECIALIST JUSTICE SUPPORT SERVICES

Corrections Victoria - After prison support for offenders to access support services and programs. Support programs can focus on access to several different areas such as housing, legal services, employment, drug and alcohol programs, parenting skills training and domestic violence safety plans. Some offenders are eligible to participate in the ReConnect or ReStart programs which are generally commenced in prison and offer continued support after release. For more information about pre and post-release support, programs refer to Transitional programs or <https://www.corrections.vic.gov.au/release/after-prison-support>

Dardi Munwurro – state-wide service covering family violence, healing and behaviour change programs and services, to break the cycle of intergenerational trauma in Aboriginal families and communities.

FOOTNOTES

1. Beyond Doubt, The experiences of people with a disability reporting crimes-summary report – Human Rights Commission Victoria pg. 50 <https://www.humanrights.vic.gov.au/resources/beyond-doubt-the-experiences-of-people-with-disabilities-reporting-crime-jul-2014>
2. Support for Justice - A guide for people with a disability, their support professionals, family carers, friends and advocates pg.13 <http://inclusionmelbourne.org.au/wp-content/uploads/2019/04/Support-for-justice>
3. To: Law Enforcement Personnel - Regarding Adults with PWS, The Gathered View (ISSN 1077-9965), published bi-monthly by the Prader-Willi Syndrome Association (USA). Prader-Willi Syndrome Association (USA), 8588 Potter Park Drive, Suite 500, Sarasota Re-printed from, Florida 34238 800-926-4797
4. Support for Justice - A guide for people with a disability, their support professionals, family carers, friends and advocates pg.1 <http://inclusionmelbourne.org.au/wp-content/uploads/2019/04/Support-for-justice.pdf>
5. Circle of Support and Microboards <https://cosam.org.au/national-resource-centre/microboards/>
6. Holland A.& Loughnan. G, Law Enforcement Matters-regarding people with PWS pg.2 <https://www.ipwso.org/law-enforcement>
7. Beyond Doubt, The experiences of people with disabilities reporting crimes-summary report – Human Rights Commission Victoria pg.27 <https://www.humanrights.vic.gov.au/resources/beyond-doubt-the-experiences-of-people-with-disabilities-reporting-crime-jul-2014>
8. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
9. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
10. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
11. Tootell.R. cited in download email comment February 2021
12. Tell me about PWS,2020 www.pwsavic.org.au
13. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
14. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
15. Holland. A& Loughnan. G When a person with Prader-Willi Syndrome is in trouble with the law: what to think about and what can you do. <https://www.ipwso.org/law-enforcement>
16. Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)
17. Tell me about PWS,2020 www.pwsavic.org.au
18. Tootell.R. cited in download email comment February 2021
19. Support for Justice -A guide for people with disability, their support professionals, family carers, friends and advocates pg 30 <http://inclusionmelbourne.org.au/wp-content/uploads/2019/04/Support-for-justice.pdf>
20. Tell me about PWS,2020 www.pwsavic.org.au
21. Holland. A & Loughnan. G When a person with Prader-Willi Syndrome is in trouble with the law: what to think about and what can you do. <https://www.ipwso.org/law-enforcement>
22. Holland. A& Loughnan. G When a person with Prader-Willi Syndrome is in trouble with the law: what to think about and what can you do. <https://www.ipwso.org/law-enforcement>
23. Holland. A& Loughnan. G When a person with Prader-Willi Syndrome is in trouble with the law: what to think about and what can you do. <https://www.ipwso.org/law-enforcement>
24. Holland A.& Loughnan. G, Law Enforcement Matters-When someone with Prader-Willi syndrome is in trouble with the law -What can you think about and what can you do PWS <https://www.ipwso.org/law-enforcement>
25. ECSNP Justice Support Service - Quick Reference Guide <https://www.cohealth.org.au/wp-content/uploads/2020/09/JusticeSupportServiceQRG.pdf>

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Beyond Doubt, The experiences of people with a disability reporting crimes-summary report – Human Rights Commission Victoria 2014 <https://www.humanrights.vic.gov.au/resources/beyond-doubt-the-experiences-of-people-with-disabilities-reporting-crime-jul-2014>

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Circle Of Support <https://cosam.org.au/national-resource-centre/microboards/>

Tell me about PWS,2020 www.pwsavic.org.au

Police procedure if you have a cognitive disability | Victoria Legal Aid (vla.vic.gov.au)

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Holland. A & Loughnan. G When a person with Prader-Willi Syndrome is in trouble with the law: what to think about and what can you do. <https://www.ipwso.org/law-enforcement>

Holland A.& Loughnan. G, Law Enforcement Matters-Regarding people with PWS <https://www.ipwso.org/law-enforcement>

Voluntary Disclosure of Personal Information Regarding a Mental Disorder and or Disability <https://www.amaze.org.au/wp-content/uploads/2019/06/Amaze-Wandering-Resource-2016.pdf>

Reporting Crimes: Your Rights www.police.vic.gov.au

Your Rights and Legal Information www.banyuleyouth.com/your-rights-legalinformation

Where to get help www.legalaid.vic.gov.au

Serious Mental Health Problems in PWS, Foundation for Prader-Willi Research <https://www.fpwr.org/serious-mental-health-problems-in-prader-willi-syndrome>

Justice Support Service - Quick Reference Guide 2020. <https://www.cohealth.org.au/wp-content/uploads/2020/09/JusticeSupportServiceQRG.pdf>

FOR MORE INFORMATION
PLEASE CONTACT:

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pwsa **VICTORIA**

prader-willi syndrome association