



Purple Orange

# Advocating for vulnerable people to have better access to justice

JFA Purple Orange believes that Australia must prioritise and invest in protecting the rights and interests of people living with disability interacting with the justice system.

Historically, the justice system expects participants to adapt to it, rather than the other way around. However, **participation in the justice system is a human right**. The right to a fair trial does not only apply to defendants, but also to victims and society.

Recent research submitted to the Disability Royal Commission highlights the extent to which people living with disability are overrepresented in the criminal justice system in Australia with recent research suggesting **people living with disability make up 29% of Australia's prison population, despite forming only 18% of the general population**.<sup>1</sup> Furthermore, research by the Human Rights Commission found that the necessary procedural accommodations are frequently not provided, despite the high number of people living with disability in the criminal justice system.

Purple Orange has previously argued that people living with intellectual disability/cognitive impairment or related circumstances should not be questioned by police **without a familiar and trusted person or communication partner being present**, in keeping with the **Statutes Amendment (Vulnerable Witnesses) Act 2015**. The Act is intended to improve the position of vulnerable parties, namely children and persons with a cognitive impairment, within the criminal justice system, both in and out of court and is the statutory basis for the Communication Partner Service (CPS).

Unfortunately, the SA Government has not renewed CPS funding. From 1 March 2020, a **new model for communication partners** has been in place. Under this model, professionals with specialist expertise in providing communication assistance can be engaged by agencies and legal professionals (eg: members of the South Australia Police or legal practitioners) on a **fee-for-service basis**.

Communication Partners (CPs) can currently assist vulnerable people, such as people living with disability or other circumstances that affect their ability to communicate. CPs can assist in criminal cases, assisting victims and witnesses but also suspects and accused. However, CPs are currently

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<sup>1</sup> Australian Institute of Health and Welfare (AIHW).

**restricted to certain professionals**, such as psychologists, social workers and teachers paid for by the users of the scheme. A proposed model by **South Australian Law Reform Institute (SALRI)** advocates that any person with the necessary skills to assist someone with a complex communication need would be able to act as a CP. This is expected to support the use of appropriate CPs particularly in regional and remote areas of South Australia and for members of Aboriginal communities. A recently published SALRI report<sup>2</sup> includes **51 recommendations to the South Australian Government for changes to the law and practice, which include:**

- Changing the present system in which the users pays for the service into a publicly funded one managed by the State Government;
- Both volunteers, including family members and community figures, and paid professionals may act as communication partners so as to best cater for each person's individual needs;
- The role and value of pre-trial ground rules hearings, during which communication partners may help set the ground rules for subsequent trials;
- Better promotion of the scheme especially to communities that most need it;
- Various legislative changes;
- Operational, cultural and training changes to improve knowledge and use of the CP role.

JFA Purple Orange **calls on all political parties and candidates to commit to implementing all the recommendations in this report.**

**For further information, please contact Robbi Williams, CEO of JFA Purple Orange, on (08) 8373 8333 or [robbiw@purpleorange.org.au](mailto:robbiw@purpleorange.org.au).**

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<sup>2</sup> *Providing a Voice to the Vulnerable: A Study of Communication Assistance in South Australia, SALRI, 2021*