

UAVDI

Unidad de atención a víctimas con discapacidad intelectual

## FINAL SCIENTIFIC ACTIVITY REPORT

**Research Project: *Eliminating barrier faced by victims with intellectual disabilities in police and judicial proceedings***

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## I. SUMMARY OF THE PROJECT

### a. Introduction

The Support Service for Victims with Intellectual Disabilities of the Carmen Pardo-Valcarce Foundation, and the research project we present with the Spanish Police Behavioral Analysis Group and the University Complutense of Madrid, constitute the first initiative in Spain to tackle the problem of the vulnerability of people with intellectual disabilities (ID) to abuse and neglect, and to secondary victimization after their referral to the Protection Services.

This vulnerability is due to the fact that police officers and the judiciary lack the knowledge of all those practices that must be implemented in order to accommodate and make accessible the police and judicial environment to vulnerable alleged victims. The UN Convention, ratified by Spain in 2008, obliges public services to provide people with disabilities “Equal recognition before the law” (article 12) and “Access to justice” (article 13). To ensure this, changes in legislation and police and legal proceedings must be introduced.

After a qualitative analysis of the state of the matter regarding criminal legislation for people with ID, the obstacles faced by these people have been assessed, in order to analyze which supports should be introduced so that the current judicial process are aligned with the principles of the UN Convention. Some of the identified obstacles and supports include:

1) The current Penal Code, which is not yet aligned with the UN Convention when people with ID are victims of abuse. This project aims to promote changes in legislation to help the person with disability play a part in the legal process. For this purpose, and guided by the UN Convention, in article 12.3 (“...appropriate measures to provide access...to the support they may require...”) and 13.1 (“...provision of procedures...in order to facilitate their role as participants...in all legal proceedings...”), some of the measures that The Support Service for Victims with Intellectual Disabilities of the Carmen Pardo-Valcarce Foundation have achieved since 2010 when promoting the (“Spanish Phased adapted interview with victims with ID”) are:

- Allowing an expert in ID to evaluate the capacities that might affect the victim’s testimony, so that evidence is given in court under the Principle of Accessibility.
- Recording this evidence in those cases where a disability in memory has been detected in the previous psychological evaluation of their capacities.
- Offering the victim with ID the assistance of a support person, when giving their statement to the police or when giving evidence in court. The support person may

need to adapt the police or judge questioning to the capacities of the victim with ID.

2) There are still prejudices which render people with ID less credible as witnesses. This is another reason to implement adequate support and preparation for giving evidence, to have expert evaluators in ID during the process and to implement adapted procedures in the forensic methods that are commonly used when evaluating the credibility of victims of sexual abuse with ID, and to introduce adaptations and supports in the identification line-ups, to facilitate recognition and reduce misidentifications.

These obstacles were proven to exist in Great Britain and in the United States, and led to changes in legislation that potentially help witnesses with ID [e.g. for England and Wales, the Youth Justice and Criminal Evidence Act (Home Office, 2000); for the US, the Americans with Disabilities Act, 1990]. Important changes have also been introduced in police procedures, such as the inclusion of an Independent Sexual Violence Advisor, specialized in the assessment of the victim's capacities, such as their capacity to consent to a sexual relationship, in the Police Departments of Great Britain.

No previous study exists in Spain or Latin America that analyses police and judicial practices with victims and witnesses with ID. This research project constitutes the first step to detect the main barriers in Spain in access of victims with ID to justice. Its aim is to contribute to the introduction of supports in the police and judicial proceedings. If findings on the negative stereotypes that the general population holds concerning the ability of people with ID to give evidence in court, then it is essential for the jury to be informed of the abilities of the witnesses, so that decisions are made on facts rather than on prejudice (Stobbs and Kebell, 2003). Since 2011, the Support Service for victims with ID of the Carmen Pardo-Valcarce Foundation offers the services of a supporter/advisor in each of the police referral and judicial processes. The supporter/advisor is a psychologist, with expertise in clinical and forensic work with people with intellectual disability. His main functions are:

- To offer the adult victim support and explanations, so he or she can decide whether he or she wants to make the complaint to the police (it is very common that the family or workers who detect the abuse want to quickly make the complaint to the police without asking the victim if he or she wants to, and even worse, what does the complaint mean and what consequences does it have). In the cases of children with ID, the supporter will also prepare them, according to their age and level of understanding, by explaining the process).
- To assess, before the police interview, all the capacities that may affect the victim's statement [we have developed the "Spanish Phased Approach Interview adapted to victims with ID" (Recio, M. 2012)]. After the assessment, to prepare

the adaptations and supports with the public prosecutor or police agents for the moment that the victims will have to give evidence.

- To provide expert evidence in court, so that to some extent, perceptions of the reliability of witnesses with intellectual disabilities are improved.

This is not always possible, because the Spanish Penal Code is still not in accordance with the Convention, so it depends on the interpretation of the law that each judge makes. This is one of the main reasons why one of the objectives of our research project is to review current criminal legislation for people with disabilities, and the actual compatibilities and incompatibilities with the Convention, exposing in a White Paper the critiques to the traditional ways victims and witnesses with ID give evidence in court and the new approaches that must be introduced according to commitments to the Convention, similar to those that have been already introduced in procedures used with young children (video recordings, specialized psychologists asking the questions in court, etc).

Introducing changes in the access to justice of people with ID and implementing the Convention's guiding Principles in Spain could be a model for other Spanish speaking countries in America. With the aim of disseminating this problem and the needed changes to solve it, we developed a website for victims with ID and the professionals who work daily with them and their families ([www.nomasabusos.com](http://www.nomasabusos.com)), in which all research and proposals would be published; we believe a practical way to start helping professionals who want to change procedures in their countries would be to provide them with basic guidelines.

## **b. Methodology**

The research to identify the obstacles in access to justice by victims with Intellectual disabilities, and their equal recognition before the law and the implementation of procedures in accordance with the Convention is composed of several phases where different variables have been considered:

1) Giving evidence. In order to prosecute a case of alleged abuse, the person with intellectual disabilities must be able to describe what has happened to them, and be able to give evidence in court. The Convention establishes that interviews must be adapted to enable the person with ID to describe what happened. There are principles of Good Practice concerning interviews in general, which will be assessed by two independent evaluators:

- Give some thought to the questions you will need to ask before the interview starts.
- Keep the language clear and simple
- Try to keep to one idea per sentence

- Keep the sentences short
- Find out what the person's own words are for specific things
- Be supportive

The factors that Bull (2010) interviewers need to take into account will also be assessed, comparing police who have been specially trained to deal with people with ID to those that have not been trained:

- Speak slowly
- Allow extra time to enable the person with ID to take in what is being said
- Allow time for the person with ID to think about their answer
- Not rush questions
- Avoid interrupting

Recio (2012) also points out the importance of evaluating the capacities that affect their testimony in order to facilitate the interview. The quantity and quality of details obtained when giving evidence will also be compared in the cases where a Supporter-advisor intervenes and evaluates those capacities before the questioning phase and those other cases where capacities are not assessed.

2) Asking questions. There is research evidence that the method "Achieving Best Evidence" (ABE) has been proven to be the best method for interviewing people with ID. The structured ABE follows a set format (rapport/free narrative/open questions/closing), that is almost never used in Police Groups. We assessed the using of this interviewing method and compared the quantity of details given when using it and when not using it.

This methodology has been adapted to each phase of the research:

- Qualitative Review of the State of Matter regarding current criminal legislation for people with intellectual disabilities, comparing Spanish, French and English criminal legislation.
- Qualitative Case Study Research, to assess the obstacles faced by 30 victims with ID and their families in the police referral and the judicial processes. The qualitative data sources are:
  - Observation and Participant Observation (fieldwork) in the cases selected where the Care Unit for Victims with Intellectual Disabilities has intervened, comparing those cases where the the Supporter-advisor was present and those where it was not.
  - Interviews and questionnaires (to victims, their families, police agents and members of the judiciary) to detect the main impairments to article 12 and 13 of the Convention in the police Interview and the victim's first referral and further interviews in the judicial process. The variables analysed are:

the type of questioning, the capacity of the police and judiciary to adapt procedures (identification line-up and interview) and the ways in which the difficulties of the victims are or are not assessed when giving evidence in court.

- Delphi Groups (clients of our Support Unit with ID and their families; specialized professionals in ID; law and police agents) to assess obstacles regarding disclosure, complaint, judicial investigation and trial.
- Experimental studies, to analyse the factors affecting the assessment of the credibility of the statements of victims with ID and the way their capabilities must be assessed in order to design the needed supports. Understanding the factors that affect the accuracy of the statements of victims will minimize its impact. Moreover, this allows for the design of protocols that control these factors considering the actual capabilities of these people beyond the myths about their performance as witnesses in criminal cases.
- Expert Group Sessions, to identify and design supports to eliminate the previously identified barriers. We have reviewed and defined the elements of good practice of other European countries. Having selected these good practices, and identified the obstacles, during the second semester of year 2014, the research team worked with multidisciplinary expert groups (lawyers, judges and ID expert therapists, policemen, forensic psychologists, people with ID and their families) in order to define supports for each previously identified barriers.

The first and the third phase were the focus of the first year of project, while the second and fourth were developed during 2014. Lastly, we fulfilled a commitment related to the interchange of good practices in the police proceeding, concerning the French translation of the guide of police intervention with people with intellectual disabilities, introduced to the Spanish police forces during 2012, and the possibility of adaptation to the French police. In relation to the latter, a series of contacts with the French police and the Gendarmerie were established, and the FIRAH was made aware of these conversations, definitely being in charge of them in December 2014.

## II. PROJECT DEVELOPMENT

### a. Experimental studies

**1. Bibliographical review; 2. True and false statements given by persons with intellectual disabilities using the CBCA-SVA content criteria; 3. Evaluating the Credibility of Statements Given by Persons with Intellectual Disabilities.**

## 1. Bibliographical review.

First of all, the research team worked on collecting a descriptive bibliography of the applied research already carried out on the subject of this research project. This inventory was made with documents available in English, French and Spanish. The list includes web links to the research reports mentioned as well as all of the other application supports produced during or after the research.

As the main objective of the first year of the project was to assess obstacles faced by victims during the police and judicial proceedings, we divided the bibliographical review into the following areas. For each area we have chosen the most relevant bibliography:

	AREA	RELEVANT BILIOGRAPHY
Bibliography related to Police Proceedings	a.1) Police interview	1. Milne and Bull, 2006 2. Ministry of Justice, 2011
	a.2) Identification line-ups	3. Manzanero et al, 2012
	a.3) Good Practices in Police Proceedings	4. Office of Victims of Crime, 2009 5. US Department of Justice, 2007 6. Fundación Carmen Pardo-Valcarce y Guardia Civil, 2012
Bibliography related to Judicial	b.1) Criminal legislation for people with intellectual disabilities	7. Ministry of Justice (Spain), 2013. 8. United Nations Organization, 2007 9. Ley Española de Enjuiciamiento Criminal, 1882
	b.2) Obstacles in trial	10. Peled, Larocci and Connolly, 2004 11. Henry, Ridley and Crane, 2011

Proceedings	b.3) Good practices with vulnerable witnesses in trial	12. Northern Ireland department of Justice, 2010. 13. Great Britain Crown Prosecution Service, 2009
	b.4) Forensic intervention and credibility assessment	14. Fyson and Cromby, 2010 15. Young, Powell and Dudgeon, 2003

The rest of the bibliographical review is developed in the documents and the inventory included in the Deliverable 1.

## 2. True and false statements given by persons with intellectual disabilities using the CBCA-SVA content criteria.

### Summary

The objective of the study is to analyze the different characteristics of true and false statements given by persons with intellectual disabilities (ID) using two commonly used procedures -Criteria-Based Content Analysis (CBCA-SVA) and Reality Monitoring (RM) – and to examine the different characteristics of the statements according to the emotion expressed.

Two evaluators trained in CBCA and RM evaluated 13 true statements and 16 false statements of people with ID. The results show that:

- Based on CBCA and RM content criteria, there are few differences between true and false statements.
- There are no significant differences in the emotion expressed recalling the event.
- CBCA and RM are not valid to be used in forensic contexts when assessing the credibility of the statements given by people with ID.
- The emotion expressed when recalling a traumatic event must not be used to infer the credibility of the statement of the person with ID.

### Method

### *Participants*

Twenty-nine persons with intellectual disability participated in the study. Thirteen of the participants were actual victims, with a mean IQ of 60.72 (SD=9.67) and a mean chronological age of 35.18 years (SD=7.16), and sixteen were simulated victims, with a mean IQ of 59.30 (SD=9.44) and a mean chronological age of 33.75 years (SD=6.78).

### *Procedure*

To conduct this research, a real event was chosen that happened two years ago—a day trip taken by a group of persons with ID from the Carmen Pardo-Valcarce Foundation, during which the bus they were traveling in caught fire. A researcher selected the participants, all of comparable IQ, on the basis of criteria for the “true” group—did go on the day trip—and the “false” group—did not go on the day trip but knew about the event from references made to it. All persons with ID who participated in the study (or their legal guardians) signed consent for voluntary participation. Each of the persons with ID was given instructions and informed of the purpose of the research. In addition, those participants who did not go on the day trip were given a summary of the most important information about the trip, such as the location, the trip’s primary complication, and how the day went. We increased the ecological validity of our study by encouraging all participants in the two groups to do their best when giving their testimony. However, to avoid putting them under too much pressure to make the interviewer believe their testimony, we chose an incentive that was not stressful—they would be invited for a soda if they succeeded in convincing the interviewer that they had, in fact, experienced the event. In addition, the persons with ID who belonged to the false statement group were told explicitly that they had the option to lie and were assured there would be no negative consequences if they did so, thereby preventing undue tension.

Two “blind” researchers, experts at interviewing and taking testimony, interviewed each participant individually. An audiovisual recording was made of all interviews. The same instructions were given for all interviews conducted: “We want you to tell us what happened when you went on the day trip and the bus caught fire... from beginning to end, with as much detail as you can give. We want you to tell us even things that you might think are not very important.” Once the free statement was obtained, all participants were asked the same questions: Who were you with? Where was it? Where were you going? What did you yourself do? And what happened afterwards? The interviews were conducted in random order.

The interview tapes were transcribed to facilitate analysis of the phenomenological characteristics of the statements, with any reference to the participant’s group eliminated. Two trained evaluators assessed each statement

individually on each of the content criteria proposed in the CBCA and RM procedure, and then an interjudge agreement was reached. The degree of agreement between encoders [ $AI = \text{agreements} / (\text{agreements} + \text{disagreements})$ ] for all measurements analyzed was greater than .80 (Tversky, 1977).

Following the proposals for analyzing credibility based on content criteria (CBCA / SVA) four emotion-related criteria (description of own mental state, description of the mental state of others, emotional expressions during the narrative, and consistency between expressed emotion and the event) were examined in the narratives issued by people with ID on a negative and potentially traumatic event that the person interviewed had experienced or not.

### Results and conclusions

- Based on CBCA content criteria, there are few differences between the two types of statements—quantity of details, contextual embedding, and reproduction of conversation being the only criteria that proved to be significant in discriminating (see the graphic):

#### Results of the comparison between true and false statements using the CBCA-SVA content criteria.

	<u>False Statement</u>		<u>True Statement</u>		<u>Total</u>		r
	Mean	SD	Mean	SD	Mean	SD	
Logical structure	5.67	2.74	6.86	2.32	6.23	2.58	-0.228
Unstructured production	6.11	2.54	5.46	2.82	5.81	2.65	0.120
Quantity of details **	7.35	3.60	13.93	4.74	10.43	5.29	-0.615
Contextual embedding *	2.52	1.06	3.93	1.90	3.18	1.65	-0.411
Interactions	1.23	1.98	1.53	2.26	1.37	2.09	-0.070
Conversations *	0.41	0.50	1.40	1.59	0.87	1.23	-0.387
Unexpected complications	0.47	0.79	0.40	0.50	0.43	0.66	0.052
Unusual details	0.58	0.79	0.80	0.86	0.68	0.82	-0.132
Superfluous details	0.00	0.00	0.40	0.82	0.18	0.59	-0.326
Details misunderstood	0.23	0.56	0.00	0.00	0.12	0.42	0.278
External associations	0.05	0.24	0.13	0.35	0.09	0.29	-0.132
Subjective mental state	0.88	0.99	1.00	1.25	0.93	1.10	-0.053
Other's mental state	1.47	1.28	1.13	1.50	1.31	1.37	0.120
Corrections	0.17	0.39	0.13	0.35	0.15	0.36	0.053

Lack of memory	2.38	3.47	2.16	3.08	2.28	3.24	0.033
Doubts	0.29	0.58	0.50	0.62	0.39	0.60	-0.172
Characteristic details	1.88	1.45	2.13	1.18	2.00	1.31	-0.094

*Means and Standard Deviations for Content Criteria and Effect Size (r), in Relation to Type of Statement. \*\* Significant effects  $P < .01$ ; \* significant effects  $P < .05$*

- One-way factorial analysis (ANOVA) of the content criteria proposed in RM showed that only amount of detail [ $F(1,31)=19.800, p < .01, \eta^2=.398, 1-\beta=.990$ ] and length of statement [ $F(1,31)=5.526, p < .05, \eta^2=.156, 1-\beta=.624$ ] were significant. The results are in press in the scientific Spanish journal “Anales de Psicología” and are included in Deliverable 10.
- The results show no differences in the emotion-related criteria between true and false statements. In conclusion, emotions must be valued with caution, as they can lead to misjudgments of credibility. These results were published in 2013 and are attached in Appendix 1.

### 3. Evaluating the Credibility of Statements Given by Persons with Intellectual Disabilities.

The objective of this study was to analyze the features that distinguish statements given by actual and simulated victims with mild to moderate intellectual disability, using the credibility analysis procedure known as Reality Monitoring (RM). Two evaluators trained in credibility analysis procedures using content criteria evaluated 13 true statements and 16 false statements. The results obtained show that there is little difference between the two types of statements when analyzed on the basis of content criteria using the RM procedure. The only criteria that proved to be significant for discriminating between the two types of statements were the amount of detail and the length of spontaneous statements obtained through free recall. None of the phenomenological characteristics studied turned out to be significant for discriminating between actual and simulated victims. Graphic representation using high-dimensional visualization (HDV) with all criteria taken into consideration shows that the two types of statements are quite heterogeneous and can be distinguished from each other with a 78.12% chance of accuracy.

The rest of this scientific article is developed in Deliverable 10.

#### b. Qualitative Review of the State of Matter

The purpose of this report was to identify legal rules that could be useful in removing barriers faced by people with intellectual disabilities in the exercise of their right of access to justice, where they have been victims of abuse. To achieve this, we analyzed the legal provisions presented in other European countries, especially the United Kingdom and France.

The starting point was that the main obstacles were grouped around three points: the identification of abuse, the complaint to police and the judicial procedure. Regarding the first point, in addition to specifying the obligations that are generated for the person in charge or institutions, an important aspect is the sex education received by the individual. Concerning the complaint to police, in addition to supports making the communication processes accessible, it was important to analyze whether, in the case of sexual abuse, the victim understands the scope of their decision. On the judicial procedure, accessibility is as important as the way to ensure the viability of the evidence. Finally, since these obstacles not only make access to justice difficult, but also produce a re-victimization of disabled persons, the study sought to differentiate the guarantees relating to both dimensions in each of the sections.

The preliminary conclusions of this study were already given in the intermediate report, and the final conclusions of the comparative study of legislation are set out in a final paper as Deliverable 4. Furthermore, this final paper includes a summary paper translated into French, and presented as Deliverable 5.

Lastly, the research team prepared an article from the final paper that presents, in a systematic manner, major barriers identified, along with the proposed solutions in Spain, the UK and France, and a reflection on the strengths and weaknesses of each model in light of Article 13 of the Convention on the Rights of Persons with Disabilities (Deliverable 6).

### **c. Qualitative Case Study Research**

This study is the result of analyzing 29 cases of persons with intellectual disability who were victims of some type of mistreatment or abuse and who, after filing a complaint, were processed through the criminal justice system—not always with all the recommended supports. The research analyzes the experiences of these alleged victims of crime to determine the source and scope of the primary obstacles blocking their access to proper and effective protection under the law.

The objective of the study was to analyze the procedures followed during the processing of cases being assisted by the Victims With Intellectual Disability Support Unit (2011-2014). For this purpose, any irregularities or interventions in law enforcement and judicial procedures that could potentially be improved through an updating of current legislation were documented, from the moment the event occurred to the point where the judicial proceedings ended.

The results, conclusions and recommendations of the Qualitative Case Study Research are presented in Deliverable 7, and have been compiled and translated into French in a scientific paper format, which is the Deliverable 8.

#### **d. Police Guide translation**

The police guide for victims with intellectual disabilities was the first specialized police guide in Spain, and one of the few in Europe, that uses adaptations and supports in police proceedings with people with intellectual disabilities, in accordance with the Convention.

All contents in the guide were developed after three years of research activities that still continue. The aim of this research project is to know how to give the necessary support to victims with intellectual disabilities in the police process, assessing the abilities that may affect the process of interviewing and ensuring that the questions and language of the interviewer are adapted to the capacities of the person with disabilities.

The research team held a series of meetings with representatives of the French gendarmerie and police outside the French Embassy to talk about the possibility of implementing police intervention guidance in the French police. Their contacts are:

- Fabrice Ars (Lieutenant-colonel, Attaché de Sécurité Intérieure adjoint):  
fabrice.ars@diplomatie.gouv.fr
- Pierre-Philippe Labbé (Capitaine de Police, Officier de liaison UCLAT):  
uclatmadriddodl@gmail.com
- Didier Nicou: [dcj.odlgc@yahoo.fr](mailto:dcj.odlgc@yahoo.fr)

Today the FIRAH continues to maintain contact with these representatives to promote the implementation of the police guide in France.

The French version, presented as Deliverable 9, consists of a set of recommendations for police proceedings that would be downloadable in our web ([www.nomasabuso.com](http://www.nomasabuso.com)) and in FIRAH's web.

### e. Conferences

Between 2013 and 2014, the research team in a total of three conferences with two objectives: first, to present the progress of the project developed within the boundaries of agreements with the FIRAH; secondly to denounce the vulnerability of people with intellectual disabilities in their access to justice, thereby performing a task of social awareness.

The first conference, entitled "People with disabilities before the new criminal procedure" was held in October 2013 in collaboration with CERMI. In it, one of the researchers, Maria Recio, described the programme developed by the Carmen Pardo-Valcarce Foundation and the Civil Guard, and explained the guidelines for police intervention with people with intellectual disabilities, which establishes adaptations in the police investigation when giving evidence identification, and adaptations in the assessment of credibility, whilst upholding the commitment to implement adequate procedures adjustments, as established by the UN Convention, among other issues.

The second conference was held at the International Congress of Legal and Forensic Psychology, in October 2014 in Santiago de Compostela. At this conference, speakers emphasized the difficulties for victims with intellectual disabilities during police investigations and court proceedings, and proposed a series of support measures to alleviate these difficulties.

The third conference was in EACME 2014, held in October 2014 in Lille ("Frailty, vulnerability and social participation"). At this conference, the research team presented the project developed in collaboration with the FIRAH, as the first initiative in Spain and one of the few in Europe to tackle the problem of the vulnerability of people with intellectual disabilities to abuse and neglect and to a process of secondary victimization after their referral to the protection services. The base-line of the conference was to present the results of the Qualitative Review of the State of Matter regarding current criminal legislation for people with intellectual disabilities, comparing Spanish, French and English criminal legislation, and analysing whether the current Penal Codes are or are not aligned with the principles of the UN Convention; and secondly to present the results of the Qualitative Case Study Research to assess obstacles faced by victims with ID and their families in the police referral and the judicial process.

Each of the three presentations at the three congresses described above are available in the links included in the document "Conferences", which is attached to the Deliverables.

### III. GOALS ACHIEVED

The main objectives of the project were to identify all the difficulties and obstacles faced by victims with intellectual disabilities in their access to justice, to design and propose supports and accommodations to mitigate or eliminate these difficulties, and to disseminate these results in order to promote legislative changes to ensure compliance with the UN Convention and a greater social and professional awareness.

The outcomes from the Experimental Studies, the Qualitative Review of the State of Matter and the Qualitative Case Study Research have clearly been a solid basis for identifying the barriers that victims with intellectual disabilities face on their way through the court system after filing a complaint. These results, once submitted to the FIRAH, will be posted on the website of the Carmen Pardo- Valcarce Foundation as a first step to their widespread dissemination.

In order to disseminate the results of the project, several expert groups organized, a number of professional and family training sessions and workshops were delivered, and several scientific articles were published. The participation of psychologists, lawyers and police in this project also ensured the transfer of knowledge to groups involved in the care of victims with intellectual disabilities.

Furthermore, in order to make the research available to people with intellectual disabilities and their families, and to those professionals who work daily with them, we have developed a website ([www.nomasabusos.com](http://www.nomasabusos.com)) for the dissemination of knowledge on their rights and intervention if these rights are abused; different materials in “easy reading” format are accessible. This website also presents an on-line training platform where courses on prevention and intervention for victims with intellectual disabilities are offered. Professionals in Spain and Latin American countries will benefit and therefore help to change procedures and raise awareness in their countries.

As the results of the project have been significant, there are still several scientific articles awaiting publication; the diffusion of the research and its impact is expected to continue to increase.

Finally, regarding the financial aspect, the total cost of the research project followed broadly the initial budget presented in the call, as outlined in the final financial report attached to the Deliverables. The costs, which amounted to 6,265.51€, were paid by the Carmen Pardo- Valcarce Foundation.

#### IV. RESEARCHERS AND STAKEHOLDERS

Researchers:

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Unidad de atención a víctimas con discapacidad intelectual

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- Antonio Manzanero. Doctor in Psychology. Professor in Universidad Complutense de Madrid.

### Stakeholders:

1. Victims with intellectual disabilities and their families who attend the Care Unit for Victims with Intellectual disabilities of the Carmen Pardo-Valcarce Foundation.
2. Staff and professionals in practice working in the Care Unit for Victims with Intellectual disabilities.
3. Judicial Police of the Civil Guard.
4. Justice and Disability Forum.
5. Instituto Bartolomé de las Casas de la Universidad Carlos III

## V. APPENDICES

### Appendix 1 (attached in PDF)

### Appendix 2. Normative acts

SHARED
<p>Convención Internacional sobre los Derechos de las Personas con Discapacidad</p> <p>Plan de Acción para las Personas con Discapacidad 2006-2015 del Consejo de Europa</p> <p>Decisión marco del Consejo <u>2001/220/JAI</u>, de 15 de marzo de 2001, relativa al estatuto de la víctima en el proceso penal.</p> <p>Informe de la Comisión de 20 de abril de 2009 de conformidad con el artículo 18 de la Decisión marco del Consejo, de 15 de marzo de 2001, relativa al estatuto de la víctima en el proceso penal [COM (2009) 166 final – no publicado en el Diario Oficial].</p> <p>Informe de la Comisión de 3 de marzo de 2004 de conformidad con el artículo 18 de la Decisión marco del Consejo, de 15 de marzo de 2001, relativa al estatuto de la víctima en el proceso penal</p> <p>Directiva 2012/29/UE del Parlamento Europeo y del Consejo, de 25 de octubre de 2012, por la que se establecen normas mínimas sobre los derechos, el apoyo y la protección de las víctimas de delitos, y por la que se sustituye la Decisión marco 2001/220/JAI del Consejo</p>
ENGLAND
<p style="text-align: center;"><u>Acts</u></p> <p>Mental Health Act 1983</p> <p>Sexual Offences Act 2003</p> <p>Youth Justice and Criminal Evidence Act 1999</p> <p>Criminal Evidence Act 2003</p> <p>Capacity Act 2005</p> <p>Equality Act 2010</p> <p>Criminal Procedure Rules (revised in 2013).</p> <p style="text-align: center;"><u>Official statutory Codes and Official Guidances</u></p>

## UAVDI

Unidad de atención a víctimas con discapacidad intelectual

Provision of Therapy Prior to a Criminal trial for vulnerable or intimidated witnesses: Practical Guidance, 2001.

'No Secrets', Department of Health's Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse,

2001 Code of Practice for Pre-trial Witness Interviews, 2005.

Early special measures discussions between the police and the Crown Prosecution Service, Practice Guide, 2009.

Special measures meetings between the Crown Prosecution Service and witnesses, Practice Guide, 2009.

Public Policy Statement Supporting victims and witnesses with a learning disability, 2009.

*Guidance on Responding to People with Mental Ill Health or Learning Disabilities, 2010*

Achieving Best Evidence. Guidance on interviewing victims and witnesses, and guidance on using special measures 2011

Vulnerable and Intimidated Witnesses A Police Service Guide, 2011.

Victims and Witnesses who have Mental Health Issues and/or Learning Disabilities - Prosecution Guidance, 2011.

'Raising the Bar: the Handling of Vulnerable Witnesses, Victims and Defendants in Court', 2011.

*Rape and Sexual Offences* Guidance.

The registered intermediary Procedural Guidance Manual, 2012.

Code of Practice for Victims, 2013.

Code for Crown Prosecutors, 2013.

Legal Guidance, Crown Prosecutor Service, 2013.

*Equal Treatment Bench Book*, revised in 2013.

### FRANCE

Loi du 11 février 2005 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées

Code civil

Code de l'action sociale et des familles

Code de la santé publique

Code de Procédure Penal

Code de l'organisation judiciaire

Loi n° 2011-803 du 5 juillet relative aux droits et à la protection des personnes faisant l'objet de soins psychiatriques et aux modalités de leur prise en charge

## UAVDI

Unidad de atención a víctimas con discapacidad intelectual

Loi n° 2008-644 du 1er juillet 2008 créant de nouveaux droits pour les victimes et améliorant l'exécution des peines

Décret du 13 de noviembre de 2007, relatif a la création du juge délégué aux victimes

### SPAIN

Ley 51/2003 de Igualdad de Oportunidades, no Discriminación y Accesibilidad Universal de las Personas con Discapacidad

Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y su inclusión social

Código civil

Ley de Enjuiciamiento Penal

Ley Orgánica del Poder Judicial

Código Penal

Ley 35/1995, de 11 de diciembre, de Ayuda y Asistencia a las Víctimas de delitos violentos y contra la libertad sexual (desarrollada por el Real Decreto 738/1997, de 23 de mayo)

Ley Orgánica 1/1996, de 15 de enero, de Protección Jurídica del Menor

Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la

Violencia de Género

Ley 29/2011, de 22 de septiembre, de Reconocimiento y Protección Integral a las Víctimas del Terrorismo

Proyecto de Ley Orgánica por la que se modifica el Código Penal

Anteproyecto de Ley Orgánica del Estatuto de la Víctima del Delito

Circular 3/2009 del Fiscal General del Estado sobre la protección de menores víctimas y testigos.

## Appendix 3. Questionnaire to detect obstacles

### 1º) PREVIOUS DATA

- Gender:
- Type and frequency of offences:
- Victim's age:
- Type of disability:
- Relation with the accused:
- Is the victim under a tutelage or guardianship?

### 2º) CASE SUMMARY

1. Schedule:
2. Open cases:
3. People involved:
4. Origin:

### 3º) SUSPICION/DISCLOSURE CONTEXT

1. Why is the offence suspected?
2. Who did the victim speak to about the offense for the first time?
3. How many people interviewed the victim before the complaint?
4. Before the complaint, was it explained to the victim what the complaint is about, the persons who are involved in it, the consequences that it entails and his role in the process? Were the explanations adapted?
5. In the case of non-complaint, what reason is given?
6. Did the victim participate in the decision of submitting a complaint?
7. Was the police and judicial process explained to the victim?

#### 4º) COMPLAINT CONTEXT. BEFORE AND AFTER THE COMPLAINT

8. How long did it take from disclosure to the complaint?
9. Relative to the complaint, which was the opinion of the person with intellectual disabilities? And what was the opinion of his family?
10. Did someone request assistance of an expert or advisor specialized in ID during the complaint? In that case, what type of professional? What was his role?
11. Where was the complaint submitted? To the Civil Guard or the National Police Force? In a specialized service or not? (The Specialized Family Service/ The Minor and Woman Specialized Service/ The Criminal Behavioral Analysis Department)
12. Where did the first statement-taking interview with the victim take place? Was it recorded?
13. Could the victim testify with his family? Did any professional attend the victim during the complaint?
14. If the abuse is within the family, has the accused been in touch with the victim at any moment?
15. Were the agents aware of the victim's disabilities?
16. Was a capability exam interview carried out with the victim?
17. Was the interview adapted to the person who submitted the complaint, taking into account the person's disabilities? (Questions with an easy structure, for example).
18. Did the professionals take part in the interview's adaptation?
19. Which kind of questions were used? Open questions as "tell me everything you can remember", "where did the incident happen?", or closed questions as "did he harm you?", "did it happen at school?" Were suggestive questions used?
20. Was the victim asked if she wanted to have those sexual relationships? Or if she consented to them?

21. To how many people had the victim spoken of the abuse? (Police officers, public prosecutors, expert witnesses...).
22. Were precautionary measures ordered to promote the victim's protection?
23. If so, were they authorized?
24. If they were not authorized, what was the main reason?
25. Was the capacity to consent to sexual relationships assessed? (In the case of sexual abuse).
26. Who did the assessment?

#### 4º) JUDICIAL INVESTIGATION

27. Were the judicial proceeding and his role in it explained to the victim?
28. How long did it take from the complaint to the first citation in court?
29. Was the notification where the victim was cited written up in a way that was easy to understand, taking into account the victim's disabilities?
30. Prior to the citation in court, was the victim informed about court procedures?
31. Were his rights announced to the victim, taking into account the adaptations that should be carried out?
32. Did the legal defense of the victim know what the intellectual disability is?
33. Where did the statement taking occur?
34. During the statement taking or before it, was the victim assisted by an expert or a professional? Did someone who could be an emotional advisor to the victim accompany her during the statement taking?
35. Were expert reports ordered? What kind of expert reports?

36. Were the victim's disabilities taken into account to adapt the interview (questions with an easy structure)? What kind of questions were asked of the victim (open, closed, suggestive questions...)?
37. Were pre-constituted evidences ordered to avoid repeating the victim's statement-taking at the trial? If so, was the pre-constituted evidence accepted?
38. Did the appearance have to be repeated, or did it take place just once before the trial?
39. Were contradictions presented between the statement taking in the complaint and that which took place in the judicial investigation? If so, explain them.
40. Did the victim see the accused during the statement taking?
41. Was the non-contact between the victim and the accused guaranteed during the judicial investigation?

## 5º TRIAL

42. How long did it take from the statement taking in the judicial investigation to the trial?
43. Prior to the trial, was the victim informed on how the trial was going to be carried out, the persons who were involved in it and his role in the process?
44. During the trial or before it, was the victim assisted by an expert or a professional? Did someone who could be an emotional advisor to the victim accompany her during the statement taking? How was the victim?
45. Did the victim's statement taking occur, or was pre-constituted evidence used?
46. Was there any contact between the victim and the accused before the trial?
47. Did the victim's statement taking in trial occur in the same room where the accused was? Or did they use a video-recorded system or similar?

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48. Were the expert appearances ordered?
49. Did anyone assess the impact of the victim's capacities in statement taking and in the judicial process?
50. Were the victim's disabilities taken into account in adapting the questions of the persons involved in trial? What kind of questions were asked of the victim (open, closed, suggestive questions...)?
51. Were contradictions presented between the statement taking in the judicial investigation and that which took place in the trial? If so, explain them.
52. Was expert evidence given during the trial? What kind of expert evidence?
53. Were there other types of evidence given?
54. Did any confrontation occur between the victim and the accused?
55. Were any myths or prejudices observed during the trial? Which ones?

### 6º) SENTENCE

56. Was the sentence written up using an easy structure responding to the victim's needs?
57. Was the victim informed as to the possibility of appeal in an easy and adapted way?
58. Was the sentence an acquittal or a conviction? What reasons were given for the decision?
59. Were any myths or prejudices observed in the sentence? Which ones?