



## **POLICY STATEMENT ON CRIMINAL JUSTICE FOR PERSONS WITH DOWN SYNDROME**

People with Down syndrome, like other Singapore Citizens, have the right to justice and fair treatment in the criminal justice system.

### **ISSUE**

The lack of understanding of Down syndrome in the current criminal system has taken advantage of the inherent weaknesses of Persons With Down Syndrome (PWDS) to serve its ends.

#### *Arrest*

The criminal justice system does not consider the unique weaknesses of Down syndrome when managing PWDS. While the current initiative in Developmental Disability Registry (DDR) identifies PWDS, as part of People With Intellectual Disabilities, DDR does not inform law enforcers about the issues that they should look out for when approaching PWDS. PWDS are often left shocked and bewildered during the arrest process, without proper understanding of the situation. As a result, frightened PWDS often attempt to free themselves out of the seemingly threatening situation, which are misconstrued as resisting arrest.

#### *Investigation*

The criminal justice system prevents PWDS from stating their inputs defensively. While extracting information under duress prevents scheming mainstream offenders from altering factual information, such treatment on PWDS often generate distorted information. While investigators construe and communicate hypothesis to PWDS, PWDS do not have the mental capacity to argue or present alternative views on such hypothesis. PWDS would, instead, try to agree with the hypothesis in an attempt to placate the investigators.

#### *Legal Consideration and Sentencing*

The criminal justice system does not recognise the limited mental capacity of PWDS, in its legal consideration on:

1. PWDS' understanding of their offences
2. Appropriate punishments to deter future offences

The criminal justice system's views of PWDS as similar to the mainstream population begs the question of PWDS' ability to understand the gravity of their offences. As adult PWDS cognitive functions fall between that of a 10 year-old and 20-year-old mainstream individual, the understanding of their actions will differ from a regular individual of their age. It may, thus, seem inappropriate for all adult PWDS to receive Adult punishments, when they maintain the cognition of a young child. While the criminal justice system gives differential treatments between Adults and Young Persons for the mainstream population, such treatments are found wanting for PWDS with differing levels of cognitive functions.

## **POSITION**

Down Syndrome Association (Singapore) is of the view that offending PWDS deserves his/ her right to:

1. Understand his/her offending actions
2. Be understood on his/ her inputs on these actions
3. Understand the situation that these actions have brought about
4. Have his/ her inputs considered in the Court of Law
5. Receive appropriate punishments resulting from these actions

Hence Down Syndrome Association (Singapore) is of the opinion that:

### *Arrest*

During arrest, law enforcers must take measures to ensure PWDS understand:

1. The purpose of law enforcers' presence
2. The PWDS' offending actions
3. The consequences of these actions
4. The events that follow the arrest

### *Investigation*

During interrogation, Law enforcers must understand:

1. PWDS readily understand simple concepts.
2. PWDS' ability to construe schemes and stratagem are limited.
3. PWDS' ability to withstand stress is limited.
4. PWDS need to take more effort in verbalising their thoughts.
5. PWDS would volunteer information more readily in the presence of their caregivers.

Hence, law enforcers must take measures to ensure that:

1. The interrogation process is not threatening to PWDS.
2. Caregivers of PWDS are contact to assist the interrogation process.
3. Complex concepts are broken down into simpler ones that PWDS can understand.
4. PWDS' statements are recorded in verbatim.

### *Legal considerations and Sentencing*

In the Court of Law, considerations must be given on:

1. PWDS' current levels of cognitive functions.
2. The appropriate punishment which is based on PWDS' levels of cognitive functions