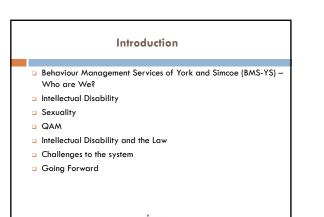
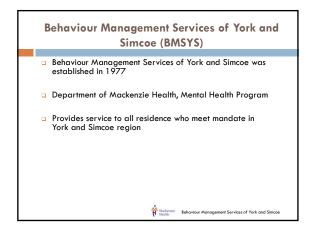
# SEXUALTIY, DISIBILITY & THE LAW

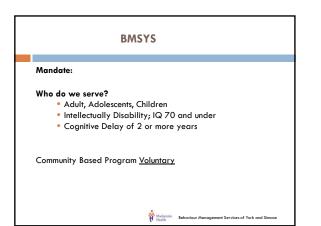
#### Myths and Facts Regarding Sexuality and Individuals with Developmental Disabilities

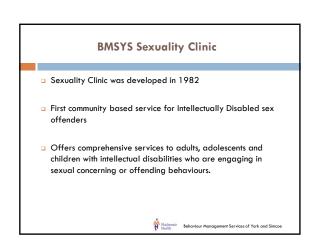
#### Respond True or False

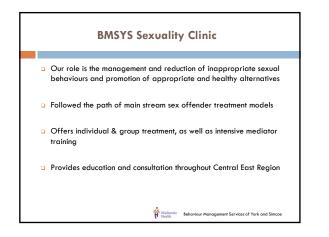
- \_\_\_\_\_ Individuals with Intellectual Disabilities are not able to plan offences.
- Individuals who are severely or profoundly delayed are safe from sexual abuse because they live in highly supervised settings and are never left out of the sight of staff or family members.
- \_\_\_\_\_ Sex education must be given to a child at a certain age to be beneficial.
- \_\_\_\_\_ Most persons who are developmentally delayed do not have a sexual drive.
- \_\_\_\_\_ Individuals with Intellectual Disabilities are never credible witnesses.
- \_\_\_\_\_ Teaching Relapse Prevention Therapy to individuals with developmental disabilities who have sexually offended, is more difficult than with the nondisabled population.
  - \_ Individuals with Intellectual disabilities can not give consent for sexual activity.

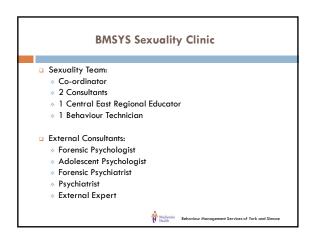












Intellectual Disability & Sexuality

#### INTELLECTUAL DISABILITY

 Intellectual disability is a disability characterized by significant limitations both in intellectual functioning and in adaptive behaviour, which covers many everyday social and practical skills. This disability originates before the age of 18.
 -AAIDD

# General Characteristics of Individuals with an Intellectual Disability Cognitive Deficits Co-morbid disorders Culture/Experience Institutionalization Sex free or anti sex environments Abuse or neglectful upbringings

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Characteristics of Intellectually Disabled individuals who sexually offend Not a homogenous group Difficulty learning and retaining abstract concepts

- Difficulty generalizing information and skills
- Lack of opportunity in typical social and living situations
- Lack of opportunity and experience with appropriate relationships

#### **Definition of Sexuality**

- Sexuality is an integral part of everyone.
- It is a basic need.
- It is an aspect of being human.
- $\hfill\square$  It can not be separated from other aspects of human life.
- It is not synonymous with sexual intercourse.

#### **Definition of Sexuality**

- It is an energy that motivates us to find love, feel warmth and intimacy.
- It is expressed in the way that we feel, move, touch and are touched.
- □ It influences our thoughts, feelings, actions and interaction.
- It influences our mental and physical health.

(Langfeldt & Porter, 1986, p.5)

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### Intellectual Disability and The Law

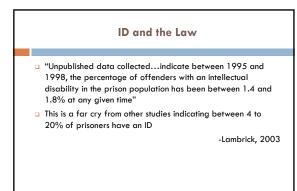
#### Prevalence of Intellectual Disability in Sex Offending

- 4% of population has intellectual disability
- Up to 51% of sex offending population has an intellectual disability
- Appears to be disproportionately high

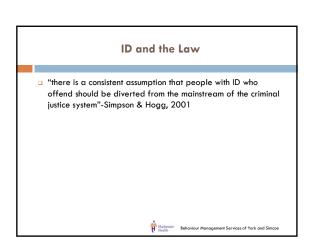
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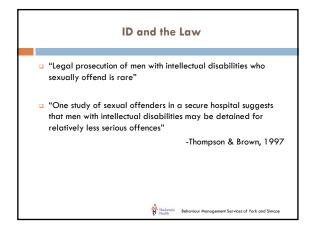
Prevalence of Intellectual Disability in Sex Offending
"Unpublished data collected...indicate between 1995 and 1998, the percentage of offenders with an intellectual disability in the prison population has been between 1.4 and 1.8% at any given time"
This is a far cry from other studies indicating between 4 to 20% of prisoners have an ID
-Lambrick, 2003

# ID and the Law ■ "Offending by sexual offenders with an intellectual disability may go unreported due to inconsistent responses by authorities and the belief that this behaviour is merely inappropriate rather than sexual offending"-Keeling et al., 2006



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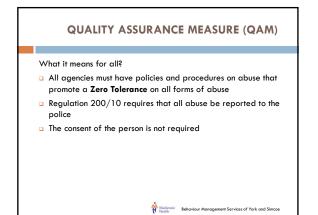




Quality Assurance Measures

#### QUALITY ASSURANCE MEASURE (QAM)

- Ontario Regulation 299/10
- Came into effect January 2011
- Applies to:
  - Residential services and supports.
  - Activities of daily living services and supports.
  - Community participation services and supports.
  - Caregiver respite services and supports.
  - Professional and specialized services.
  - Person-directed planning services and supports.
  - Any other prescribed services and supports. 2008, c. 14, s. 4 (1).





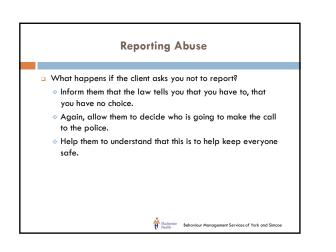
What This Means: Our Role

#### **Reporting Abuse**

- Once you have enough information to determine that a crime has been committed NO MORE QUESTIONS SHOULD BE ASKED
- End the conversation
- Notify the individual that the police will be called

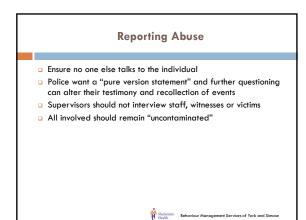
#### **Reporting Abuse**

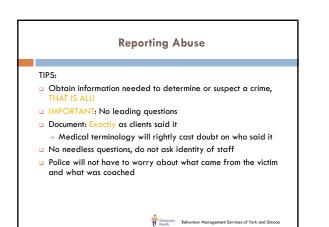
- All alleged or suspected cases of abuse must be reported.
- Do not ask for consent.
- Inform the individual that you must report the incident
- Give them the opportunity to choose to make the call themselves, offer your support.



# Reporting Abuse Continue to be supportive Note: be careful not to give too much attention The danger exists that they will embellish the story in order to gain more attention

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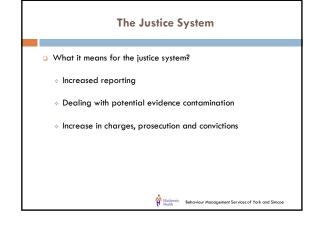


#### **Reporting Abuse**

- In that case, it was clear there was abuse
- It may not always be so clear
- In these cases will still have to be careful not to ask leading questions

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The Justice System



### The Big Questions?

#### Questions

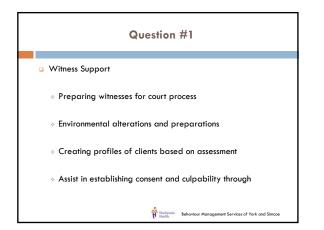
- 1. Can individuals with intellectual disabilities serve as credible witnesses in court?
- 2. Can individuals with intellectual disabilities be charged and convicted of crimes?

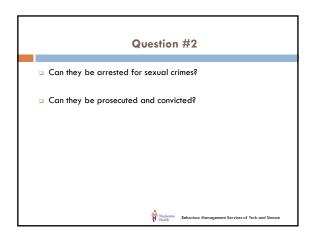
# Question #1

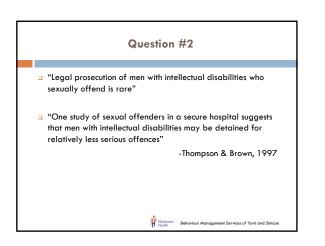
"People with learning disabilities can make effective witnesses at trial if all those members of the CJS who come into contact with them understand and make adjustments to meet their needs. A scheme developed in Liverpool, Witness Support, Preparation and Profiling (WSP&P), is enabling people with a learning disability to give evidence in court when otherwise they would not have been able to be used in a prosecution...The success rate in terms of trials resulting in a conviction is 94%."

-A Life Like Any Other? Human Rights of Adults with Learning Disabilities (Joint Committee on Human Rights)

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#### Question #2

- The prevalence of developmental disability in Canada is approximately 3.5% (Statistics Canada, Participation and Activity Limitation Survey, 2001)
- In a sample of 281 individuals in pre-trial detention, 18.9% had an intellectual disability (Crocker et al., 2007)
- In a sample of 90 probationers, only 7% had an intellectual disability (Mason and Murphy, 2002)

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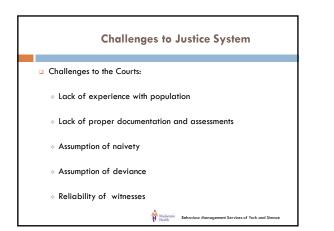
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Question #2

Offender Consultation:
Clinicians within police and courts to provide clinical perspective
Case by case basis to assess for issues such as consent, capacity and deviance
If possible, provide historical or contextual information to facilitate legal process

Challenges







## How Can We Help?

#### Education

- Unique challenges of ID
- Monthly education on diagnosis and implications in crime and response
- Police providing education to clinicians on procedures and laws
   Clinicians providing training to police on diagnosis, behaviour
- and how to support

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Share best practice risk assessment and research

Education		
Need for clarification:		
Roles		
<ul> <li>Responsibilities</li> </ul>		
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