Dear Commissioner Innes

I worked as a criminal solicitor and barrister for two years and I had numerous clients who suffered disadvantage because of their disabilities.

Incidents include:

Paragraph 1

         A man with significant intellectual impairment. Police drove him to numerous fire sites; filmed him and asked if he had lit the fires. He made admissions on film which police then sought to use as evidence against him. It was questionable whether or not he had capacity to consent to the filming, to understand that the film may be used as evidence against him in court; also his admissions were questionable.  He was also picked up by police on numerous occasions and held by police for up to eight hours but never ‘arrested’ so his rights under the *Criminal Detention and Interrogation Act* were not activated and he was subjected to lengthy questioning, on video on which he admitted to every fire ever lit. Ultimately his charges were subject to fitness to plead applications, but the trial evidence was also suspect and had to be tested on the *voir dire* as to its admissibility. I believe that the police took advantage of his vulnerability and this violated his human rights under *Criminal Detention and Interrogation Act* the ultimately wasted court time because the evidence was of such a poor quality. It is now my understanding that he has been sentenced and convicted under the Criminal Justice (Mental Impairment) Act and was subjected to stringent and indefinite supervision orders. Because disability support services in Tasmania were unwilling to provide the level of care to support the supervision order, he is now held in indefinite detention at a secure forensic mental health facility.

Paragraph 2

         A man with acquired brain injury (ABI) was on stringent bail conditions including curfew to be at his residence between 8pm and 7am. This meant that he was not able to visit his family for dinner because of the time it took to drive him to and from house meant he had to either come home late or sleep over and both were prohibited by the bail conditions. This meant that he was disadvantaged socially and deprived of a home cooked meal. Also his curfew was checked on numerous occasions throughout each night by police shining lights in his windows and banging on the door which was stressful and an invasion of his privacy. If he complained to police about this intrusion he was perceived as being aggressive and was often arrested for abusing or threatening a police officer. He would then spend the night in jail and have yet another offence to deal with.

Paragraph 3

         A client with mental illness, some cognitive impairments and a severe morphine dependency was a fearless shoplifter and her boyfriend would pressure her to haul a trolley of stolen meat out of Woolworths to sell and swop for drugs.  She had four kids in the care of Child Protection and wanted desperately to rehabilitate, she had been abused as a ward of the state. Because her issues intersected drug with mental health the system could not accommodate her.  I tried to get her onto the drug diversion list, but the social worker said she was not appropriate because of mental health issues. I appealed that decision and finally she was accepted onto the drug diversion program. She proved incapable of making all her appointments and so served 6 months in jail where she dried out from morphine.  It was my belief that while in prison she required counselling and support to help deal with the abuse she suffered as a child and then strong social support on release so she did not go back to her boyfriend and back to drugs. Neither occurred and the cycle continues.

I hope these examples help to illustrate some of the disadvantages people with disability experience in the criminal justice system.

Kind regards

**Claire Hansen**