



Law and Justice Forum

Stories of people with disability experience of the justice system.

Held in Albury/Wodonga 16 October 2013

Hosted by Disability Advocacy and Information Service

Introduction

The Law and Justice Forum on People with Disability Accessing the Justice System was held in Albury on Wednesday 16 October 2013. The aim of the forum was to gather stories of individuals experience of the justice system from their first encounter with police through to prisons. It is hoped that individual stories will bring about systemic change in the way people with disability are treated in the justice system from a local to a national perspective.

There are at least 3 enquiries at the moment looking at people with disabilities accessing the law justice system:

- Victorian Equal Opportunity and Human Rights Commission is looking at the experience of people with disability reporting crime, including why crime may not be reported
- Australian Human Rights Commission lead by Graeme Innes is looking at the barriers that may discriminate against people with disability
- Australian Law Reform Commission is looking at the Commonwealth Laws and Legal frameworks that may discriminate against people with a disability.

This report will be provided to the above organisations to assist with these enquiries. The information will also be used to determine the need for future planning and service development by DAIS.

About DAIS

Disability Advocacy and Information Service (DAIS) is an independent community organisation providing a voice and empowerment to people with all types of disability and all ages, and their carers, living in North East Victoria and Southern parts of New South Wales. DAIS advocates, informs, trains and resources individuals and organisations in human rights to enhance community participation by a diverse range of people in support services and the wider community.

DAIS Justice Support (DJS) program supports people with disabilities through the justice system by providing trained volunteers to assist victims, witnesses and alleged offenders who are in contact with the justice system. The support can begin with the interaction with the police, through to attending courts. DJS can work with people to understand bail, probation and court order conditions so that they do not reoffend as a result of not understanding their conditions. DAIS has funding to provide justice support for the next 18 months. One of the reasons for writing this paper and holding the forum is to demonstrate the need for the service and build support for ongoing funding.

The stories

This paper contains stories of people with disabilities and their interaction with the justice system. Some of these stories were told during the forum, others sent to DAIS via email as a result of the media exposure promoting the forum. Other stories have been collected over time as a result of the ongoing advocacy work of DAIS. Except for where the story teller specifically requested that they are identified, their details have been changed to protect privacy and confidentiality of all involved and agencies.

As DAIS' services reach across North East Victoria and southern parts of NSW, it is DAIS' view that the experience of people with disability in the justice system is similar on both sides of the border and across the services. It is not the intention to criticise a single enforcement agency or a particular state. The intention is to highlight the issues so that everyone can all work together to find a solution leading to positive outcomes for people with disability and the community as a whole.

The report contains some recommendations for change. Some of these changes can be achieved in a cost effective way. It can be argued that the cost of having a justice support program in a regional and rural area supporting people with disabilities through the justice system is far more cost effective than the alternative of retaining a person on remand for a year or having a trial aborted because correct procedures were not followed when a person was being questioned by police.

Graeme Innes, Australian Disability Discrimination Commissioner¹.

Over the past few months Graeme Innes has been traveling around the country talking to people with disabilities, family members, carers, advocates and organisations about people's experiences in the justice system. During Graeme's speech he gave an overview of the Australian Human Rights Commission paper on people with disability experience of the justice system.

"The Australian Human Rights Commission (AHRC) is concerned that many people with disability who need communication supports or who have complex and multiple support needs, including those with cognitive disability and those with mental illness, are not having their rights protected, and are not being treated equally in the criminal justice system. This is happening to children, young people and adults with disability. It is happening to people with disability who are victims of crime, accused of crimes, witnesses, defendants and offenders. It is happening in police stations, courts, prisons and juvenile institutions, and other corrective services across Australia.

The focus of the AHRC work in the past has been in improving access for people with physical and sensory disabilities and not so much on people with cognitive disability and those with mental illness. This work is important as these groups of people are over represented in the justice system. People with cognitive disability or mental illness are 3 to 9 times more likely to have an interaction with the justice system than those who do not have a disability.

AHRC has written an issues paper which outlines five key barriers to justice experienced by people with disability who need communication supports or who have complex and multiple support needs. It summarises the main issues under each barrier. As I traveled around Australia I have heard some real stories as examples that reinforces the barriers. These stories have provided a much better understanding of what is and isn't working for people with disability who need communication supports or who have complex and multiple support needs."

The Commission is currently writing a report which is due for release February next year. The report will make recommendations about how the system can be improved to ensure better access to the justice system for people with disability.

¹ This is an overview of Graeme Innes speech. It is not a word for word transcript.

The human rights of people with disability are outlined in the United Nations Convention on the Rights of Persons with Disabilities (Disability Convention). The Disability Convention sets out what countries have to do to make sure that people with disability have the same rights as everyone else. Australia ratified, or agreed to, the Disability Convention in 2008.

In relation to the justice system, the Disability Convention states that people with disability:

- are entitled to equal protection and equal benefit of the law
- have the same legal rights and obligations as people without disability
- have an equal right to use the law to protect and pursue their interests
- should enjoy equal and effective access to justice
- must be provided with the adjustments and support they need to enjoy their other human rights if they have had their personal freedom taken away
- should only have their personal freedom taken away if there is a lawful and proper reason to do so and not just because a person has a disability.

This means that people with disability should be protected by the law, be able to use the law and be able to participate in all stages of legal processes and procedures on an equal basis with others in the community.

The Commission has identified 5 key barriers that limit or prevent access to justice for people with disability. These key barriers can be summarised as follows:

BARRIER 1. Community support, programs and assistance to prevent violence and disadvantage and address a range of health and social risk factors may not be available to some people with disability. This means that people with disability are left without protection and face ongoing violence, or have repeated contact with the criminal justice system because appropriate programs and community support are not available.

BARRIER 2. People with disability do not receive the support, adjustments or aids they need to access protections, to begin or defend criminal matters, or to participate in criminal justice processes.

BARRIER 3. Negative attitudes and assumptions about people with disability often result in people with disability being viewed as unreliable, not credible or not capable of giving evidence, making legal decisions or participating in legal proceedings.

BARRIER 4. Specialist support, accommodation and programs may not be provided to people with disability when they are considered unable to understand or respond to criminal charges made against them ('unfit to plead'). Instead, they are often indefinitely detained in prisons or psychiatric facilities without being convicted of a crime. This situation mainly happens to people with intellectual disability, cognitive impairment and people with psychosocial disability.

BARRIER 5. Support, adjustments and aids may not be provided to prisoners with disability so that they can meet basic human needs and participate in prison life. They often face inhuman and degrading treatment, torture and harmful prison management practices.

Maureen's Story

Maureen's son has a mental illness. Last Christmas he had a psychiatric episode and allegedly committed an offence. After receiving treatment for 11 weeks in a psychiatric unit he returned home. Two days later he was arrested and charged with the offence he committed while unwell. He was refused bail and has been on remand in prison ever since.

This is their story ...

Hello everyone my name is Maureen and I have a son 38 years old who has been suffering a mental illness since he was eighteen. He is the youngest of 3 children.

We first noticed his problem when he started getting into minor skirmishes with the law and after the first serious event I demanded that he be sent to Long Bay hospital to be diagnosed in April of 1996. At this stage it was the first time we were told that he suffered with dual diagnoses and from then on was given antipsychotic medication and has been on it ever since. Over the time he has been in and out of psychiatric institutions and correctional centres. The injections he was given were not covering his illness sufficiently and in 2002 he was placed on Clozapine an oral medication which keeps him functioning very well and able to maintain a good quality of life.

In 2005 he was admitted to Kenmore at Goulburn and spent 22 months there then came back to Albury into the St Luke's recovery program in 2007. He was placed in an independent living situation supported by St Luke's and Community Mental Health. During this time he managed very well, participating in the various programs and secured his driver's licence. There were a couple of times since 2007 he spent time in Nolan House, our local Psychiatric centre, after going off his meds, but each time he bounced back and continued up the ladder making good progress.

During the last part of 2012 he had his medication reduced to balance the nicotine intake, as he had been not smoking for some 9 months and that affects the medication levels which were extremely high.

After the medication had been reduced the third time we noticed significant changes in his behaviour around December 2012. His St Luke's Case Worker notified the Mental Health worker about this. Just after Christmas he had a huge melt down and caused the family to be very concerned. In early January it was discovered that he was off his meds. At that stage nothing could be done to have him admitted to Nolan House as he was not on a CTO (Community Treatment Order.) He was on one for some 3 years and because he was travelling so well Mental Health chose to take him off it. CTO's are reviewed every 6 months and renewed if necessary.

On January 14th he was arrested at a property some kilometres outside Albury late at night for being naked and in a very dishevelled, delusional and dehydrated state; bruised, cut and scratched and black all over. He appeared outside a house in front of a small girl and family. He had been out in the 40 degree heat for some 30 hours with no food or water. The last time I saw him in person was 12 noon on Sunday 13th January.

You wouldn't need to be a rocket scientist to realise that he was extremely mentally unwell at the time and not responsible for his actions. He was taken to Albury Police Station and I was contacted around 9.30pm 14th January 2013 by the police and asked what they should do with him, as they were concerned about his welfare and they had the ambulance attending to him at the station. At that point in time I said that he must be admitted to Nolan House and he spent some 11 weeks there to restart his medication. He was formally discharged from there on the 5th April 2013 and considered well enough to care for himself with the assistance of his recovery workers. Nolan House had given him time back at his house to step up for a couple of weeks to prove he would cope prior to being discharged.

On Sunday 7th April two days after he was discharged he was arrested by the Albury Police from my home where he was visiting. At this stage I hadn't any idea what the arrest was about until the police called me to be present at the interview, as my son was classed as a vulnerable person. After the interview the police said that they had very little experience or understanding of persons suffering a Mental Illness. It has since been learned that the police contacted Nolan House each week to see when he was to be discharged and made it clear to me that they were quite annoyed that they were not told of his discharge. He was questioned and detained at the Albury Police cells overnight.

The following day he was formally charged with indecent exposure and trespassing and appeared in the Albury Court on the 8th April and denied bail and sent to Junee Correctional Centre where he spent some 5 weeks. The duty solicitor stated that he would be sent to Long Bay for assessment; however, he was transferred to Silverwater Remand Centre where he has been until recently. The Duty Solicitor said they need to assess his mental state in a psychiatric centre. At this time he had just spent 11 weeks upgrading his medication in a psychiatric centre and was considered quite well enough to continue on with his life only to be sent to another one this time within a prison.

Since that time he has had multiple court appearances via video link to the local court in Albury from Silverwater and each time adjourned because of lack of reports. This has been an ongoing situation since he arrived in Silverwater on the 12th May 2013. He has now been incarcerated on remand for some 7 months and still no light at the end of the tunnel. On the 16th September at court the duty solicitor said as of 8th October the case would move to the district court for a mention via video link from Silverwater.

On Sunday 6th October my son contacted me from Junee Correctional Centre to tell me he was there and would be appearing in Albury on 8th October.

I spoke to the solicitor and told her he would be here today. Her reply was 'no he won't be appearing in court, it would just be a 2 second phone call and, it would be adjourned to 6th November for further mention'.

I then asked the solicitor why he would have been transferred to Junee if he wasn't appearing in court? Her reply was that he must be now stabilised on his medication to be transferred so he was closer to family.

My reply was that he was stabilised on his medication prior to being discharged from Nolan House on 5th April 2013. Her aim is to have his medication changed back to injections which do not cover his illness. I would have thought that this is an area for Psychiatrists to make the decision and not solicitors. Late last week on Friday 11th October I visited him at Junee where he asked me what had happened in Court on Tuesday – he had been brought to Albury for court and sat in the Correctional area all day and no one had

spoken to him to say that he wasn't required to be there until it was time for him to be transported back to Junee and he wasn't made aware about the adjournment to the 6th November. He knew nothing and was not told of the events of Tuesday 8th October in the court. This whole thing is a Legal merry-go-round.

The court solicitor has stated that sentencing will now be held in the New Year and from there we are not too sure where it will all end. It is very vague.

This ongoing saga is having an impact on my family. The cost of travel to and from Sydney for me is a financial burden with accommodation and intercity travel. Also the impact and negotiating the mine field that has to be encountered getting bookings and to apply for an all day visit particularly after travelling some 7 hours one way on the train. Normally only 1 hour is allowed for a visit but in long distance situations they will allow an all day visit.

Just to make a booking it is quite normal to sit on the phone for up to two hours waiting to be answered. The situation is a burden on my son and is detrimental to his recovery as the solicitor now says he has to be placed in a psychiatric centre for up to two years in the Sydney region.

Back in June it was suggested by an acting duty solicitor that he be bailed and placed back in the community with the services he has had in the past monitoring him on a daily basis but for some reason it was dismissed.

He is quite able to function in the community stabilised on his medication and be monitored by his recovery team at St Lukes and participating in their programs, which he has always done in the past. We have a good psychiatric centre with Nolan House working with Community Mental Health monitoring the clinical side, and be back part of our family. Being placed so far away for so long in a Psychiatric centre I could see that this would be detrimental to his long term recovery and extremely distressing for our family.

Discussion Groups

Each person attending the forum was given an opportunity to share their story or share their experience of the justice system. Six discussions groups were held on a range of topics from victims reporting crime to people with disability spending lengthy periods of time in prison without conviction.

Each group was provided a page of information about the topic to spark discussion.

Discussion Group 1

What is the experience of people with disabilities reporting crime?

- identify the nature and extent of crimes against people with disabilities
- understand what barriers people with disabilities currently face in reporting crime and gaining redress
- how can police and other authorities break down these barriers and provide better services to people with disabilities.

This discussion group focused on crimes against the person. These include assault, family violence, sexual assault, indecent assault, and causing serious injury. This covers crimes that happen at home, on the street, on transport and in services, including disability services and hospitals.

Case Study

Flick takes out an Apprehensive Violence Order (AVO) on a neighbour and their friends as they constantly abuse her over the fence. After taking out the AVO Flick contacts police on a number of occasions and was informed that there is very little they can do as there are no other witnesses. It is Flick's word against her neighbour. After a particularly traumatic experience Flick goes to the police to report the abuse from the neighbour. Due to the nature of her disability Flick finds it hard to remain calm and clear minded. When she goes to the police to report the incident she gets frustrated with the system and becomes extremely agitated, starts yelling and finds it difficult to calm down. The police dismiss her claim and send her away.

Two days later Flick requests the support of a justice support person who accompanies Flick back to the police station. With the support Flick is a lot calmer and the police take her complaint seriously and investigate her issue.

Table discussion

Story 1 – In September 2011, Sarah (not her real name) who has an intellectual disability, was living with her partner who was abusive towards her. She was 34 weeks pregnant when her partner assaulted her, punching her and pushing her into a bath tub where she sustained injuries to her body and head. Her waters broke during the assault and she was taken to hospital, where she gave birth to a stillborn baby.

The hospital did not notify her family and she was discharged two hours later. Sarah's mum at this time did not know what was happening with Sarah as her partner had ostracised her from family and friends. Because of this Sarah's mother did not know that she was pregnant or had given birth until 12 weeks after the birth.

Sarah's mother took her to the police station to have charges laid. Sarah received 7 stitches to her head and had photographic evidence of this. Sarah's partner stated that she had fallen down the stairs, a story which his mother verified. Sarah has stated that her ex-partner also physically abuses his mother and she is frightened of him.

Sarah was told that she is not a credible witness and that no charges would be laid, however she could apply for an AVO. Sarah has since received threatening texts and messages over social media which, with the support of her mother, she has presented to the police and has been told that Facebook doesn't mean anything. Sarah was frightened for both her and her families' safety and has chosen not to pursue this further. Sarah's mother states that Sarah's brother later attempted suicide and the entire family now suffer depression as a result of what Sarah has gone through.

Story 2 – Catherine Fry (Catherine requested her real name be used) is a lady living with Mental Illness. When Catherine was 15 she was sexually assaulted and the case was heard in Dandenong Children's court.

Catherine was not notified of processes ahead of time, ie on the day Catherine was told “When you get on the stand”, which she was not prepared for at all. Catherine also was made to sit one metre away from her alleged perpetrators. During the hearing it was identified that Catherine had a mental illness and was taking medication. She was then discredited as a reliable witness. Catherine was not informed of the outcome of the hearing until 7 months after the fact.

Catherine, when she was 20 was once again the victim of a sexual assault, for this she received support services from CASA in Albury. During this Catherine states that she had “flash backs” of the first assault and it was decided that she would pursue this case as a historical case in the Albury Courts. Catherine and her mother both stated that during this time the Albury Police treated her fairly and with respect. It took 18 months for evidence to be gathered and obtained. During this time, it was again identified that Catherine was on medication for a mental illness. Catherine was then told by a detective that they wouldn’t prosecute as they didn’t want to put her through this stress. Catherine perceived this to mean that again she was being discredited due to having a mental illness.

Catherine developed “Blanket amnesia” through this, and could not recall her life, who she was, or any of her history. Her mother then had to leave her job to look after Catherine and assist her to regain her memory. Catherine states that she has almost fully regained her memory now.

Catherine states that her mental health was used against her, on both occasions resulting in the loss of opportunity to a fair and just hearing, no credit was shown to her and no opportunity to have justice or closure of these events that have changed her life.

Catherine says that she is now unable to work, has low self-esteem and confidence as a result of this.

Received via email 14/10/13

Sue was involved in a Motor Vehicle Accident in 1987. As a result Sue acquired a Brain Injury and suffers epilepsy. She also incurred multiple fractures from top to bottom and had a lot of operations. She is now in a wheelchair most of the time.

Sue recently went to a party. Sue shared a taxi home with a friend of a friend. On the way home the friend asked to be dropped off at a church near Sue’s home. Sue was sexually assaulted by this person.

Sue and her family feel the police seemed to have taken a light hearted view of the whole situation and have said they will get back to Sue with a decision whether the case will go to court or not. The police have said that if it is to go to court Sue will probably not be called as a witness as her evidence may not be seen as credible due to having an ABI.

Discussion Group 2

How can we change the laws to make them better and fairer?

- Are Commonwealth laws responsive to the needs of people with disability and to advance, promote and respect their rights?

- Do views about a person’s ability to exercise legal capacity discriminate against people with disability?
- Are the powers and duties of decision making supporters and substituted decision makers effective, appropriate and consistent with Australia’s international obligations?
- How do Commonwealth laws and legal frameworks interact with State laws in the areas under review, contemporaneous developments and best practice examples within the States and Territories?

Possible discussions

This focus group will look at Commonwealth laws and legal frameworks that either directly, or indirectly, impact on the recognition of people with disability before the law and their exercise of legal capacity on an equal basis with others.

Equal recognition before the law and legal capacity are to be understood as they are used in the Convention on the Rights of Persons with Disabilities: including reference to the rights of people with disability to make decisions and act on their own behalf.

Example of a Case study

Josh is separated from his wife who has custody of their 2 children and are living in Albury. Josh is currently living with his mother in Wodonga. The house is well set up to accommodate the children during access weekends. The children’s Nan is a great support during the visits. The court orders say that Josh can have access with the children but they must stay in NSW. Josh can take the children anywhere between Albury and Tweed Heads but he is not able to take them 10km to Wodonga.

Table discussion

*** Advance Directives (AD)**

- In Victoria some groups discussing AD over Electroconvulsive Therapy (ECT), but some clients want to have AD, saying they don’t want ECT (even if life saving measure).
- Lack of recognition of AD access state/territory jurisdiction.

***Criminal Justice System**

- People are put in the “too hard” basket.
- Need for guidelines and clear references.
- Need for increased communication between providers.

Example; ATSI client on murder charge pleaded guilty without understanding the question. They may not have understood the system or language. ATSI tending to nod or say yes when they don’t understand or uncomfortable. (Note, High court case re; disadvantage.)

*Broader idea of capacity

- How best to assess capacity which will impact ability to engage.

*Judges and magistrates, police and lawyers

- Attitudes
- Language
- Training re; awareness of disability including determining capacity.
- Ensuring proper coordination of services and sharing of information.

*Language/Terminology/Understanding

- Need for more accessible language.
- Need for assessment and support people at point of first contact. Need for independent support.

*Key Question: How to identify when someone doesn't understand the questions being asked?
 Relevant for people with a disability, people who don't speak English etc.

- Advocacy screening tool suggested. Alert type system to bring action. Use of support person, alerting services etc, not definitive, jail alert.

* Evidence and witnesses

- Big difficulties in terms of competence as witnesses are not being believed.

*Prisons

- Problems assessing services, supports and mediation referral.
- Lack of checks and balances within prison system.

Key case example; ASTI person on serious charge before court who pleads guilty without understanding.

- Issues of language/terminology.
- Service provider and court support.
- Court practices and training/education of magistrates and judges, police and other.
- Threshold issues of capacity and assessing capacity.
- Broader cultural and attitude change.

Discussion Group 3

Is the justice system protecting people with disability from escaping violence or disadvantage

- Is the justice system protecting people with disability from being victims of crime?
- Are people with disability using the justice system as a last resort as other support services are not accessible to them?

Possible discussion

Community support, programs and assistance to prevent violence and disadvantage and address a range of health and social risk factors may not be available to some people with disability. This means that people with disability are left without protection and face ongoing violence, or have repeated contact with the criminal justice system because appropriate programs and community support are not available.

There is a lack of preventative, education and support services for people with disability experiencing violence at home and in residential and institutional settings. Many people with disability, particularly women with disability, who are experiencing violence do not report the abuse or identify that they need protection and supports as they may be scared about negative repercussions. If they, or others, report the abuse or seek help, police and other service providers often do not intervene or assist.

Referrals for assistance and support to service providers outside the disability service system are often not made, or when they are made, they are often declined. There are also difficulties with communication and continuity of care across state and territory borders.

Case Study

April has been experiencing physical and financial abuse from her husband, who is also April's carer. April approach a women's refuge to seek assistance to leave her husband. It was identified during the intake process that April was incontinent so she was declined support from the refuge, being told that the 'accessible unit was being renovated'.

Table discussion

The main points from the round table discussion from the forum are outlined below:

1. Service providers find it difficult to advocate on behalf of people with undiagnosed mental illness.
2. The Justice System expects the person to speak for themselves which is difficult for someone with undiagnosed mental illness and if the person has not sought assistance from services which can have a dire effect.

3. Some people seek assistance with the justice department but their concern is not seen as the primary issue, it is only seen as the secondary issue to many service providers. Too often, the person is referred to a disability service and not a justice support service. What can happen is the person ends up not being supported at all as the disability service does not have the staff and/or experience to deal with the justice department as their primary focus is the disability and not the justice system, as they are not a specialised service.
4. There are not enough choices for justice support in this community.
5. Women are not supported to express concerns about domestic violence and often not believed.
6. The public would be interested in knowing how many people who have an AVO/IVO have an undiagnosed mental illness.
7. Too often, the carer can become the financial abuser of the client. If the client cannot speak up for themselves and the carer is very good at hiding the financial abuse, what can be done?
8. In residential care, threats of violence towards other clients are not followed up and are often viewed as 'normal' behaviour for the person. Many other residents suffer with this mentality. It is only when a staff member gets assaulted that there is action taken against the client.

Discussion Group 4

Are crimes in residential and other support services being appropriately dealt with?

Are people with disability receiving the appropriate support, adjustments or aids they need to access protection; to begin or defend criminal matters; or to participate in criminal justice processes?

Possible discussion

Police may not investigate criminal allegations made by a person with disability who lives in a residential setting. The police may consider that the person's issues should be dealt with by staff within the residential setting or by an independent investigator. This can occur even when the allegation is against staff within the residential setting. Many service providers don't see what has occurred as a crime but as a policy issue.

Discussion group

This discussion group was mainly made up of staff from a government department responsible for funding and providing disability services, Police, Justice support volunteers, a person from our local community, and an advocate.

As there was not a person who lives in a residential unit at the table, the group discussed prepared case studies and each gave a perspective on how they would manage the situation. These case studies are based on real events.

Suggested Case Study 1

John, a support worker at a residential support unit calls the police after being assaulted by Chris, who lives at the house. It is alleged that Chris kicked the office door down, punched and kicked John several times. The police take Chris to the police station for questioning. Dave, another support worker who was on shift at the time of the incident, accompanies Chris to the police station and acts as the support person during the interview.

The police officer stated when the police are contacted for an incident at a residential address, they enter the address into their police data base and they can identify if it is a disability group home. They will first contact the house manager by phone as they have a list. The manager will inform the police how they should come to the house. For example police officer to be dressed in plain clothes or use police siren or not in their cars.

Suggested Case Study 2

Kay lives in supported accommodation, One Day, and attends a day program, also provided by the same organisation. Kay tells staff that a male client had just made her have sex with him in a shed. About six weeks later Kay's mother Jill was advised Kay had an STD. It was not until Jill started to ask questions that Kay was taken to police to make a statement. By this time all DNA evidence would have been destroyed. An investigation showed that there was insufficient documentation of the report by staff. The male client named by Kay has had a previous allegation of sexual assault. The organisation was funded to provide one-on-one supervision to the client 16 hours a day. The client was not to be out of sight of staff. It appears that the organisation breached its duty of care by not providing supervision to the male clients.

Table discussion

There was a lot of discussion around the table. There were more questions asked than answered. There were a number of different perspectives from ADHC and Police.

ADHC raised organisational issues such as staff having a duty of care to the clients of day placement. Day placement may have casual or unqualified staff.

There was discussion about the male (table called him Jim). Jim was funded for 16 hours per day of one-to-one supervision, but why?

Do staff understand what is meant by 'line-of-sight' regarding their funding responsibilities for Jim? Should Jim be in a smaller group? Should there be a mixed group of males and females?

The female in the case study was called Kay.

When did Kay report the assault? Where is the incident report? Does Kay fear authority? Were Jim and Kay in a relationship?

The police asked “what outcome do people want out of the police involvement?” Kay’s welfare needs? Make Jim accountable?

For a criminal investigation there needs to be a medical examination as they need physical evidence. Do Kay and Jim have the same strain of STD? There is a test that can determine this link. They would link Kay to a sexual assault service. Police would interview Kay with a support person. They could arrange for the police officer to be in plain clothes.

Police can take a different path. They can refer it to the Health Department. This is where the Health Department will look at the root cause by doing an analysis of the situation. The police officer stated he will expand this for the group presentation.

The conclusion of group was that day-placement has a duty of care for Kay and Jim and there was a system failure.

A WOMAN with an intellectual disability was allegedly sexually assaulted while in the care of a Border disability support service in March.

Her mother believes she contracted the sexually transmitted disease chlamydia as a result of an incident at the Mercy Centre's training centre in Lavington, Catherine's Corner.

The executive officer of the Wodonga-based Disability Advocacy and Information Service, Martin Butcher, said the woman's mother is outraged that the alleged attack was not reported to authorities until her daughter started suffering chlamydia symptoms last month.

"It wasn't until four weeks ago that her mother was advised that there was an incident and her daughter was getting medical treatment," Mr Butcher said.

"The mother kept ringing the house co-ordinator but it took three or four days for the co-ordinator to ring her back and tell her that her daughter had chlamydia, a sexually transmitted disease. The co-ordinator then said 'oh but she probably caught it from a toilet seat so we're going to disinfect the whole house'."

The daughter lives in one of the group homes operated by the Mercy Centre, an agency with government contracts.

But Mr Butcher said the daughter told her mother the alleged attack occurred in March when she was at Catherine's Corner for a day program.

A man, also a Mercy Centre client, is alleged to have sexually assaulted the woman in a shed.

"She told her mother that she had actually told staff on the day that she was assaulted. She gave the name of the person involved, gave the names of the staff members she told, and in the last three weeks since, her mum and DAIS become aware of it, the story is very consistent."

Mercy Centre chief executive Sister Patricia Weekes said they were not "the facts".

"We have no documentation to support that, no evidence, no staff telling us that," she said.

"But I understand that is the mother's understanding.

"This person seldom leaves the sight of a staff member so it's very unlikely. When we did become aware that the person had chlamydia, the police were involved, the parents were involved, health services were involved, which is normal process for us."

Sister Patricia conceded that the mother had been told her daughter contracted chlamydia from a toilet seat.

"That was misinformation provided, a false comment really," she said.

Mr Butcher said the woman had lost a significant amount of weight.

"She's down to skin and bones," he said.

"Obviously she's gone through a traumatic experience."

Mr Butcher considered the facilities are all "quite well-staffed". No one called the police, no one contacted her mother — there is a requirement for disability services for the mandatory reporting of such incidents.

"How someone got sexually assaulted while on day program we do not know, and then how they dealt with the incident after was poor," he said.

"It wasn't until the mother started asking questions that the organisation took the steps of taking her daughter down to the police station and making a statement, two months after."

The NSW Ombudsman's office has received a complaint from the mother.

Discussion Group 5

People with disability are not receiving the support they need when attending police stations or court

Legal and technical language and reliance on written legal documents and form-filling can make information inaccessible to people with disability. Without accessible information or support to fill in forms, people with disability may provide incorrect information on legal forms, which can impact their legal rights, such as applying for parole or Legal Aid.

Modifications to the legal process that would help a person with disability to participate may not be provided or permitted by police, lawyers or the courts. This may include: not providing sign language interpreters; not recognising the role of communication support workers; not allowing support persons to help with understanding legal information and proceedings; and lack of hearing loop technology in court rooms to ensure people with hearing impairment can hear what is being said.

Bail and parole conditions and court orders may not be conveyed to people with disability in a way that they can understand, making it more likely that they will fail to comply with these conditions and orders.

Styles of communication and questioning techniques used by police and during cross-examination in court can confuse people with disability and lead them to make inconsistent statements. Capacity to make decisions and participate in legal proceedings may also be questioned as a result.

Example of Case Study

Tim has an intellectual disability and a limited ability to read. Tim had an Apprehensive Violence Order (AVO) against him by an ex-girlfriend. The AVO prevented him from having any contact or going near her place. When the AVO was served it was not explained to Tim that contact included phone calls and texting. Tim was picked up by police, taken to the police station and charged with 2 breeches after sending some text messages to try and arrange to get his belongings back. During the police interview Tim was not offered an independent support person. Tim attended court on the appointed day and met with the duty solicitor. Tim was given an application for legal aid but he could not understand the questions. He went to the Court Registrar's office and was told they cannot help him to fill in forms. At no point was Tim offered a support person to assist him.

Table discussion

STORY ONE

Jay has an ABI and told the table briefly of an encounter he has had with the justice system. He said he suffers from physical tiredness a lot. One night he found himself driving in the middle of the night, not knowing where he was going or where he had been. He said he had received a summons for stalking. He says he felt like the situation was neurological rather than "premeditated".

When Jay went to the police station he said he stated he had a disability and he had an ABI. Jay said that he was NOT offered a support person to assist him at the police station.

Jay went to court and was assisted with Legal Aid. He feels that he was encouraged to plead “guilty” by Legal Aid and now he wishes he didn’t.

(This story wasn’t told in the timeline of events as things happened and no extra information was offered to be more specific. Also it became obvious that we needed to pursue more detail, and time for discussion did not allow for this.)

STORY TWO

This case caused much hard work and frustration on behalf of a Salvation Army Pathways Outreach Connections Program (SAP case worker), and a Rural Access Officer (RAO). This story was given in some details but it highlights some of the difficulties and complexity facing people with disabilities accessing appropriate services and support that leads people to spend time in prison.

This is Peter’s story as told by a Rural Access Officer.

Peter has an ABI after a motor vehicle accident at the age of 19 and is legally blind. It is also suspected that he has undiagnosed autism.

When the RAO first came into contact with Peter approximately 4 years ago (in about 2009) Peter was estranged from his family including his wife, 3 daughters, parents and siblings. He had alcohol abuse related issues and according to Peter suffered from regular bouts of depression and loneliness. He said, “I would drink, to block it out”.

At the time Peter had recently returned to his rural town, from Melbourne to be near his parents. This was after being hospitalised in Melbourne for many months – the result of a brutal assault, which almost took his life.

He presented as highly articulate, very likable 48 year old man with a good sense of humour. He was knowledgeable of his rights, respectful, polite, and an avid follower of the News. He was a strong and outspoken advocate for people with disabilities. Peter would often visit the RAO for coffee and was very keen to raise issues about the rights of people with disabilities and appeared to feel isolated from the community.

Peter was referred to an employment program but did not last long, as he was very outspoken on the employee’s rights, and their perceived underpayment for the work. At the time he was living in a unit operated by Vision Australia.

The RAO lost contact with Peter for nearly a year as his phone number was disconnected. Contact was re-established after Peter sent Council a letter, making complaints about Council’s treatment of people with disabilities. The RAO contacted Peter, using a new mobile number on the letter, to invite Peter to the next Council Disability Advisory Committee meeting to hear his letter tabled, which he gladly did.

After the meeting the RAO enquired how he was going. Peter said he was homeless and sleeping in the public toilet block across the road from Council for the past 3 months. He was using the hand dryers in the public toilet to keep warm at night as it was Winter. Peter said he had to leave his unit and had been ‘kicked out’ of the caravan park for ‘being too noisy’.

Peter said his father had parked his caravan at a lakeside caravan park, but when the owner made a complaint to the police about Peter, the van was towed away, leaving Peter homeless.

Peter was referred to Salvation Army Pathways Outreach Connections Homelessness Program, where he was appointed a Case Manager with a small amount of funding attached. Suitable accommodation was soon found for him in a facility.

With this new home and the Men's Group in place Peter seemed settled and happy. He also enjoyed mixing with other people. He said he felt he was safe, sheltered, fed and accepted. He mentioned how it felt to not be bullied, and that he could help other people as all had a disability of some sort.

Peter was, however, still binge drinking to excess at times which put his accommodation at risk. SAP case manager and RAO attended a meeting with Peter and the facility manager where an agreement was reached that Peter could stay only if he abided by the rules of no alcohol. Being very apologetic, for letting us down, Peter did agree to this, and signed 'a contract'.

Things seemed to be going very well for approximately 6 months until three things occurred all around the same time which had a significant impact on Peter's situation.

The first was whilst attending the weekly Men's groups, Peter had developed a 'crush' on one of the volunteers and he was convinced she felt the same way about him as she flirted with him and sat on his knee and put her arm around him. He began calling into Council to ask to speak to her and was told by staff this was inappropriate. I was called in to intervene.

Peter told me he would 'drop out' of the PAG group, as he felt she was not responding because he was a client, and she was a member of staff, but once he was 'no longer a client,' she would be free to 'have a coffee with him'.

The volunteer worker concerned was questioned, and admitted she had flirted with Peter, had sat on his knee, but that she treated 'all the men' on the program the same. This behaviour from the volunteer was concerning as acting this way around men with mental health issues could trigger off anxiety and mixed emotions. Peter subsequently dropped out of the program feeling humiliated and 'lied to'.

The second incident that occurred at the same time was at the place where Peter had been living came under new management. Rental fees were raised meaning nearly all of Peter's Disability Support Pension was taken. At the same time, an administration error occurred. Peter's rent including food was not deducted for 2 weeks. Peter was feeling very depressed over the Men's Group issue. He checked his bank account as usual not expecting to find any left over spending money, but was shocked to find there was \$800 in his account. He promptly withdrew this. Peter purchased copious amounts of alcohol, and began to consume it.

Police had become involved after Peter's unit had been trashed. His case manager and RAO arrived to find Peter crying and threatening to harm the facilities Manager's car after receiving a letter threatening to evict him if he did not pay the back rent owed. Peter was in fear of becoming homeless again.

The facility manager made it clear to the police and RAO that Peter was no longer welcome to live there as a tenant, as he was a threat to the safety of the other residents and to the Manager and his family. The police were made aware that Peter had complex disabilities as well having issues with binge drinking.

By this time Peter was at the hospital receiving treatment after injuries sustained while trashing his room. The case manager, who was at the hospital was informed of the facility manager decision, to no longer have Peter as a resident.

His Case Manager contacted Area Mental Health Service with a request that Peter be assessed, and kept in hospital, until she could secure new accommodation for him. Unbeknown to the case manager and RAO, the health service released Peter to the Police later the same night and he was delivered back to his accommodation, where he immediately resumed drinking.

A few days later the facility Manager contacted the RAO in distress as he had been assured that Peter would be staying with the health service until other accommodation could be secured. Peter was crying, asking why the police had taken him back to his unit when he had been 'kicked out' and needed help.

The police were called again as Peter had made a serious suicide attempt, and had been taken by Ambulance to hospital. His case manager attended the hospital. Peter was having surgery, and had suffered significant blood loss. His Case manager requested he not be released unless she was notified. Again he was released without the knowledge of his Case Manager.

The facility manager rang the Rural Access Officer to say they had refused Peter be taken there, and requested his unit be packed up and cleaned. Peter 'disappeared' for a few days until he was located by his Case Manager 'wandering' and disoriented.

As Peter's situation was at crisis point the Case Manager and RAO worked closely together to organise new accommodation for him, contacting drug and alcohol, mental health, and disability services including the Department of Human Services (DHS) to try to gain support. Neither Disability, Mental Health nor Drug and Alcohol would step in and provide any support, as it was argued between departments where Peter fit. In effect Peter 'fell through the gaps' due to his complex needs.

There was no support anywhere. A letter was sent to the regional coordinator of the Rural Access program at DHS requesting an urgent response due to the crisis situation Peter was in. The letter was 'forwarded up the chain' but by the time the letter received a response it was 'too little too late'.

Peter was staying in a temporary 'transition house' with only his Case Manager and RAO providing any support including providing close monitoring resulting in Peter settling somewhat as he was not drinking and was back to going for his walks, but returning to his accommodation. He still felt depressed, frightened and distressed, saying over and over that he needed help and why would no one help him, or listen to his cries?

It was now summer when the third incident occurred. Peter had been arrested and taken into custody the night before. It was alleged that Peter had wilfully started a bushfire. When his Case Manager visited him, he told her that while out walking he had become lost. It was getting dark, so he had called the police to say he was lost and couldn't find his way back.

The Police told Peter they would take a drive out to see if they could 'find him'. Apparently unable to locate him contact was made again. Peter stated he was told to 'look for the lights' and head back in that direction.

Looking for a light is difficult for someone legally blind. Peter said as he could not see the lights he got a branch and lit it, to make a torch. Being in bushland, the place quickly ignited, and a huge fire was created. Peter was discovered then, to his amusement he said "they found me pretty quick then"!

During an interview with a newspaper reporter, Peter was asked why he lit the fire. It was reported that he said "to draw awareness to the plight of homeless people." Although he was taking the opportunity to be an advocate for homeless people, this comment did not go in his favour.

Peter was subsequently refused bail and sent to Port Phillip maximum security to await the committal hearing as he was seen as a continuous risk to the community.

By this time Peter was well known to the police however there was no record of his disability on record nor was the Independent Third Person (ITP) present at the interview. When the Case Worker and Rural Access Officer raised these points with police, they were met with disinterest even though it had been stressed each time Peter came into contact with police.

Coincidentally one week after Peter's arrest and incarceration DHS arranged a case meeting with relevant service providers including disability services, mental health, drug and alcohol, along with Rural Access and the SAP Case Manager. During the meeting services were informed that Peter had been arrested and was now in prison awaiting trial. At the meeting DHS requested a commitment from those present to provide support to Peter and to undertake beginning a PLAN for when Peter was released.

Peter's hearing took place earlier this year (2013) with RAO, SAP Case Manager, Legal Aid representation, and representation from DHS and Office for Corrections. Police prosecution did not have Peter's file on hand as it could not be located so asked to borrow the file from Peter's legal representation. Police Prosecution requested that Peter receive a 20 year term for the seriousness of his crime - wilfully endangering the lives of the community.

Speaking on Peter's behalf, the Rural Access Officer pointed out that the Police did not have their file on hand with them in court, that Peter had an extensive support team around him now, the complex nature of his disabilities, and the fact that the Police had not taken these into account and had interviewed him without an ITP ever being present, or noting his disabilities on his record.

It was pointed out that the reason Peter had started the fire was due to the fact that he could not see because he was legally blind. The Magistrate replied that if that was the case, he was even more of a danger and a menace to the community because every time he went somewhere and could not see, he might start a fire.

The case was adjourned until the afternoon, and a Corrections Officer was called to make an assessment of Peter. During this assessment Peter apparently told the Officer when asked if he would do the same under similar circumstances, that he would, if it drew attention to the plight of people with disabilities who were homeless.

In the afternoon session, a recommendation was made and Peter was given the lesser sentence of 12 months, having already served 3. He was taken away.

Peter was released on Parole around June this year, and met with the RAO and Case Manager. Through the work of his CM, he was accommodated in a facility at a nearby town and was attentive to his meetings with his Parole officer. He was in good health and good humour, eager to fit back into the community, start at Men's Shed etc.

He agreed to be income managed and stated that whilst he enjoyed his time in prison, a roof over his head and three meals a day, he was happy to be back out in the community and given another go.

Peter's freedom was short lived. A couple of weeks later Peter went walking as was his habit. He was returned to his new accommodation by police as he had become lost. Later that day Peter was taken back into custody as it was determined that as Peter had been in bushland, which breached parole conditions, this was seen as a threat to the community. Peter was returned to prison.

Peter is back in the system, and Case Manager and Rural Access Officer is unaware of his welfare.

STORY THREE

Kim was supported by her lifelong friend Jo to tell this story to the audience at the forum. Kim has an intellectual disability and difficulties with hearing. At times she has difficulties articulating herself. Kim has managed to achieve a dream of buying her own unit and live independently.

This is Kim's story

Kim feels she has been on a long journey of dealing with constant harassment by her next door neighbour. Kim lives in a block of 5 units and would go thru her neighbour's backyard which is common ground to take her groceries inside, particularly if she has used her scooter. Her neighbour, who has children asked her not to use the backyard. Kim feels that her neighbour often started to harass after this event as Kim felt she had the right to go through the backyard if she needed to.

Kim felt that when she went to get her mail from the letterbox, or walked out of her front door, her neighbour would harass her. When Kim or her mother took the dog for a walk, the neighbour would use their car "like a weapon". The neighbour tried to take an AVO out on Kim for looking at the neighbour's children. Apparently this was not successful.

After Kim was subject to episodes of harassment abuse for 14 months Jo suggested to Kim that she take out an AVO on her neighbour. Jo assisted Kim to go to the registrar and tell her story.

The magistrate asked the party to go to mediation and try and come to some agreement between the parties. Kim said she felt that this was a very negative experience and did not find mediation helpful in resolving the issues. Kim said that Jo was not allowed to speak at the mediation. Kim and Jo felt that the magistrate they dealt with was very positive and could see things from Kim's point of view.

Kim said that after a few months the neighbour breached the agreement by parking her car across Kim's parking space preventing her from accessing her shed and scooter. When Kim asked the neighbour not to park in her spot, Kim said the neighbour spat in her face. This resulted in the parties returning to court. Kim said that this time there was a different magistrate and Kim and Jo felt this experience was negative. The outcome did not go in Kim's favour.

For 3 months things settled a bit but then the neighbour started with antagonising behaviours again.

The parties went back to court again and this time Magistrate issued an AVO against Kim. The Magistrate had said "If this goes to a hearing it will be no good for anyone".

Having been to court a number of times Kim and Jo feel the system is not supportive of their issues.

- Jo is not allowed to speak on behalf of Kim.
- The Magistrate has often already made up his/her mind. The court hearing is tokenistic.
- When Kim goes to court she can't always hear what is being said. Without the support of Jo to scribe for her Kim would not be aware of the outcome.

Throughout the ordeal Kim has had a number of dealings with police. When police are called they say they cannot do anything because they say there are no witnesses. A police officer advised Kim to sell her place and move. Kim has spent money renovating her unit and does not want to move.

Discussion Group 6

People with disability are put in prison for long periods without being convicted

Is prison the only option?

Specialist support, accommodation and programs may not be provided to people with disability when they are considered unable to understand or respond to criminal charges made against them ('unfit to plead'). Instead, they are often indefinitely detained in prisons or psychiatric facilities without being convicted of a crime. This situation mainly happens to people with intellectual disability, cognitive impairment and people with psychosocial disability.

Discussion

There is a lack of alternative accommodation and disability and therapeutic support options for people with disability if they cannot stand trial or waiting for assessment. Often prisons are the only accommodation options.

Many people with disability who have been found unfit to plead are subjected to a range of harmful practices in prison including medical and physical restraint and seclusion.

Communication support may not be provided to prisoners with disability so that they can interact with other prisoners and prison staff. They may not be able to participate in health, education, employment and rehabilitation programs. The lack of communication support can have a negative effect on mental health.

Table discussions

The discussion was around Maureen's story which was told earlier in the forum.

It is agreed that the system at this time is not supportive of people who require extra support and there was discussion around how to intervene prior to the person going to prison and how to assist the services who are responsible for assessing the situation and what action they take.

The following issues were discussed;

- Not enough training for police involved. Arresting officers had no knowledge of Mental Health.
- Lack of training for Police to identify when working with people with disabilities. More support required for people who have a disability and working with other support services.
- Police need to communicate and liaise with Community Health when they identify the person may have health issues.
- No discussions with family/carers/services due to privacy, however the person who is at risk of arrest is not asked if they give permission for family/carers/services to speak to police.
- Mental Health Services not listening to family/carers prior to incident and engaging when needed to prevent incidents occurring.
- When a person is on remand, there is little empathy for family travelling to visit.
- Lack of communication from the time the person goes into custody.

- Families/carers are not listened to and support services are not contacted. There is no care plan developed.

Recommendations

Having heard the stories it seems that the experience of people with disability are similar to the experience of people from around Australia whose stories are told in the AHRC issues paper on the topic.

1. Where possible trained and independent support people be used to assist people with disabilities when being interviewed by police. There is a need for funding of locally based services to provide justice support services.

Maureen's story highlighted the importance of having independent support people attending the police station to ensure the person rights are upheld and to assist police to find local support. Maureen explained that when her son was being interviewed by police, she was called in to sit in on the interview as her son was considered vulnerable. Maureen said police did not explain to her what her role was and how she could assist in the interview process. As Maureen was emotionally involved with her son's welfare it would impair her ability to act as a support person.

John's story is an example where a support worker from his supported accommodation service sits in on an interview. This could be seen as a conflict of interest as the support worker was also a witness to the incident.

DAIS offers a 24/7 independent police support program to Albury Police where DAIS guarantees to have a trained justice support person to respond to requests for assistance within 2 hours. This service is similar to the Intellectual Disability Rights Service's Justice Support Network (JSN). This service is only offered to people with cognitive disability throughout NSW. The DAIS service differs from the (JSN) service as it is available to people with any type of disability including those with cognitive disability, mental illness and complex communication needs. Despite numerous attempts to inform police of the service DAIS is very rarely called upon by the police to provide independent support. DAIS has had requests from people with disability to accompany them to the police station to make a statement or report a crime.

DAIS is currently unable to provide police support to people attending police stations in Victoria as this role can only be performed by Independent Third Person (ITP) volunteers run by the Office of the Public Advocate. There has been concerns raised that the ITP and JSN may be successful in metropolitan areas but is less effective in regional and rural areas as volunteers are not readily available and are required to travel long distances to provide support. This may result in the interview being delayed or the interview going ahead unsupported. The ITP program is only available for police stations. They do not provide court support.

The aim of the DAIS Justice Support program is to support people with disability through the justice system, from first contact with police, to attend legal meetings and court, then go on and explain bail, parole or court order conditions to ensure that people do not reoffend as they do not understand the conditions. The program is currently providing an average of 4.6 supports per week. We believe that the DAIS Justice Support Program is successful as it is locally based and responsive to the needs of local people.

DAIS staff can easily back up the support provided by volunteers. DAIS has one off funding until November 2014. The sustainability of the program is uncertain after this date.

2. People with disabilities are to be seen as credible witnesses and their testimony be held up in court.

People with disability, particularly women, are more likely to be a victim of crime. It is estimated that half the women with intellectual or mental illness are much more likely to be sexually assaulted than the general population. These national statistics were reinforced at the DAIS forum. Sarah, Catherine and Sue's stories were all victims of crimes including sexual assault, and there were similarities in each of these stories. Despite saying the police were being helpful and supportive, there was concern it was unlikely that the perpetrator would be punished. Part of the issue was that, due to their disability, the women may not be seen as a credible witness and their testimony may not be used in court. Without the testimony of the women it may not be established beyond reasonable doubt that the person committed an offence. People with disability feel that the court system does not uphold a basic human right to be heard and what they have to say taken seriously.

3. Need for mandatory reporting of allegation of abuse that may occur while people are in care of a disability agency or accommodation.

Discussion group 4 examined the complexity when an incident of a criminal nature occurs when people are in the care of a disability service. There is evidence that a high portion of people with disability are subject to physical, sexual and financial abuse. The abuse is often from another client of the service or from staff. Service providers may not report to police, crimes related to abuse or harassment, as they may have a conflict in managing the situation. They will have a role to play to supporting the victims who are vulnerable. It may be felt that to go to the police will only add to the persons stress. The organisation may feel they have a social justice role to protecting an accused perpetrator if they also have a disability, particularly if person is a repeat offender. The organisation has its own reputation as a reputable service provider, as families often put a lot of trust in the organisation to protect the person from being abused. The organisation may be provided with substantial government funding to provide supervision to people with a disability who have been accused of a crime as an alternative to going prison. The organisation may lose future opportunities if they fail in their duty. The result is that crimes similar to "Kay's" story go unreported.

For mandatory reporting to be successful there needs to be significant penalties similar to Work Health Safety penalties which would result in managers and board members being made accountable if the organisation fails to report any incidence of sexual or physical abuse.

4. Better coordination between police, mental health services and community services to ensure the welfare and safety of vulnerable people.

The forum heard a number of stories where people were let down by the service system. Maureen's son and Peter may not currently be in prison had they received the support they needed at the time of crisis. Maureen said that she and a support service had contacted the mental health service advising that he was off his medication and required urgent hospitalisation to have his medication stabilised. Had this man been in hospital he would not have been in the position to commit the offence.

The police had requested that the mental health service notify them when he was being released from hospital so that they could question him over the offences. If the hospital cooperated with police, there may have been opportunity to provide support during the interview and an application for bail be successful as it could have been demonstrated that he was different to when the offence was committed.

Likewise with Peter the urgent need for support services should have been identified before he committed offences and was imprisoned. Due to the complexity of his disabilities no one service took on the responsibility to support him. By the time any support was offered he had offended and was in prison. There were a couple of times when Peter received medical treatment. On both occasions the case manager had requested the hospital and police to notify them when Peter was ready for release as he could not return to his accommodation. All requests were ignored. It can only be assumed that there is no such system to pass on such messages from one shift to the next.

On one occasion the case manager requested that Peter stay with the health service until appropriate accommodation was found as he was regarded as homeless. Despite this the hospital contacted police to take him back to his accommodation where Peter was not welcome. It appears that the health service was more concerned with budget restraints rather than supporting a person with complex needs.