



Criminal Justice  
Support Network

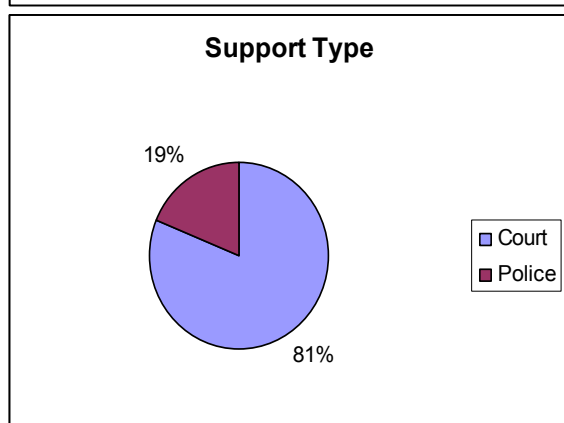
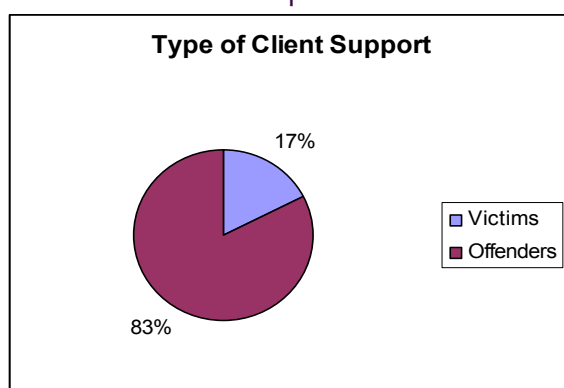
# Newsletter

A project of the Intellectual Disability Rights Service Inc.

## An update from the Manager's desk....

A review of our direct supports for the period Jan – Dec 2005 has just been completed and a snapshot follows:

- We received 226 referrals for support
- 376 direct support were provided for Court matters
- 88 direct supports were provided for Police matters
- 132 occasions of assisting/advising an existing support person
- 346 other inquiries.



**Outreach services** – With the assistance, skill and support of our Outreach worker, Leonie Kirwan, the *Port Macquarie Justice Network* has been successful in obtaining some time limited funding from the Law and Justice Foundation to establish a support network through the local Neighbourhood Centre. The Justice Network will provide Court and Police support through volunteers to people with disabilities. Congratulations to this dynamic, diverse and committed group who have worked very hard to secure this funding. CJSN will continue to support them and provide training during establishment.

**Police Rights Package**– We are very pleased to be able to announce that the Police Commissioner has agreed to formally launch our Police Rights Package on 28<sup>th</sup> April at Parliament House. This Package includes the "Getting Arrested – What to Do" video/DVD and photo booklet, an animated CD on understanding bail conditions, and a training package with session plans to support the resources. 1000 copies will be available and order forms will be distributed and on the website after the Launch. A train the Trainer package will also be developed for the Kit so that other people can be trained to use the package in an on going, and individualised way to support people with intellectual disabilities that they are working with.

The External Evaluation of CJSN was completed by Westwood Spice in October last year and formally presented to DADHC in early November. The report was overwhelmingly positive and key recommendations were around ongoing funding and extending eligibility to people with cognitive disabilities. To review the report, please visit our Website at [www.idrs.org.au](http://www.idrs.org.au)

By Judy Harper, Project Manager



## Law Week 2006

Law Week provides an excellent opportunity for CJSN to promote, network and highlight the needs of people with intellectual disabilities to the legal community. Last year, we were able to distribute the Information Pack for Lawyers and this has had a significant impact with further requests for packages and the case studies being utilised as a reference point in Court on a number of occasions. Following changes to legislation this Kit will be updated this year and further case studies added for utilisation by the legal profession.

There are also a number of activities planned to coincide with events being held in various regions.

**In the Hunter-** Thursday 30<sup>th</sup> March – Information stall at Newcastle Court including a presentation by Peter McGhee, Principal Solicitor with IDRS at 10.30am. CJSN volunteers will be on hand to answer questions and provide further information

about volunteering in the Hunter. There will also be an information stand and presentation at Toronto Court.

There will also be a Law Week gathering for CJSN volunteers at our office in University House from 5.30pm to discuss legal and practical issues experienced by volunteers in conjunction with Peter McGhee. This will also be a good opportunity for volunteers to see new resources, gather information and share their knowledge.

**In the South** – CJSN will be having a stall at the courthouse on Monday 27<sup>th</sup> March as part of the official opening and art exhibition.

CJSN is also hosting an information session for Lawyers and Magistrates on Wednesday 29<sup>th</sup>, 5.30 – 7.30 pm at Wollongong Court. The topic is Intellectual Disability and the Law and it carries 2 CLE points. There will also be information presented by the DADHC State-wide Behaviour Intervention Service on the support and services it can provide to people with intellectual disabilities through treatment and support plans. The session is open to all practising Criminal Lawyers and Magistrates.

**In Sydney** – An Information stand will be provided at the Downing Centre Court on Friday, March 31, 2006.

**In Dubbo** – Two very committed volunteers have agreed to have an information stand at the Dubbo Court House on Sunday, 26<sup>th</sup> March. They will screen the new CJSN "Getting Arrested – What to Do" video and the Attorney General's video "So you have to go to court".

**In Mudgee** – CJSN will officially launch the Mudgee volunteer group on Monday 27<sup>th</sup> March at the Mudgee Court House, as part of our Pilot Outreach program. The celebration will be hosted by Mudgee Court Registrar, Mr. Anthony Goodwin.

An afternoon seminar on 'Guardianship, Wills and Powers of Attorney' for parents and carers of people with intellectual disabilities and for service providers will be conducted by Peter McGhee.

People with intellectual disabilities are invited to participate in a presentation of

## Southern Region Update

### Volunteers

Thankyou to Southern Volunteer Lynn, who has been working very hard with us in Nowra court.

Lynn is a Criminology student with qualifications and interest in Aboriginal issues. She has been spending most list days at Nowra court over a period two months, assisting people with intellectual disabilities through the process on the day. Lynn was able to refer one person through



A scene from the Getting Arrested – What to Do video/DVD

the new CJSN "Getting Arrested – What to Do" video and the Attorney General's video "So you have to go to court" at Mudgee Court.

Thanks go to the Mudgee and Dubbo volunteers for their great efforts and the generous support from the Court Registrar, for what promises to be a great Law Week celebration.

to a TAFE drivers education class for people with intellectual disabilities following a driving matter. This saw the person successfully complete their driving test before the court matter was finalised in late February which had a positive effect on the outcome. This person had been repeatedly coming before the Court for driving matters and no one had identified

her disability, or need for additional support to pass her drivers licence.

Well done Lynn and thank you for the many hours you have given, it has made a real difference. Thanks also to the staff, registrar and Magistrate at Nowra Court who have been very supportive during this trial period.

Welcome also to Corinna, who is a TAFE Diploma student and very experienced disability worker as well as a trained volunteer for CJSN. Corinna will be doing her work placement with us over the next few months and assisting with victim support during a high profile trial in the District Court. We are very glad to have your expertise Corinna and the extra pair of hands !

### **MORE VOLUNTEERS NEEDED**

The next intake of volunteers for the Southern Region is planned for April.

The info session is an opportunity to learn about CJSN and how we operate as a volunteer network. It's also a chance to see if volunteering with us is really for you.

Those who go on to complete the training will participate in a two day court and/or Police support training program.

The training is free and open to people living from Helensburgh to Ulladulla. Volunteers from the Koori community are encouraged to come along.

Please contact the Co-ordinator if you would some more info about volunteering with CJSN , we'd love to have you .

### **Contact CJSN**

#### **SYDNEY Office**

2C/199 Regent Street  
Redfern NSW 2016  
Ph: 02 9318 0144  
Fax: 02 9318 2887

#### **HUNTER Office**

Level 1, University House,  
300 King Street,  
Newcastle NSW 2300  
Ph: 02 4921 8826  
Fax: 02 4921 8866

#### **SOUTHERN Office**

Old Berry Court House,  
P.O. Box 422,  
Berry NSW 2535  
Ph: 02 4464 2733  
Fax: 02 4464 2733

**State-wide 24/7 Support Line**  
**1300 665 908**



### **Supports and Referrals**

We have been receiving referrals for supports from an increasingly diverse network over the last few months, and we are mostly providing support to alleged offenders at present. It is disappointing that we aren't supporting more victims and witnesses of crimes in the South, given the high incidence of domestic violence, particularly in the Shoalhaven. So, referrals are welcome from agencies working with

victims and of course, victims and witnesses themselves. We also support mainstream workers, like advocacy and domestic violence support workers, with specific court support skills and communication techniques relevant to people with intellectual disabilities. Completing a police statement with a person with an intellectual disability can be an incredibly difficult task. Very few victims get past this point and into the courtroom because the quality of the statement is deemed too poor. One of the most important support functions we can provide is to assist police with the preparation of a written statement from victims and witnesses. We are also able to provide follow up support with areas like victims compensation, an area that many of our clients would miss out on, due to their lack of knowledge or ability to pursue it alone.



### **A risk in ERISP: A recent experience of a CJSN support person at a police interview with a suspect who had an intellectual disability**

A CJSN support worker recently attended a police station to support a person charged with a serious offence. It was an indictable matter and the suspect refused to make a statement after receiving legal advice to remain silent and not make a statement. The investigating officer in charge of the investigation wanted to record the refusal of the suspect to make a statement on ERISP (*electronically recorded interview*

*with a suspected person*), saying "in fairness to the defendant I want to record his refusal and put the allegations to him"... There was nothing fair about it!

The officer in charge said, "But it is an indictable matter so he has to put his refusal to make a statement on record".

An inexperienced support person may have let this happen, however the CJSN support person in this matter stopped the process and telephoned back the lawyer to get further advice on what to do.

It turned out that the detective was completely wrong. There is no act of parliament that imposes an obligation on a person to provide information in an electronic form. The code of Practice for Crime (The police handbook) states under the heading **Admissibility of interview evidence** "*you do not have the power to compel or intimate to the suspect that they must participate in an electronic recorded interview for the purpose of recording their refusal. Record the refusal in your note book and if appropriate on the facts sheet*".....there are acts of parliament that may impose an obligation on a person to give information to the police. For example, under the Roads and Traffic legislation a driver is required to give their name and home address.

The risk in a suspect with an ID recording their refusal to make a statement on ERISP is that adverse reactions to specific questions, such as nods and the overall demeanour of the defendant during such recordings could be commented upon by the interviewing officer and it could add to

the evidence against the suspect. The ERISP tape in this example could become admissible into evidence during defended hearing, (if it goes that far)!

So a nervous twitch, a laugh or an inappropriate smile at the wrong time could be seen by a jury. What's more, the barrage of questions put to the person with an intellectual disability may trigger off the person to get emotional or angry at the allegations and change their mind and wanting to deny, or put another version on record, before the support person has time to stop the interview to remind the suspect of the advice they received about remaining silent. This could then open up a can of worms.

If it was not for the experience of the CJSN support person in this matter in drawing her concerns to the lawyer advising over the phone, the refusal would have been recorded on ERISP.

If you are confronted with a similar situation, be confident and politely remind the investigating officer that the suspect has had legal advice and has informed him/her remain silent. Make it clear that the suspect does not wish to record the refusal to make a statement on ERISP or on any other form of recording device. If the officer decides to push the subject, telephone the lawyer who gave the initial advice to speak to the investigating officer about the matter. Otherwise remind the officer of what the Code of Practice says about it, as well as making a file note of the conversations with the officer about the matter. This could be used later to keep

the ERISP out of evidence as it was obtained in an unfair manner.

**By Peter McGhee, Principal Solicitor, IDRS**



### Volunteer with CJSN

Fax to: 02 9318 2887

Mail to: Suite, 2c 199 Regent St,  
Redfern, NSW 2016

I am interested in (please tick):

- Keeping in touch with the CJSN
- Finding out about becoming a CJSN Volunteer
- I am a Solicitor and I am interested in assisting the CJSN

Name: .....

Address: .....

.....

Post Code: .....

Phone:(w).....

(h).....

(mob) .....

Email: .....