



Intellectual Disability Rights Service Press Release

Disabling Justice

Justice for people with disability and mental health problems about to get much rougher

Intellectual Disability Rights Service (IDRS) is a disability legal advocacy service and community legal centre. We provide a support person to be with a person with intellectual disability if they have been arrested.

A person with intellectual disability has the right to have a support person with them at the police station if they are arrested. Most of our support persons are volunteers. We will go to the police station any time of the day or night.

We have a great deal of experience being with people with intellectual disability who are under arrest at the police station. We know what happens.

Intellectual Disability Rights Service is dismayed at the proposed change to the police caution and the further disadvantage it will bring on the many people with intellectual and other disabilities who find themselves under arrest. A person with intellectual disability is extremely vulnerable if they submit to a police interview at the time of arrest. They are anxious and afraid and often keen to cooperate with the police. They are vulnerable to leading questions. They are confused in the face of police questioning but usually will not say so. They are likely to simply agree with whatever police put to them to the point of agreeing to facts or admitting to offences that they may not even have committed.

They will answer the police questions but will not realize the relevance of other information they could add to assist their case. Most police simply do not have the necessary communication skills to conduct a fair and balanced interview with a person under arrest who has an intellectual or other cognitive disability. We know this because we are there at the police station with them.

In our experience most people with intellectual disability are more than willing to participate in a police interview but it is usually to their detriment to do so because of their vulnerability.

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Most people with intellectual disability are alone and unassisted at the police station. Police usually do not recognize that the person has a disability and do not call a support person to assist as they are meant to do. In 2011-12, IDRS was called upon to provide a support person at court for over 800 defendants with intellectual disability. Very few of these people had had a support person at the police station when arrested. A person with intellectual disability has little chance of understanding their rights when arrested if there is no trained support person present.

The proposed change to the caution means that the question of whether to participate in an interview becomes a much more complex question. Legal advice at the time of arrest becomes even more crucial to justice. While a person under arrest has the right to call a lawyer, adults in police custody do not have access to funded legal advice after hours when most people are arrested. Our service has established a pool of volunteer solicitors to fill this void for people with intellectual disability but they will only help if the police call. Most often the police do not call and the person with intellectual disability may not know who to contact.

This change to the police caution may not impact most on the government's target group. It will impact very heavily on the vulnerable - those who have disability and mental illness. We doubt this is an intended consequence on the part of the government but we know it is an inevitable consequence.

We would be very pleased to provide further information or interviews and welcome your contact.



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