



LAUNCH OF
DISABLED JUSTICE: PEOPLE WITH DISABILITY IN THE CRIMINAL
JUSTICE SYSTEM

Tuesday, 22 May 2007 at 5.30 pm
Banco Court, Supreme Court of Queensland
304 George Street, Brisbane

Judge Marshall Irwin
Chief Magistrate

I greatly appreciate the opportunity to be involved with Queensland Advocacy Incorporated (QAI) and my judicial colleagues in the launch of this important report, *Disabled Justice: People with Disability in the Criminal Justice System*, together with its author, Mr Phillip French and QAI director, Mr Kevin Cocks.

It is particularly important that the Queensland Magistrates Court participate on this occasion because as the report correctly states:

The vast majority of criminal matters are dealt with in Queensland's Magistrates Courts. This includes more serious matters that first appear in the Magistrates Court and then are committed for trial in the District Court or Supreme Courts. For reasons described elsewhere in this report, most defendants with a disability are likely to be charged with

lower level prescribed offences, and non-prescribed offences that will be dealt with in the Magistrates Court.

The report recognises that the Queensland justice system has already taken some important and far reaching initiatives that have genuine prospects to improve the courtroom experiences of persons with disability.

In the Magistrates Court these steps include the progressive construction and refurbishment of court buildings which are accessible for persons who use mobility devices, have hearing augmentation for persons with hearing impairments, and in our new Brisbane building Braille signage to assist way finding for persons who are blind.

Approximately 12 months ago a pilot Special Circumstances List was established in the Brisbane Magistrates Court for homeless persons who suffer from impaired decision-making capacity because of mental health issues, intellectual disability or brain/neurological disorders and who plead guilty to charges which typically involve public order issues.

This has been an important development because as discussed in the report, persons with disability are particularly susceptible to conviction on public nuisance offences.

The persons who appear in this List are assessed as to their suitability for a course of treatment or some other program which may help address the causes of their offending behaviour. They

are typically sentenced by way of a good behaviour bond on condition they complete a program or participate in a service such as a Community Mental Health Service. This approach is adopted as an alternative to the imposition of a fine which may result in their serving a default period of imprisonment.

This List operates in association with a Homeless Persons Court Diversion Program which also deals with many persons with disability. This Program is funded to the extent of a Homeless Persons Court Liaison Officer. Otherwise the program operates within the court's current budget and resources. Participants who have been successful on the List have taken positive steps to address the circumstances which have brought them before the court.

The project is subject to an evaluation. It is hoped that this will result in whole of government support for the establishment of a permanent therapeutic justice program addressing these issues.

I would also like to note that it was only last week that the Director-General of the Department of Justice and Attorney-General launched a *Vulnerable Person Policy*.

However, I accept the report's conclusion that further work can and ought to be done to overcome the barriers to justice in this area.

The fact is that for reasons that are also identified by the report the court is often not given information to enable it to identify persons

whose disability involves an impaired decision making capacity and who appear before it charged with offences.

It is important that these persons are identified, and again to quote from the report:

Criminal and sentencing law must allow the courts to deal in a socially responsible way with defendants who lack capacity for the assignment of criminal responsibility, or who it is preferable, in the interests of justice, to divert to appropriate support options within the social service system.

The report shakes us out of any sense of complacency. As it says, there is *no excuse for inertia*.

I, like my colleagues, am committed to using our available resources to do what is essential to advance access to justice for the disabled.