Another very serious human rights abuse is in mental health law. All that is needed to place someone into a mental health hospital is a justice of the peace signing a document called a warrant under the Mental Health Act as requested by a psychiatrist and mental health officer (social worker). A person loses all of their rights and must APPEAL the justice of the peace’s warrant after 28 days where they can be treated with god knows what medication against their will in the interim period.

The current system prima facie removes a person’s human rights altogether for at least 28 days when it should be necessary for the person to be present and put arguments if they wish when the warrant is issued to send someone to a mental health hospital for treatment. No one should be treated without first having their fundamental human rights asserted in law and a right to a fair hearing should start at day 1 minute 1, not 28 days later. At 28 days an APPEAL is possible, however, there are abuses of the system whereby an appeal is not done when requested at 28 days (s.44) but a “Compulsory Treatment Order” is sought for a further 6 months and an APPEAL of the CTO is done, thereby abusing a person’s human rights to a fair hearing under article 6. That is to say an appeal does not occur of the 28 day detention but the 6 month detention - it should be necessary that article 6 hearings cover both periods of detention - but the system is currently lax at 28 day appeals. Mental Health law is not currently complaint with Human Rights legislation and is open to abuse.

I would recommend that in the situation that a justice of the peace issues a warrant for detention, that the person be escorted by the police back before the justice of the peace to plead their case (especially as there may be causative issues which require the investigation of law per se or the intervention of Citizen Advice Bureau) prior to issuing a detention order. It may be the case that the causative issues need to be dealt with only or it may be the case that the causative issues need to be dealt with and a period of detention be dealt with, or it may be the case that the detention is not necessary having heard the facts.

At the moment detention does not affect the causative issues and a person can be sectioned for 28 days or a further 6 months and still have to face their causative issues when detention is up, or may lose their assets due to detention, because they are not working etc. For those people who are experiencing some form of legal conflict or criminal conflict, at the moment the police refuse to engage where a detention has ensued and may also be the cause of the detention when something is reported to the police who fail to act thus ensuring a complete failure of human rights.

Lesley D McDade

September 2014