

**INQUIRY INTO COMMUNITY BASED SENTENCING
OPTIONS FOR RURAL AND REMOTE AREAS AND
DISADVANTAGED POPULATIONS**

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Theme:

Summary:

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The Standing Committee on Law & Justice
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

RE: PARLIAMENTARY ENQUIRY-COMMUNITY BASED SENTENCING OPTIONS FOR RURAL & REMOTE AREAS-AND DISADVANTAGED POPULATIONS

Might the writer say at the outset that this inquiry is very welcome as these issues have been of concern to our firm for some time.

The writer is in the privileged position of serving, as a full time criminal advocate, the remote communities listed below.

We represent both aboriginal and non-aboriginal persons, including clients able to afford private legal representation and Legally Aided clients. Waterford Ryan appear regularly in the following courts:

- Coonamble;
- Walgett;
- Coonabarabran;
- Lightning Ridge; and
- Warren

The following sentencing options **are not available** in the Far North West of NSW:

- Periodic Detention;
- Home Detention;
- Drug Court;
- Community Service Hours, in some cases

Periodic Detention.

The closest facility for PD is Bathurst, which is for both women and men. If a client faces full time custody and the court is considering PD, they must re-locate. This is a very expensive exercise for economically disadvantaged persons. Further to this both the court and the relevant officers from Probation and Parole need to be satisfied a client is able to re-locate.

The writer has seen the significant financial burden and disruption clients have endured to move to Bathurst as an alternative option to full time custody.

Community Service Orders

This is generally an appropriate option for clients in remote areas, where a full time custodial sentence is not being considered, if they reside 'in town' and have a licence.

If a client lives on a rural property and is either an unlicensed or 'disqualified' driver generally they are not considered suitable for this option.

In recent months our firm has represented clients placed on s.12 'suspended sentences' because they lived too far from 'town' and were unlicensed, not because they were unsuitable.

The issue here is if a client re-offends at a later time and faces sentence, the court may in its discretion assume the s.12 bond was imposed due to the 'objective criminality' of the previous offence as opposed to the lack of an available option. This may have the effect of distorting a person's criminal history.

Further to this a s.12 bond is an alternative to full time custody, a community service order is not. So when the court imposes a s.12 bond **only** because the offender cannot get to town to perform CSO, they are harshly dealt with.

A persons 'bail history' or 'fingerprint record' does not note the reason for the imposition of a particular sentence.

Rehabilitation & Supervised Bonds

The Crimes (Sentencing and Procedure) Act NSW 1999 lists the purpose of sentencing (section 3A) as:

- to ensure that the offender is adequately punished for the offence;
- to prevent crime by deterring the offender and others from committing similar offences;
- to promote rehabilitation of the offender;
- to denounce the conduct of the offender; and
- to recognise the harm done to the victim of the crime and the community;

The majority of clients before the court in Far North West NSW are placed on bonds. Many of these bonds are a 'supervised' bond.

Walgett, Lightning Ridge and Coonamble townships have significant populations of aboriginal offenders with alcohol and drug dependence issues. More often than not clients also have anger management and relationship management issues. This results in a 'turnstile' recidivism through local courts, if effective rehabilitation is not available.

It is not hard to imagine the disruption caused in these communities when fathers are 'away' in Bathurst Correctional Centre serving 'time' for domestic violence offences.

Moree or Brewarrina are the nearest facilities offering 'rehabilitation' for offenders. Both locations are hours away and are not accessible by public transport.

Domestic violence perpetrators are fathers in communities where there are virtually no rehabilitation alternatives.

Currently, Coonamble does not have either an alcohol or anger management counselling. If a client is placed on a 'supervised' bond, the officers at Probation & Parole manage the clients' rehabilitation needs with great difficulty.

For the first time in some years the Probation & Parole Service are due to conduct a 'sober drivers' course for drink drivers. This is welcome.

Conclusion

The Far North West communities of NSW face serious social disadvantage in that they lack the sentencing options available in the Sydney Metropolitan area and other larger regional centres, such as Tamworth and Bathurst.

Where an offender would prefer to undergo rehabilitation within the community they are further disadvantaged as it is not available within the community (excluding Lightning Ridge).

Over the years the writer has appeared in the above courts for both aboriginal and non aboriginal offenders. Amongst these persons there is often frustration that the 'system' is not supportive of their efforts to free themselves of criminal behaviour.

Many clients we have appeared for have attended rehabilitation only to return to their respective communities to find no support for their on going change in behaviour.

We need a rehabilitation facility close to these communities with 'outreach' workers in the field to assist systemic change. Without such an approach the 'individualised' punishment is piecemeal and rarely long term.

Yours faithfully
WATERFORD RYAN

Ms. Su L Hely