

Submission
No 36

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

Organisation:

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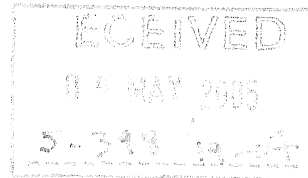
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Theme:

Summary:

2nd May 2005

Chairperson and members
Standing Committee on Law and Justice
Legislative Council of New South Wales
Parliament House
Macquarie Street
Sydney NSW 2000



Dear Madam Chair, members and secretariat,

Re: Inquiry into Community based sentencing for rural and remote areas
and disadvantaged populations
Public submissions

Please find enclosed my submission to the inquiry of the Standing Committee on Law and Justice into Community based sentencing for rural and remote areas and disadvantaged populations.

My submission focusses on the need for an enhancement of the community offender service (COS) as part of the Department of Community Services and the need to enhance services to regional New South Wales so that all citizens regardless of geography or physical/mental status are able to take advantage of the many benefits community-based sanctions offer above those of full-time imprisonment.

Thank you for giving me the opportunity to contribute.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Andrew Jaffrey".

Andrew Jaffrey
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*INQUIRY INTO COMMUNITY-BASED SENTENCING
FOR REGIONAL AND REMOTE AREAS
AND
DISADVANTAGED POULATIONS*

SUBMISSION

There can be no doubt that the impact of full-time custodial imprisonment on our society is significant. The effect such sentences have on the offender, the offender's family, the economic cost of housing and maintaining offenders in correctional centres and the very real and well-evidenced research which shows the likelihood that the offender will go on to reoffend once released from custody should be enough to make even the most cynical among us concede that conventional "jail" punishment per se is not effective without the corollating programs and support systems which aid to promote the offender from the correctional system with the skills, drive and abilities to take responsibility for their offending behaviour and to co-exist in the community in a lawful and productive fashion.

For this reason, conventional sentencing laws have reflected the opinion that imprisonment as a sanction must be used as either a last resort, or where no other punishment is seen to be appropriate in all the circumstances of the offence(s) committed.

A considerable difficulty for rural and remote areas throughout the State is that the lack of available services for offenders suitable for community-based sentencing has seen imprisonment go from what should be a last-resort to sometimes becoming the only resort in areas where facilities and supervision services are either not available or so under-utilised that the Community Offender Services [COS] are unable to offer assistance to the sentencing courts.

As our current system stands, if two co-offenders are sentenced at the same time for the same offence, one in Sydney the other in Brewarrina, the offender in Sydney is likely to have a wide range of community-based sentencing options available to him whilst his co-offender is more likely to receive a custodial sentence because no other alternatives are available to the court. Not only is this unfair to the offender, but is in stark contrast to the very foundation of our criminal justice system; the principle that all

persons are to be treated equally before the law.

Clearly this is not the case in New South Wales.

This submission proposes a redistribution of responsibility for the management of community based sentences by way of Community Justice Panels, incorporating the existing rural and regional administrative capacities of local government areas, and involving relevant social agencies such as Centrelink, Department of Housing, Youth and Community Services, Department of Aboriginal Affairs, Department of Health, Department of Education, NSW Police, NSW Corrective Services, Courts Administration (through Attorney-General's department) and each individual local council. Such would see the formation of *genuine, locally-based community groups* tasked with monitoring offenders in the community, managing existing programs and focussing on specific regional needs and requirements, rather than attempting to manage an entire State of complex regional issues from two floors in Sydney.

Instead of referring an offender just to the Probation and Parole Service for a pre-sentence report, the courts could elect to refer an offender to a Community Justice Panel who could consider the circumstances of the offender, the offences and what needed to be done in the community, and offer back to the sentencing court a catalogue of suggestions which would incorporate punishment, social assistance and education/welfare advice where necessary. Such panels already exist in some form in Victoria.

The existing Probation and Parole Service - opinions and attitudes

Originally part of the Attorney-General's department, the Probation and Parole Service was aligned into the Department of Corrective Services some time ago, albeit for reasons which at the time inferred that the existing administration was not operating effectively or efficiently outside the corrections administration. Last year, the Department of Corrective Services renamed the Probation and Parole Service "Community Offender Services" [COS] for reasons which have as yet remained unpublished. Presumably such re-naming was to take into account the various tasks outside Probation and Parole that 'community offender services' cover. At present, COS are responsible for the provision of pre-sentence and pre-release reports, monitoring of offenders on parole orders, monitoring and administering community service orders, monitoring and administering home detention orders and supervising offenders under supervision orders as part of, or secondary to, offenders on bonds. There are of course other duties performed by COS but for the purposes of this submission, the above duties are seen as crucial to this inquiry.

situation, but rather to look 'outside the square' and consider an alternative approach.

There are already established COS offices throughout the State, many of which are in areas which can be identified as being remote or rural. These include:

- Broken Hill
- Bourke
- Griffith
- Deniliquin
- Wagga
- Tumut
- Young
- Forbes
- Coonamble
- Moree
- Glen Innes
- Gunnedah
- Bega

The remainder are in towns which would be considered semi-rural and although some remain remote, they are fairly large regional centres with sound infrastructure and services. For the purposes of this inquiry, I have not included them in the above list.

The proposed Community Justice Panels

The only consistently funded, and established consistency throughout every region in New South Wales is local council.

These councils are well established and linked by Statute to the umbrella of the NSW Government through the Department of Local Government (DLG). Most Local Governments have basic services annexed to their council jurisdictions - post office, hospital, court house, police station(s) and other ancillary services. Where appropriate, council already provide municipal services such as rubbish removal, roadworks, development consent and so forth.

Suggested community justice panels could be established in each local council area deemed to be "remote".

Membership could comprise persons from various government and non-government agencies with an interest in criminal justice and social welfare. These would include housing, health, police, corrections, community services and where appropriate youth and community services (juvenile justice) workers. The community justice panel would operate in similar

style to the process applied to the selection and appointment of community members to the burgeoning number of public boards and statutory bodies such as the Parole Board, Serious Offenders Review Council (SORC) and others.

When presented with an offender, a court would have the option of referring that offender to their local community justice panel for an assessment as to the most appropriate sanction for that offender, for the benefit of not only the offender but of the community in which the offender resides. Sanctions could include a variety of penalties, all subject to supervision under the auspices of the panel, by trained and resourced workers. The current operation of community service orders, as evidenced in inquiry submissions, should be enough to cause concern. Volunteer senior citizens supervising workers on community service orders is not appropriate and does not work. CSO's in their current form, particularly in poorly resourced areas are a farce.

At the crux of this is the offenders knowledge of how to 'rort' the system. Properly established community justice panels with an intimate knowledge of the offenders local area are a step toward reducing this potential to rort the system. It is already well known that in aboriginal communities, such as the circle sentencing program, offenders who are being supervised by people they already know, and who know them and their circumstances, have a much higher success rate (success not only of completing orders but of reducing re-offending) than those who do not.

This submission has not reflected the additional research required to fully implement such a proposal, but rather offered some thoughts and suggestions to motivate further debate and ideas to rationalise a criminal justice system in which we are stakeholders and in which every person in New South Wales should be afforded the same opportunities to address offending behaviour and learn to contribute to society in a meaningful and productive fashion.

As a modern community we should expect nothing less.