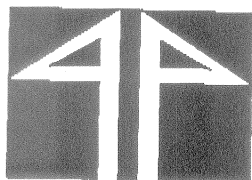


**INQUIRY INTO COMMUNITY BASED SENTENCING
OPTIONS FOR RURAL AND REMOTE AREAS AND
DISADVANTAGED POPULATIONS**

Organisation: Probation and Parole Officers' Association of NSW Inc
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Date Received: 1/06/2005

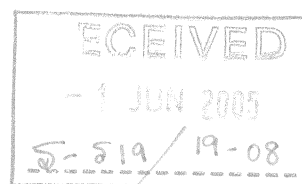
Theme:

Summary:



Probation and Parole Officers' Association of New South Wales Incorporated

P O Box 1327
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Ms. Annie Marshall
Law and Justice Standing Committee
Inquiry into Community Based Sentencing Options
For rural and remote areas and disadvantaged populations

Dear Ms. Marshall,

My sincere appreciation for accepting this submission, the electronic version apparently having disappeared into cyberspace.

Contact with the Association may be via the post office box as above, or to the President, Peter Harvey:

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Thanks again,

Moira Magrath

31.5.2005

**PROBATION AND PAROLE OFFICERS'
ASSOCIATION OF NSW (PPOA)**

SUBMISSION TO THE

**LEGISLATIVE COUNCIL OF NSW
STANDING COMMITTEE ON LAW AND JUSTICE**

in relation to issues raised in the discussion paper:

**Inquiry into community-based sentencing options for
rural and remote areas and disadvantaged populations.**

(January 2005)

Introduction

The Probation and Parole Officers' Association of New South Wales (PPOA) is the professional association for Probation and Parole Officers in NSW. The Association has been in existence since the mid-1970s and has made major contributions over the years to debate on criminal and social justice issues, law reform, public education and the education of its members. Its goals are to enhance the quality and nature of justice through the contributions of members.

A. What is community-based sentencing?

Selected questions addressed

2A) Do you consider some/all community based sentencing options to be "lighter" forms of punishment than imprisonment?

Imprisonment is the harshest form of punishment and it is often unnecessarily imposed. It is often inequitable in that alternative, flexible community-based sentencing options are not available in some rural and remote areas of NSW (by current definition, areas that lie 200 km or more beyond large city centres). When courts apply the presumption that "imprisonment is always a last resort", (refer page 2, discussion paper) this is not to downplay the positive impact and effectiveness of community-based sentencing options. Such options open up choices from a potentially wide range of structured interventions for the minimum effective period to impact on both reoffending and rehabilitation, with minimal potential to disrupt and thereby damage the lives of offenders and those people who are close to them.

The real issue is not whether sentencing should be regarded as "lighter" or "heavier" but whether sentencing is *fit for purpose* and has a long-term value. It must be remembered that, in the perception of offenders, imprisonment is sometimes seen as an easier option than coping on the outside, particularly if – as is frequently the case – they suffer severe social and economic disadvantage in the community.

Because community-based punishments are more effective they *enhance community safety*.

3A) What do you see as the advantages and disadvantages of community-based sentences in general, compared to imprisonment?

There are no disadvantages in community based sentencing. They are cheaper, they propel the offender towards addressing issues within their environment and support offenders while doing that. They keep a monitoring watch on offenders in the process. Community-based punishments enable offenders to maintain their lives, employability, family relationships and other close relationships. Community-based punishments save the tax payer in terms of indirect costs association with imprisonment, such as welfare and health.

Community-based punishments engage the community in the rehabilitation of its own offenders. The community is precluded from abdicating its responsibility by "disowning" its own members and exiling them into a period of incarceration. Community-based punishments clearly define sentencing as a learning process for the whole community. Those who have mental health issues are the new institutionalized inmates. Community based punishments are more effective in reducing recidivism than custodial sanctions.

- 4A) Community-based sentences are generally more economical than full-time imprisonment. Should economic reasons be a basis for imposing a community-based sentence or making them more widely available?**

Economic reasons should not by any means be the only reason. A community-based sentence is inherently better, as discussed above, not just cheaper. Why wouldn't our society opt for a *better* product for a cheaper price?

- 5A) Can various community based sentencing options be linked in order to tailor them to rural and remote areas or disadvantaged groups?**

With adequate resources we can develop a suite of options tailor-made for rural and remote areas and disadvantaged groups.

- 6A) Do you have any other issues you wish to discuss about the range of community based sentencing options available in NSW?**

Currently, the pathway to community-based sentencing alternatives is limited for Judges and Magistrates who preside over sentencing offenders in rural locations, not only because of the unavailability of Periodic Detention centres, Home Detention and Drug Court Programs and local intervention services but the tyranny of distance in getting to offender management services is itself an impediment to successful completion of orders by many offenders. We have an obligation to provide an equitable access to justice.

B. Rural and remote areas in NSW

Selected questions addressed

- 1B) Do you think it is in the public interest to tailor community-based sentencing for rural and remote areas in NSW? Why/why not?**

In the case of community service work, real value is directly returned to the community in the form of unpaid work that is community based, non-profit and of local significance. It is very much in the public interest to save demands on the health and welfare budgets. Community-based punishment guarantees prevention of even more social dislocation – broken families, broken homes, unemployment or under-employment, the dampening of community initiatives. Community-based punishment prevents the erosion of a sense of community that occurs when people are, often suddenly, taken into custody, then moved from prison to prison – frequently at vast distances from homes and significant relationships.

We cannot accommodate the continually increasing prison population. We cannot maintain a capital works program that will keep pace with increasing inmate numbers. Therefore the development of alternatives is crucial at this time. We certainly cannot adopt strategies even faintly reminiscent of the miserable pathway chosen by politicians from the British Isles in the 18th Century, of transporting their criminals and malcontents to a faraway colony as a solution to their social problems – out of sight, out of mind.

2B) In which rural and remote areas in NSW is access to community-based sentencing options a problem? Why is accessibility a problem and how can it be overcome?

Access to community-based sentencing options is a problem in ALL rural and remote areas of NSW. We recognize and admire the services provided by Probation and Parole Officers who service these locations. Their work is compounded by the narrow range of sentences available to the courts. This process has the effect of trying to squeeze offenders into sentences for which they may be ill-suited and therefore destined to fail. They make the offender fit the sentence. Currently these areas are deprived of Periodic Detention, Drug Courts and Home Detention (despite early indications of high eligibility rates for Home Detention in many remote areas surveyed).

It has long been argued by researchers such as Baldry (1995) and Corden (1978) that the greatest needs of offenders are for housing with significant others and to ensure that links with home or home location are maintained and significant relationships strengthened. It is therefore much in the interests of offender management that the sense of place and belonging instilled in offenders be used to encourage them to stay in rural or remote areas or reestablish their lives there, where their sense of belonging and identification is strongest and most conducive to successful reintegration into the community. As researchers have repeatedly emphasized, this kind of social inclusiveness is diametrically opposite the community experience most productive of reoffending, namely social isolation and fragile or negligible survival resources.

3B) Which rural or remote areas in NSW would benefit from increased availability of community based sentencing options?

ALL areas, across the entire state of NSW, would benefit from the enhanced availability of community-based punishments.

4B) Which community-based sentences currently available in NSW should be available in these areas?

Some stringent forms of supervision should be available, such as: Home Detention and Periodic Detention (perhaps an adjusted form which includes developmental programs). With adequate resourcing we could fortify the suite of options available across NSW with initiatives such as transitional centers, bail hostels (with a high level of supervision and developmental programs) and partnerships with Alcohol and Other Drug treatment centers.

5B) What cost considerations are involved in expanding the availability of community-based sentencing options, or tailoring them, to rural and remote areas?

Establishment costs would be required up front, but there will be an investment in the community and an eventual return on that. It is essential to build in long-term sustainability to reap the long-term benefits.

One possibility is to create outreach services to develop, for example, overnight stays, laptop computers, satellite phones. Perhaps Community Offender Services – as a modern, 21st Century initiative – should aim to go beyond the current Monday-to-Friday work model. The management of offenders in the community is far more cost effective – less than \$10 per day compared to \$173 per day per each full time inmate.

Community Offender Services needs to continue to pour fresh resources into staff development and to foster the recruitment of a heterogeneous staff base. This would enhance relationships between Community Offender Services and local communities. It would also provide a broad skill base and conduit for the exchange of ideas and new approaches to looming challenges. Community partnerships and cross-agency networking should be made a priority in line with general trends across government.

Investment in some of the newer technologies for improved monitoring could be considered, such as the Global Positioning Satellite (GPS). (This is already used in some USA jurisdictions.)

Lack of resources restricts service delivery in some locations. We have about 18,000 people on community orders managed by about 600 Officers, whereas the prisons have roughly 9,000 full-time inmates, staffed by approximately 4,000 Correctional Officers. Most inmates serve less than one year in prison, so this is a very expensive industry to maintain.

6B) What disadvantages or advantages of community-based sentencing options are particularly relevant to rural and remote areas?

There are no disadvantages.

In addition to those outlined above, community-based punishments provide an opportunity to develop culturally sensitive programs that are unique to each community.

7B) Do you have any other issues to raise in relation to tailoring community based sentencing options for rural and remote areas in NSW?

General discussion

(See answer 3A.) The community has to take responsibility for offenders, just as it takes responsibility for other groups. It should not marginalize the already marginalized. The long-term dispossession – material and psychological – of inmates often results from complete disconnection and exile from their communities. This hidden human cost to a community is devastating in terms of social breakdown and is compounded by redirection of funds away from community needs into massive budgets that maintain the prison system.

A lack of access to community-based punishments in rural areas is a major contributing factor to a higher percentage of prison sentences in those areas.

The availability, in remote locations, of groupwork programs conducted by Community Offender Services is constrained by resource considerations, rendering it unfeasible to provide some of these programs. Much needed alternatives addressing issues such as Domestic Violence and Anger Management are not available in rural locations. Probation and Parole Officers frequently wait for inordinate periods of time for enrolment numbers to build up. The impact of intervention diminishes with the lapse of time between imposition of the penalty and commencement of intervention. Furthermore, circumstances change with the passage of time. These factors combine to mitigate against the successful implementation of group-based program interventions in rural and remote areas. As planned programs fail to commence, offenders are denied the benefit of these interventions and communities suffer as a consequence.

In rural and remote areas there needs to be an inventive mixing of options specific to each area; this could be a combination of Community Service hours, developmental programs, supervision, intensive supervision to suit the resources in the area and changing conditions in the area. Local referral agencies have fluctuating staffing and resources, and this affects their service delivery. The effectiveness of community-based punishments would be enhanced by increased flexibility in the mode of service delivery, thereby reducing the incidence of breach for failure to comply with specific stringent conditions.

Increased Service resources such as increased numbers of casual/sessional staff would allow greater time to access remote communities, thereby enhancing access to Good Behaviour Bond supervision and Community Service Orders.

The offence of "Drive Whilst Disqualified" is one offence that attracts more penalties than most other offences. The offender is disqualified from driving, then is sanctioned with a further court penalty and can further be sanctioned by the Roads and Traffic Authority under the Habitual Traffic Offenders Act with a further period of disqualification. If you reside in an isolated part of NSW, how do you commute anywhere, let alone to offender management programs? The issue of "Drive Whilst Disqualified" and the rate of incarceration and the hopelessness of offenders ever gaining a valid driver's licence is another subject that should be canvassed for its inequity of penalties against other offences and penalties.

Community Offender Services requires resources to assist with rural offender management by the acquisition of offender management programs that can be undertaken by correspondence, by internet, electronic or satellite facilities. Additionally, the Community Service Order Program could be expanded so that community work could incorporate a range of options currently unavailable. Opportunities are endless provided the framework is clear of exploitation and value-added for the benefit of the community,

Distance Education can be utilized for supervision programs if adequately resourced to provide offenders with the technological capacity to comply. Email facilities could be used for submitting and sighting written work, drink diaries, self-development journal keeping, listing of learning tasks and comments.

C. Disadvantaged populations, including:

- Aboriginal and Torres Strait Islander offenders
- Culturally and linguistically diverse offenders
- Young offenders
- Older offenders
- Female offenders
- Offenders with a disability

Questions addressed

- 1C) Which disadvantaged groups should the Committee consider as part of its review? What difficulties do they face accessing community-based sentencing options and why?

It is in the interests of community equity that we must ensure we can accommodate all these groups. More diversionary programs could be administered by Community Offender Services. Specifically, there is a need for offender management programs that are targeted and designed to address the cultural and linguistic requirements of certain diverse groups.

- 2C) Do you think it is in the public interest to tailor community-based sentencing for disadvantaged populations in NSW? Why/why not?

Community-based punishments should have the flexibility to be tailor-made to the needs of individuals and their individual differences, so that we can develop culturally appropriate programs for distinct cultural and linguistic groups, older offenders, women offenders (regardless of any caring responsibilities they may have) and that we have a particular regard for offenders with disabilities so that we can assist them in their treatment regimens.

- 3C) Which community-based sentencing options currently available in NSW should be made more available for these groups?

Punishments such as Home Detention should be available State-wide. However, in its current form, Periodic Detention exposes people with a disability to greater risk as they are extremely vulnerable in that setting. What we should do is to form a more creative approach to meeting their needs over time.

- 6C) What cost considerations are involved in expanding the availability of community-based sentencing options, or tailoring them, for disadvantaged groups?

The community must be engaged to accept responsibility so that sustainable cost-effective strategies can be established.

- 8C) Do you have any other issues you wish to raise in relation to disadvantaged groups?

General discussion

Responsiveness improves with cultural and content sensitivity. Programs such as "Walking Together" (Redfern), "Rekindling The Spirit" (Lismore) represent models that could be implemented with modification to tailor them to the specific community.

The standard staff-to-offender ratios should be altered in rural and remote areas to take into account widely dispersed populations over greater distances to facilitate the allocation of more Aboriginal liaison staff.

There has been a dramatic decline in the numbers of young people living in rural and remote areas, although other age groups have remained consistent with those in metropolitan areas where 55% of the population is over 65 years of age. The displacement of many young offenders that occurs as they move to metropolitan areas would reinforce the disadvantages of economic hardship: isolation, poor educational opportunities, lack of work skills and experience, dependency on the welfare system. It is therefore imperative that young offenders be given every encouragement to remain close to their rural support systems and be given forms of supervision that would enhance their life skills and provide more resources to enhance further education and work opportunities.

D. Eligibility for community-based sentences

1D) Do the eligibility criteria for the various community-based sentencing options unfairly exclude some offenders from disadvantaged groups?

Currently the criteria fail to take account of the needs of individual communities and the people within them – particularly in relation to Periodic Detention, as it excludes: mothers with childcare responsibilities and/or carer commitments; Aboriginal offenders – often because of violent criminal histories; people with disabilities; older offenders with diminished employability and the lack of personal resources to report to a centre.

2D) Existing criteria for eligibility are 'negative' or better described as criteria of exclusion. What are some positive criteria that might be used in relation to disadvantaged groups?

Positive criteria might include consideration of an individual who has met with some degree of success in the past, *in their own terms*, such as: having established relationships with significant others; having stayed out of trouble for long periods of time and coped with past community supervision; having secured some further training and/or employment; having a stable address; and having made some progress on a treatment program.

3D) Should 'disadvantage' be taken into account by the courts as a factor when determining whether an offender is eligible for a community-based sentence?

The sentencing hierarchy has to take into account criteria that do not place the welfare of disability groups at risk.

E. Types of community-based sentences

1E/a) Can you comment on the availability of good behaviour bonds in rural and remote areas in NSW?

It is abundantly clear that additional community-based sanctions should be developed, with adequate resourcing. Broader, equitable, sanctions must be created as alternatives to prison, which is, in broad socio-economic and rehabilitative terms, manifestly ineffective. Properly resourced, we can develop and implement an innovative suite of community-based punishments.

1E/b) Can you comment on the availability of Community Service Orders in rural and remote areas?

It may be necessary to compensate for the paucity of agency supervisors available in rural and remote areas, by introducing new field supervisors.

1E/c) Would the Drug Court be beneficial in rural and remote areas in NSW?

There is no reason the success of the Drug Court model could not be replicated in remote areas, providing adequate services were available to support it. Like other programs however, it would require some modification to fit the local environment.

3E/d) What would be the impact of the availability of Periodic Detention upon rural and remote areas?

Periodic Detention Centres would be a very cost-effective asset in rural and remote areas. They would also provide a positive alternative to full-time custody for disadvantaged groups, e.g. Aboriginal populations, older people, women with childcare responsibilities. The current ineligibility/exclusion criterion of a past custodial sentence of over six months is too restrictive and has been introduced absent any evidence that previous sentences of imprisonment have a bearing on compliance with sentences of Periodic Detention. Sentencers are inclined to impose custodial sentences which include a period of parole, in recognition of the value of community-based offender management. Accordingly, sentences slightly exceeding 6 months are prevalent and those who re-offend are currently disqualified from Periodic Detention. Imprisonment is not renowned for its ability to reduce re-offending and to disqualify those once exposed to its harm from a community-based sentence increases the likelihood that they will continue to re-offend.

2E/e) Is Home Detention a viable community-based sentencing option for rural and remote areas?

There is the potential for more success in rural and remote areas because community-based, intensive supervision with its high level of intervention, can greatly extend opportunities that promote more access to services and greater social inclusiveness.

It has been assessed that offender eligibility rates for Home Detention in many rural and remote areas are very high. Other jurisdictions have managed to introduce Home

Detention in remote areas by the application of a range of supervisory regimes, which could be adapted and adopted in NSW.

Conclusion

The PPOA Executive (NSW) pays tribute to the dedicated Probation and Parole Officers who work in this demanding and often under-recognised field. Their collective views have consistently and overwhelmingly favoured the increasing diversion of offenders from custody into the community because of the value they see in the reduction of reoffending, reintegration that occurs without having to overcome the trauma of exile and separation and, more importantly, the well being of people in caring, inclusive and safer communities.