

<b>Submission No 7</b>
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## INQUIRY INTO BACK END HOME DETENTION

**Organisation:**

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**Telephone:**

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**Theme:** In favour of implementing back-end home detention for appropriate cases.

**Summary:** Opposes the Shadow Minister for Corrective Services and Rehabilitation's position on blocking the new proposed legislation on back-end home detention

Writer provides descriptions of a range of inmates - suggests that many of them should serve home detention for the remaining 12 months of their sentence.

Nikki Smith



The Shadow Minister for Corrective Services and Rehabilitation would like to block the new proposed legislation enabling approved inmates serving time in NSW to serve home detention for the remaining 12 months of their sentence.

I ask him this; Who is he writing about? To whom does he refer?

If I am asked to describe someone and do so simply by telling you she is a 'mother', all it tells you is she has children. Similarly to describe someone as an inmate, all it tells you is that they have done something wrong. That 'something' can be as varied as premeditated murder to a traffic offence. You would not judge all 'mothers' as one nor should you judge all 'inmates' as one.

To encourage the public to make decisions that effect people's lives so adversely there is surely some responsibility on your part to be informed. Our jails are not full of evil. There are some very decent people in there, paying dearly for their mistakes. There is Cyril the 80 year old man that wrongfully continued to collect his deceased wife's pension, a 30 year old serving time for stealing 30 razor blades, a man clearly in desperate need of help rather than detention, the 28 year old father of three who misappropriated, and then paid back company money.

His five year old stands loyally at the barb wire fence, post visits and calls out "I love you daddy, when are you coming home?"...she then wanders up to another woman, peers up at her and enquires "when is your honey coming home"?

If you seek consideration in having a voice in determining their fates or impacting them in any way then shouldn't you at least know something of them, their story or their environments. Their rehabilitation.

At the very least, if you cannot do this, then be specific as to the kinds of crimes you feel should not be afforded the opportunity of this scheme. Surely you can at least acknowledge there is cause to consider the differences.

Their crimes range from murder to driving offences, and yet they are all rendered numbers, once in the system.

In a world rife with tragedy and need, it is hard to expect anyone to care for any of them however like all of us there are many that are deserving of reprieve and forgiveness.

It has certainly been an experience coming into personal contact with corrective services and it's colourful cast.

The surprising element was to find so many decent and caring people there and I

am not referring to the staff, although there are certainly some caring among them as well.

The wife of a biker comes to visit him each week. He has evidently grown up in a abusive household as a youngster and not had much of a start in life. His only real family has ever been his bikers club, of which he is the President. He has served a considerable amount of time in jail - something he will now tell other inmates he plans to change at the end of this current stint. His wife is waiting at the gates with us most weekends to be let in. One week she brings a team of unruly children with her. One is so out of control that he bites the teet off his bottle and spits it into the nearby bushes. I can feel most of us silently disapproving but saying nothing. Until familiar with each other, we often don't make eye contact. At the time I didn't think that much of this woman and her maniacal tribe, as it is not a rare sight to see, when visiting a correctional facility. I learn later that infact the children do not belong to her but rather her neighbour that like our biker in his own past, suffers an abusive relationship. It struck me at the time that none of my own very caring and loving friends and family would ever take another's four boisterous children for an hour, let alone a day, particularly when it is the much treasured only time all week you get to spend with your partner. He too, sat and watched on as the children played in the sparse but appreciated playground provided for children of inmates. This man, for his crimes, which incidently are drug related, has served many years in jail. Like most of us though, there are a lot of sides to him and whilst he has certainly done wrong he is also capable of empathy and kindness and is not without redemption or ability to right his life. Do we also begrudge him his final 12 months to be served under home detention?

Another, an elderly woman whose name I am yet to learn, waits in the bitter cold to visit her son. She is there religiously every Saturday and Sunday. Her son was involved in a pub brawl. Unacceptable certainly and again with his 3.5 year sentence, he is getting plenty of time to ponder the error of his ways. If he were to be approved under the scheme, he would be released only to her care and would be monitored to ensure he returned there at work's end every day.

To walk in to a visiting area of a jail and to spend any time there, you realise that just like a smoker with cancer, these are people that truly understand the value of their mistakes.

I do not mean to disrespect or belittle victims of crime and there are certainly an element of people within the system that continue to threaten the safety of the public and certainly should not be released among them.

These people would not be under consideration for the scheme and infact no-one that has not already served some considerable time would be.

There are many worthwhile people in there and yes, it is true that they have erred.

They have made bad choices or simply made mistakes.

They are not getting off unpunished. They are all serving their time. To give them the remainder under home detention is not necessarily to be considered lenient.

Surely it should be considered case by case on an individual basis.

I understand that Truth in Sentencing was introduced to counter the abuse of the prior system, however there is always room for reform and for improvement and your very own point that the sentencing judge could not know how an inmate will behave or rehabilitate goes further to the fact that there is very possibly many worthwhile cases whereby it could be granted subject to these factors.

Our jails are currently stretched to capacity and there are many inhabitants that serve no threat to anyone and could certainly still pay for their mistakes in alternate ways, and ways that will better serve the public. I also acknowledge the need for deterrence however someone on a five year sentence that serves out 4 within the system and the remaining one, unable to leave his home, would still effectively be deterred.

How can it be categorically judged that this alternative should be denied when every case and every inmate is so different.

Should they lose the right to be considered individually for who they are and what they did, and what they have already suffered as result of their wrongdoing.

The one person I have not mentioned so far is the person that inspires me to write this.

I too would otherwise sit in my living room, in ignorance, if not for meeting him.

He came to know of a scheme within the construction industry that could rot the then PPS (prescribed payment system). He did not prey upon individuals but as the court saw it, we as taxpayers are individuals and in rotting this, effectively it was the same.

Unlike some of his 'associates' he declined to speak up about others in exchange for a lighter sentence.

He also knew, when safely back in Ireland that he would most likely be arrested upon his return.

He returned, because Australia had become his home and he knew he had to answer to what he had been involved in. Something that did not factor into consideration during his sentencing.

He was given a 7.5 year sentence. Something that as a member of the public myself, I find hard to comprehend when I learn of men inside that have killed or raped or conspired to kill and they all receive lesser sentences.

Sit in a visiting area of a jail and you'll get a disturbing snapshot that reflects that matters of a fiscal nature are far more frowned upon than violence. An interesting message to send the public and as a member of same, I do not feel my best interests are being represented.

Nonetheless, irrespective of those issues, he accepted his punishment and remains positive and supportive despite his very challenging environment.

In the years he waited to stand trial he has been serving a sentence. Long before the custodial element kicked in. His brother nearly died in an accident and his father's health continues to fail. He has been unable to return home for 5 years already, with nearly another five remaining, including parole. To perhaps never see your parents alive again or attend their funerals is alone a sentence most of us could not bare to serve.

He also served 2.5 years of his sentence in maximum security - it is a little known fact to the public that length of sentence determines how you serve your sentence and contrary to common belief not all 'Bondy' type inmates ship out to farms for chinese dinner parties.

He gets locked up by 3.30pm daily. Sometimes locked down (as it is referred to) for days at a time with no explanation. The courses are not easily accessible or consistent when you do get in to one.

You are advised that you need to attend certain meetings in order to be reclassified and yet you may fill in numerous forms to get these meetings (with drug/rehab officers, psychiatrists etc etc and then when you turn up, you find the relevant person is on annual leave, can't see you, won't see you, or simply are not there. After every effort is made by you and to no avail, when you then turn up to classification, you are refused on account of not having accomplished attendance of the aforementioned appointments.

This would strain and challenge the calmest of us and this kind of continual frustration would surely do little for the rehabilitative process.

There are a lot of loving, kind and gentle people in there, and they do not deserve to be barked at and disrespected day after day after day. Their visitors also often also treated with such condescension.

If you write in ignorance I hope you also do not laud yourself as a humane or Christian person because you are not showing any sense of forgiveness, understanding or ability to learn or listen.

If you want 80 year old Cyril to remain every minute in custody or perhaps the 75 year old man, crippled with arthritis, serving time for growing and smoking marijuana to ease the pain, to remain every minute and every second, hobbling around the corridors, then write in and be sure to be heard in the largely ignorant case against home detention being introduced as partial sentencing.

As a fellow inmate accurately pointed out, home detention for someone like Cyril in all likelihood would be more difficult than custodial. He would sit at home alone, night after night, unable to join his fellow pensioners at the club, pouring all their miserly funds into government approved poker machines.

Do any of you wonder why Cyril may have fraudulently retrieved his deceased wife's pension? It's a shame we don't spend more time working on the reasons our jails are filled with people with gambling problems.

The whole process for anyone involved with custodial sentences, is frightening, draining, and confusing but what I have taken away from it that is positive, it is that people have the ability to show enormous strength, support and kindness. Most importantly that plenty of people that have made some big mistakes are also very good people.

There is a man that visits every week. He visits all the jails in Sydney. Not because he is plagued by badly behaved family members or friends but because he takes the time to visit inmates with no support. His weekends are spent sitting in hard steel chairs, sitting opposite strangers in trouble, reaching out a hand and offering his time and his understanding. He is you could say, unbiased. Ask him what he feels about it. Like a lot of you, he has no loved one, incarcerated, but the fundamental difference is that he has taken the time to know some.

Sincerely,

Nikki Smith