

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

**Organisation:** Justice Action  
**Name:** Ms Stacy Scheff  
**Position:** Coordinator  
**Telephone:** 02 9660 9111  
**Date Received:** 14/04/2005

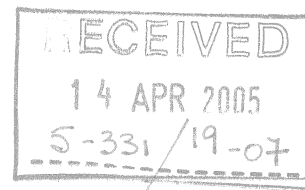
---

**Theme:**

**Summary:**



**FAX**



ATTN: Rachael Simpson

AT: Law & Justice Committee

Fax: 9230 3371

Date: 14/4/05      Pages: 6 including cover

From: Stacy Scheff

RE: **Submission on Community Based Sentencing Options**

NOTE:

*justice*  
**ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA    Ph: 612 9660 9111 Fax: 612 9660 9100  
JA@justiceaction.org.au      www.justiceaction.org.au



Rachael Simpson  
Acting Director  
The Law & Justice Committee  
NSW Parliament

April 13, 2005

## **Submission on Community Based Sentencing Options.**

Our submission covers only questions 1 & 6 of the first set of questions on page 3 of the Discussion paper.

**1. Apart from those identified above, what other community based sentences are available in NSW or in other Australian or overseas jurisdictions?**

Justice Action proposes mentoring as an additional CBSO.

The suggested mentor program is to have a person trusted by the offender, in a one to one relationship on a daily basis, sometimes live-in, fully paid to give support and guidance. The mentor would be both a role model and a friend. Mentors would ideally have a background or personal experience as clients of the criminal justice system.

The mentor program would act as an innovative and alternative crime-fighting option, which could be, in particular circumstances, more successful and efficient than re-imprisoning offenders.

It is important to define this particular mentor program and each role extremely carefully. There are a number of different terminologies used for various support groups. These include "big brother/big sister", which is a YMCA/YWCA initiative, "carers" or "buddy" systems in schools. The terminology is important to indicate that there is not a power imbalance between mentor and criminal justice client.

The need for a relationship built on trust is vital to this initiative. Close friendship or a close relationship with at least one person, can act as a protective process or safeguard that enhances a young person's ability to resist stressful life events. These can help act as a safeguard from risks such as association with peers engaged in risky behaviour or poor parental monitoring. The relationship between the mentor and the criminal justice client would be similar to a contractual agreement. That is, that both people have rights and responsibilities to the other person and both have a remedy if the other is not fulfilling their role.

It is important to have the mentor position recallable by the criminal justice client and accountable to the client's community, otherwise trust can be easily eroded and clients would be unwilling to participate.

**justice  
ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA Ph: 612 9660 9111 Fax: 612 9660 9100  
JA@justiceaction.org.au www.justiceaction.org.au

The proposal is to provide a significant person from the offender's network or the wider community (not employed by a government agency) who would be responsible for offering the offender intensive support and guidance on a fee for service basis.

It is the aim of such a program to reduce recidivism rates and increase community participation through the intensive support of adult offenders at all stages of interaction with the criminal justice system. Mentoring reintegrates them into an independent and financially secure setting, gaining full-time employment, suitable and long term shelter, and contact with a suitable and compassionate health care provider.

### **Aims of the Mentoring Program**

To create a safer community and prevent crime by reducing recidivism rates amongst former prisoners and divert people from custodial settings.

To assist offenders in gaining affordable shelter, appropriate health care and counselling, and personally satisfying, positive activity within a twelve month period of contact with the criminal justice system.

### **Objectives of the Mentoring Program**

To work with the criminal justice client to determine what un-met needs the clients have that will keep them from surviving on the outside. These needs include, but are not limited to, shelter, food, clothing, health care, drug counselling, a home, education and job search assistance.

To design a plan to make sure these needs are met (somewhat similar to the NSW Juvenile Justice case plans). These plans will be formulated and negotiated with the ex-offender to ensure they meet all the objectives of his plan.

The program may involve the following five stages:

- Education & training
- Correspondence training and assessment
- Assessment and pre-release planning — introduction to a possible mentor
- Community re-integration and financial stabilisation
- Follow up and on-going support

To involve Government, NGOs and the corporate sector as strategic partners.

To establish a policy and program think-tank to examine alternatives to custodial punishment in NSW with a focus on reintegration programs for adults.

-----

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

**justice**  
**ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA      Ph: 612 9660 9111 Fax: 612 9660 9100  
JA@justiceaction.org.au      www.justiceaction.org.au

Justice Action considers home detention to be different from all other CBSO's listed. Justice Action opposes the use of Home Detention (HD). It damages the family and the home for others without any consideration of the effects, or acknowledgement of the costs. It discriminates by disproportionately effecting women. Families become prison guards to their loved ones, and the home becomes an extension of the State.

While many people, including prisoners themselves, support HD, when you look at the bigger picture, the widespread use of HD is an admission of the failure of imprisonment and it damages fundamental social structures. The only approach that could create the illusion that home detention provides benefits is via comparison with the regular prison system. It is the same logic that suggests that a punch in the face is beneficial in comparison to being beaten senseless with cricket bats.

In the past 10 years, across Australia, prisoner numbers have doubled, costs of imprisonment have skyrocketed, and rates of imprisonment have increased in all states and territories. In NSW, 45% of prisoners return within 2 years. This means that the Department of Corrective Services (DCS) has failed in its responsibility to reduce offending in the community. Now the government is trying to give its problems to the community, but without the support necessary for real, community-based solutions.

#### THE PROBLEMS:

##### 1) **Transfer of the costs of incarceration from the state onto families.**

- a) Financial costs - HD is claimed to be a cost-saving alternative to prison, however, the costs are only transferred from the state to the family. It costs the government over \$60,000 per year to provide for one prisoner. If offenders are to be diverted from prison, the funds allocated to support them must also be diverted to the community. The family must provide:
  - i) Accommodation - The family shares their home with someone under the control of the state, and subject to surveillance. That lessens the use value of their home and compromises their privacy. Other family members are forced to accept the reluctant inhabitant with them for very sustained periods, without respite.
  - ii) Security, health, caring and counselling - To maintain their own stability the family needs to look after a person who would otherwise be in prison, supplying the needs that the state would supply.
- b) Emotional & physical costs - The NSW DCS interviewed families about the effect of home detention<sup>1</sup>. They reported:
  - i) their sleep and their children's sleep was disturbed by monitoring phone calls,
  - ii) their privacy invaded by searches,
  - iii) additional stress and tensions within the family relationships,
  - iv) increased burden on outside family and friends,
  - v) increased risk of domestic violence.

<sup>1</sup> Heggie, K, *Review of the NSW Home Detention Scheme*. NSW Department of Corrective Services Research Publication No. 41. May 1999

**justice  
ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA Ph: 612 9660 9111 Fax: 612 9660 9100  
JA@justiceaction.org.au www.justiceaction.org.au

- c) Effect on women - There is a strong gender bias in who is affected by home detention, whether it is women or men who are on it. This is because regardless of the gender of the offender, the people who consent to having the offender living with them and having their homes turned into prisons invariably are women. Anyone who visits prisons, men's or women's will tell you that it is women who fill prison visit centres and likewise it is women who become HD 'sponsors'<sup>2</sup>.

## 2) Families become both prisoners and prison officers.

- a) Families of home detainees are responsible not only for keeping the person on HD in the house, but also keeping them off drugs and alcohol, and on whatever medications are part of the orders.
- b) Families are given a choice which amounts to extortion: control the offender, or they are sent back to prison. This puts enormous pressure on the family, including young children, to tolerate offending behaviour, including domestic violence, rather than report the loved one to the authorities.
- c) The same group of people who were unable to control the offender's behaviour in the past are forced to confront the problems again, in the pressure-cooker atmosphere of HD, constantly, without support.
- d) If the person leaves the home, it is classed as an escape from prison.
- e) Families must either explain to friends and associates about HD, or they must lie to protect the family.

## 3) Net widening - Prisons fill up regardless of crime rates or diversionary sentencing. This means that if one person is diverted from prison into home detention, another will be sentenced to prison who might have received a diversion.

- a) The building of new prisons almost universally results in an increase in prison numbers. Old accommodation units are invariably reopened to cope with the increase in numbers. In NSW this has been proven by the reopening of old "stock" - for eg Parramatta prison (continually being re-opened), Long Bay wings, Conlon Unit at Mulawa (numerous times); Maitland; Cooma; and the Norma Parker Gaol for Women (numerous). The net widening effect of building more prisons was acknowledged in 1994 by the Department's own Women's Action Plan:

*"...the provision of increased access to correctional facilities in country areas may create a net widening phenomenon resulting in the courts sending more women to prison who may otherwise have received non-custodial sentences.*

<sup>2</sup> From "Electronic Home Detention - A woman's work is never done." by Amanda George  
<http://www.sistersinside.com.au/media/amandageorge.pdf>

**justice**  
**ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA Ph: 612 9660 9111 Fax: 612 9660 9100  
 JA@justiceaction.org.au www.justiceaction.org.au

*There is a strong body of opinion that in spite of oft stated support for a reductionist approach to women in prison, if additional places were provided, particularly in country areas, they would inevitably be filled."<sup>3</sup>*

- b) A Victorian government discussion paper in 1987 said *'if we regard homes as potential prisons, capacity for all practical purposes is unlimited'*. No wonder they all support HD. This philosophy removes any imperative to look at why our prisons are overflowing because prison capacity problems are rendered obsolete.<sup>4</sup>

## SOME SOLUTIONS:

1. **Mentoring:** Giving support to offenders through a person trusted by both the offender and the community. Mentoring is a long-term project to provide support to people adversely effected by the criminal justice system and prevent offending and re-offending. JA has been providing mentoring support for 20 years, to thousands of people. JA graduated 22 TAFE accredited mentors on December 5, 2003.

A notable example of mentoring of ex-offenders has been that of Greg Kable. The NSW/ State Government was so concerned about the release of Mr. Kable that it created the Community Protection Act, later overturned by the High Court. Justice Action gained the agreement of the Minister for Police and the NSW Police Service to contact Mr. Kable's mentor before taking any action against Mr. Kable, if they had any concerns. Mr. Kable has now been working with Justice Action for five years. Using his personal experience with the corrections system, he mentors current prisoners, families and community.

We also assisted Chris Binse, once described as Australia's most dangerous prisoner, with his release (February 05) after 13 years in maximum security. A digital copy of the JA Mentor's Handbook can be downloaded here:  
[http://www.justiceaction.org.au/actNow/Briefs\\_PDF/Mentors\\_Handbook.pdf](http://www.justiceaction.org.au/actNow/Briefs_PDF/Mentors_Handbook.pdf)

2. **Community Service Orders:** CSO's are community-based sentences for offenders to do unpaid work for non-profit agencies. The offenders are supervised by Probation & Parole or an approved supervisor from the agency. CSO's offer the same benefits promoted for home detention, but without the negative impacts discussed above, including *"...more flexible sentencing construction, containment of overall correctional spending and potential social and community benefits."*<sup>5</sup> CSO's also allow the offender to actively make amends to the community, and learn work skills and discipline. Justice Action works with a CSO agency, Breakout.

<sup>3</sup> *Women's Action Plan*, NSW Department of Corrective Services, 1994 pg 48

<sup>4</sup> *op cit*

<sup>5</sup> Heggie, K, *Review of the NSW Home Detention Scheme*. NSW Department of Corrective Services Research Publication No. 41. May 1999 p. ii

**justice  
ACTION**

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA Ph: 612 9660 9111 Fax: 612 9660 9100  
 JA@justiceaction.org.au www.justiceaction.org.au