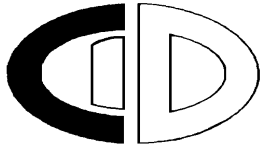


INQUIRY INTO JUVENILE OFFENDERS

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Subject:

Summary



The New South Wales Council for Intellectual Disability

SUBMISSION TO THE SELECT COMMITTEE ON JUVENILE OFFENDERS

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We are the peak advocacy organisation in New South Wales for people with intellectual disabilities. Our focus in this submission is on offenders with intellectual disabilities, a major priority of this Council for many years.

Background

Since the mid 1980s, it has been a matter of public record that offenders with intellectual disabilities have been highly represented in the justice system but have lacked access to appropriate human services so as to give them a fair opportunity to avoid criminality and recidivism. (Departments of Youth and Community Services and Corrective Services 1986 *The Missing Services Report*; Department of Family and Community Services 1988, *Report from the Working Party on Services to Young Persons with Intellectual Disabilities in the Juvenile Justice System*; NSW Law Reform Commission 1996, *People with an Intellectual Disability and the Criminal Justice System*.)

The Framework Report of 2001 (published by us and the Intellectual Disability Rights Service, and at www.idrs.org.au) outlines detailed proposals for reform of the service system. These proposals were supported by the Standing Committee on Social Issues (*Making it Happen, Final Report on Disability Services*, 2002).

In the last three years, NSW government agencies have taken some first steps towards addressing this problem. The Department of Ageing, Disability and Home Care (DADHC) has accepted that it has a clear responsibility for offenders with intellectual disabilities, in collaboration with other relevant agencies. There is a senior officers group chaired by the Deputy Director-General of DADHC that is pursuing multi agency action on this issue. (The Ombudsman has reported adversely on DADHC's leadership of this Group and is monitoring actions being taken by DADHC to make it effective. *Report on Investigation of the Department of Ageing, Disability and Home Care as Lead Agency for the Senior Officers Group on Intellectual Disability and the Criminal Justice System* 2004.)

Young offenders with disabilities

Detention tends to be particularly counterproductive for young offenders with intellectual disabilities.

As the NSW Sentencing Council has accepted, imprisonments lead to particular consequences for people with intellectual disabilities:

- Becoming increasingly entrenched in a culture of criminality. Offenders with intellectual disabilities tend to want to be accepted by their peer group and therefore copy peers' behaviour. Their behaviour is influenced positively by positive role models and negatively by negative role models. Role models in prison are predominantly negative.
- Finding it very hard to readjust when they leave prison, and therefore being likely to reoffend. This is a common problem for offenders generally but the more likely for people with intellectual disabilities who inherently have impaired adaptive skills
- Being assaulted and otherwise mistreated in the mainstream prison environment, in which they are very vulnerable.

(Sentencing Council, *Abolishing Prison Sentences of Six Months or Less*, final report 2004, pages 17, 55-56)

Similar issues arise for young offenders in detention centres, the more so if the centre is run in a manner similar to an adult prison.

Recent NSW Government studies highlight the incidence of disability and psychiatric disorder in correctional settings.. The *Young People in Custody Health Survey* (Department of Juvenile Justice and others, 2004, at www.djj.nsw.gov.au) found:

- 44% of detainees had IQ scores in at least the borderline range of intellectual disability.
- At least 10% had very clearcut intellectual disabilities.
- 84% appeared to have a clinical psychiatric disorder including 20% with schizophrenia.

(See also Butler and Allnutt, *Mental Illness among NSW Prisoners* and *The 2001 NSW Inmate Health Survey* (www.health.nsw.gov.au and go to Justice Health).)

These studies have fundamental implications in relation to the degree of culpability of many inmates and the kinds of services needed in detention centres and prisons. Detention needs to include a central focus on meeting the disability related support and therapeutic needs of young offenders.

In recent years, the Departments of Corrective Services (DCS) and Juvenile Justice (DJJ) have taken some useful steps towards better responding to the needs of inmates with intellectual disabilities. Further and wideranging action remains needed.

Implications of the transfer of Kariong to DCS

We have major concerns about the effect of the transfer of Kariong on people with intellectual (and other) disabilities.

We are concerned that the transfer of Kariong to DCS may mean that it is a much more rigid institution and therefore much less able to meet the disability support and therapeutic needs of offenders with disabilities.

It would seem to us that appropriate management of challenging behaviour of inmates calls for professional expertise in intellectual disability and mental health rather than just a control and discipline based approach. We are concerned that the latter approach is much more likely to dominate in an institution run by DCS than by DJJ. The result may be that particular incidents are controlled but at the cost of addressing the underlying cause of behaviour and therefore not addressing the likelihood of repetition of the behaviours and recidivism when the inmate leaves detention.