

INQUIRY INTO BACK-END HOME DETENTION

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Theme: Queensland Community Corrections supervises approximately 11,460 offenders subject to over 15,900 community based orders on any given day across four regions and 33 area offices. Additionally advisory services are provided to over 100 courts throughout the state.

Summary: Information is offered under the following headers:

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NSW Parliamentary Inquiry. – Back-end home detention.

Overview

In Queensland, Community Corrections supervises approximately 11,460 offenders subject to over 15,900 community based orders on any given day across 4 regions and 33 area offices. In addition, advisory services are provided to over 100 courts throughout the state.

Queensland Graduated Release Program – overview:

The legislative framework for the graduated release program in Queensland is contained in the *Corrective Services Act 2000*.

Integrated offender Management system (IOMS):

- Queensland has been developing an integrated offender management system (IOMS). IOMS represents a strategic departmental initiative to improve offender management through the integration of operational practices of both custodial and community based options, supported by shared assessment tools and information systems. Using various options of secure and open containment and community release the offender management process ensures that there are seamless transitions between various parts of the system and that the rehabilitation of the offender and the safety of the community are in constant interplay to ensure the best result.

Leave of Absence (LOA)

- The sentence management process as applied to prisoners in secure custody, places a prisoner on a risk continuum of maximum/high/medium/low/open. Custodial centres provide different security conditions for different prisoners depending on their security classification. These range from high security centres to open farms. Maximum security is used in exceptional circumstances in accordance with specific legislative provisions to manage prisoners where the prisoner is deemed to be a high escape risk or there is a high risk that the prisoner will inflict death or serious injury on others or the prisoner is a substantial threat to the security of the facility. The majority of prisoners are subject to an initial classification assessment and then move throughout their sentence to less and less restrictive settings with increasing opportunities for prisoners to demonstrate their trustworthiness and their capacity to internalise the lessons from the various rehabilitative programs undertaken during their incarceration. Part of this process includes opportunities to undertake a leave of absence (LOA). There are community service LOAs where the prisoner undertakes day leaves to do community service in the community and there are resettlement LOAs where prisoners are allowed to spend a pre-determined period of time with approved sponsors in the community.

Community Work Order:

- Another program in Queensland, whereby prisoners are gradually released back into the community is through open custody camps. These enable prisoners to be placed in various camps in Western Queensland, where they work on community service projects for the local communities. Queensland operates one camp for female prisoners at Warwick and 11 for men in other western communities. One aim of the community work orders is to help the prisoner's reintegration into the community. Whilst on these programs some prisoners also participate in the resettlement LOAs with their approved sponsors.

Conditional Release:

- Prisoners with sentences less than two years are not eligible to apply for post-prison community based release (PPCBR). They are eligible for conditional release once they have served two-thirds of their period of imprisonment. This release is not automatic and the Chief Executive may only make such an order if satisfied that the prisoner's release does not pose an unacceptable risk to the community. The prisoner is generally not subject to supervision in the community but the order is automatically cancelled should the prisoner commit an offence during the term of the order and be sentenced to a term of imprisonment.

Exceptional Circumstance Parole:

All prisoners are eligible to apply at any time for an exceptional circumstances parole order.

Post-prison Community Based Release (PPCBR):

Prisoners with sentences exceeding two years are eligible to apply for PPCBR orders. These orders include release to work, home detention and parole. Prisoners are eligible for PPCBR at half the period of imprisonment to which the prisoner was sentenced unless the court had made a recommendation for eligibility or if the prisoner is serving a life sentence or a sentence for a serious violent offence. Serious Violent Offenders must serve 80% of their term of imprisonment before reaching any eligibility for post-prison release. Prisoners are granted PPCBR by community correction boards. In Queensland there is one state board, Queensland Community Corrections Board which determines applications from prisoners with sentences of 8 years or more and 6 regional boards which determine applications from prisoners from various areas of the State for which the individual board is established. The boards are established under the *Corrective Services Act 2000* and are independent statutory authorities with the sole legislative authority to determine PPCBR Applications. These boards set specific release conditions and suspend or cancel these orders under s 150 of the *Corrective Services Act 2000*. The Minister's role is to provide guidelines to the boards. The current guidelines require the boards to place community safety as the highest priority when determining applications or considering suspensions or cancellations of orders.

Specific Post-prison Community Based Release Orders (PPCBOs):

Release to Work (RTW):

The release to work order (RTW) has operated mainly in the south-east corner of the state, utilizing both government operated and privately run facilities. The legislation states that the RTW order may include conditions that the board considers necessary to:

- ensure the prisoner's good conduct;
- stop the prisoner committing an offence;
- help the prisoner's reintegration into the community; and
- it may require the prisoner to perform community service.

In short, boards release a prisoner to a community custody centre (half-way house) where prisoners are encouraged to find employment whilst returning at the end of each day's work to the centre. Prisoners pay a fixed amount for board and are given an allowance for daily expenses. They are eligible for day and overnight leave to approved sponsors. Often the residences where prisoners take their leave are also the address to which they relocate after the completion of the RTW order. Once RTW is complete, prisoners move onto home detention or parole and are given the savings from their wages accumulated during their stay.

Recently a decision in principle has been made to phase out these centres as it is thought that many who were in the RTW centres would achieve the same results by going straight to a home detention or parole order. However it has been noted that there may be a need for a supported accommodation option in some cases.

Home Detention (HD):

Under the old *Corrective Service Act 1988*, home detention was granted administratively by the Department after an application had been approved by the relevant board. The earliest point for granting HD was four months prior to a prisoner's parole eligibility date. This was seen as a period when the prisoner could prove his or her capacity to manage the less restrictive conditions of parole.

With the new *Corrective Services Act 2000*, the eligibility date became the same for all post-prison community based release orders (RTW, HD and parole). The culture of using HD as a "testing" period for a prisoner before progressing to parole has continued in many cases as a safer, more controlled way of granting graduated release in the community.

The home detention order is usually limited to a period of three to four months. It is a stringent order that allows the prisoner to live with his support people and work in the community. The legislation states that the board may include conditions that are necessary to :

- ensure the prisoner's good conduct; and
- stop the prisoner committing an offence

The prisoner's movements are monitored in that he or she cannot leave their residence without a written pass. These passes are categorised into essential and social. Essential passes include such passes for work, shopping, religious activities, medical or CentreLink visits. Social passes are limited for a maximum of eight hours a week. The prisoner is supervised under the authority of the local community corrections area office. Random physical and phone checks are made from the area offices and staff at correctional centres assist with late night phone checks. The local area manager is on call should problems arise. Standard conditions of the HD orders are that prisoners undertake urine and breath testing and that they cannot change accommodation without prior approval.

HD, and all PPCBOs, can be suspended by the department for 28 days for any breaches of conditions or breaches by reconviction. There is also the capacity to suspend if the prisoner is deemed a serious risk to themselves or someone else or if they are suspected of planning to breach the order. The suspension is issued by way of a suspension notice and, if necessary, a warrant by the delegated officer. The departmental suspension is then referred to the relevant board that may then confirm or cancel the suspension or may cancel the order.

The success rate of the HD program has been high. In 2003-04, 88% of the orders were successfully completed. Of the 12% of orders where prisoners failed to successfully complete, approximately 2% were the result of a re-conviction during the currency of the order. The majority of failures to successfully complete were as a result of technical breaches. Technical breaches include for example a prisoner failing to abide by the time curfew of an authorised pass or failing a drug or alcohol test.

Home Detention with Electronic Monitoring (HDEM):

The Queensland HDEM program was established at the beginning of 2001 as a trial program, available only to prisoners being released in south-east Queensland, and intended to run for 18 months. In mid 2002 it was decided that the eligibility requirements for the program should be broadened, and the period of the trial extended to the end of 2002.

The policy goals for the program were to:

- Divert offenders from custody and increase the use of home detention as a post release option;
- Contribute to the safety of the community;
- Increase successful completion rates of community orders;
- Provide high standards of offender supervision;
- Provide an offender-centred system where rehabilitation targets risks and needs; and
- Assist offenders to successfully reintegrate back into the community.

In addition to these formal policy objectives, the community corrections boards responsible for selecting prisoners for release to the HDEM program were also subject to eligibility guidelines designed to ensure the protection of the community and limit the potential for netwidening (that is, the inclusion of offenders who could otherwise be released to an existing post-release program). These eligibility guidelines included:

- violent or sexual offenders could not participate in the trial;
- prisoners must have an open or low security classification; and
- prisoners who would otherwise have been granted home detention without electronic monitoring could not be selected for the trial.

The Queensland trial did not utilise global positioning technology as at the time it was not considered reliable and there were some technical issues that limited its capacity. Alternatively the department used an active radio frequency system. This technology records when a home detainee enters or leaves his/her designated residence. This system was supplemented by targeted physical and phone checks when an offender was on approved leave. In addition drive-by checks were in place at the prisoner's place of employment.

The numbers included in the trial were small. Of the 74 prisoners who were released to the HDEM program, 12 were determined to have breached their order up to the end of December 2002. The most common cause of a breach was the consumption of alcohol or drugs, usually detected as a result of a random urine test. There was no data that indicated prisoners released to the HDEM program prior to the change in eligibility criteria were more or less likely to breach. The rate and pattern of breaches in the Queensland HDEM program closely parallels those found in home detention programs in other Australian jurisdictions and internationally.

Initially, the flow of prisoners released to the HDEM program was very low (between 1 and 2 releases per month). After the change in eligibility guidelines in April 2002 the rate of releases to HDEM increased to about 7 releases per month. The average period spent on an HDEM order was about three months.

The factors that limited the flow of releases to the program included:

- That it takes up to 12 months to build up the numbers of prisoners to a stable level;
- The reduction in the total pool of prisoners released from Queensland prisons arising from the changes to release provisions in the *Corrective Services Act 2000*; and
- The inherent difficulty in establishing a new release option in an environment where three options (parole, release to work, home detention) already existed and where the releasing authorities (community corrections boards) had confidence in these existing programs.

It was estimated that around half of those on the HDEM program represented diversion from imprisonment. Given an average of 3 months on the program, and an estimated annual flow of 80 to 90 releasees, this yields a calculated “diversion” of 10 to 12 full-time equivalent prison places (that is, a prison bed occupied for a full year).

There was substantial variation between community corrections boards in the number of prisoners released to HDEM. It is unclear whether this variation was the result of different profiles of prisoners appearing before the different boards, or different releasing practices by the Boards.

The electronic monitoring technology used in the trial gave rise to a number of hardware and software problems. The hardware problems were at least partly a function of the nature of the active electronic monitoring system used in the trial. Although the HDEM Project Team were able to minimise the impact of these problems by attending in person to the installation and placement of local base stations, repeated false alarms were the source of significant dissatisfaction by operational staff and added to the administrative costs associated with the program. The electronic monitoring system also suffered from a number of software limitations, although most of these were ultimately rectified by the equipment suppliers.

Parole:

There is no court mandated parole in Queensland. Courts may make a PPCBR recommendation as part of the sentencing process. Boards are not bound by these recommendations and may vary them if there is information before the board which was not before the court and which the board considers makes the person not suitable for PPCBR.

The legislation states that the parole order must include conditions requiring that a prisoner:

- Be under the supervision of a corrective services officer (CSO);
- Carry out the CSO’s lawful instructions;
- Report and receive visits as directed by the CSO;
- Notify the CSO within 48 hours of any change of address or employment; and
- Not commit an offence.

The legislation also says a parole order may contain conditions that the board considers necessary to:

- Ensure the prisoner’s good behaviour; and
- Stop the prisoner committing an offence.

The supervision of a parole order in Queensland continues until the order expires. This is the calculated full time discharge date. There is no capacity by the community corrections boards or the department to shorten these periods and, under the *Corrective Services Act 2000*, time spent on PPCBO is considered time served.

Should a prisoner on parole be convicted of an offence which was committed during the currency of the parole and sentenced to a period of imprisonment which is not suspended, the parole is ipso facto cancelled.

The frequency with which a prisoner subject to a PPCBR Order must report and receive visits from a corrective services officer is determined by a risk assessment. Prisoners can be subject to random or scheduled surveillance and collateral checking of information received is actively pursued by corrective services officers. Presently the maximum period between personal visits of a parolee and a corrective services officer is two months.

Where a parolee breaches an order or is suspected of breaching an order, a report is sent to the relevant board by the supervising officer. The board can require the parolee to show cause why the order should, or should not be suspended or cancelled or the board may suspend or cancel the order without initiating a show cause process.

The board can place any conditions on a PPCBO which it considers necessary for the effective supervision of the order.

The departmental delegate can only authorise parolees to leave the state for up to 7 days. The relevant board must consider all applications for longer periods. Overseas travel can only be granted by the Queensland Community Corrections Board and then only for compassionate purposes in exceptional circumstances.

From January 2005 the department introduced a new process to approve the transfer of parolees to Queensland prior to such transfer occurring and to direct the registration of the parole order in Queensland.

These processes ensure that the interstate parolee and the sending State are fully aware of the terms under which supervision/transfer will be approved and the powers and authority of the Queensland Community Corrections Boards. Further, Queensland has access to all relevant information regarding the parolee prior to the transfer of supervision being effected. This allows Queensland to determine the nature and intensity of supervision required to effectively supervise the parolee to ensure that community safety is maximised. Further, this information allows Queensland to determine the feasibility and viability of the transfer plan and to raise relevant issues with the sending State prior to any transfer being effected.

Summary:

The *Corrective Services Act 2000* and departmental procedures are supportive of a graduated community release process for prisoners. The introduction of the Integrated Offender Management System will maximise the successful and seamless transition of prisoners to the community. This will be achieved through targeting interventions to meet assessed criminogenic risks and need, by prioritising interventions to occur at specific milestones throughout the prisoner's sentence and through the effective sharing of offender information across both the custodial and community operational areas.

The department is currently conducting a review of its legislation. Of note is the future of the release to work option. Whether or not this option is maintained, the department continues to support a graduated release process through the utilisation of both home detention and parole orders. These orders have proven their worth over many years, however consistent with a continuous improvement philosophy the department continues to seek out new practices and approaches to further enhance the successful completion of these orders.

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