

INQUIRY INTO CORRECTIONAL SERVICES LEGISLATION AMENDMENT BILL 2006

Organisation: Community Restorative Centre (CRC)

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Subject:

Summary

From: "Naomi Boyd"
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Date: 28/07/2006 2:11:42 pm
Subject: General Purpose Standing Committee No. 3

Please find our submission to the General Purpose Standing Committee No. 3 in relation to the Corrective Services Legislation Amendment Bill attached.

Kind Regards,

Naomi Boyd
Community Restorative Centre (CRC)

Friday, 28 July 2006

Submission to the Legislative Council General Purpose Standing Committee No. 3 from the Community Restorative Centre

RE: Correctional Services Legislation Amendment Bill 2006

(An Act to amend the Crimes (Administration of Sentences) Act 1999 with respect to the storage of reproductive material of inmates; and for other purposes).

The Community Restorative Centre is a NSW community organisation dedicated to supporting people affected by the criminal justice system, particularly prisoners, ex-prisoners, and their families and friends.

CRC aims to change lives positively by supporting people affected by the criminal justice system. Our primary goal is to improve clients' quality of life by providing practical and emotional support.

We aim to reduce crime and the impact of incarceration on individuals and the community through a range of services and targeted projects. CRC works in partnership with other organizations to improve access for our clients to support and services. We create opportunities for our clients to participate in the wider community and achieve independence.

The Community Restorative Centre is opposed to changes affecting the current Correctional Services Legislation Amendment Bill 2006 which will result in prisoners receiving different and unequal access to medical treatment than other members of the community. The Community Restorative Centre requests that the General Purposes Standing Committee no. 3 to consider the many negative consequences this reform in legislation may have on prisoners and their families as well as on medical practitioners and the general community.

It is our understanding that the draft legislation: -

- creates a precedent for discrimination toward prisoners in the quality of health care and the treatment alternatives provided
- in causing a "sentence" beyond incarceration, constitutes "cruel and unusual punishment"
- will result in patients declining treatment of life-threatening conditions, where such treatment will result in infertility.
- fails to take into account circumstances where a conviction is overturned on appeal, following the individual having undergone treatment for cancer, without storage of sperm having taken place
- contravenes the AMA position statement on "Health Care for Prisoners and Detainees"

The AMA Position Statement on the Health Care of Prisoners and Detainees (1998) states:-

"Medical practitioners should not deny treatment to any prisoner or detainee on the basis of their culture, ethnicity, religion, political beliefs, gender, sexual orientation or the nature of their illness. The duty of medical practitioners to treat all patients professionally with respect for their

human dignity and privacy applies equally to the care of those detained in prison, whether convicted or on remand², irrespective of the reason for their incarceration.”

The AMA statement on the Health Care of Prisoners and Detainees also outlines the role of prison medical practitioners and states that they should

- act in the **patient's best interest**;
- not withhold **appropriate medical care**;
- base their medical judgements on the **needs of their patients**; these judgements should take priority over non-medical matters³;

The draft legislation will create a conflict between what doctors consider the needs and best interests of their patients to be, versus their own legal obligations this legislation creates to NOT provide certain medical services to specific individuals.

In cases where people are undergoing treatment which will result in infertility, the storage of sperm or embryos is considered to be standard procedure (Dr. Tony Evers as quoted in the Sydney Morning Herald, Ruth Pollard, 6/6/06). The denial of this medical service to prisoners, directly contradicts the Australian Medical Association's statement that medical practitioners should not withhold appropriate medical care.

The Doctors Reform Society of Australia policy statement, with reference to medical care within prisons, states that;

“The DRS believes prisoners have a right to health care based on best practice principles as the rest of the community,” however, the proposed legislation will enshrine in law that the medical treatment of prisoners differs from that of other members of the community.

Also on the DRS website the Charter of Health Rights states that;
“The DRS believes users of the health care system have the right to expect:

Considerate health care respecting privacy and dignity including:

- services and care that are **non-discriminatory** acknowledging and respecting culture and lifestyle;

The DRS believes health rights should be **protected by legislation**”.

The draft legislation ensures that the provision of health care services is purposely discriminatory against individuals who are incarcerated and sets a precedent of removing health rights rather than protecting them through legislation.

CRC hopes that the General Purpose Standing Committee No 3 will seriously consider the detrimental ramifications that could arise from the proposed changes to the above legislation.

Yours sincerely,

Naomi Boyd
Community Restorative Centre