

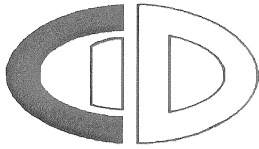
INQUIRY INTO BACK END HOME DETENTION

Organisation: NSW Council for Intellectual Disability
Name: Mr Jim Simpson
Position: Manager
Telephone: 02 9211 1611
Date Received: 01/10/2004

Theme: Prisoners with intellectual disabilities

Summary:

- As a group offenders and potential offenders with intellectual disabilities provide a strong argument for back-end home detention being more cost-effective.
- The provision of any system of back-end home detention however will require development in specific areas if it is to provide equitable access for people with intellectual disabilities.



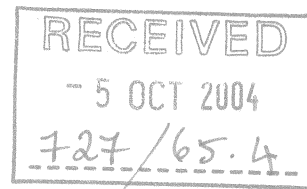
The New South Wales Council for Intellectual Disability

SUBMISSION TO INQUIRY INTO BACK-END HOME DETENTION

September 2004

Contact- Jim Simpson

Phone - 934 55504 jcsimpson@optusnet.com.au



CLJ21-10

Introduction

For twenty years, this Council has had a major focus on issues relating to people with intellectual disabilities in the criminal justice system. We see potential for back-end home detention to reduce the particular difficulties that prisoners with intellectual disabilities have in reintegrating into the community in a way that reduces the prospects of recidivism.

We ask the Committee to consider:

1. Noting prisoners with intellectual disabilities as a group for whom there is a particularly strong argument for back-end home detention.
2. Recommending the development of the human services needed if people with intellectual disabilities are to have equitable access to any system of back-end home detention that might be introduced.

Background

Since *The Missing Services Report* of the Wran Government in 1986, it has been a matter of public record that offenders and potential offenders with intellectual disabilities did not have access to appropriate human services so as to give them a fair opportunity to avoid criminality. This was confirmed by the 1996 report of the NSW Law Reform Commission, *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.

The cost of not addressing this situation is vast, both the financial costs to the justice system and the human costs for offenders with intellectual disabilities and victims of crime. Financial costs include:

- Court costs – over \$10,000 per day in the District or Supreme Court (court, prosecution and legal aid costs).
- Imprisonment - \$44,020 to \$73,020 per annum (1996/97 figures).
- Police time; probation and parole.

It is clear that people with intellectual disabilities are highly represented in the prison population. However, international studies have shown that appropriate support and

supervision services can lead to major reductions in crime by people with intellectual disabilities. See *Framework Report* chapter 2.3 and 8.4.

In the last two 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 has been a senior officers group chaired by the Deputy Director-General of DADHC that is pursuing multi agency action on this issue.

There is one key gap in the action taken or pending - there is no apparent plan for the development of the supported accommodation or intensive home support that many offenders with intellectual disabilities need. This means that only a minority of offenders with intellectual disabilities have appropriate accommodation and related support in the community.

Back-end home detention and people with intellectual disabilities

As the NSW Sentencing Council has agreed, imprisonment leads to the following 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 Sentences of Six Months or Less*, Discussion Paper, 2004, 55)

These factors explain why home detention with appropriate support and supervision would be a particularly appropriate option for prisoners with intellectual disabilities. It would reduce the prospect of such prisoners being influenced by the negative role models that predominate in prison. It would reduce the exposure of prisoners with intellectual disabilities to assault in gaol. Most particularly, back end home detention could ease the readjustment to life outside prison that people with intellectual disabilities find particularly difficult.

Home detention with appropriate support and supervision could allow prisoners with intellectual disabilities to reintegrate much more successfully into the community. Such support and supervision might come from a variety of sources including disability services provided or funded by DADHC, generic human services and family members.

As indicated above, such support and supervision would currently only be available to a minority of prisoners with intellectual disabilities. For them, back end home detention would be a very valuable option now.

To make such support and supervision more readily available, the service system needs to continue to develop from the first steps referred to above. Such development would reduce the discrimination currently faced by offenders with intellectual disabilities – not getting equitable access to non-custodial options for want of the support and supervision a person needs because of his or her disability.

We would be happy to discuss these issues further if that would be helpful to the Council.