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COMMUNITY RESTORATIVE CENTRE

ANNUAL REPORT 2014

FOREWORD BY THE PATRON

THE HON. MICHAEL KIRBY AC CMG

Past Justice of the High Court of Australia

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In previous forewords, I have noted the highly desirable shift in New South Wales parliamentary debates and political campaigns away from the unseemly conflict over which major political party is able to present itself as being “more tough on crime”. Law and order campaigns and pressure from shock jocks and special lobby groups demean our society. They sometimes result in the enactment of harsh laws that have been ill thought out. They thereby bring consequences of enlarging the population of our prisons.

Not only is this policy burdensome on those who lose their liberty, and on their families, friends and dependants. It is also extremely costly to society. It is costly in the unavoidable expenditures that are required for custodial officers around the clock; the expansion of expensive prison facilities; and the support and other services that grow as a consequence. It is also burdensome in the exposure of those who are incarcerated to long-term dependency upon custodial institutions. Young prisoners are exposed to criminal associates. Prisoners and their families are often victims of invisibility and vulnerability. Custodial solutions are not always the best social response to crime. Sometimes other responses are cheaper, more proportionate and more effective.

These points have been made many times in the past by many commentators from the legal profession, from some sections of politics and by the New South Wales Ombudsman. The Ombudsman, in particular has noted the way in which new drunk and disorderly powers and amendments to bail laws can disproportionately affect Aboriginal citizens, the young, the homeless and the mentally ill. These are well known phenomena. However, they become increasingly important as law and order campaigns now seem to be returning to the political scene in New South Wales.

I wish to express again praise for former Attorneys-General (now Judge) John Hatzistergos and Greg Smith SC. Each had acute knowledge of the realities of custodial solutions. Each agreed to abandon the law and order auction. Each enriched the moral quality of our society, with no downturn in the effectiveness of the legal response to crime.

Unfortunately, there is now once again, on both sides of politics, an inclination to restore the auction. The consequence will be that burdens on organisations such as the Community Restorative Centre (CRC) will increase. The burdens on prisoners and their families will be heavier and the difficulty of escaping the culture of custodial dependency will become harder. The economic burdens on the State, the taxpayer and the community generally will also increase.

I hope that, by the time I am asked to write the 2015 Patron's statement, there will have been a return to the interlude of rationality on the law and order auction. If the arguments of human rights, ethical principle, proportionality and justice do not persuade of political leaders and the community they serve, it is the responsibility of bodies such as CRC,

and their supporters to bring home the economic consequences. Those consequences are hugely burdensome and often disproportionate. Every criminologist of experience will emphasise that the deterrent effects of laws depend much more upon the perceived risks of their detection and enforcement rather than the length of any custodial punishment. Judges will also tell the community this. These are not the messages of do-gooders. They are the messages of experienced professionals. And experienced professionals will add to the sum of cost the burden of recurrent imprisonment upon people who are Aboriginal, young, homeless and mentally ill, and their families.

In difficult legal and economic circumstances, I offer praise and thanks to CRC once again for its outstanding work in the year past. It has brought a steady, calm message, often to a sea of turbulent politics and unseemly competition on who can be nastier to offenders and prisoners.

In a recent book, written by Professor Michael Ross on *Health and Health Promotion in Prisons* (Routledge, London, 2014) the author invited David (now Lord) Ramsbotham, one-time Chief Inspector of Prisons for England and Wales, to provide the foreword. In his remarks Lord Ramsbotham endorsed the opening sentence in Professor Ross's book:

“Prisons, jails and other corrections settings are a part of our community”

This truism needs to be brought home to everyone who has responsibility in this area: judges, custodial officers, politicians, lawyers, academics and bodies like the CRC. It is now increasingly clear that the mental and physical health of prisoners is a public health issue. Almost

every prisoner will leave prison. Accordingly, their state of health during custody matters to the public to whom they return. And the longer they are incarcerated, the more profound will be the effect of that experience.

In the words of *The Book of Common Prayer*, we should note this wisdom. We should study it, learn and inwardly digest it. And reflect deeply on the message it brings as to the true best interests of our society. And that society includes our prisoners and their families and supporters.

A handwritten signature in black ink, appearing to read "W. A. R. H. I. N.", centered on the page.

World AIDS Day 1 December 2014