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COMMUNITY RESTORATIVE CENTRE
ANNUAL REPORT 2014/15

The Hon. Michael Kirby AC CMG

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One again I offer congratulations to the Community Restorative Centre (CRC) for its faithful work under sometimes difficult conditions, for prisoners, their families, friends and dependants; and particularly upon the release of prisoners to the community where enormous challenges must be faced.

Contemporary challenges

A feature of incarceration in Australasia in recent years has been the large increase in the prison population and particularly amongst indigenous people. In fact, rates of imprisonment in Australia (and New South Wales) have reached historic highs. A recent analysis of full time imprisonment by the Judicial Commission of New South Wales¹ recorded:

“In 2014, Australia’s prisoner numbers reached a 10 year high as of 30 June 2014, there were 33,791 prisoners (sentenced and unsentenced...) this represents an increase of 10% from 2013... of these, 25,513 were sentenced prisoners and 8,210... were unsentenced, representing an increase of 11% from 30 June 2014... Indigenous offenders are over represented in the Australian prison system. The ABS reported that, as of 30 June 2014, there were 9,264 prisoners who identified as Aboriginal or Torres Strait Islander. This accounted for just over a quarter... of the total prison population and represents a 10% increase... from 30 June 2013 – 30 June 2014... This was the highest number of Aboriginal and Torres Strait Islanders recorded in Australian prisons since 2004... On 30 June 2014, the median age of Aboriginal and Torres Strait Islander prisoners was 31.0 years, which is 4.3 years lower than the median age of non-indigenous offenders (35.3 years).”

* Justice of the High Court of Australia (1996-2009; Patron of the Community Restorative Centre (2010-)

¹ Judicial Commission of New South Wales, *Sentencing in NSW*, research monograph 39, 2015, 43 [5.1] (footnote omitted).

A consequence of these developments, which are certainly reflected in New South Wales, is that our custodial institutions are seriously overcrowded. The second investigative report of the Inspector of Custodial Services, tabled on 7 May 2015, serves as a stark warning. New entrants have over stripped the number of available prison places. This has led to a severe shortage of beds. But it has also reduced access to services and resulted in insufficient physical and mental health care within our prison walls.² The Public Interest Advocacy Centre (PIAC) has worked with disadvantaged and marginalised groups in contact with the criminal justice system for more than 30 years. Its senior policy advisor has written that:

“Legislative change, coupled with policing practices, are leading our vulnerable clients towards a revolving prison door. ... A lack of operational capacity has led to inmates being double - or triple – bunked in cells originally designed for one.”

These realities have imposed many disadvantages and humiliating indignities upon the prison population, although; in theory, the loss of liberty alone is the punishment. It does not need added features. One element candidly described in a book by a discharged prisoner, who has made good on his release from custody, puts things vividly. It describes the “courtesy flush”. Prisoners using the same lavatory in the multi-shared cell quickly learn the obligation of the “courtesy flush”. They must flush the toilet bowl immediately upon depositing faeces, as this reduces the smell to which their cell mates are subjected. One would think that Australia could do better than this.³

Against this background, it is scarcely surprising that recidivism is on the rise in Australia. The Australian Crime Prevention Council (ACPC) explains that the increasing return of prisoners to custody raises the question what else governments can do and whether the quality and accessibility of prisoner programs explains, in whole or part, the percentage of prisoners returning to corrective services within two years of their last release.

² Sophie Farthing, “Overcrowded Prisons”, *Law Society Journal* (NSW), July 2015, 24.

³ Greg Fisher, *Inside Out*, (New South, Sydney 2015) 125.

Between the 2006 and 2011 years, the rate of recidivism in New South Wales increased from 44.9% to 50.3%. Only in Western Australia was there a decline. The ACPC says the current levels of the prisoner population nationally put pressure on services when offenders are discharged. Assistance with welfare, drug and alcohol programs and housing cannot meet the current demand.

Despite some evidence in a decline in serious crime, incarceration and recidivism are major problems in Australia. Matthew Willis of the Australian Institute of Criminology has said that: 'perhaps the single best indicator of whether someone will be imprisoned is whether they have been in prison before'. Commentators such as the Jesuit Social Services Executive also claim that a relatively small number of high profile cases have led to tightening of bail and parole laws; increases in prison populations; and recidivism.'⁴

The features revealed in statistics from New South Wales and Australia are repeated across the Tasman Sea. In New Zealand, the per capita rate of imprisonment is even higher than in Australia, a feature blamed on 'penal populism' which is said to infect politicians who respond to media rather than to objective crime statistics.⁵ In Sweden in the 10 years to 2014, the national prison numbers dropped from 5,722 to 4,500 in a population of 9.5 million. There was no resultant crime wave. It appears that Sweden is doing something correctly. Australasia should study their programs to see what is working and what is not. Almost certainly a comparative lack of support for prisoners on their discharge from custody is a major differential factor.

A difficult year

The year 2014-15 presented the CRC with many new and significant difficulties:

⁴ T.Akerman, "Tough on Crime Stand Increases Recidivism", *The Australian*, 14 August 2015, 10.

⁵ B.Rudman, "High Incarceration Rate is the Real Prison Scandal", *NZ Herald*, 29 July 2015, 8.

- * The corrective services funding of long-term men's and women's transitional support programs ended;
- * The FACS funded long-term men's and women's transitional accommodation program closed;
- * Significant gaps in the service landscape arose in the provision of support for men leaving custody in the Sydney metropolitan region.

Notwithstanding these adverse developments, CRC was fortunate to receive some additional support:

- * Funding was commenced and solid partnerships established through the 'going home staying home' reforms which has started four new services in the Sydney metropolitan and South West Sydney areas;
- * New support has also been provided for men and women leaving custody in the Hawkesbury/Nepean Districts;
- * Men and women on release from custody and living in boarding houses in the inner West of Sydney have been supported;
- * Funding was received from the federal department of Prime Minister and Cabinet for continuation of projects in Broken Hill and Wilcannia, through the Indigenous Advancement Strategy; and
- * Shifts in funding and changes in the community sector landscape have obliged CRC to look closely at its service model, philosophy and research base. This process has resulted in the pursuit of funding arrangements that are in line with international best practice. They recognise long-standing case management and traditional support approaches that yield a lower rate of recidivism (12%) compared with unsupported prisoners who have a recidivism rate closer to 80% because of the complexity of their unmet needs on discharge.

Conclusion

At a time when the prisoner population in New South Wales is sharply increasing, and 76% of people in New South Wales prisons have been in custody previously, funding programs that are based in the community that are able to effectively stop entrenched cycles of disadvantage,

reoffending and imprisonment are particularly important. They represent both the goal and the challenge for CRC as it moves into a difficult and demanding future.

I pay respects to those who work for and with CRC. Those who help the vulnerable, and particularly prisoners, surely earn a special place in Heaven.

1 October 2015

A handwritten signature in black ink, appearing to read "Wraith".