

SUBMISSION

What are the biggest barriers for you or other people with disability in the criminal justice system?

In the Issues Paper you outlined the problem at Barrier 4 where there is no specialist support for offenders with disabilities found unfit to plead and are subsequently placed on a Restriction Order in a psychiatric facility. In Tasmania this is the Wilfred Lopes Psychiatric Hospital. The biggest barrier in this situation in Tasmania, is the fact that individuals in the general population of the prison are released earlier than those individuals with disabilities incarcerated in the psychiatric facility. As an example it took five years for a gentleman with an intellectual disability to be released from the psychiatric facility as a result of constant disability advocacy support throughout this period. Certainly one of the central issues for this delay is the lack of appropriate accommodation which is a major issue for many offenders with disabilities.

As you've noted facilities of this kind are not suitable for people with intellectual disabilities and the development of proper accommodation is considered to be important by all relevant stakeholders but is a major resource issue for the state government. The lack of resources seems to be a fundamental barrier in this regard. A second relevant barrier is the lack of support for people with disabilities within the confines of the prison system.

I would like to bring to your attention the Tasmanian Prison Service Strategic Plan Discussion Paper 2011-2020 titled: *Breaking the Cycle*. I am happy to send a copy upon request. The relevant quote from this document is as follows:

"Offenders with intellectual disabilities or acquired brain injuries are not able to participate in programmes with the other offenders due to their reduced cognitive functioning. Additionally, it is argued that these offenders are less able to carry skills learned in prison programs to the community setting. These offenders may be in-eligible for some services as a result of the complex needs and co-morbidity issues." (Tasmanian Prison Service: April 2011; at p.97)

There is evidence that offenders with complex needs are in fact isolated from all programs apart from those fundamental systemic services. The Strategic Plan specifically, stated that it intends to provide programs and partnerships with the community sector to prevent recidivism rates. Although in practice the Service is reluctant to commence this program. Community

Services are interested in participating in any future program should this occur and believe that offenders with intellectual disabilities and acquired brain injuries can benefit from any rehabilitative program. This isolation is further exacerbated by the physical and psychological segregation from the general population of the prison environment. Chris Publick argued that prisoners with disabilities are housed in special units in hospital wings of the prison as opposed to either in general accommodation or on a Restriction Order within a psychiatric facility. These prison accommodations are inferior, and used generally as suicide rooms with no other facilities. (Publick: 2005: at.p.6) This means no didactic programs or rehabilitative support is available to them. There is evidence of this form of incarceration in the Tasmanian Prison Service.

Such actions by the Prison Service are understandable and supported with regard to the protection of the individual prisoner with a disability. However the fact that they reside in the Hospital/ Suicide Wing and receive no external stimulation yet alone a program that could be of benefit once released, is certainly a major issue. For example, recidivism has continued for two recently released prisoners from these wards thus proving the need for rehabilitation. It has also been argued that prisoners on short term sentences should not receive and do not received any rehabilitative support.

However the recidivism rate for short term prisoners is quite high (statistics can be supplied). It must be argued that the culmination of a series of short term sentences should enable a person with a disability to receive rehabilitative support while serving a sentence. French argued that among the reasons for reoffending is the fundamental need for survival that may cause an individual with a cognitive disability to reoffend in order to return to prison for shelter, regular meals and protection from violence and abuse. French (2007: at: p 38) Again this supports the argument that services should be established to enable prisoners with disability to effectively re-establish themselves once released.

Some elements of both the Prison Service and the community sector have washed their hands of supporting people with complex needs who are seen to be too hard to support. My research found that individuals from this 'group', are regular offenders. It is also clear that developing effective and respectful communication strategies with these people would certainly have reduced their challenging and criminal behaviours. The barriers come therefore from both the Prison Service and the closed doors of exhausted community organisations. These barriers are understandable but really need to be addressed as soon as possible.

In closing, there is clear support for the consideration that therapeutic justice options should be seriously considered as alternatives to incarceration for people with disability in the criminal justice system. However the form that alternative may take, is still evading researchers and policy makers in this area.

Reference List

Philip French; Disability Justice: *The Barriers to Justice for Persons with Disability in Queensland*; Disability Studies and Research Institute for Queensland Advocacy Incorporated: May 2007

Christopher Publick: *Issues for People with Cognitive Disability in the Corrections System*: Report for the Office of the Public Advocate: Queensland: May 2005

Tasmanian Prison Service: *Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011=2020*- April 2011

Tasmanian Prison Service: *Breaking the Cycle Discussion Paper*, April 2011