



**NSW Law Reform Commission –  
Parole Question Papers 4-5**

**December 2013**

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# Introduction

## The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights; and
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Trade and Investment, Regional Infrastructure and Services NSW for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

## The Homeless Persons' Legal Service and StreetCare

PIAC operates the Homeless Persons' Legal Service (HPLS), which provides free legal advice and ongoing representation to people who are homeless or at risk of homelessness. It operates ten clinics on a roster basis at welfare agencies in the greater Sydney area. These agencies provide direct services, such as food and accommodation, to people in housing crisis. The clinics are co-ordinated by HPLS and staffed by lawyers acting pro bono. Since 2004, HPLS has provided free legal advice and representation to almost 8,000 people who are homeless or at risk of homelessness. During 2012-13, HPLS assisted over 1,350 clients.

Since 2008, PIAC has employed an HPLS Solicitor Advocate to provide legal representation for people who are homeless and charged with relatively minor criminal offences. The role was developed to overcome some of the barriers homeless people face accessing criminal advice and representation, including: a lack of knowledge regarding how to navigate the legal system; rushed appointments leaving little time to obtain instructions; and, lack of capacity to address multiple and complex interrelated legal and non-legal problems.

Since commencing in 2008, the HPLS Solicitor Advocate has provided court representation to 362 individual clients in 554 matters. From January 2010 to December 2012, the HPLS Solicitor

Advocate provided court representation to 241 individual clients facing criminal charges. Of these:

- 48 per cent disclosed that they had a mental illness;
- 63 per cent disclosed that they had drug or alcohol dependency;
- 41 per cent disclosed that they had both a mental illness and drug/alcohol dependency;
- 72 per cent had either a mental illness or drug/alcohol dependency;
- 46 per cent disclosed that they have previously been in prison.

HPLS believes that the active involvement of those who are or have been homeless leads to the development of more effective public policy in response to issues facing homeless people, as well as assisting in the empowerment of participants. HPLS also recognises the fundamental right of people to 'take part in the conduct of public affairs', as enshrined in Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR).<sup>1</sup>

HPLS seeks the views of homeless people through its homeless consumer advisory committee, StreetCare. StreetCare is made up of nine people who have recent experience of homelessness. The members reflect the diversity of homelessness in NSW, and include men, women, transgender people, young people, and representatives from inner Sydney, outer suburbs and rural and regional areas. StreetCare also provides a mechanism for HPLS to engage actively with other people who are homeless or at risk of homelessness, to facilitate their input into public policy and law reform initiatives.

In November 2011, PIAC commenced a consultation project with homeless people who had recently exited the prison system. The project had two principal aims:

1. To identify the experiences of homeless people who have recently been released from prison; and
2. To identify the difficulties faced by generalist homeless services and agencies that provide services to homeless people recently released from prison, as perceived by consumers and agency employees.

One of the unique aspects of this consultation project was the involvement of StreetCare in its design and implementation. During 2012, with support from the HPLS Senior Policy Officer, StreetCare members were involved in conducting 24 of the 26 interviews with homeless people in this project.

The project's report, *Beyond the Prison Gates – The experiences of people recently released from prison into homelessness and housing crisis*,<sup>2</sup> was released in August 2013. That report provides the evidentiary basis for much of the content of this submission. PIAC is pleased to note that the NSW Law Reform Commission (NSW LRC) has referred to the report frequently throughout the Question Papers.

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<sup>1</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171

<sup>2</sup> Louis Schetzer and StreetCare, *Beyond the Prison Gates – The experiences of people recently released from prison into homelessness and housing crisis* (31 July 2013) Public Interest Advocacy Centre.

## Consultation questions addressed in this submission

PIAC welcomes the opportunity to comment on the NSW LRC Parole Question Papers 4-5. This submission will address the following questions from the two Question papers:

### Question paper 4 – Reintegration into the community and management on parole

- Question 4.1: Case management of offenders in custody
- Question 4.3: Custodial rehabilitation programs
- Question 4.4: Access to education and work programs in custody
- Question 4.5: Short sentences and limited time post-sentencing
- Question 4.6: Pre-release leave
- Question 4.7: Transitional centres before release
- Question 4.8: Back-end home detention
- Question 4.11: Planning and preparing for release to parole
- Question 4.12: Conditions of parole
- Question 4.15: Information sharing and compliance checking
- Question 4.18: Housing for parolees
- Question 4.19: Programs for parolees
- Question 4.20: Barriers to integrated case management

### Question paper 5 – Breach and revocation

- Question 5.1: Exercise of discretion in reporting breaches and SPA's lower level responses
- Question 5.2: Response to non-reoffending breaches

## Question paper 4 – Reintegration into the community and management on parole

### Question 4.1: Case management of offenders in custody

How could case management of offenders in custody be improved to ensure that any issues that may impede successful reintegration on parole are identified and addressed?

There is a large variety of issues that can impede the successful reintegration into the community of offenders while they are on parole. These include practical issues – such as a lack of immediate and medium-term accommodation, lack of identification and difficulty finding employment – as well as more complex underlying issues. Many offenders are affected by mental illness or substance abuse, lack of living and coping skills, disconnection from society, and feeling isolated from friends and community support networks. Previous legal and criminal problems can resurface unexpectedly. Improved case management of offenders before they leave custody can start to identify and address these issues.

Most participants in the *Beyond the Prison Gates* consultation identified problems in accessing prison welfare services for support and information prior to release. Commonly identified problems included difficulties and delays in accessing the services, lack of availability of welfare

services, and perceptions of incompetence or inefficiency.<sup>3</sup> This does not negate the fact that some ex-prisoners also reported positive experiences of support from Corrective Services staff.

You put in to see welfare. You don't see them for three to four weeks. By the time you see them you're released.

But every time I go in it's the same thing. I mean some days like when I put in to see welfare or someone, some days I'd be waiting three days and some days it doesn't even happen. They don't even bother to come and see you.

But the reality of it is you're getting sent from jail to jail, there's waiting lists and at the end of the day all they can really help you with is offer you homeless shelters and boarding houses.

Well it is pretty hard to get to see welfare. Like you put a form in, it takes weeks. You've basically got to tell them, like you've just got to keep persisting.<sup>4</sup>

Pre-release exit-planning, combined with continuous case management either conducted by non-government support agencies, or in close partnership with those agencies, was seen as a valuable service. It assisted in accessing immediate and medium-term accommodation, support services to deal with mental illness or substance abuse problems and other medical issues such as medication needs, counselling or other treatment. In addition, appropriate, pre-release case planning was seen as a basis to help secure identification, provide assistance in setting up bank accounts and securing social security payments upon release, accessing education or job-training courses upon release, accessing employment services and accessing life-skills training prior to release.<sup>5</sup>

Especially blokes that have done a long time in jail. Like when I done four and a half years in jail you think at that time they will be trying to help me and get me ready, prepare me to come back out in the community, find me work and somewhere to live and that sort of stuff, but no, you get totally nothing. So they've got to set up some services to help ex-prisoners for when they get out of jail...<sup>6</sup>

A second recommendation arising from this research was that better networking between staff of Corrective Services NSW and non-government organisations that provide accommodation and support services in the community would help improve case management of offenders in custody. This would help Corrective Services staff identify the most appropriate support services for a person about to exit the prison system, and facilitate effective case-planning and ongoing support for the person.

Third, case management could be improved by providing more information about support services.

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<sup>3</sup> See Schetzer and Streetcare, above n 2, 20-21.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid 77-78.

<sup>6</sup> Ibid 69.

I reckon having more pamphlets about boarding houses or accommodation. There needs to be more readily available for you or being able to talk to welfare a bit more about what was going on with the jail, like with getting out and so forth.<sup>7</sup>

Fourth, more visitors from community organisations and advocates to meet with prisoners still in custody but about to be released would help with successful reintegration on parole. Several participants in the *Beyond the Prison Gates* consultations indicated that they found the most positive and effective strategy for preparing to leave prison is having external welfare services, support services or accommodation services visiting prison and assisting in case-planning for release and reintegration in the community. Some particular services that visited prison to facilitate access to post-release support were the Community Restorative Centre (CRC), church-based prisoner support, Prison fellowship and the Connections Program.

Where the services actually come into the jail and you can actually go there and ask them questions like – RTA, state debt, I think. CRC used to come, Legal Aid.

So you get people to go in there and say ‘you got a three year sentence, you do two, to two and a half, we might be able to help you get a bangle, if you do the right thing by the system, while you’re in there, we will help you fight for your children, and we will help you with accommodation, and we will help you with their school, and we’ll have somebody here to meet you and take you shopping, and get you back into the environment.’ I think it would be very helpful for a lot of people.<sup>8</sup>

As a result of the *Beyond the Prison Gates* project, PIAC has recommended that Corrective Services NSW undertake a review of all processes and policies in respect of case management and exit planning for prisoners to ensure that:

1. Prisoner release dates are identified and planned for;
2. Identification of prisoner post-release accommodation and support needs to facilitate appropriate exit-planning;
3. Appropriate early intervention support services, and crisis and transitional accommodation options for people being released from prison who do not have safe accommodation options;
4. Early contact with community-based support and accommodation services, to ensure continuous case management commencing prior to release, and continuing post-release; and
5. All released prisoners have adequate proof of identity, and that such proof of identity is not branded with Correctional Services NSW logos or information.<sup>9</sup>

### **Question 4.3: Custodial rehabilitation programs**

(1) How could the process for selecting and evaluating the rehabilitation programs offered to offenders in custody be improved?

(2) How could offenders be given sufficient opportunity to participate in in-custody rehabilitation programs?

<sup>7</sup> Ibid 29.

<sup>8</sup> Ibid 30.

<sup>9</sup> Public Interest Advocacy Centre, *The experiences of people recently released from prison into homelessness and housing crisis: PIAC briefing paper* (31 July 2013) <<http://www.piac.asn.au/publication/2013/08/beyond-prison-gates-briefing-paper>>.

Like Corrective Services NSW, PIAC strongly supports custodial rehabilitation programs and does not agree with the view of some criminologists and policy makers that ‘nothing works’.<sup>10</sup>

In response to Question 4.3(1), the process for selecting and evaluating the rehabilitation programs offered to offenders in custody could be improved, especially for short-term prisoners.

Several participants in *Beyond the Prison Gates* stated that they would have benefited from being able to attend rehabilitation programs that addressed offending behaviour, as well as provided basic information about living skills, how to set up a home, how to budget, how to access essential services such as housing, social security and how to adjust to life in the community.<sup>11</sup>

Well I think even more programs in jail I think. Not programs but mini skill things... like living skills. A month before you are due to get out go and...they should have a course or something that says you go once a week or something for that where you sit there for a couple of hours and you can go through things and even allow you to make phone calls.

Run courses for blokes so they can get out and adapt outside... just trying to adapt outside so you communicate with other people.<sup>12</sup>

The process for selecting and evaluating rehabilitation programs needs to address this demand for life skills training.

There also needs to be greater consistency in rehabilitation programs across prison locations so people can continue the same program if they get reclassified and sent to another prison. Therefore, the ability to offer the program in multiple locations needs to be a key element of the process for selecting rehabilitation programs.

In response to Question 4.3(2), offenders could be given greater opportunity to participate in in-custody rehabilitation programs if they were more extensive. There needs to be increased availability of life skills training and educational courses within prison. This is addressed further below in response to Question 4.4.

While PIAC recognises the value of participation in in-custody programs as an important preparation for release, and therefore an important consideration in determining whether to grant parole, this value is undermined by the lack of availability of such programs on a consistent basis for all prisoners in NSW. Accordingly, it is submitted that substantial investment in such programs is vital if it is to form a significant part of the SPA decision-making processes in regard to whether to grant or refuse parole.

#### **Question 4.4: Access to education and work programs in custody**

(1) What education and work programs would boost offenders’ employability and improve their

<sup>10</sup> D Andrew and J Bonta, “Rehabilitating Criminal Justice Policy and Practice” (2010) 16 *Psychology, Public Policy and Law* 39, quoted in New South Wales Law Reform Commission, *Parole Question paper 4: Reintegration into the community and management on parole*, November 2013 [4.19].

<sup>11</sup> Schetzer and Streetcare, above n 2, 28.

<sup>12</sup> Ibid.

prospects of reintegration when released on parole?

(2) Are offenders given sufficient opportunities to access in-custody education and work programs in order to achieve these outcomes?

In response to Question 4.4(1), several participants stated that they would have benefited from being able to attend educational courses and workshops that addressed offending behaviour, as well as provided basic information about living skills, how to set up a home, how to budget, how to access essential services such as housing, social security and how to adjust to life in the community.<sup>13</sup> Such education programs would improve offenders' prospects of integration when released on parole. Some participants reflected that pre-release courses, particularly those that provided some training in basic living skills, would have helped them settle back into the community if they had been available prior to release.

Although the comment in the Question Paper in paragraph 4.42 that prisoners tend to have lower levels of educational attainment than the general population may be correct, and it is pleasing that poor literacy should not exclude a prisoner from a program, there needs to be a range of education and work programs offered for different levels of education.

In response to Question 4.4(2), participants in the *Beyond the Prison Gates* consultations reported that there was insufficient access to training courses or in-custody programs. Some indicated frustration at only being offered basic courses or programs. Criticisms included not being able to access courses when serving a short sentence, and starting a course only to be reclassified and sent to another prison where the same course was not available.<sup>14</sup>

Some jails it's very hard to get into a course and most of them they will only fund it for basic literacy and basic IT... I spent two and a half years in jail the first time. I could have finished a degree in that time and I couldn't even get started on it because of the turnover and because you're going to get sent to this jail and this jail they don't want to start people off, start helping them and then a week later they are gone or the person doesn't want to do it. It's very hard. If you were a lifer you will get to do it. Otherwise don't even bother.

Sometimes you go to a jail and you get that comfortable you're doing a course and then next minute it gets hitched you know what I mean. So, really you've got to be stable in a jail where they do run courses because not many jails do run courses.

They usually generally don't do much with you when you're only short term.

There's not that many courses in jail you'd be able to do... like I done nothing in New South Wales because they wouldn't offer me nothing because of me time.<sup>15</sup>

As is acknowledged in paragraph 4.49 of the Question Paper, the NSW Law and Justice Foundation also reported complaints about the availability of education courses in particular prisons, and some prisoners said they lost their places in courses when transferred to another prison.

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<sup>13</sup> Ibid 28.

<sup>14</sup> Ibid 23-24.

<sup>15</sup> Ibid.

It is noted that the same basic suite of units from the NSW TAFE Access to Employment Education and Training Framework is delivered in all prisons, so perhaps the issue arises when offenders are midway through a course when they are transferred. As the Question Paper points out, this is also a problem for vocational courses, although it is worthy of note that the policy is that prisoners who have commenced a traineeship, or who are enrolled in a full-time Intensive Learning Centre program, are not moved to other prisons until they complete the traineeship or program. There is still an issue, however, as only 35.3% of eligible offenders participated in in-custody educational programs in 2011-12, compared to 51.3% in 1996-7. This decrease is larger than the increase of 10% in in-custody work participation rates amongst eligible prisoners in the same five years. The recent improvement is a positive trend, but there is still much progress that needs to be made to ensure that offenders have sufficient opportunities to access in-custody education and work programs to boost their employability and improve their prospects of reintegration when released on parole.

In addition and as discussed in Question Paper 3, the current classification system is overly complex and can limit access to in-custody rehabilitation, education and work programs. It is pleasing that Corrective Services NSW is working towards streamlining the current classification system.

#### **Question 4.5: Short sentences and limited time post-sentencing**

How could in-custody case management for offenders serving shorter sentences be improved to reduce reoffending and improve their prospects for reintegration on parole?

PIAC submits that there is insufficient support available for individuals released from prison after short sentences, or from remand, where there is no supervised parole arrangement. Moreover, the lack of reintegration support for those people released from prison after short sentences without parole leaves them vulnerable to homelessness and reoffending.

The *Beyond the Prison Gates* consultations, involving individuals who had recently been released from prison into situations of housing crisis or homelessness, suggest that there is a lack of accommodation options and suitable support services and agencies for those people who exit prison from remand or those who are not on parole. Nine of the 26 participants interviewed indicated that they 'slept rough' or were 'on the streets' the first night after being released from prison. Each of these nine participants who slept rough had been released after a short prison sentence (less than 12 months) or remand.<sup>16</sup>

I just got out of prison three weeks ago so... I was on the street for about a week. Then I rang up the homeless people and they sent me here. I wasn't quite happy being on the street, no...

Basically when I first came out the last time I was on the street, yes. I had to spend two weeks sleeping rough, so I did until there was a bed available, and then when the bed became available, I snapped it up.

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<sup>16</sup> Ibid, 33.

I've been sleeping in the belly of frigging Moreton Bay fig trees and stuff, fending off possums and rats in the middle of the night. Because I've just got nowhere to go...<sup>17</sup>

This is especially worrying since female offenders are particularly overrepresented among prisoners serving short sentences and among prisoners who experience short periods under sentence before release on parole.<sup>18</sup>

In addition, several consultation participants commented on the lack of suitable support services and agencies for people exiting prison who are not on parole, or who exit prison from remand.<sup>19</sup>

PIAC submits that additional resources need to be devoted to accommodation and support services for individuals released from prison following short sentences, and for individuals released who are not on parole. However, PIAC does not support a system of formalised supervision for individuals released from custody after serving a short sentence, if the period of supervision extends beyond the nominated end date of the head sentence. PIAC is concerned that such a supervision system places an individual at risk of further incarceration or penalty if they fail to adhere to the terms of their supervision, even if the period of their original sentence has finished.

PIAC submits that the real issue is the lack of community accommodation and support services for people released from prison after completing a short sentence. The limited services available are usually prioritised for those offenders released on parole and subject to parole supervision arrangements.

Accordingly, PIAC submits that the most appropriate and effective strategy to reduce the likelihood of reoffending for individuals released from prison after completing a short sentence and improving their prospects for reintegration, is to invest in transitional accommodation and support services for this particular group within our community. In-custody case management needs to identify accommodation and support needs to facilitate appropriate exit-planning; and ensure appropriate early intervention support services, and crisis and transitional accommodation options.

#### **Question 4.6: Pre-release leave**

How could pre-release leave programs be improved to: (1) prepare offenders sufficiently for life on parole; and (2) ensure offenders can access pre-release leave prior to parole?

Some participants in the *Beyond the Prison Gates* consultations were very positive about work release programs that were available in prison, and how such programs assisted reintegration in the community.

I thought it would just be wonderful to come and help somebody out. I think my situation is bad but it's nothing compared to some of these people in here where I worked. And you just need

<sup>17</sup> Ibid.

<sup>18</sup> E Baldry, "Women in Transition: From Prison To.." (2000) 20(2) *Current Issues in Criminal Justice* 253, quoted in New South Wales Law Reform Commission, *Parole Question paper 4: Reintegration into the community and management on parole*, November 2013 [4.53].

<sup>19</sup> Schetzer and Streetcare, above n 2, 44.

someone that wants to understand give you that break. Give you that opportunity to prove yourself. It makes the world of difference. When I went back after working, the others would say 'Have a look at you, look how happy you are.'

In Stage 2, you can get a job, a proper job. It's fantastic.<sup>20</sup>

It seems that Question 4.6(2) is the larger challenge: ensuring offenders can access pre-release leave prior to parole. Unescorted external leave is only available to offenders who have progressed to the lowest level of security classification. As was discussed in Question Paper 3, some offenders experience difficulty in obtaining a low security classification. In addition and as Question Paper 4 acknowledges, offenders are generally not eligible for unescorted work release or education leave until they have less than two years to serve before the expiry of the non-parole period. PIAC suggests that in its review of policies governing access to pre-release external leave, Corrective Services NSW should consider the benefits of work release programs, in particular, in preparing offenders for life on parole, and it should try to ensure more offenders can access work release programs prior to parole.

#### **Question 4.7: Transitional centres before release**

- (1) How effective are transitional centres in preparing offenders for release on parole?
- (2) How could more offenders benefit from them?

There are only two transitional centres run by Corrective Services NSW and they are only for women prisoners.

Rather obviously, more offenders could benefit from transitional centres if there were more of them. There is an urgent need for more transitional accommodation options for people exiting prison and this is discussed further in response to Question 4.18. In particular, PIAC recommends that the NSW Government provide funding to increase the availability of community-based transitional accommodation options for people being released from prison and remand, which are administered by non-government, community organisations with expertise in providing accommodation and other supports for people exiting prison. PIAC also recommends that the NSW Government should take immediate steps to increase the available stock of transitional accommodation options for people exiting prison.

#### **Question 4.8: Back-end home detention**

Should the Corrective Services NSW proposal for a back-end home detention scheme, or a variant of it, be implemented?

PIAC does not have a strong view on whether the Corrective Services NSW proposal for a back-end home detention scheme should be implemented. As PIAC has noted in previous NSW LRC submissions,<sup>21</sup> this option is not useful for homeless people. It may benefit those with pre-existing family or home support.

<sup>20</sup> Ibid 27.

<sup>21</sup> See, for example, Deirdre Moor and Louis Schetzer, *Submission to NSW Law Reform Commission Sentencing Papers 5-8, 7-8*.

#### Question 4.11: Planning and preparing for release to parole

How could release preparation be changed or supplemented to ensure that all offenders are equipped with the information and life skills necessary to be ready for release to parole?

Based on the consultations conducted as part of the *Beyond the Prison Gates* project, PIAC is concerned that insufficient attention is given to the needs of prisoners who are eligible for parole, in terms of providing those prisoners with adequate information in order to adequately prepare them for parole and release into the community. The consultations also suggested that there was a lack of appropriate pre-release exit planning and case management, with continuity post-release, to facilitate transition and reintegration back into the community.<sup>22</sup>

As stated above, several participants in the consultations expressed concerns about the lack of training courses and programs for prisoners to prepare them for parole, and the consequent difficulty in being released with a lack of basic skills and abilities to function in the community. Basic living skills – such as how to shop, how to cook, how to budget, how to find accommodation, how to set up a home, how to think for oneself, and how to navigate crowded places – were all identified as major challenges for someone who has been released from the controlled prison environment.<sup>23</sup>

Some people come out, three years in jail this poor bugger is dysfunctional. He doesn't know where these things are. For three years he's been like a trained robot and then he comes out.

The every day simple things is what used to get me. I'd get overwhelmed with things. You come out and you're worried about this.<sup>24</sup>

In addition, several participants reported their experiences of little or no information being made available leading up to release, and that they had to be proactive in seeking support, assistance or information, or needing to have some prior knowledge of what's available.<sup>25</sup>

No, nothing... they said, 'look your time's up here's your papers, here's your money' and walked me to the gate and they said, 'don't worry, your bed will still be there for you next time...' If they can't help us at least give us something to steer us in the right direction ... give me some options instead of just saying 'no can't help you, see you later.'

There is nothing for an inmate being released from jail... Your release date comes up, your money's already there, you go from your cell to the reception room, you put on your civvies you turn around and sign your release papers and then they tell you where to go and pick up your money and off you go out the gate.

Nothing. It was pretty much 'Hooroo on your way. Here's the door, sign this, get your money, piss off.'<sup>26</sup>

<sup>22</sup> Schetzer and Streetcare, above n 2, 77.

<sup>23</sup> Ibid 49, 51-52.

<sup>24</sup> Ibid 49.

<sup>25</sup> Ibid 19.

<sup>26</sup> Ibid 19-20.

Readiness for parole and for release into the community can also involve a need for better access to legal advice, information and education.

PIAC supports the view of the NSW LRC at paragraph 4.103 that requiring offenders to take the initiative in readying themselves for release may be an unrealistic way to provide release preparation assistance. PIAC supports the suggestion of resourcing additional officers within prisons who are specialised housing and throughcare workers. These officers need to be well networked with the non-government support available, as explained further in response to Question 4.15 below. This needs to be coupled with life skills education and training prior to release, as explained in response to Question 4.4 above.

Pre-release preparation also needs to include securing identification prior to release from prison, providing assistance in setting up bank accounts and securing social security, and planning for education or job-training courses upon release. It is also vital that preparation includes medical support, such as medication, methadone or counselling services.

What would have helped me before I got out is if I had have been able to get photo ID and all those sorts of things. I've been out for three months and I'm still trying to get a photo ID. Things like that. Opening a bank account. All these simple things that would have enabled me to get out and get straight into a job. But yet I got out of jail with no ID, nothing and I'm still trying to get ID. I can't get a job without photo ID.<sup>27</sup>

All prisoners being released should have adequate proof of identity that is not branded with Correctional Services NSW logos or information.

#### **Question 4.12: Conditions of parole**

(1) How could the three standard conditions that apply to all parole orders be improved?

PIAC supports the comments of the NSW Bar Association that the standard condition requiring parolees to adapt to normal community life may be too vague. As the Question Paper points out at paragraph 4.108, without adequate support with respect to issues such as housing, education and treatment for substance abuse, some parolees will have difficulty complying with such a condition and may be set up to fail.

As the Question Paper acknowledges, nearly all parolees are required to accept supervision as an additional condition of their parole. A parolee who is supervised by a Community Corrections officer is required to reside at an address approved by the officer. This inflexible requirement for a specific address is problematic for many parolees.

Several participants in *Beyond the Prison Gates* recounted difficulties when they were subject to inflexible parole conditions, either on previous occasions when they had been released from prison, or following their most recent sentence, during the period of their parole.

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<sup>27</sup> Ibid 42.

The lack of stable accommodation presented as a barrier for getting released on parole, often forcing them into unsatisfactory accommodation options, temporary accommodation, or crisis accommodation, placing them in situations where they were at risk of re-offending. One participant indicated that during his last term of imprisonment, his preference was to complete his full sentence and not have to deal with probation and parole.<sup>28</sup>

The problem is parole won't let you out unless you've got a stable address. So it's very hard to get an address in jail, you know, if you haven't got support outside, someone trying to find it for you, or to help you or whatever. So basically you're either going to end up at a COSP or you're going to end up in a homeless shelter for support.

And parole service is a joke because everyone that gets out on parole right they're normally got to have somewhere to live before you can get granted parole. That's why the last time I said 'no I don't want parole, you can have it. I'll just do me full time.'

So they give them parole if they've got a family to go to but if they haven't got a family to go to they'll give 'em parole but they'll put 'em in a half way house and then as soon as the parole's finished you go. And they say 'Oh you've got to find yourself a place before'.<sup>29</sup>

One participant said that, in relation to a previous sentence, the fact that he had stable accommodation available through an offer of social housing from Housing NSW was not considered satisfactory for his parole conditions. Housing NSW was unwilling or unable to make an alternative offer in another location. Accordingly, his release on parole was denied.

I've been on housing lists for 30 years. I've had one offer, that was about seven or eight years ago and probation and parole had that knocked on the head. They didn't want me to be in Redfern.<sup>30</sup>

Some participants indicated that in the past they had been released on parole on the condition that they reside in a particular service that provided temporary or supported accommodation. However, when they arrived at the service, they were informed that there were no beds available, leaving them no option but to sleep rough, placing them immediately in breach of their parole accommodation conditions. For others, once the period of temporary accommodation expires, unless there is suitable and approved medium-term accommodation to move to, they are also at risk of being in breach of their parole conditions.<sup>31</sup>

I came through this place through jail the last time through my probation and parole officer at Silverwater jail... they were full up when I first applied so I had to spend two weeks sleeping rough. Because I was on parole I was trying to get off the street, get into accommodation, because of my parole conditions. I didn't want to get breached.<sup>32</sup>

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<sup>28</sup> Ibid 42-43.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid 43.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

The inflexibility of some accommodation conditions for people released on parole can mean that they are forced to stay in over-crowded conditions with family members, which may place them at risk of re-offending.

PIAC submits that parole conditions need to be more flexible, and that accommodation options need to be drastically improved. This is discussed further in response to Question 4.18: Housing for Parolees.

#### **Question 4.15: Information sharing and compliance checking**

(1) How sufficient are:

(a) current information sharing arrangements between Corrective Services NSW and other agencies (government and non-government)?

Current information sharing arrangements between Corrective Services NSW and other agencies (government and non-government) are adequate in theory, but in practice they are not always implemented. PIAC is not convinced that there is a need for Corrective Services NSW to have any more exemptions from compliance with privacy and other legislation that limits the circumstances in which they may disclose personal information about parolees. Corrective Services NSW may disclose personal information where reasonably necessary to provide services and programs to an offender effectively.<sup>33</sup> The problem does not appear to be that there are undue legal restrictions on the ability of the government and non-government agencies to share information; or that there are deficiencies in the formal arrangements or policies. Instead the problem seems to be Corrective Services NSW actually sharing the information with the right parties in reality.

One of the common themes of the *Beyond the Prison Gates* consultation was the need for better networking between staff of Corrective Services NSW and non-government organisations that provide accommodation and support services in the community.

Corrective Services NSW needs early contact with community-based support and accommodation services, to ensure continuous case management commencing prior to release, and continuing post-release. This need was also identified by some of the community workers who were interviewed.

They need to really be able to link in with outside agencies and have some relationship building and across a whole lot of different services so that they can really prepare these clients for release. I know they do the stuff around Connections and the health with the methadone but it just doesn't go far enough. We just need more positions and more money for more positions inside to be able to link people.<sup>34</sup>

This is particularly important for exit-planning. Adequate care and support are particularly important in the period immediate post-release, which is the critical period in terms of stress, anxiety, depression and risk of reoffending for ex-prisoners.

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<sup>33</sup> *Privacy Code of Practice (General) 2002* (NSW) cl 16(b).

<sup>34</sup> Schetzer and Streetcare, above n 2, 29.

There also needs to be better communication between Corrective Services NSW and housing organisations, so parolees do not arrive at a particular service on parole (on condition that they reside at that particular service) and then are informed that there were no beds available. As explained earlier in response to Question 4.12, this leaves them with no option but to sleep rough and places them immediately in breach of their parole accommodation conditions.

#### **Question 4.18: Housing for parolees**

What changes need to be made to ensure that all parolees have access to stable and suitable post-release accommodation, and that post-release housing support programs are effective in reducing recidivism and promoting reintegration?

This question was the key focus of the *Beyond the Prison Gates* report. PIAC recommends a number of changes to ensure that all parolees have access to stable and suitable post-release accommodation, and that post-release housing support programs are effective in reducing recidivism and promoting reintegration. At the outset, it is important to acknowledge the hope attached to housing. During the consultations, most participants expressed statements indicating the importance of housing and accommodation in getting their life back on track, reintegrating back into the community, and moving away from a life of re-offending and ending up back in prison. Having stable accommodation was seen as an important circuit breaker in the cycle of re-offending.

Participants in the *Beyond the Prison Gates* consultations reported experiencing the following difficulties in relation to trying to find accommodation when they came out of prison:

- the lack of social housing, problems with Housing NSW, and frustration negotiating processes and procedures to access social or community housing;
- lack of availability of short-term and crisis accommodation;
- inability to afford private rental or boarding house accommodation;
- being denied accommodation on the basis of criminal record or having recently been in prison;
- the temporary nature of most accommodation options for ex-prisoners;
- not having proof of identification;
- inflexible parole conditions; and
- lack of support services, in particular for people not on parole.<sup>35</sup>

The lack of available short-term and medium-term accommodation options, as well as the under-supply of social and community housing stock, are major challenges that need to be addressed.

Comments from community workers included:

All I know is that there is just not enough accommodation, appropriate accommodation to put clients in...

My major challenges, my big thing is actually housing. That's what I am finding really, really difficult. I mean at the moment I have got so many released unable to be housed for three or

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<sup>35</sup> Ibid 36.

four months. They are couch surfing, they are in environments that I just know are setting them up for failure again and that's what is really challenging.<sup>36</sup>

The most pressing changes that need to be made to ensure that all parolees have access to stable and suitable post-release accommodation are:

- more transitional accommodation for people exiting prison;
- more crisis accommodation;
- more affordable accommodation and social housing;
- greater commitment to exit planning and appropriate post-release support services;
- more resources for existing support services;
- services to address the specific needs of women recently released from prison.

More transitional accommodation in the community is essential to address the accommodation crisis for people exiting prison. Immediate accommodation for a transition period after leaving prison, with basic support to help people who have just been released get back on their feet in society, was seen as the most important and urgent gap in services.

If there was like somewhere that could just take inmates and put them up somewhere, it would be a lot more helpful... You know, there's nowhere else that you can just walk in off the street, no matter how you dress, how you look, who you are and that they'll sit down and give you the time of day... I wouldn't do crime, like if I had somewhere to put my head at night. For the boys getting out of jail, they need someone or an organisation to say 'Listen, here's somewhere to stay. Here's something you can go to and we'll help you.'

Well look the Department spends tens of millions of dollars to incarcerate people right. They spent buggar all on letting them back out in the community... I mean they could have like short-term accommodation for people, so they're not under the gun straight away.<sup>37</sup>

Several participants were highly critical of the Community Offender Support Programs (COSPs). The most common criticisms were that COSPs provide a prison-like environment, with prison-like policies, strict regimens and practices that did not emulate life 'outside' and did not promote reintegration into the community. In addition, COSPs were criticised as offering only a short-term, temporary option, that did not often lead to long-term accommodation, often only available for particular types of prisoners, usually too remote from community centres (being located on prison grounds), and as being controlled by prison staff.

COSP was a suck hole program. There is 99 per cent of people who go into it, abuse it and it just doesn't work. It's run by Corrections... it's no different than being in jail, it's right next to the front gates of the jail. You've only just swapped walls.

The COSP houses... they're all run by probation and parole and they're real strict conditions... because you're leaving jail you don't want to go to another place you know where you've got to live under jail conditions, you've got to be in by six o'clock you know and

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<sup>36</sup> Ibid 65.

<sup>37</sup> Ibid 67-68.

everything like that and when you get released from jail after you've finished your time you just want to get on with your life....<sup>38</sup>

Given this criticism of COSPs, it is pleasing that Corrective Services NSW has recently announced the closure of six COSPs, and instead is proposing to fund community groups to deliver accommodation and resettlement services.

Several participants in the *Beyond the Prison Gates* consultation were appreciative of non-government, community-managed transitional accommodation services, which they accessed after leaving prison. Services such as the Community Restorative Centre, which provide transitional accommodation as well as other support services, were seen as vitally important in facilitating community reintegration, and getting established after a period of incarceration.

I got assistance through CRC. Yes they helped me with my housing post-release from a jail sentence...after being out for six days I got on the drug court program and they've assisted me a hell of a lot, a hell of a lot. So I'm blessed in that regard.<sup>39</sup>

However, many of these agencies report being under-resourced to address the demand for services, often only having capacity to accommodate a very small percentage of people coming out of prison who do not have stable accommodation options.

Related to the need for more transitional accommodation, there is the need for more crisis accommodation beds for people exiting prison.

Personally, I'd prefer to be in a mixed community crisis hostel rather than amongst ex-offenders... I think it's better that they be set up so people intermingle, rather than specialising in a particular area like ex-offenders coming out of jail.<sup>40</sup>

There is also the need for more affordable accommodation options for people exiting prison. Some participants stated that Housing NSW should prioritise housing for people released from prison.

Up until recently they used to find you a place to get paroled to, housing commission place... Yeah, we would all love to see more accommodation.

I just believe that we should receive priority from the Department of Housing....<sup>41</sup>

Finally, there is a need for more resources for existing services.

I would love to be able to provide each and every client with a share house they could move into post-release and work with them from that base and be able to say OK this is the base for x months and let's work together and do a whole lot of case work with them while they are in that environment, there as a stepping stone. So I guess it is funding around housing, funding around positions here.<sup>42</sup>

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<sup>38</sup> Ibid 24.

<sup>39</sup> Ibid 60.

<sup>40</sup> Ibid 68.

<sup>41</sup> Ibid 69.

<sup>42</sup> Ibid 70.

As a result of the *Beyond the Prison Gate* project, PIAC has recommended that:

1. The NSW Government should take immediate steps to increase the available stock of crisis, transitional and short-term accommodation options for people exiting prison.
2. The NSW Government should provide funding to increase the availability of community-based transitional accommodation options for people being released from prison and remand, which is administered by non-government, community organisations with expertise in providing accommodation and other supports for people exiting prison.<sup>43</sup>
3. The NSW Government should take active measures to increase the availability of affordable social and private rental housing stock in NSW.

In addition to ensuring all parolees have access to stable and suitable post-release accommodation, there are separate steps that need to be taken to ensure post-release support programs are effective in reducing recidivism and promoting reintegration. These are discussed further in response to Questions 4.19 and 4.20.

#### **Question 4.19: Programs for parolees**

- (1) What level of access should parolees have to rehabilitation and other programs while on parole? Do parolees currently have that level of access?
- (2) Are there any problems of continuity between custodial and community based programs?
- (3) Can any improvements be made to the way the programs available to parolees in the community are selected or evaluated?

PIAC submits that parolees do not currently have enough access to rehabilitation and other programs while on parole. Many of the participants in the *Beyond the Prison Gates* consultations reported that the temptation to reoffend and return to prison was related to difficulties experienced in settling back into the wider community. Nearly half of the participants interviewed indicated that once they were released from prison they found it extremely difficult to settle back into society.<sup>44</sup>

A bloke's suddenly let out of jail no money, nowhere to go. He had no idea what to do. He has no home, no clothing, no accommodation, no family support and there is a lot of guys out there, a lot of people... and they've got no support. They get out and they are just dumped on the street like a piece of flotsam. What do they do? They commit a crime and go back to jail because at least they get four walls and a roof and a meal.<sup>45</sup>

As explained earlier, a common theme that emerged from the *Beyond the Prison Gates* consultations was that there is not enough pre-release information for prisoners about possible rehabilitation and other programs. Many prisoners reported that if there were support services available post release, they did not know how to find them. Many participants also reported the

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<sup>43</sup> Ibid 6.  
<sup>44</sup> Ibid 49.  
<sup>45</sup> Ibid 47.

need for consistent, integrated case-management for people released from prison that commences pre-release and continues post release with the one person. This highlights problems of continuity between custodial and community based programs.

A number of community workers that participated in the *Beyond the Prison Gates* consultation expressed that the most common difficulty in relation to parolee rehabilitation programs was the lack of resources and capacity to deal with constant high demand for the services provided by their respective services. PIAC submits that better pre-release exit planning, combined with adequately resourced continuous post-release case management, would facilitate a smoother transition and reintegration back into the community.<sup>46</sup>

#### **Question 4.20: Barriers to integrated case management**

- (1) To what extent is Community Corrections case management able to achieve a throughcare approach?
- (2) What are the barriers to integrated case management?
- (3) What other services or supports do parolees need but are not able to access? What are the barriers to accessing these services and supports?

Some participants in *Beyond the Prison Gates* made positive comments about welfare and support services that visited prisoners prior to release and continued providing assistance post-release.

As explained earlier, a common theme that emerged from the consultations was the importance of pre-release exit planning for prisoners, and the need for consistent, integrated case-management for people released from prison, which commences pre-release and continues post-release. In addition, the need for access to appropriate welfare support prior to release, as well as comprehensive information regarding available accommodation and support services post-release, were common suggestions for improvement from consultation participants.

For me, personally I needed someone to help me. Someone like a case officer or someone that's actually there because I didn't know how things worked, you know. For me I just need someone that's there, 100%. Win, lose or draw, like all hours, that can kind of be there for support.<sup>47</sup>

In the *Beyond the Prison Gates* consultations, community workers expressed frustration that they are often dealing with clients who have just exited from prison with no pre-release or exit planning in terms of accommodation, access to support services, mental health services, or even having access to vital medication to address addiction problems. One worker reported having to work with clients released from remand, and then unable to access their methadone, which remained at the prison.

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<sup>46</sup> Ibid 6.  
<sup>47</sup> Ibid 69.

It is really, really tricky...the onus is back on us then to try and find something for that client and there is no partnering between any of the services with the prison and us. They're like 'It's just they're out and they are not our problem anymore', but this is what they need.<sup>48</sup>

In summary, exit planning for prisoners needs to ensure:

- prisoner release dates are identified and planned for;
- identification of prisoner post-release accommodation and support needs to facilitate appropriate exit-planning;
- appropriate early intervention support services, and crisis and transitional accommodation options for people being released from remand who do not have safe accommodation options;
- early contact with community-based support and accommodation services, to ensure continuous case management commencing prior to release, and continuing post-release;
- that all released prisoners have adequate proof of identity that is not branded with Correctional Services NSW logos or information.

## Question paper 5 – Breach and revocation

### Question 5.1: Exercise of discretion in reporting breaches and SPA's lower level responses

- (1) What level of discretion should Community Corrections have to manage breaches of parole (or certain types of breaches) without reporting them to SPA?
- (2) What formal framework could there be to filter breaches before they are reported to SPA?
- (3) What lower level responses should be available to SPA? What lower level responses should be included in the CAS Act?

PIAC submits that Community Corrections should have a high level of discretion when deciding whether to report breaches to the SPA.<sup>49</sup> PIAC acknowledges that a large proportion of breach matters brought to SPA's attention by Community Corrections are not considered sufficiently serious – either by Community Corrections or SPA – to warrant revocation of parole. These matters make up a significant segment of SPA's workload and are a considerable drain on SPA's time and resources.<sup>50</sup>

If Community Corrections had broader discretion to manage breaches internally, many minor matters would be dealt with before they were reported to SPA. Based on the consultations conducted as part of the *Beyond the Prison Gates* project, PIAC is concerned that too many non-serious breaches are referred to SPA and that parole is consequentially revoked. Many participants reported that breaches of parole were often a result of circumstances outside their control.

<sup>48</sup> Ibid 67.

<sup>49</sup> New South Wales Law Reform Commission, *Parole Question paper 5: Breach and Revocation*, 5.10

<sup>50</sup> Ibid.

As explained earlier, some participants indicated that in the past they had been released on parole on the condition that they reside at a particular service that provides temporary accommodation or supported accommodation. However, when they arrived at the service, they were informed that there were no beds available, leaving them no option but to sleep rough, placing them immediately in breach of their parole accommodation conditions. For others, once the period of temporary accommodation expires, unless there is suitable and approved medium-term accommodation to move to, they are also at risk of being in breach of their parole conditions.<sup>51</sup> PIAC submits that breaches of the above nature should be managed by Community Corrections.

PIAC supports the idea that there be a formal framework within Community Corrections that filter breaches before they are reported to SPA. PIAC supports the suggestion by SPA to discontinue the practice of formally warning offenders when they breach their parole conditions. Instead, warnings should come from Senior Community Corrections Managers at the recommendation of Community Corrections Case Workers. PIAC submits that shifting discretionary decision-making responsibly from the SPA to Community Corrections will increase the professionalism and effectiveness of individual case management.

PIAC submits that there should be lower level responses available to SPA included in the CAS Act. PIAC supports the inclusion of the following lower level responses in the CAS Act:

1. Ability for SPA to note the breach but take no further action
2. Ability to take into account prior warnings and notes of breaches when dealing with future breaches

PIAC submits that SPA should have regard to different types of breaches and take into account the nature of the breaches when deciding whether to revoke parole.

### **Question 5.2: Response to non-reoffending breaches**

- (1) Should there be any changes to the way SPA deals with non-reoffending breaches?
- (2) What intermediate sanctions short of revocation should SPA have available to respond to non-reoffending breaches?
- (3) Should SPA be able to revoke parole for short periods as a way of dealing with non-reoffending breaches?

PIAC submits that there should be changes to the way SPA deals with non-reoffending breaches. A dominant theme that came through the *Beyond the Prison Gates* consultations is that parole was often revoked as a result of non-reoffending breaches. Many participants indicated that these non-reoffending breaches were a result of failing to reside at a particular address or failing to report to the assigned Community Corrections Officer. The individuals in the above non-reoffending breaches all expressed concerns that the parole conditions were inflexible and often the breaches were a result of matters out of their control.

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<sup>51</sup> Matthew Willis and Toni Makkai (2008), 'Ex-Prisoners and Homelessness: Some Key Issues', *PARITY*, Volume 21, Issue 9 October 008, 6-7.

A huge, huge number of breaches because of the lack of stability that housing provides for people.<sup>52</sup>

PIAC submits that parolees are often subject to inflexible parole conditions and that the SPA should show more leniency when managing non-reoffending breaches.

PIAC does not support the proposed SPA practice of revoking parole for short periods of time. Responses to the *Beyond the Prison Gates* consultations, involving individuals who had recently been released from prison into situations of housing crisis or homeless, suggest that placing parolees back inside prison for short periods of time will only mean that they face identical problems and situations when they are released again. Additionally, individuals that are in government housing or supported accommodation may be forced to give up their places if ordered back into prison.

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<sup>52</sup> Schetzer and Streetcare, above n 2, 43.