

Residential Centre or Day Prison? The Case of COSP

Abstract

In 2008 the NSW Department of Corrective Services (DCS) announced the establishment of the Community Offender Support Program (COSP). COSPs are classified as residential centres for offenders on community based orders. However most of those to be built in 2009 are to be located in the grounds or adjacent to correctional centres. The Program is said to be able to offer short term and crisis accommodation for offenders, enhanced supervision for those experiencing difficulty on community orders, rehabilitative experiences, and assistance to make connections with community services needed for reintegration. This Comment raises questions about these claims. The rationale for this program is problematic. It co-opts the accommodation and broader integration needs of offenders and subverts these entitlement claims for other purposes which include the management of offenders on punitive community orders and the placement of sex offenders. Questions are raised about the effects of this location on the management of a large concentration of offenders and its rehabilitative program and about the claim to be non-custodial and community-based in the face of the introduction of more punitive community penalties.

The New South Wales Community Offender Support Program (COSP) rationale states that a reason for providing accommodation is to address 'a significant factor', the lack of stable accommodation, that can lead to re-offending (Commissioner for Corrective Services 2008a:10). The Department of Corrective Services (DCS) states it is addressing this by the provision of 500 beds in supported programs for up to six months. Many offenders experience multiple and intersecting disadvantages. White and Coventry use data collected about police detainees to illustrate the ways in which 'psychiatric wellbeing, is intertwined with drug use, and these in turn are linked to issues of accommodation and income for many if not most of those detained' (2008:364). The need for transitional support, including suitable accommodation, for those leaving prison is well-established (Ogilvie 2001; Baldry et al 2006; White & Coventry 2008).

Approach

A whole of government approach in this area is preferable as it has the advantage of not being driven by criminal justice priorities and is preferred in order to identify needs and recommend services to be funded by governments (Ogilvie 2001; Baldry et al 2006). However, in the State Plan, the New South Wales Government has given the responsibility of reducing re-offending that includes post-release services to the Department of Corrective Services (Soriti:nd). The DCS partly funds a very small number non-government sector managed halfway houses that offer short to medium term accommodation for parolees. As Sotiri (nd) points out, 'community support for those leaving prison is severely under-funded'. The allocation is less than 0.1% of the correctional budget.

The first question to be asked is why DCS did not fund these and other community agencies with good track records in transitional and supported housing for ex-prisoners to set up this program.

'A Residential Non Custodial' Program

Nearly all of the 12 COSP centres to be opened in 2009 are to be co-located with existing or planned correctional facilities. The three COSPs opened in 2008 are Nunyara at Long Bay, the old periodic detention centre, Boronia COSP at Emu Plains Correctional Centre, which will retain its function as a transitional centre, and Windsor COSP at John Morony Correctional Complex (Commissioner for Corrective Services 2008b:9). The Crimes (Administration of Sentences) Regulation 2008 allows for the accommodation of offenders in such residential facilities. These co-locations prompt a number of concerns.

- A major concern is the possible deployment of prison units such as the State Emergency Unit and the Drug Detector Dog Unit in a community based program. This is possible under the regulation above that refers to 'residents' and 'inmates' but of course does not mark which part of the premises is a cell and which is a room. The units may be used for proactive searches and critical incidents. The concentration of residents, with some COSPs accommodating as many as 100 people, increases the chances of resident-on-resident assaults. Civilian staff are meant to be able to deal with the aftermath of incidents and the deployments of the units (Probation Officer pers comm).
- Another concern is the oppressive nature of what is described as a residential setting. COSP residents have a key but are also subject to a curfew. Those who breach the curfew are liable to be arrested. However, even if minor breaches are tolerated (officially or unofficially) the consequences could be oppressive as this observation suggests: '[This COSP] has just the feeling and look of a prison with high fences, small communal spaces and cell like room even though each person has his own key. Every day movements are micro managed to the extent that infringements are noted on a whiteboard available for all to read' (personal communication with a visitor to a COSP).
- An oppressive regime is incongruous with the rehabilitative goals of the Program. The pro-social model chosen to guide day-to-day interactions between staff and residents relies upon good quality relationships between staff and offenders (Rex 2001; Nash 2000; Trotter 1996). Yet, as Nash (2000:210) states, '[s]trict and controlling [regimes] leave little room for the fostering of [good] relationships'. Moreover though the DCS has shown a commitment to train COSP staff in pro-social modelling it also expects them to exercise compliance and monitoring functions. Under the Crimes (Administration of Sentences) Regulation 2008 the Commissioner can authorise persons other than correctional officers to use reasonable force in the performance of these functions (Annual Report 2007/08:10).

Particular Offender Groups in COSP

Two particular groups of offenders for which the Program might be used are of concern.

The Program (COSP) is intended to provide accommodation for offenders who would not otherwise be eligible for a proposed order, the Intensive Corrections Order (ICO) (Community Consultation Paper 2008:[1.29]-[1.31]). It is explained that the ICO will substitute a sentence of full time imprisonment of two years or less (2008:2). COSP will provide accommodation for those who would otherwise be assessed as unsuitable for a community based order. People with mental illness, intellectual disability and drug problems are over represented in prison populations (South 2002; Ogloff et al 2007). They may

experience unstable housing upon release (Baldry et al 2006). It appears these groups will be a focus for the ICO, as the Consultation Paper outlines 'the needs of offenders for treatment of mental illness, anger management issues, and drug dependency'(at [1.8]).

These groups would benefit from the provision of community based alternatives but are being offered COSP. Additionally offenders with these problems who do have other accommodation may be set up to fail on the ICO if its many standard conditions are strictly applied to them. These include 32 hours of community work a month, attendance at programs, adherence to curfews and prohibitions on alcohol and drug use. A major concern is the possible deployment of the specialist Community Offender Services paramilitary style units. The DCS is already deploying these Community Compliance Groups 'to target high risk and high-profile offenders' (Annual Report 2007/08:8). One group (thus far) has been selected to 'cope with physical violence' from high risk offenders who may present particular difficulties when faced with breach action' (ICO Legislative and Operational Model 2008:13). It has been said that this group will wear flak jackets (Probation Officer pers comm). The mere appearance of this Group at the residence of a vulnerable offender 'might provoke the resistance it is intended to avoid' as has been noted in the context of paramilitary policing of the mentally ill (McCulloch 2000:243). Such offenders may then be referred to COSP.

COSP is to be used for offenders on Extended Supervision Orders under the *Crimes (Serious Sex Offenders) Act* 2006 (NSW). The Program is meant to provide short term accommodation but these orders can be made for a period of up to five years. COSP might also be deemed suitable to place other sex offenders on bail, parole or community based orders. On its study trip to the UK the DCS would have been made aware of community backlash against the presence of sex offenders in Approved Premises that are located in residential neighbourhoods. Cherry et al describe 'a wave of hostility' including threats to staff and residents and arson attacks (2006:261). The location of COSPS addresses this management problem for DCS but will reinforce the pariah status of sex offenders (Brown 2008; Pratt 2002).

Referral to Accommodation Services for Offenders Leaving the Program

The program details state: 'Offenders will be supported by staff to establish links to suitable and sustainable community accommodation ...' (Commissioner for Corrective Services 2008a:11).

This could make a positive difference provided it means more than sending people to negotiate their own way with service providers. In their study of the effect of having accommodation on the reintegration prospects for Australian ex-prisoners, Baldry et al found that agency help (in the non-government sector) made a positive difference for people (2006:28). However offenders with intellectual impairments and mental illness who are perceived to be hard to manage could be difficult to place in long-term accommodation or, having been placed, find it too hard to sustain their housing unless sufficient services are brokered to provide long-term support. This has been raised as a problem for the UK program, Approved Premises, that provides accommodation for a similar range of offenders (Cherry et al 2006:258). It is possible that these offenders will be referred to halfway houses for medium term placements without the transfer of resources that is needed.

The recently released Homelessness White Paper (2008) recognises persons being released from prison as a priority group for housing. Under one of its strategies, 'No exits into homelessness', a partnership between the State and Commonwealth governments aims to reduce the numbers of people exiting care and custodial settings into homelessness by 25% by 2013. As it is restricted to people leaving prison after serving sentences of 12 months, arguably it does not address the needs of the majority of offenders (over 50%) leaving prisons within a year (NSW Inmate Census 2007).

Conclusion

It is important to draw attention to the ways in which claims for entitlements 'are subverted' as Hannah-Moffat (2005) points out, in this case the claim to meet a housing need. In this case the claims that rehabilitation in COSP will work justifies the retention of resources in the correctional sector (Carlen et al 2006).

Already some community based orders prohibit lawful behaviour such as freedom of movement (via curfews) or the consumption of alcohol. They mimic other conditions of prisons through invasive home raids and urine tests and also through the shaming of the person in front of his or her family, friends or workmates. The prison has extended into the community.

The siting of COSPs at prisons is significant. Although the stated aim of the Program is to rehabilitate and integrate people being released from prison or other orders, I suggest that COSP residents have lost their social citizenship, at least partially. Should critical criminologists name a program that could be up to six months duration, is located in a custodial setting and has the hallmarks of a prison, as custodial?

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