



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Jeremy Hanson MLA (Chair), Dr Marisa Paterson (Deputy Chair), Ms Jo Clay MLA

Submission Cover Sheet

Inquiry into Community Corrections

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COMMUNITY ■ HEALTH ■ ACTION

Submission to the Inquiry into Community Corrections

Emailed to:

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Submitted by:

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Chief Executive Officer

Meridian



Dear Members of the Standing Committee on Justice and Community Safety,

Meridian is pleased to make this submission to the Inquiry into Community Corrections. As a longstanding provider of health and mental health services in the ACT Meridian has direct experience of supporting people who engage with the Community Corrections system, as well as vulnerable communities more generally.

Meridian visits the AMC regularly to provide training on HIV and other BBV, to provide case management to inmates who are HIV positive and/or LGBTIQ+ and others who we are asked to work with during their time in incarceration. In addition, Meridian's SWOP (Sex Workers Outreach Program) ACT program works with sex workers including those who spend time in Community Corrections programs.

At the outset it is important to place Community Corrections in its context. Meridian notes that Community Corrections occurs as a punishment for crimes committed due to the current legal framework. It is more cost effective and economically viable to invest in the systems and supports that address the social determinants of health and wellbeing. And by so doing, prevent offending than to try and rehabilitate offenders. No matter how effective Community Corrections systems are, they are less economically efficient than preventing the circumstances that give rise to offending.

Meridian also notes that members of the community who already experience stigma and discrimination are more likely to be dealt with through the justice system, and therefore are likely to be over-represented in the Community Corrections system. This is especially true for those, such as sex workers, whose work attracts stigma from some areas of the community. It is important that Community Corrections avoid further stigmatisation of vulnerable groups.

“A central characteristic of queer criminalisation is the experience of homelessness, often produced by family exile after coming out (Abramovich 2012; Valentine et al. 2003). Exiled lesbian, gay, and bisexual youth experience higher rates of homelessness that can lead to ‘survival crimes’ such as property theft and selling drugs, and other criminalised economies such as unregulated sex work (Irvine & Canfield 2015–16). In Australia, people who identify as LGB were twice as likely to experience homelessness than their heterosexual counterparts (McNair et al. 2017)”¹

All people, including those undergoing Community Corrections interventions are deserving of dignity, integrity of process and protection of their human rights, regardless of the crimes of which they are convicted.

The justice system, as a matter of historical development, has focussed on punishment for criminal activity. The evidence to date is that punishment is not an effective deterrent to re-offending and may cause escalation in offending behaviour for first time offenders. At the very least, first time offenders should be assessed for alternative pathways to Community Corrections, including alcohol and other drugs treatment, restitution and reconciliation schemes, and reparative conferencing.

An emphasis on preventing people from entering the justice system is likely to be more effective in the long run and leads to better outcomes for the individual and the community. This will mean investment in housing and homelessness strategies implementing a “housing first” strategy to managing the needs of people presenting with complex and intersecting needs. In addition, there needs to be additional emphasis on community based mental health supports, early intervention programs for mental health supports and better funding for crisis intervention. Such an investment is likely to reduce the level of the crimes which traditionally lend themselves to a Community Corrections approach. Importantly, such interventions are also likely to improve the effectiveness of Community Corrections approaches.

While not all offending will be eliminated by the introduction of timely and effective mental health interventions, the likelihood of offending and the likelihood of recidivism will be reduced. Effective mental health treatment and case management of the complex constellation of presenting issues improves the effectiveness of things such as intensive corrections orders and are likely to lead to better compliance with parole conditions.

Of course, the offender is not the only person impacted by their interaction with the criminal justice system. Unless there is adequate support for families to support the offender the likelihood of reoffending is increased. This can be because of family breakdown, the poverty caused by income being removed from the family due to incarceration, or the impact of family violence. Addressing these issues of concern as part of Community Corrections practice will have a positive impact on reoffending.

For people with mental illness, gaol is likely to exacerbate their condition, leading often to poor outcomes and a heightened risk of offending while in custody. In addition to pre-sentence assessment of suitability for a Community Corrections order, the need for in community treatment of mental illness should be assessed. Where significant mental illness is present, treatment of that illness should be a priority in the Community Corrections approach adopted. Noting that this is difficult in a system where corrections staff are not health staff and are separate to Forensic Mental Health and it is difficult to collaborate without clear transparent processes in place including consent.

¹ Asquith, N. L., Dwyer, A., & Simpson, P. (2017). A queer criminal career. *Current Issues in Criminal Justice*, 29(2), 167-180.

In conjunction with the above, mental health services should be improved so that people are not released following an ED presentation for a mental health crisis without a support plan in place and followed-up within 24 hours.

Many over-represented groups in the corrections system are over-represented because of the operation of stigma and discrimination. For example, there is evidence that race, class, socio-economic status, gender identity and sexual orientation can all increase the likelihood of an interaction with the criminal justice system and poor outcomes within it. LGBTIQ+ people's identities are subject to overwhelming parliamentary, legislative, psychiatric and police intervention - much of which has been barbaric throughout human history; LGBTIQ+ people have a long cultural history of being brutally punished, and subject to control by governments, through criminal justice systems, because of who we love, and how we love. Whilst gay and bisexual men have certainly been subject to more criminal sanctions than lesbian and bisexual women over the decades, lesbian and bisexual women have also suffered legally through the invisibility of relationships, affecting marriage and inheritance rights. Sex Workers also have a long history of dehumanisation through the politicisation, traumatic punishments, violence, and state control of their bodies. Understanding the traumatic history that LGBTIQ+ and sex worker communities have experienced at the hands of government sanctioned authorities, is fundamental to designing culturally safe and appropriate Community Corrections services for our diverse communities.

To better serve the needs of both offenders and the community of the ACT, all Community Corrections staff should be:

- Trained in trauma informed practice/principles to avoid re-traumatising vulnerable people;
- Trained in de-escalation when someone is in a mental health crisis to better manage client, staff and community's safety;
- Be trained to work in culturally safe, inclusive and respectful ways with people living with HIV, sex workers, LGBTIQ+ individuals, our First Nations peoples, people from diverse cultural and linguistically diverse backgrounds and people with disability. This training should include stigma and myth busting training.

“Nearly one in three of lesbian or bisexual female prisoners is estimated to be Indigenous, and one in five gay or bisexual male prisoners is Indigenous (Butler et al. 2010), highlighting that any work on the over-incarceration of queers in Australia is also about the over-incarceration of Aboriginal and Torres Strait Islander peoples.”²

The over representation of our First Nations people's needs to be properly understood and addressed as a priority, including by addressing stigma and discrimination across society and in the justice system. In addition to work currently under way this will require resourcing the Office of Aboriginal and Torres Strait Islander Affairs to be able to work effectively across government to improve consultation and partnership with First Nations peoples, and the development of culturally safe and appropriate practices for Community Corrections.

It should be a principle of the Community Corrections system that people leave the system with their health (including mental health) no worse than when they entered the system, and ideally improved. Therefore, while in the system there should be better access to mental health services which go beyond the medical model. That is, there should be a partnership of clinicians and community

² Butler, T, Richters, J, Yap, L, Papanastasiou, C, Richards, A, Schneider, K, Grant, L, Smith, A & Donovan, B 2010, *Sexual health and behaviour of Queensland prisoners: Queensland and New South Wales comparisons*, National Drug Research Institute, Curtin University & Public Health & Community Medicine, UNSW, Perth & Sydney cited in Asquith, N. L., Dwyer, A., & Simpson, P. (2017). A queer criminal career. *Current Issues in Criminal Justice*, 29(2), 167-180.

psychosocial support services. NDIS services should be available and better use made of the training for all corrections staff that is available through the NDIS on supporting an NDIS participant in a corrections setting.

In order to improve mental health outcomes within the corrections system (including Community Corrections) there needs to be:

- Regular mental health assessments over the period that a person is under corrections supervision;
- Innovative recovery-oriented services provided, including peer based and community-oriented services;
- Better connection with families/carers/pets while under corrections supervision;
- A “no release into homelessness” policy. All participants should be released to secure, stable housing which is fundamental to preventing re-offending. The pilot project currently running from Housing ACT, Tenants Experience in connection with Justice and Community Safety is a very good practice example of how housing support aligns with a “no release into homelessness” policy.

The design of services (both existing and new services) needs attention. A codesign approach to services offered is likely to lead to better outcomes and the diversity of views and inputs means everyone learns during the process of development and implementation.

The provision of long-term wrap around support, including for mental health, provided to people leaving custody to facilitate their integration back into their community and reduce recidivism for example the DECO and the Reintegration Centre model being established at AMC.

Other specific recommendations relevant to the Inquiry’s Terms of Reference that we would like to make as part of this Submission are:

1. Systemic Improvements: Meridian would like to see the establishment of an LGBTIQ+ Community Corrections Working Group to provide high level, subject matter advice regarding Community Corrections policy, programs and services and emerging LGBTIQ+ issues. The Victorian Government’s LGBTIQ Justice Working Group advises the LGBTIQ Task Force (the Victorian equivalent to the ACT’s LGBTIQ Ministerial Advisory Council) on issues relating to civil law, criminal law, youth justice, safe communities, policing, corrections and related matters. See here for more information: <https://www.justice.vic.gov.au/lgbti-justice-working-group>

2. Drug and Alcohol Treatment Orders: Meridian understands that Drug and Alcohol Treatment Orders are a therapeutic intervention to address drug and alcohol dependence of offenders through a court ordered treatment program. To receive a Drug and Alcohol Treatment Order offenders must be convicted in the Supreme court and sentenced to imprisonment for between 1 and 4 years. Whilst this is a positive option for those who meet these criteria, for other offenders who don’t meet the 1-to-4-year imprisonment threshold for serious crime, they are not eligible for this therapeutic option. This means, for example, that person with years of recurring petty crime charges due to ongoing drug abuse, would not be eligible to benefit from this program. Meridian would like to see the eligibility for Drug and Alcohol Treatment Orders broadened in scope to include offenders sentenced to imprisonment for under 1 year.

3. Recidivism outcomes: Meridian calls for more opportunities for eligible offenders to re/engage in education, training and employment whilst also ensuring support and services exist for eligible offenders to access appropriate therapeutic programs³.

4. Experiences of Offenders and their Families: Transgender and gender diverse people are a particularly vulnerable group of people in prison systems⁴. Trans people suffer higher rates of sexual assault and their basic needs not met. Systems that are set up to protect transgender people can reinforce their vulnerability:

“The issues of housing, cellmates and bathrooms, hormones and other medical issues, and name and pronoun use remain problematic to the situational experience of systematic vulnerabilisation.”⁵

Research shows that the ACT provides incarcerated transgender people with accommodation according to gender (unless there are overriding safety concerns) and showering/hygiene facilities that are “private enough to ensure the dignity and self-respect of detainees” but there is no current research to show whether trans offenders view these accommodations as exclusions, rather than as safety mechanisms. Access to hormones and surgery is at prison staff discretion. Misnaming and misgendering of trans and gender-diverse offenders can be viewed as a punishment and be traumatising. Impacts of societal prejudice, transphobia and discrimination can result in trans and gender diverse people having more contact with justice system through poverty, homelessness, substance use. These societal drivers of vulnerability and disadvantage need to be addressed, alongside the intersectionality of pathologisation, cisnormativity and criminalisation. Meridian calls for more research into the lived experiences of trans and gender diverse offenders, with a view to addressing the drivers of trans and non binary people’s incarceration and improving systems to be able to meet the needs of trans and non-binary offenders in trauma informed and LGBTIQ+ culturally appropriate ways.

5. Experiences of Victims/Survivors: Meridian acknowledges and appreciates the work of Victim Support ACT, particularly with regards to counselling provisions for LGBTIQ+ victims of crime. Our Wellbeing Services staff appreciate the efficient referral pathway for victims of crime who contact Meridian directly. Additional counselling sessions can be requested to a maximum of 20 sessions (more in exceptional circumstances), and these generally need to be spread over the course of a legal process. This is because with each step in a protracted legal process, victims of crime face re-traumatisation requiring longer-term counselling to address. More LGBTIQ+ culturally competent, trauma informed services are required to work with LGBTIQ+ survivors of violence, including survivors of domestic and family violence. When our relationships aren’t recognised or seen as valid, abuses of power within our relationships, including domestic/family violence and coercive control are not as readily seen, apprehended and prosecuted appropriately by authorities. This systemic neglect leaves victims feeling further victimised and let down by systems, whilst offenders remain unaccountable for their actions. Sex workers are also particularly stigmatised and discriminated against, which can preclude help-seeking behaviour in response to criminal conduct. Meridian

³ Green, R., Hopkins, D., & Roach, G. (2020). Exploring the lived experiences of people on Community Correction Orders in Victoria, Australia: Is the opportunity for rehabilitation being realised? *Australian & New Zealand Journal of Criminology*, 53(4), 585–605. <https://doi.org/10.1177/0004865820957059>

⁴ Rodgers, J., Asquith, N. L., & Dwyer, A. (2017). Cisnormativity, criminalisation, vulnerability: Transgender people in prisons. *Tasmanian Institute of Law Enforcement Studies Briefing Paper*, 12, 1-13.

⁵ *ibid.*

advocates for trauma-informed, myth and stigma busting training for police, legal professionals, counsellors, medical staff and Community Corrections professionals, to enable safe and respectful access to victim support services, by sex workers.

6. Any other relevant matter: Blood borne viruses/HIV. Meridian works with offenders who are HIV+, to the extent that people give us permission. For many offenders the stigma and fears of discrimination, harassment and attack whilst incarcerated, can preclude help seeking behaviours⁶; Meridian continues to call for health promotion, education and training in managing BBV and HIV to be delivered to Corrective Services staff and inmates. Feedback from our case workers' involvement with offenders at the Alexander Machonochie Centre (ACM) is that the ACM's medical staff do a good job of providing care and treatment to offenders with Hep C. Meridian supports calls to the ACT Government for a Needle Exchange Program to be implemented at the ACM, as a way of mitigating risks of BBV and HIV transmission.

We thank you for your consideration of Meridian's input and recommendations to this Inquiry.

Yours Sincerely,

A large black rectangular box redacting the signature of Philippa Moss.

Philippa Moss
Chief Executive Officer
20 August 2021

⁶ Frommer, M., & Maynard, T. (2016). Equity inside and out?: HIV, treatment access and prisoners. *HIV Australia*, 14(1), 24-26.