

SUBMISSION TO THE NEW SOUTH WALES LAW REFORM COMMISSION IN RELATION TO THE REVIEW OF THE LAW OF BAIL

I wish to make a submission specifically in relation to No 7 in the Terms of Reference:

- 7. Whether special provisions should apply to vulnerable people including Aboriginal people and Torres Strait Islanders, cognitively impaired people and those with a mental illness. In considering this question particular attention should be given to how the latter two categories of people should be defined.**

Whilst homeless people are not mentioned explicitly in No 7 they certainly are “vulnerable” and for the purposes of my submission I will focus on the homeless as a vulnerable group.

A particularly disturbing aspect of the current bail provisions is the plight of the homeless when they appear before the courts.

With no fixed address invariably they are remanded in custody, sometimes for many months, until trial. This can be the case even when the alleged offence, if proved, would not necessarily lead to a custodial sentence.

I have found it impossible to obtain a commitment in advance from charities or agencies to provide residential accommodation to a homeless person in the event that they are granted bail.

One case with which I am personally familiar is of a homeless man who was remanded in custody in November 2009. I explored every avenue available to me in an endeavour to obtain accommodation for him so that his Legal Aid solicitor could apply for bail. I was unsuccessful. On 31 May, 2011 after nineteen months in custody in a maximum security prison the man appeared in the District Court to stand trial. A DPP solicitor advised the court the case would not be proceeding.

I believe that a guarantee of residential accommodation so that homeless people can at least apply for bail is the responsibility of government and should be as integral to the justice system as Legal Aid.

Geoff Turnbull

Official Visitor

Parklea Correctional Centre

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