Sentencing Advisory Council

Response to Dr. R. Bradfield's Draft Research Paper: *Mandatory Treatment for Sex Offenders*

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For further information please contact:

Jill Maxwell, CEO – Sexual Assault Support Service (SASS)
Phone: (03) 6231 0044
Email: jill.maxwell@sass.org.au
Postal: PO Box 217, North Hobart, Tasmania, 7002

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Introduction

Sexual Assault Support Service (SASS) Inc. is a community-based service committed to providing high quality support and information services to Southern Tasmanian survivors of sexual violence, family members and support persons, professionals, and the general public. SASS provides a 24 hour sexual assault crisis response service; a 24 hour phone support service for people affected by recent or historical sexual violence; and face-to-face information, support, counselling, and referral services for anyone impacted by sexual violence.

SASS welcomes the opportunity to provide feedback to Dr. Rebecca Bradfield's Draft Research Paper: *Mandatory Treatment for Sex Offenders*, written on behalf of the Sentencing Advisory Council (SAC). Last year, SASS lodged a submission in response to the *Corrections Amendment (Treatment of Sex Offenders) Bill 2015.* Excerpts from the 2015 submission have been incorporated into this feedback. A copy of the submission is available on request.

Our feedback

General comments in response to Section 5 of Draft Research Paper

SASS supports Option 2 ("Retain the current position that treatment is voluntary") as outlined on pages 40-41 of the Draft Research Paper, noting that voluntary participation in custody-based sex offender treatment programs is the norm in Australia.[1] We agree that "there are already strong incentives for offenders to take part in treatment while in prison" and therefore, there are unlikely to be significant gains from enforcing mandatory treatment in the prison setting. We are more concerned with the **accessibility of treatment to prisoners who have relatively short sentences (i.e. less than nine months) or special needs;** and the **identified lack of supervision provisions for high-risk offenders who are released into the community without parole.** These concerns are addressed in the next section of this submission.

SASS also supports the specific approaches described under Option 2, i.e. "running preparatory and denier programs as means to encourage participation and completion of programs and ultimately lower recidivism rates"[2] and "[introducing] an individualised 'case management' approach to offenders while they are in prison and with a continued involvement following their release in the community".[3] We agree with the rationale that individualised case management recognises the diversity of offender behaviour; and has the potential to incorporate a 'continuity of care' approach that enhances community reintegration and reduces recidivism.[4]

Need for flexible, individualised programs

In our submission to the *Corrections Amendment (Treatment of Sex Offenders) Bill 2015*, we recommended that "sex offenders are given the option to commence treatment in prison; and

[1] Bradfield, R. (2016). Draft Research Paper: *Mandatory treatment for sex offenders*, p.5.
[2] Ibid, p.40.
[3] Ibid.
[4] Ibid, pp 40-41.

continue to participate in a community-based program, upon release."[5] We noted research that lends support to an integrated system of intervention:

> Losel and Schmucker found that community-based programs were generally more effective than programs in prison settings, with mixed-setting programs showing intermediate effects. These findings are consistent with the results of reviews of the effectiveness of general offender rehabilitation programs, which have also shown that community-based programs are generally more effective than prison-based programs. These effects tend to hold even when pre-existing risk-related differences between community-based and prison-based offenders are controlled. Prison-based programs can be effective, but it is very important that they are linked structurally with community-based services (Hollin, 2001).[6]

One of our primary concerns was that sex offender treatment options should be made available to prisoners who are incarcerated for less than nine months. In our view, offering no form of treatment to this cohort is unacceptable.[7] We accept the clear advice in the Draft Research Paper that "[…] there is no capacity to run group work programs for sex offenders in the community given the small number of offenders involved and the dispersed geographical location of these offenders."[8] The implementation of an individualised case management approach (as outlined under Option 2 in the Research Paper) that commences in prison and continues post-release would appear to be a reasonable alternative, and one that enables offenders who are incarcerated for less than nine months to participate.

In terms of resourcing, it may be logical to extend and improve existing case management practices[9] carried out by Community Corrections staff, rather than fund a whole new program. We note from this paper that the Community Based Sex Offender Case Management and Interventions approach is in itself relatively new;[10] and "[t]here are limitations in the transfer of information from the Tasmania Prison Service to Community Corrections at a systems level (for example, Community Corrections are unable to directly access information from the programs that the offender took part in prison and there are different case management approaches)."[11] SASS would welcome further exploration and consultation on the specific issue of individualised, integrated case management that commences in the prison setting and continues upon release into the community. The exploration might include an independent evaluation of Community Based Sex Offender Case Management and Interventions to date (including early achievements, challenges, and modifications), and a scoping exercise as to how a fully integrated approach might work and which agencies or departments are well-positioned to deliver extended services.

In our 2015 submission, we expressed concern that under a specific provision of the Government's proposed legislation, a further cohort of sex offenders would be excluded from treatment, on the basis of their medical, psychological, and/or cognitive capacity. We recommended that "any

[5] Sexual Assault Support Service (SASS) Inc. (2015). Submission in response to *Corrections Amendment (Treatment of Sex Offenders) Bill (2015)*, p.2.
[6] Smallbone, S., & McHugh, M. (2010). Final Report: *Outcomes of Queensland Corrective Services Sexual Offender Treatment Programs.* Griffith University, pp 8-9. Available at: http://www.correctiveservices.qld.gov.au/Publications/Corporate_Publications/Reviews_and_Reports/Final%20Report_%20Outcomes%20of%20QCS%20Sexual%20Off%20Treatment%20Program.pdf
[7] We note from Appendix A of the Draft Research Paper that in other jurisdictions (e.g. NSW, VIC, and SA), there are prison-based programs for sex offenders on offer that take less than nine months to complete.
[8] Bradfield, R. (2016), p.25. This point is reiterated on Page 44.
[9] As identified on pp 25 &44-45 of the Research Paper.
[10] Ibid, pp 25 & 44.
[11] Ibid, p.26.

treatment interventions or programs offered to sex offenders in the prison setting should be tailored to accommodate different levels of functioning and ability"[12] and referred to South Australia's *Sexual Behaviour Clinic (SBC) – me* program, as a model for consideration.[13] We are aware that the terms of the provision have since been passed into law, as follows:

> The Director is to give the sex offender prisoner a reasonable opportunity to participate in the appropriate treatment unless satisfied on reasonable grounds that –
>
> (a) the prisoner is medically or psychologically unfit to participate in the treatment; or
> (b) the prisoner is not cognitively capable of participating in the treatment; […][14]

SASS is not privy to data about how many prisoners are being excluded from treatment, and it may be that pro-inclusion practices are being used in the prison setting. While we acknowledge that detailed analysis of sex offender treatment program structure and content is beyond the scope of the Research Paper, we would urge the Sentencing Advisory Council to use this opportunity to emphasise the importance of prison-based treatment and post-release case management programs that are able to accommodate medical, psychological and cognitive diversity.

Lack of post-release supervision for high-risk offenders

We agree with Dr. Bradfield's statement that "a clear gap in Tasmania's legal response to sex offenders is the inability to impose supervision or treatment on high-risk offenders who are released without parole either at the end of their sentence or following the discharge of a dangerous criminal declaration."[15] We also agree that "the lack of supervision for high-risk offenders who have not been declared [a dangerous criminal] at the time of sentencing and who will be released unconditionally at the end of their sentence" is problematic.[16] In our 2015 submission, we noted that:

> Smallbone and McHugh [2010] […] highlight the importance of post-release supervision, which, in the Queensland context, may take the form of either 'standard' supervision (for example, parole) or "more stringent supervision and monitoring provisions of the Dangerous Prisoners (Sexual Offenders) Act (DPSOA)." In their study, the authors found that being released without supervision was one of two factors that were "significantly and uniquely related to sexual recidivism".[17]

We recommended that the *Corrections Amendment (Treatment of Sex Offenders) Bill 2015* "be expanded to include post-release supervision provisions for high-risk sex offenders, to complement and support ongoing treatment arrangements."[18] We fully support the SAC's call for "the introduction of supervision and detention orders based on the unacceptable risk posed by the offender at the time of release"[19] and agree with Dr. Bradfield that the Harper Review in Victoria

[12] SASS Inc. (2015), p.2.
[13] Department of Correctional Services (SA). 'Sexual Behaviour Clinic'. See: http://www.corrections.sa.gov.au/rehabilitation-programs/sexual-behaviour-clinic
We also note that Appendix A of the Draft Research Paper provides detailed information about the SBC.
[14] See Section 31 (2) of the *Corrections Act 1997* (Tas). Wording current at 1st July 2016.
[15] Bradfield, R. (2016), p.43.
[16] Ibid p.44.
[17] Smallbone, S., & McHugh, M. (2010), cited in SASS Inc. (2015), p.3. The other identified factor was "higher assessed static risk".
[18] SASS Inc. (2015), p.3.
[19] Bradfield, R. (2016), p.44.

may provide useful guidance for the Tasmanian government, with regard to the implementation of appropriate legislation.[20]

Pro-social support initiatives

In SASS's view, options for a pro-social model of support to complement post-release treatment and/or supervision arrangements should be considered by policymakers. We are particularly interested in Victoria's Support and Awareness Group (SAAG) model, given that it does not rely on the availability of volunteers in the community.[21] Given Tasmania's relatively small population, finding a pool of suitable volunteers to participate in a support program for post-release sex offenders may be challenging; however, we believe that both the Circles of Support and Accountability (COSA) and SAAG models are worthy of further exploration.

References

Braden, M. (2016). Evidence at Royal Commission into Institutional Responses to Child Sexual Abuse Public Hearing - Criminal Justice Roundtable (Day 2 - Adult sex offender treatment programs), p.24 2-3. Transcript available at: https://www.childabuseroyalcommission.gov.au/getattachment/ed8120f7-497d-4515-b5cc-0fadb075fe0b/Transcript

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Hyperlinks current at 6 July 2016.

[20] Ibid.

[21] Bradfield, R. (2016), p.47. See also Braden, M. (2016). Evidence at Royal Commission into Institutional Responses to Child Sexual Abuse Public Hearing - Criminal Justice Roundtable (Day 2 - Adult sex offender treatment programs), p.24 2-3. Transcript available at: https://www.childabuseroyalcommission.gov.au/getattachment/ed8120f7-497d-4515-b5cc-0fadb075fe0b/Transcript