

Ian Holland
Committee Secretary
Senate Select Committee on Mental Health
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Dear Sir

Submission to the Senate Select Committee on Mental Health

This submission was prepared by Cameron Gleadhill a member of our executive.

Introduction

The Queensland Council for Civil Liberties (QCCL) is a voluntary organisation concerned with the protection of individual rights and civil liberties. Through public statements, education and debate QCCL aims to safeguard and develop respect for human rights and freedoms, foster the study of legal and human rights, and seek solutions to problems related to civil liberties (including prison reform, censorship and rights of minority groups).

Because of the QCCL's particular area of interest, this submission will only address three of the sixteen Terms of Reference (A, J & M) outlined for the Senate Inquiry.

Term 'A'

The extent to which the National Mental Health Strategy, the resources committed to it and the division of responsibility for policy and funding between all levels of government have achieved its aims and objectives, and the barriers to progress.

The QCCL notes with particular interest that following the findings of the Burdekin Inquiry, the *National Mental Health Strategy* was implemented to provide "a framework for national reform from an institutionally based mental health system to one that is consumer focused with an emphasis on supporting the individual in their community," (<http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/mental-health-mhinfo-nmhs-index.htm>). However, it would appear that in Queensland a shift from institutional mental health care to individualised care in the community has never been adequately resourced. Instead, the institutional approach to mental illness has remained the dominant paradigm.

QCCL acknowledges certain *shifts* in institutional care, but notes that in many cases these shifts amount to little more than a shift from hospitalisation to imprisonment.

It is the position of the QCCL that in the interest of safeguarding the civil rights of people with mental illness, more needs to be done (at all levels of Government) to progress the aims of the *National Mental Health Strategy*. This includes adequately resourced housing, employment, treatment and support services in the community. But also the adequate resourcing of independent advocacy organisations to ensure the people with mental illness have access to equal treatment under law.

Term ‘J’

The overrepresentation of people with a mental illness in the criminal justice system and in custody, the extent to which these environments give rise to mental illness, the adequacy of legislation and processes in protecting their human rights and the use of diversion programs for such people.

The lack of voluntary and easily accessible community-based mental health services often results in people with mental illness becoming unwell, committing crimes and subsequently being arrested. Under Queensland’s *Mental Health Act 2000*, if a person wishes to submit a plea of ‘diminished responsibility’ due to mental illness, their case must be heard by the Mental Health Court. However, significant delays often precede a hearing before the Mental Health Court and people with mental illness are frequently held on remand (in correctional facilities) during these periods. Clearly, mental health is an area where the adequacy of Queensland’s legislation and processes in protecting the human rights needs to be addressed.

Conversely, because much of Queensland’s mental health care remains in institutional settings (particularly around forensic issues), people with mental illness are sometimes advise their lawyers that they do not wish to go before the Mental Health Court, but instead, face a custodial sentence. This is often because a custodial sentence will bring with it a release date. In contrast, mental health care under an Involuntary Treatment Order offers no indication as to when the treatment will end and the patient will have his or her civil rights re-instated.

Queenslanders with a mental illness who find themselves caught up in the criminal justice system are therefore caught in an institutional nowhere-land where their civil rights remain woefully unaddressed and the *National Mental Health Strategy*’s aim of supporting people with a mental illness in the community is entirely abandoned.

The Advocacy and Support Centre in Toowoomba has been funded by Legal Aid to provide the Disability Law Project—a pilot project that employs a criminal lawyer specifically to represent people with mental illness (and intellectual disability) in court. In light of the increasing numbers of people with mental illness entering the prison system, it is the position of QCCL that similar projects should be piloted across Australia.

Term ‘M’

The proficiency and accountability of agencies, such as housing, employment, law enforcement and general health services, in dealing appropriately with people affected by mental illness.

QCCL believes problems within the mental health care landscape have led to a climate of inequity and injustice for people with mental illness. Problems such as the lack of supported accommodation services in the community and the broad failure to prevent people with mental illness entering correctional facilities are symptomatic of a larger theme of inequity across the entire health system. That is, the clear lack of funding and resources afforded to mental health care in this country.

There are staggering inefficiencies within law-enforcement, the judicial system and correctional facilities in dealing with mental illness. However, this is to be expected. QCCL recognises that police face an exceedingly difficult task in dealing with people with mental illness. This difficulty is exacerbated by the fact that mental health care far exceeds their training and role.

Mental health care is a highly specialised area that requires highly specialised responses. It is the position of QCCL that more must be done for people with mental illness before they come to the attention of police. The urgent need for increased funding and resources to community-based responses to mental illness must be addressed.

Michael Cope

President

For and on behalf of the Queensland Council for Civil Liberties.

Friday, 13 May 2005