



# Research Publication

## Review of the NSW Home Detention Scheme

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# Review of the NSW Home Detention Scheme

A study undertaken by the  
NSW Department of Corrective Services

Kyleigh Heggie  
Research Officer

May 1999

# Preface

The NSW Home Detention Act 1996 was introduced following a successful four year period pilot program, known as the Intensive Supervision Program administered by the NSW Probation and Parole Service. This current legislation allows certain offenders sentenced to 18 months full-time custody or less, the opportunity to serve their sentence in their own home. Home detention is intended to be a true diversion from full-time imprisonment.

The sentencing penalty of home detention falls within the larger debate and framework of discussion concerning alternative sentencing in the NSW criminal justice system. Over the past two decades, community based correctional options have grown in prominence and popularity. However, home detention potentially offers a number of unique advantages including: more flexible sentencing construction, containment of overall correctional spending and potential social and community benefits.

The NSW Department of Corrective Services was required by legislation to review the first eighteen months operation of the NSW Home Detention scheme. The parameters of this review included examining the appropriateness of the aims and objectives of the Home Detention Act and the impact of the Act on offenders and their families. This review was conducted on behalf of the NSW Minister for Corrective Services, the Hon. Bob Debus, MP who tabled the report in both the Legislative Assembly and Legislative Council of the NSW Parliament on 14 May 1999.

This process evaluation provides ground-breaking and comprehensive knowledge concerning the effectiveness of home detention in supervising offenders in the community. It's the first time a review has provided an insight into how families and friends of offenders cope with the imposition of home detention. It is in the central areas of the impact of home detention on the families involved as well as its examination of the effectiveness of the scheme's operation that this study excels. The findings of the evaluation specifically demonstrate how crucial in-depth social research is in identifying future planning strategies for a more flexible criminal justice system.

Finally, this report will substantially contribute to the overall development of programs which manage offenders completing community based sentences in NSW.

Simon Eyland  
Director  
Research and Statistics Unit  
NSW Department of Corrective Services  
May 1999

# Acknowledgements

This report represents the findings of the Home Detention research study requested under Section 28 of the NSW Home Detention Act, 1996, No78.

Special thanks go to Simon Eyland, Director, Research and Statistics Unit and Ken Studerus, Director, Home Detention Unit for their insightful and critical expertise.

Thanks go to the NSW Home Detention Research Steering Committee for their valuable guidance throughout the study. Thanks go to the NSW Department of Corrective Services Library for their efficiency and patience, also thanks go to Anita Ban for her much appreciated assistance throughout the study.

Appreciation goes to all Home Detention personnel, whose assistance and experience were relied on throughout the study. The advise and support of the staff of the NSW Department of Corrective Services Research and Statistics Unit was also much appreciated.

Thanks to the contribution of all government and non government representatives consulted and/or interviewed throughout the study.

Most importantly, the contribution and assistance of home detainees, their friends and their families was greatly appreciated. Without their open and willing participation, this research could not have been successful.

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# Executive Summary

This report represents the findings of the Home Detention Research Study requested under Section 28 of the NSW Home Detention Act, 1996 No 78. The project was conducted by Kyleigh Heggie, Research Officer, Research and Statistics Unit, NSW Department of Corrective Services, between February 21, 1997 and August 27, 1998.

This legislated evaluation examined the first eighteen months operation of the NSW Home Detention Act 1996 No 78 (hereinafter referred to as the HD Act) and the NSW Home Detention Scheme, managed by the NSW Probation and Parole Service.

## ■ Profile of Offenders placed on the NSW Home Detention Scheme

During the course of the study, the NSW Probation and Parole Service assessed 510 convicted offenders for home detention.

Of the 510 offenders referred for a home detention assessment, 366 (71.7%) offenders commenced the scheme. Of the 144 offenders (39.3%) who did not commence home detention:

- 22 offenders were assessed as ineligible
- 93 offenders were assessed as unsuitable
- 29 offenders were assessed as suitable but were not placed on the scheme

Of the 366 offenders placed on home detention, 299 (82%) were men and 67 (18%) were women.

During the study period, 335 children in 147 households were directly affected by the imposition of a home detention order.

68.3% of offenders placed on home detention identified themselves as having problems with drug and/or alcohol use.

89.6% of 510 offenders referred for a home detention assessment had a history of prior criminal convictions.

40.7% men and 20% women assessed for home detention had previously served a full-time custodial sentence.

During the study period the home detention order revocation rate was 20.1%.

During the study period, 4.6% of home detainees were charged with new offences whilst completing their sentences.

## ■ Main Findings of the Report

The main findings of the study are summarised below:

- The HD Act was successful in limiting access to the NSW Home Detention Scheme, to less serious offenders who posed little or no threat to the safety of their families and the general community.
- The HD Act was successful in limiting the potential for systemic net-widening within the criminal justice system

by allowing access to a home detention assessment only after an offender had been convicted of criminal charges and sentenced.

□ The use of the HD Act by judicial officers in NSW Courts was initially slow between February 1997 and February 1998. Between February and August 1998, the use of the Act by judicial officers in NSW courts substantially increased.

□ The use of the HD Act within the Local Courts was generally uneven and inconsistent.

□ The use of the HD Act within the District Court was generally even and consistent.

□ There are currently no specific guidelines to assist judicial officers in determining the appropriateness of granting eligible offenders a home detention assessment.

□ Use of the HD Act was often influenced by the personal attitudes of judicial officers towards the object of the Act.

□ During its first eighteen months of operation, the NSW Home Detention scheme was a well-maintained, reliable and efficient program which fulfilled the requirements of the HD Act.

□ There was little or no demographic differences between offenders assessed for home detention and those placed on the scheme. Both groups had similar demographics, drug and alcohol usage patterns and past criminal convictions. The offenders assessed as unsuitable were predominately deemed a potential risk to the community or displayed insufficient

motivation to address their offending behaviour.

□ The snapshot analysis on 30 June 1998 indicated:

- 20% of the total population sentenced to full-time imprisonment were technically eligible for a home detention assessment

- people placed on home detention constituted 12% of the prison population who may be technically eligible for home detention

- 2.5% of the total population sentenced to full-time imprisonment were placed on home detention.

□ The snapshot analysis on 30 June 1998 indicated:

- of all the women technically eligible for a home detention assessment and serving a full-time custodial sentence, 23% were placed on home detention .

- of all the men technically eligible for a home detention assessment and serving a full-time custodial sentence, 11% were placed on home detention .

□ The snapshot analysis on 30 June 1998 indicated:

- 13% of the total Aboriginal population sentenced to full-time imprisonment were technically eligible for a home detention assessment

- 4.5% of the total Aboriginal population sentenced to full-time imprisonment were placed on home detention.

□ The snapshot analysis on 30 June

1998 indicated:

- of all Aboriginal women technically eligible for a home detention assessment and serving a full-time custodial sentence, 4% were placed on home detention.

- of all Aboriginal men technically eligible for a home detention assessment and serving a full-time custodial sentence, 5% were placed on home detention.

Most offenders found the NSW Home Detention scheme to be demanding, intrusive and difficult to complete without breaching the conditions of their home detention order.

Home detainees see themselves as responsible for whether or not they succeed on home detention.

The demands required to complete home detention are equal to but different from the demands required to complete a prison sentence.

The prospect and implication of revocations by the NSW Parole Board were instrumental in a number of inmates complying with their home detention orders.

During 1997-1998 the Home Detention Scheme averaged 19 operational staff. This number was considered by the NSW Home Detention Scheme to be the minimum number to provide the required coverage. Caseloads for this period averaged less than 50% of the nominal capacity and average daily costs were \$65 per home detainee.

Use of the HD Act increased during the latter months of the study. During July-August 1998, the program operated at 68%

of capacity with an average daily cost of \$48, compared with an average daily cost of \$120.66 to contain inmates in minimum security correctional facilities.

Use of a multi-faceted surveillance regime was the most effective method of successfully supervising home detainees.

Face to face contact between supervising officers and offenders was a successful method of encouraging compliance with case management plans devised home detainees.

Use of an electronic monitoring system was an efficient method to maintain constant 24-hour surveillance of home detainees.

Use of regular drug and alcohol testing were efficient methods of detecting drug and/or alcohol use by home detainees.

Most offenders were not concerned with having to wear an electronic bracelet necessary for electronic monitoring and stated that they did not notice it after a few days.

The imposition of a home detention order necessitated immense changes to the lifestyle of families directly affected by the supervision regime of the NSW Home Detention scheme.

Children directly affected by home detention had to make significant lifestyle changes.

In a number of cases, families living under the imposition of home detention appeared to benefit from the professional counselling services provided through the scheme.

- Home detention neither increases nor aggravates incidences of domestic violence within families living under the imposition of a home detention order.
- Home detention can contribute to an increase in low grade conflict (eg. arguments) within some families living under the imposition of a home detention order.
- Home detention can contribute to an increase in healthy communication between members of families living under the imposition of a home detention order.
- Interviews with families indicated that home detention can stabilise and/or increase household income.
- Interviews with revoked home detainees indicated that some had experienced some form of depressive illness while serving the balance of their sentence in prison.
- Most revoked home detainees had experienced feelings of isolation and loss due to the separation from their family and/or friends while serving the balance of their sentence in prison.
- Officers responsible for supervising home detainees were experienced, well-trained professionals. Many home detainees and their families praised the professionalism of these officers.
- The work requirements of officers supervising home detainees were often demanding, complex and time-consuming.

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part one



# Background

## Home Detention and its history in New South Wales

Home detention falls within the larger theoretical framework of alternative sentencing discourse. Over the past thirty years, alternative sentencing theories have undergone rapid and prolific development within criminal justice systems across the developed world. The underlying philosophies driving the development of alternative sentencing are:

- the potential social benefit of community based sentencing
- effective diversion of less serious offenders from prison
- containment of overall correctional spending on full-time custodial inmates
- the need to develop more flexible sentencing systems.

In the 1980's, proponents of alternative sentencing argued that the increased use of community-based sentencing would result in more "*flexible equivalencies of punishment*" Morris and Tonry, (1990:27). This was seen as an opportunity to develop sanctions that allowed sentencing systems to react more relevantly to the individual circumstances of offending behaviour while still incorporating punitive and deterrent elements into a sentence.

Corbett and Petersilia, prominent researchers

in the field of alternative sentencing, argued that penal policy makers in the United States of America deliberately moved away from the growing cost of incarceration in favour of alternative sentencing, particularly home detention. During the 1970's, North American correctional policy makers believed that there were potential social and financial benefits attached to alternative sentencing. This led to the development of a prolific range of schemes.

One grouping of such schemes, incorporating home detention, has been termed Intensive Supervision Programs (ISP) due to their nature and operational characteristics requiring direct and constant contact/ supervision by a parole and probation service.

**"... the distinctive feature of ISP is an abiding faith in the power of the threat of punishment to effect prosocial conformity".**

Corbett and Petersilia (1995: 57)

Ann Aungles, (1995) one of Australia's leading social theorists examining the impact of law and order on families, argues that the popularity of home detention is largely due to its ability to be politically sold to the community as an attractive penal package that promises tough regulatory surveillance while being cheap to run relative to the cost of full-time imprisonment.

**"Home imprisonment will release more prison places so, if all homes can be a prison, increasing numbers of offenders can be released through institutional prisons into home imprisonment."**

Aungles (1995:34)

In Australia, there is a diverse range of home detention schemes currently in operation. Although these schemes may have similar foundations they differ widely in their design and outcome objectives. See **Appendix 1** for details of home detention programs throughout Australia and New Zealand.

Generally speaking, the following components are commonly found in most home detention schemes around the world:

- **offenders serve all or a proportion of a sentence confined within their own homes**
- **diversion of offenders from full time custody**
- **general use of electronic equipment to monitor regulation compliance**
- **general use of drug-testing equipment to monitor regulation compliance**
- **random face-to-face monitoring and supervision**
- **use of a curfew**
- **reliance on families to support an offender through an order**
- **a central aim to create more 'bed space' within correctional facilities**
- **an overall aim of cost savings in penal spending.**

Broadly speaking, home detention schemes fall into two operational types, 'front-end' and 'back-end'.

'Back-end' home detention focuses on the pre-release stage of an inmate's sentence. It is a form of restricted release where the inmate serves part of their minimum term sentence under constant supervision and sequestered to home confinement. 'Front-end' home detention focuses on the sentencing stage of an offender's conviction, where an offender is diverted from ever entering full time incarceration.

In 1992, The **NSW Probation and Parole Service** embarked on a pilot 'front-end' home detention program known as Intensive Community Supervision (ICS). This scheme, operating under the authority of Section 558 of the NSW Crimes Act 1900 No.40, was a type of good behaviour bond.

The objectives of the program were to divert minor offenders from full-time custody, while maintaining a cost effective and high control community-based program.

In 1996, the scheme was reviewed and the findings used as the basis for the NSW Home Detention Act No 78 (hereinafter referred to as the HD Act). The most significant findings to emerge from the review were as follows:

- **approximately 85% of ICS offenders were diverted from full-time imprisonment**
- **low offence rate whilst completing ICS (5.1%)**
- **substantial cost-effectiveness when comparing ICS to that of full-time imprisonment**

- use of electronic monitoring not cost-effective for low risk offenders
- significant referral levels by the courts in areas where ICS was operational
- development of case management strategies addressing specific offender behaviour enhanced success rates.

The ICS review focused on the impact of the program on the officers supervising offenders as well as on participating offenders.

**“ The conditions of ICS are almost equally wearing on officers as they are on offenders. The burden of being accessible at any time, of being ready to respond at any time forces major adjustments to officer lifestyle.”**

Walker (1996:4)

The ICS review is also one of only a few available research studies which have attempted to measure the social impact of home detention on families and the general community.

The report concludes that, although ICS caused disruption to the lifestyle of participating families, the benefits of community sentencing in addressing offender behaviour outweighed this disruption.

In 1996, the NSW Government directed the Department of Corrective Services to develop a home detention scheme based on the pilot ICS scheme. The HD Act was the culmination of this work.

## The NSW Home Detention Scheme

The NSW Home Detention Scheme (HDS) commenced in NSW on 21 February 1997. The scheme is a diversion based, sentencing program.

The scheme is available to certain offenders convicted for an offence with total sentence of 18 months or less and ordered to serve their sentence by way of full-time imprisonment.<sup>1</sup>

It is important to note that the HD Act requires that an offender be found guilty of an offence and then sentenced to a term of full-time imprisonment before the judge or magistrate directs that a home detention assessment be made. In this sense, home detention was created as a true diversion from prison for those offenders who are eligible.

Offenders must be assessed by the NSW Home Detention Unit (HDU), a part of the NSW Probation and Parole Service. The HDU confirms eligibility and assesses suitability for inclusion in the scheme.

Eligible offenders must fulfil the following criteria:

- must not be convicted of any offence or have a history of any offence stipulated in the HD Act
- must not be convicted of a sexual offence or have a history of sexual offending

- **must not be convicted of domestic violence offences against a person they wish to reside with**
- **must not be convicted of offences involving commercial quantities of illicit drugs**
- **must willingly consent to participate in the scheme**

Once eligibility is determined, a suitability assessment is undertaken. Suitability assessments incorporate an extensive examination of a wide range of factors which may impact on the successful completion of an order.

Suitability factors include:

- **the offender's residence must be in the designated regional areas where the scheme is operational**
- **the level of the offender's drug and alcohol involvement**
- **likelihood of re-offending whilst on home detention**
- **likelihood of the offender committing a violent crime including domestic violence**
- **work opportunities**
- **physical and mental health**
- **personal, family and lifestyle issues**
- **willingness to comply with the conditions of the order**

If an offender is placed on the program by the presiding judicial officer, surveillance is organised by the supervising Home Detention Unit through:

- **random personal and telephone contact**
- **electronic monitoring equipment including personal bracelets and bracelet verification units**
- **alcohol and drug testing**

## The HD Act and its Review

In 1996 the New South Wales (NSW) Parliament passed the HD Act. This Act allows, in certain cases, offenders to serve their sentence of imprisonment by way of detention in their own home.

The objectives of the HD Act are:

- **to define the class of sentences of imprisonment that may be served by way of home detention, and the class of offenders who are eligible to serve a sentence in that way**
- **to provide for due assessment of eligible offenders in order to determine their suitability to serve a term of imprisonment by way of home detention**
- **to provide for the making and revocation of home detention orders**
- **to ensure that offenders are not diverted to home detention if they**

**would be more appropriately dealt with by way of periodic detention or other non custodial forms of sentence.**

Section 28 of the HD Act requires the Minister for Corrective Services to undertake a continuous and comprehensive review of the Act. In summary, the parameters of the legislated review are as follows:

- (1) The Minister is to review the HD Act to determine whether the policy objectives of the Act remain valid and to determine the impact of the Act on families.
- (2) The review is to be undertaken as soon as possible after 18 months from the commencement of the Home Detention Scheme.
- (3) The Minister is to table a report on the outcome of the review in both Houses of Parliament.
- (4) The Minister is to continue to monitor the HD Act and report to both Houses of Parliament at least once a year on the impact of the Act on families.

Refer to **Appendix 2** for HD Act and Regulation.

The **NSW Department of Corrective Services, Research and Statistics Unit** was given the responsibility to design, implement and conduct the review of the HD Act. The findings of this review form the basis of the Minister's report to both NSW Houses of Parliament.

This review deals with the first 18 months of the NSW Home Detention Scheme (HDS) and examines the period from 21 February 1997 to 28 August 1998.

## Design of the Study

In order to fulfil the requirements of section 28 of the HD Act, it was necessary to design a research study that comprehensively examined all aspects of home detention within NSW.

It was decided by the NSW Department of Corrective Services, Research and Statistics Unit, that the most appropriate research method design should incorporate both qualitative and quantitative methodologies. It was also decided that equal weight should be given to the findings of each form of methodology. Refer to **Appendix 3** for details of the research design flow chart.

The Home Detention Research Study Steering Committee was formed by the NSW Department of Corrective Services, Research and Statistics Unit to oversee the progress of the research study. This Committee consists of representatives of the NSW Bureau of Crime Statistics and Research, the NSW Judicial Commission, the NSW Institute of Criminology and the NSW Department of Corrective Services. The Committee acted as the principal advisory body for the study. See **Appendix 4** for details of the Committee membership.

A general literature review of the issues relevant to the design principles and implementation of home detention models in Australia and abroad was undertaken and examined various theoretical aspects of the aim and outcomes of home detention programs. Other areas examined included: diversionary effects, completion rates,

advances in technological surveillance, and cost effectiveness.

The literature review assisted in gaining insight into the ever increasing use of community sentencing throughout Australia and the rest of the world.

## Home Detention Data Base

### ■ Data Collection Forms

A home detention data base was developed by the researcher using the statistical package for the social sciences (SPSS). Four data sections were designed to match and integrate the four procedural stages of the home detention scheme. This data base also acted as the primary data collection source for use in monitoring all aspects of an individual's progress through their home detention order.

The four data sections were as follows:

#### (1) Information Profile Form

The Information Profile Form was developed by the researcher for use in the home detention assessment phase to fulfil the comprehensive requirements of a court-ordered home detention assessment on offenders. The form deals with demographics, drug and alcohol issues, past criminal behaviour, court appearances, case management plans and personal resources. Refer to **Appendix 5** for an example of the Information Profile Form.

#### (2) Evaluation Form

The evaluation form was designed by the researcher as the primary data collection mechanism for assessing an individual's

progression through his or her order. This form collected details on any drug/alcohol use, breaches of regulations, case management issues, further court appearances, further charges and any substantive lifestyle changes throughout the duration of the HDO. Refer to **Appendix 6** for an example of the Evaluation Form.

#### (3) Exit Survey Form

The exit survey form was designed by the researcher to assess an individual's experiences while serving an HDO. This form attempted to gain an insight into an individual's responses to the effects of the supervising regime. It also attempted to measure the effects of home detention on home detainees family and friends. Refer to **Appendix 7** for an example of an Exit Survey form.

#### (4) Revocation Profile Form

The Revocation Profile Form was designed by the researcher to collate information pertaining to offenders who had their HDO cancelled or revoked. The data collected included revocation details, review hearing details and correctional details such as classification and placement. Refer to **Appendix 8** for an example of the Revocation Profile Form.

The entire home detention data base was statistically analysed using the SPSS system and, to a lesser degree, using Microsoft Access.

## Court-Related Data

Information pertaining to the use of legislation by the courts was seen by the researcher as a crucial indicator of the popularity of the legislation, the level of

court participation and other related issues.

A collaborative research exercise was developed in conjunction with the **NSW Judicial Commission** using its computerised JIRS data system. This exercise was developed as a possible means of analysing any potential systemic 'netwidening'<sup>2</sup> caused by the use of the HD Act.

The **NSW Bureau of Crime Statistics and Research (BOCSAR)** provided data on the use of the HD Act by courts in the Hunter, Illawarra and Sydney regions after the introduction of the legislation. BOCSAR also provided information concerning the imposition of penalties within NSW lower and higher courts during 1997.

## Interviews with Stakeholders

The research design incorporated a comprehensive range of interviews with appropriate stakeholders connected with home detention. These interviews were utilised to develop the most revealing method of establishing the social and legal factors that impact on home detainees. These interviews also examined social and legal factors impinging on the scheme itself.

It was essential that as many 'stakeholder agencies' as possible were interviewed. The four main groups were:

- **offenders, their families and friends**
- **home detention personnel**

- **government and non-government agencies**
- **judicial officers and legal representatives**

### ▶ **Offenders, their families and friends**

The interviews with offenders, their families and friends were crucial to the outcome of the study. Without their participation, it would not have been possible to fulfil the legislative requirements of the HD Act.

#### ■ **Offenders on the scheme**

At least one-third of all detainees placed on home detention on were interviewed throughout the course of the study.

#### ■ **Revoked Home Detainees**

All revoked home detainees were interviewed to establish if there were common behaviour patterns and profiles among this group and to discuss the experiences of revoked detainees in home detention and prison.

The interviews covered the following points:

- **the extent of the impact of home detention on the household**
- **drug and/or alcohol issues**
- **availability of support networks for both offenders and their families**
- **importance of motivational**

activities (work, courses, counselling, community service orders -CSO, etc)

- **general and personal deterrence factors**
- **children and parental responsibilities**
- **patterns in criminal activity**
- **reaction to home detention officers and supervisors**
- **potential changes for scheme efficacy.**

These interviews were audio-recorded. A restriction was imposed on access to these recorded interviews to preserve confidentiality.

■ **Families and friends**

It was envisioned that by interviewing as many families and/or friends as possible, the study would document valuable insights into the personal experiences of those closely associated with an offender serving a community-based sentence. These interviews were to act as the primary information gathering exercise into the social impact of the scheme.

The interviews were semi-structured to encourage as much diverse information as possible for use in the final analysis.

► **Home Detention Personnel**

Interviews were conducted with a wide

cross-section of home detention personnel. These interviews were held either individually or in groups and were not audio-recorded. The following issues were discussed:

- **the impact of the scheme on work practices**
- **organisational requirements and expectations**
- **effect of work requirements on personal lives**
- **critical decision-making and consequences**
- **aims and objectives of scheme and outcomes**
- **appropriateness of the HD Act**

► **Government and Non-Government agencies**

A cross-section of government and non-government agencies was consulted to discuss various aspects of the scheme. These interviews were held either individually or in groups and were not audio-recorded. Refer to **Appendix 9** for details of the agencies consulted throughout the course of the study. The following issues were discussed:

- **the impact of home detention on detainees and their families**
- **appropriateness of the HD Act**



- **issues of civil rights and privacy for people living with offenders on home detention**
- **development of intra and inter-government protocols**

► **Judicial officers and legal practitioners**

The opportunity was taken to discuss the home detention scheme with a number of District Court Judges, magistrates, barristers and solicitors to ascertain the relevance of the HD Act. These interviews were held either individually or in groups and were not audio-recorded. In order to address privacy and confidentiality issues raised by such interviews, the names and/or titles of those interviewed are not published.

The following issues were discussed:

- **appropriateness of the HD Act**
- **potential changes to the HD Act**
- **the potential for systemic 'netwidening' due to the use of the HD Act**
- **the use of the scheme as an adequate diversionary tool from full-time imprisonment**
- **the impact of home detention on families and co-residents of home detainees**

In summary, the research design of the home detention review was developed specifically to achieve the aims of the legislative requirements. It's far-ranging scope enabled the study to cover all areas of research required.

1. Since 1971, the judiciary in NSW have had the court-based options allowing offenders to be sentenced to a term of periodic (usually weekend) detention for certain offences. Offenders sentenced to this type of 'part-time' imprisonment are required to spend two consecutive days in custody within generally purpose-built centres. In opposition to this are the offenders who must serve their sentence 'full-time' within an established correctional centre. In this sense, home detention was seen to be a substitute for a 'full-time' sentence and not simply an extension of the existing 'part-time' periodic detention option.

2. Netwidening is one of the terms used by criminologists to explain the increase in the general population under some form of court ordered supervision by the use of community based sentences. The following explanations may assist in interpreting what precisely is meant by the term netwidening:

**Social Control Nets**

The concept of social control nets has been used extensively in discussions relating to the increase in the use of community corrections and alternative sentencing models. The three main types of social control nets are defined as:

**Wider Nets**

Reforms that increase the proportion of individuals whose behaviour is regulated and controlled by the state.

**Stronger Nets:**

Reforms that increase the state's capacity to control individuals through intensifying state intervention.

**New Nets:**

Reforms that transfer intervention authority from one agency or control system to another.

# Offender Profile

During the parliamentary debate about the introduction of the HD Act, certain members of the NSW Parliament were concerned that home detention would become a sentencing option for 'white collar' offenders, rather than a sentencing tool for all eligible offenders

For example, during the debate on 15 October 1996, the Hon. R.S.L. Jones commented:

**“ There would be an obvious tendency for home detention to become the white collar criminal’s alternative to gaol. Such bias must be avoided as it excludes many of the offenders who have the most to gain from rehabilitative home detention.”**

(Uncorrected *Hansard* proof p.32)

During the course of the study, the findings indicated that people assessed and placed on home detention tended to be convicted of a broad range of offences and generally shared similar backgrounds. Overall, offenders assessed and placed on home detention have the following similarities:

- **convicted of a broad range of less serious criminal offences allowable within the eligibility criteria of the HD Act**
- **lower socio-economic demographic backgrounds**

- **on-going problems with drug and alcohol use**
- **history of prior criminal convictions.**

The study, found little evidence to suggest that there were any significant criminogenic differences between offenders placed on home detention and those who were found either ineligible or unsuitable.

## Offender Information

This section deals with specific information concerning the **510** offenders assessed for inclusion in the **NSW Home Detention Scheme (HDS)**, between 27 February 1997 and 27 August 1998.

The data are collated from the **Information Profile Form** designed for use in this evaluation. This form was completed for every offender who was assessed for HDS in the study period. The specific areas examined were:

- **demographics**
- **drug and alcohol use**
- **criminal history**

## Demographics

Demographic material provides interesting information concerning the similarity and differences of offenders assessed for the HDS.

Social statistics such as these are important indicators of trends within society which may impact on the relevancy and effectiveness of

## NSW Home Detention Scheme

Number of people placed on scheme February 1997 - August 1998

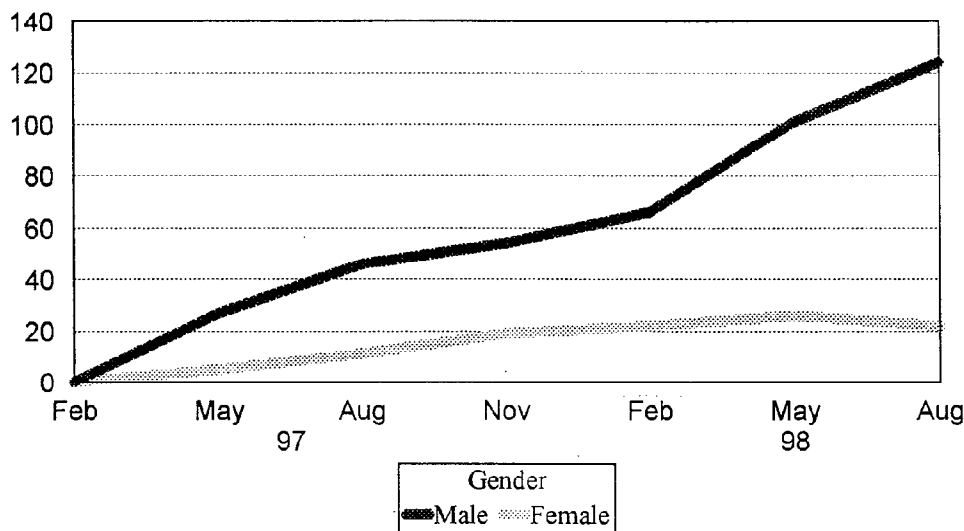


Figure 1

community based programs such as home detention.

The demographic findings from the home detention data base represent all 510 offenders assessed for inclusion in the HDS in the first 18 months of operation. The demographics specifically examined included:

- age and gender
- aboriginality
- cultural representation
- marital and parental status
- number of children directly affected by the imposition of a HDO
- employment and pension status
- education levels attained

### Gender Participation

Of the 510 offenders assessed for inclusion

into the Home Detention Scheme during the study period, 420 (82.3%) were men and 90 (17.6%) were women.

Of these 510 offenders, 121 (29%) men and 23 (26%) women were assessed as either ineligible for inclusion onto HDS, unsuitable or suitable but not placed on the scheme.

Of the 366 offenders placed on Home Detention, 299 (82%) were men and 67 (18%) were women. The gender proportion fluctuated throughout the program's first 18 months of operation.

For example, in April 1997, the gender proportion was 86% men and 14% women. In December 1997, the figure for women had risen to 25.5%. In August 1998, the participation figure for women had decreased to 15%.

Although the female participation rate remained relatively stable, fluctuations in the the gender participation figures were due to

the number of male offenders placed on the scheme. The proportion of offenders placed on the scheme increased noticeably in February 1998 and continued to climb throughout the period under review. There remains some speculation over the significance of these fluctuations in the gender proportions placed on the scheme.

The factors that may have influenced the gender proportions placed on the scheme are as diverse as they are numerous. They include:

- trends in criminal activity
- arrest rates
- judicial usage of the legislation
- offender access to informed legal representation
- offender knowledge and awareness of HDS

It would be difficult to draw definitive conclusions concerning fluctuations in gender proportion at this stage of the overall research. Future examination of these trends will need to be undertaken over a longer period before more definite conclusions can be drawn.

■ **Age of Offenders assessed for home detention**

Of the 510 offenders assessed for inclusion in the Home Detention Scheme, the mean age was 30.4 years.

The mean age of offenders placed on Home Detention was 32.3 years. The following

table illustrates the differences in mean age of all men and women assessed for Home Detention.

Gender	Mean Age Suitable for HDO	Mean Age Unsuitable for HDO
Male	31.6	31.3
Female	35.4	30.2

■ **Age Groups placed on home detention**

The following table shows the age distribution among offenders placed on home detention during the study between February 1997 and August 1998.

Age Group	Number	Percentage
18-25	82	22%
26-35	154	42%
36-45	84	23%
46-55	29	8%
56+	17	5%
<b>Total</b>	<b>366</b>	<b>100%</b>

The age distribution of offenders placed on home detention are similar to the age distribution among offenders serving custodial sentences. Refer to the NSW Department of Corrective Services, NSW Inmate Census 1998 for details of age distribution within NSW Correctional Centres.

## Snap Shot Analysis

## Gender Participation

A snapshot analysis was carried out to compare gender participation between offenders placed on home detention and offenders placed in NSW Correctional Centres. The **1998 NSW Department of Corrective Services Census** data was compared with data from the **NSW Home Detention Data Base**.

The full-time custodial population imprisoned for comparable offences, sentence lengths and demographics similar to that of offenders placed on home detention, (*Potential population*), were compared with the *actual* offender population placed on home detention. The snapshot date used was **30 June 1998**.

The results are as follows:

			% of potential pop. (n)= 1097	% of sent. prison + HD pop. = (5551)
*	Total Potential Population at 30 June 1998	= 1097		20 %
*	Total Home Detention Population at 30 June 1998	= 131	12%	2.4%

Gender	Prison Group *	HDO Group	% of pop on HD
Male	(n)=888	(n)= 108	11%
Female	(n)= 78	(n)= 23	23%

\* selected group made up of 'full-time' custodial offenders potentially eligible for home detention. Please note: sentenced pop (n) = 4454 consists of all sentenced, appellant, forensic and life sentence offenders in NSW Correctional Centres on 30 June 1998.

People placed on home detention constituted **12%** of the total prison population who may be technically eligible for home detention, (excluding knowledge of previous criminal history). Women on home detention constitute **23%** of female offenders that may be eligible for home detention while men on home detention represent **11%** of male offenders that may be eligible for home detention.

Although women have the highest representation per capita of prison population the reasons why this is so remains speculative for the moment. Further monitoring and analysis is required.

By using the same 'snapshot' analysis as above, the mean age for men serving a full time custodial sentence for an offence similar to those on Home Detention, is **28.3** years and for women it is **28.2** years.

### ■ Indigenous Offenders participation figures

**Thirty two** (6%) Australian Aborigines, **23** males and **9** females were assessed for

inclusion into HDS. This represents **5.4%** of men and **10%** of the women of the total assessed for the HDS.

**Twenty** (5.5%) offenders placed on the scheme identified themselves as Australian Aborigines. Aboriginal women constituted **9%** of all the women on the program and Aboriginal men constituted **5%** of the male group population.

No Torres Strait Islanders participated in the scheme during the first eighteen months of operation.

## Snap Shot Analysis

## Indigenous Participation

A snapshot analysis was carried out to compare Indigenous participation figures placed on home detention with the number of indigenous offenders in 'full-time custody'. The 1998 NSW Department of Corrective Services Census data was compared with data from the NSW Home Detention Data Base.

The Indigenous full-time custodial population imprisoned for offences, sentence length and demographics similar to that of indigenous offenders placed on home detention, were compared to the *actual* indigenous offender population placed on home detention. The snapshot date used was **30 June 1998**.

The results are as follows:

		% ATSI sent. pop in prison + HD ATSI pop. (n)= 935	
*	Total ATSI potential population group at 30 June 1998	= 123	13%
		% of potential pop (n)= 123	% HD pop. (n)=131
*	Total ATSI home detention population group at 30 June 1998	= 6	5% 4.5%

Gender	Prison group *	HDO group	% ATSI offenders on HD
Male	(n)= 93	(n)= 5	5%
Female	(n)= 24	(n)= 1	4%

\*selected group of 'full-time' custodial offenders of aboriginal origins potentially eligible for home detention.

Indigenous people placed on home detention constituted 13% of the total indigenous population who may be eligible for home detention. Indigenous people constituted 5% of the home detention population. Indigenous women on home detention constitute 4% of female indigenous offenders that may be eligible for home detention, while indigenous men on home detention constitute 5% of male indigenous offenders who may be eligible for home detention.

The reason why the aboriginal participation figures are lower than expected has not been fully explained. However, some of the factors contributing to the low figures may be:

- lack of availability of the program in those areas where aboriginal populations are substantial in NSW
- the restricted number of offences eligible for Home Detention court ordered Assessment

- cultural and 'kinship' issues may prove to be in conflict with the logistics of Home Detention supervision.

### ■ Cultural representation on Home Detention

Three hundred (81.9%) offenders placed on the HDS stated that they were born in Australia. The next biggest country groupings were identified as the United Kingdom (4.0%), New Zealand (3.0%) and Pacific Islands (1.6%).

### ■ Participants with an identified disability

Seventy seven (15%) of the total Assessment population identified themselves as having some form of disability.

Forty seven (12.8%) of offenders placed on Home Detention identified themselves as having a disability. The breakdown is as follows:

Disability Type	% of pop.
Physical	3.2
Intellectual	1.3
Mental	1.3
Chronic Illness	7.0
Total	12.8

### ■ Marital Status

Of the 510 Home Detention Assessments completed, 202 (39.6%) offenders identified themselves as being married/defacto and in current relationships.

Of the 366 offenders placed on Home Detention, 142 (38.7%) offenders identified themselves as being currently married and in relationships. The breakdown is as follows:

Marital Status	% of pop.
Married	147 (40.1)
Never Married	142 (38.7)
Separated	38 (10.3)
Divorced	25 (6.8)
Unknown	14 (2.7)

### ■ Children affected by Home Detention Orders

Of the 366 offenders placed on Home Detention, 208 (56.8%) identified themselves as parents. Of this group 40% were living with their children during their Home Detention Order.

During the first 18 months of operation, 335 children living in 147 households were directly involved with the imposition of Home Detention Orders. The following table illustrates the number of households with children and the primary source of household income for these families.

Carer's Income Source	No. of households with children
Employment	128 (38.2%)
Unemployment Pension	79 (23.5%)
Sole Parent pension	92 (27.4%)
Disability Pension	21 (6.2%)
Aged Pension	0 (0%)
Unknown	15 (4.4%)
Total	335 (100%)

### ■ Pension Status of Offenders placed on Home Detention Orders

Of the 366 offenders placed on Home Detention Orders, 204 (55.7%) were recipients of some form of Commonwealth pension.

The following table illustrates the number and type of Commonwealth pension recipients placed on Home Detention Orders.



Pension Type	No. of Offenders
Unemployment	128 (34.9%)
Sole Parent	40 (10.9%)
Disability	29 (7.9%)
Aged	3 (0.8%)
Other	4 (1.0%)
Total	204

■ **Employment Status of Offenders placed on Home Detention Orders**

Of the 366 offenders placed on Home Detention Orders, 133 were either working full time or part time when they were assessed for Program suitability. The breakdown is as follows:

Employment Type	% of Pop.
Full Time Work	106 (28.9%)
Part Time Work	27 (7.3%)
Unemployed	189 (51.6%)
Domestic Duties	34 (9.2%)
Student	3 (0.8%)
Unknown	7 (1.9%)
Total	366 (100%)

■ **Education Levels attained by Offenders placed on Home Detention Orders**

Of the 366 offenders placed on Home Detention Orders, 289 (78.9%) offenders

had attained at least secondary education levels. The breakdown is as follows:

Education Level	No of Population
Primary level	28 (7.6%)
Secondary level	289 (78.9%)
Trade/App	17 (4.6%)
Tertiary	24 (6.5%)
Unknown	8 (2.1%)
Total	366 (100%)

**Drug and Alcohol Issues**

As part of the home detention assessment process, all offenders were asked about their personal use of illicit drugs and alcohol. The **Offender Information Profile Form** collated specific information on the following areas :

- the impact of drug/alcohol use on their life
- frequency of use
- main choice of drugs/alcohol
- related criminal activity
- use of methadone

■ **Drug and Alcohol use 12 months prior to Assessment**

During the assessment process all offenders were asked about their drug and alcohol use. The Home Detention Units (HDU) were particularly interested in any use that had contributed to past/present offending behaviour.

Of the total **510** offenders assessed for Home Detention, **354 (69.4%)** acknowledged problems with drug and/or alcohol use in the 12 months prior to the conviction leading to home detention assessment.

Gender comparisons reflected a similar pattern. Of the **90** female offenders assessed for home detention, **54.4%** acknowledged problems with drug and/or alcohol use. Whereas, of the **420** male offenders assessed for home detention **72.6%** acknowledged similar drug and alcohol use.

The following table illustrates the similarities and differences of drug and alcohol use between male and female offenders assessed as suitable for home detention and those that were not.

Problems with Drug/Alcohol Use	admitted to HD % of total pop	not admitted to HD % of total pop
<b>Male</b>	218 (72.9%)	87 (71.9%)
<b>Female</b>	32 (47.7%)	17 (73.9%)
<b>Sub Total</b>	250 (68.3%)	104 (72.2%)
<b>Total Offender Pop.</b>	366	144

### ■ Main choice of Drug

During the assessment process, each offender was asked to stipulate the main type of drug consumed over the past twelve months.

Of the **510** people assessed for home detention, **379 (74.3%)** offenders

nominated a particular drug of choice. Women constituted **53 (13.9%)** of the total group population, whereas men constituted **326 (86.1%)** of the total group population.

There are some interesting differences when comparing the main choice of drug types between male and female offenders.

For example, **36.4%** of the male population assessed for home detention nominated alcohol as their main drug of choice, whereas only **10.4%** of the female population assessed for home detention nominated alcohol as their main drug of choice over the twelve months prior to home detention assessment.

On the other hand, **25.5%** of the female population assessed for home detention nominated heroin as their drug of choice, whereas **14.3%** of the male population assessed for home detention nominated heroin as their drug of choice.

The following table illustrates the differences in drug choices for offenders assessed for home detention. The top three choices were alcohol, cannabis and heroin as shown below:

Drug	Male	Female	Total
<b>Alcohol</b>	151	9	<b>160</b>
<b>Cannabis</b>	91	13	<b>104</b>
<b>Heroin</b>	59	23	<b>82</b>
<b>Other</b>	25	8	<b>33</b>
<b>Total</b>	<b>326</b>	<b>53</b>	<b>379</b>

By comparing the frequency of drug choices, it appears that among women assessed for HDS, heroin is by far the most popular choice.

Within the heroin users group, women constituted **28%** of the total offender population assessed for home detention.

Alcohol is by far the most popular choice for men assessed for home detention. Within the Alcohol users group, men constituted **94.4%** of the total offender population assessed.

### ■ Drug Related Offences

During the home detention assessment, offenders were asked if the current offence and conviction were drug or alcohol related.

Although there are substantial numbers of offenders claiming regular drug or alcohol consumption, only **220 (43.1%)** directly related or attributed their offence to drug or alcohol usage.

**Eighty four (38.1%)** offenders stated that their offences were related to illicit drug use, whereas **112 (50.9%)** offenders claimed that their offences were related to alcohol use.

**Twenty four (10.9%)** offenders attributed their offences to the usage of both drugs and alcohol.

### ■ Under the influence at the time of Offence

Offenders were asked whether they were under the influence of drugs or alcohol at the time they committed their offences.

Overall, **204 (40%)** of offenders claimed to be intoxicated at the time of their offence. In gender based terms, female offenders constituted **19.2%** of the total assessed population and male offenders constituted **80.8%**. The number of women who claimed to be intoxicated at the time of offending constituted **39 (43.3%)** of the total female

population assessed for inclusion in HDS. The number of males who claimed to be intoxicated was **165 (39.2%)** of the total male population.

### ■ Use of Methadone

All offenders assessed for home detention were asked if they were actively enrolled in a methadone program. Overall, **69 (13.5%)** of people assessed for home detention were using methadone. In gender based terms, female offenders constituted **24.4%** of the total assessed population whereas male offenders constituted **11.1%** of the total assessed population.

### History of Criminal Activity

The study was seen as an excellent opportunity to examine the criminal history of people assessed for home detention. Information was gathered pertaining to the types of offences committed by this group of offenders and the penalties incurred. Both adult and juvenile histories were collected for analysis.

### ■ Juvenile Convictions

Using the available data of the total assessed population of **510**, **29 (32.2%)** of women had been convicted of criminal offences as juveniles and **193 (64.5%)** of men had been convicted of criminal offences as juveniles.

Of these groups, **3 (3.3%)** women had served a full time custodial sentence in a juvenile centre, as opposed to **51 (12.1%)** of the men.

### ■ Adult Convictions

As set down in the legislation, the history of an offender is an important element of the

eligibility criteria when assessments are completed for inclusion into the Home Detention Scheme (HDS). Contained within the legislation is an implicit need that home detention is to be reserved for offenders convicted of less serious offences only.

During the completion of interviews with stakeholder agencies concerning home detention, it became apparent that some consulted agencies demonstrated confusion over the definition of a less serious offender. At its heart, this confusion revolved around whether less serious offenders were interpreted as people with little or no history of criminality at all or whether they were to be people who did have a history of criminality but for those offences that do not threaten the safety of the larger community.

For the purposes of this study, less serious offenders were interpreted to be offenders convicted of offences warranting a full-time custodial sentence, but with penalties on the lower range of the full-time custodial penalty scale, in this case 18 months or less. This is more or less supported by the relevant legislation.

For example, the HD Act specifies that only offenders with custodial sentences of 18 months or less are to be considered for home detention assessment. Given this legal interpretation an inference may be drawn that offenders given sentences of 18 months or less should be regarded as less serious offenders.

An examination of the history of offences and penalties incurred by people assessed for suitability for home detention was completed. This sought to establish the offence types most commonly committed by offenders referred for home detention assessment.

The examination also sought to examine whether offenders referred for home detention assessments had a history of minor offending and so could be regarded as minor offenders.

By taking the above interpretation of minor offenders as a benchmark, the available data revealed that offenders referred to home detention for a suitability assessment represented:

- **people with little or no history of convicted offending behaviour**
- **people with histories of convicted offending behaviour which have generally resulted in penalties and sentences of less than 18 months**

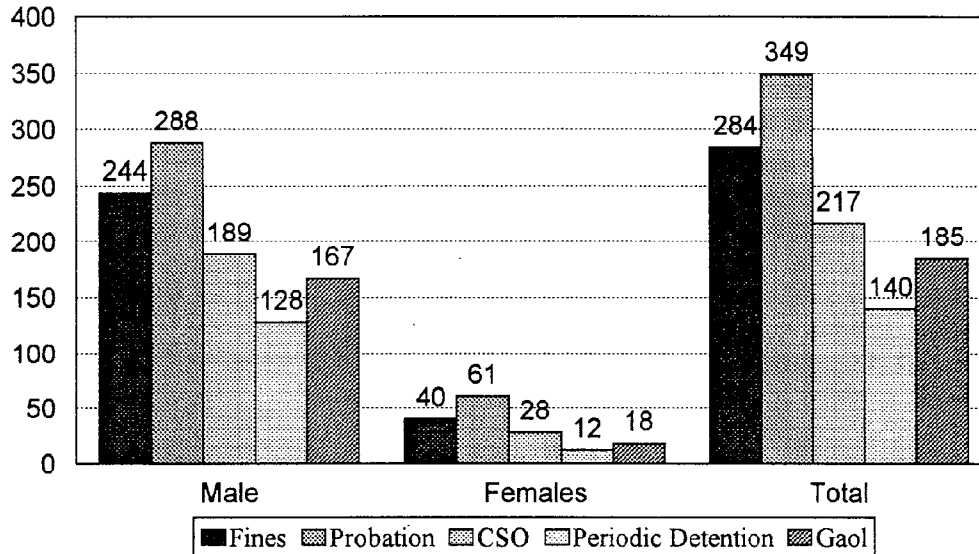
Overall, the data revealed 457 (89.6%) of offenders referred to home detention for assessment had some prior criminal convictions.

By examining this matter further we see that 22 (24.4%) female offenders assessed for home detention had no previous recorded criminal history. Whereas, 31(7.3%) of male offenders assessed for home detention had no previous recorded criminal history.

An explanation as to why there was such a marked difference in the number of men and women with no previous recorded criminal histories, would only be provided by a more comprehensive examination of the offences most commonly committed by male and female offenders referred to home detention for assessment.

## NSW Home Detention Scheme

Number of people assessed for home detention and the type and nature of their previous penalties



Total 510 offenders assessed between Feb 1997 - August 1998

Figure 2

This report does not provide the forum for such a detailed statistical examination of the factors contributing to the prevalence of a referral rate for particular offence types. Nor can this report, with any statistical certainty, extrapolate assumptions on why offenders convicted of certain offences are more likely to be referred for assessment than other offenders. It is hoped that as more statistical data is collated and analysed in the future, a better understanding can be developed in this important area of referral prevalence and gender breakdowns.

It may be of interest to note that this report can provide data on the most common offences committed by offenders referred for assessment to home detention.

As shown in this report, the most common offences committed by women placed on home detention were fraud related, closely followed by property related crimes. The most common offences committed by men

placed on home detention were driving related, closely followed by property related crimes.

The following table illustrates the number and type of penalty incurred by the 510 people assessed for inclusion to the Home Detention Scheme.

As illustrated in the chart below, 167 (40.7%) male offenders assessed for home detention had served a previous full-time custodial sentence, whereas, only 18 (20%) female offenders assessed for home detention had served a previous full-time custodial sentence.

The collated data also revealed that 140 (27.4%) offenders had previously served a Periodic Detention Order and 217 (42.5%) offenders had previously served a Community Service Order.

Overall, the criminal justice penalties previously incurred by offenders assessed for home detention were predominately imposed on male offenders.

In summary, the findings in this section of the report indicate that there are very similar demographic characteristics between offenders assessed for home detention and offenders eventually placed on the program.

The data also revealed similarities between these two groups of offenders concerning drug using characteristics and criminal histories.

# Efficacy of the Scheme

Throughout the world, there are a myriad of community based schemes based on the principles of home detention. The perceived success or failure of these schemes often lies in the policy design that surrounds the desired outcome objectives. These objectives, at a minimum, purport to reflect the needs of the community.

For example, schemes in the United States of America such as the popular Florida State initiative, focus their outcomes on promoting the use of home detention as a means of supporting fiscal constraint. The Florida model also fosters the availability of alternative sentencing options to judicial officers, Corbett and Petersilia. (1994:74)

Countries such as Sweden also operate extensive home detention programs. The Swedish model focuses on directly diverting minor offenders from incarceration. The 1997 Swedish Prison and Probation Administration, *Kriminalvarden* (1997:3) states:

**“One of the basic ideas of Swedish penal law is, wherever possible, to try to avoid locking people up. Research has shown that custodial measures do not facilitate a future life in liberty.”**

During 1997, 500 (12.3%) Swedish inmates, out of a possible 4,045 prison population, had their sentences commuted to home detention. This option is only available to minor offenders with little or no history of

violent offences.

The success or failure of a particular home detention program can only be measured against the rigour of each program's objectives and anticipated outcomes.

Corbett and Petersilia (1994:73) argue that the proliferation of intensive supervision schemes, such as home detention, within the United States of America is directly related to the drain on the public purse brought about by prison overcrowding:

**“Promising control and punishment... struck a responsive chord among policy makers wishing to stem escalating corrections budgets while avoiding the risk of appearing easy on crime.”**

Corbett and Petersilia (1994:74) argue that economic based reforms in reducing prison numbers do not make much sense. These schemes have usually run into difficulties due to the fact that there is **“no unifying theoretical basis for the selection of offenders for program participation”**.

According to them, the basic problem with home detention schemes is that in most cases correctional policy initiatives do not address the concept of risk assessment.

Risk theory promotes the development of programs that match the risk level of the offenders involved - high level intensive programs for high risk offenders and low level minimal services for low risk offenders. This is virtually reversed for most home detention schemes where low risk offenders are given high level intensive supervision.

Successful home detention programs recognise the need to identify both the criminogenic and non criminogenic needs of

offenders if program success is to be achieved.

Criminogenic needs must focus on dynamic risk factors such as employment, drug use and peer pressure which then need to be formally included in the program. Changes in these risk factors directly impinge on the success or failure of an offender on a program. Non-criminogenic needs such as an individual's self esteem, or state of mind are also important components of program effectiveness.

**“Based on existing empirical evidence, a persuasive case can be made for abandoning intensive supervision programs that seek only to control and punish offenders in favour of programs that give equal primacy to changing offenders.”**

Corbett and Petersilia (1994:74)

What follows is an examination of how the NSW Home Detention Scheme (HDS) measures up to the stated objectives behind the HD Act and how successfully it reflects and fulfils the needs of the larger community of NSW.

## ■ **The NSW Home Detention Scheme in Operation**

As stated earlier in the study, the NSW Home Detention Scheme (HDS) has its foundation in the Intensive Community Supervision (ICS) program which operated in NSW between 1992 and 1996. Many of the operational experiences encountered during ICS program were consequently utilised in the development of the current scheme.

The HDS was primarily constructed to fulfil the requirements of the HD Act yet it also utilised knowledge already gained through the operation and evaluation of ICS.

The primary goals of HDS are as follows:

- **diversion of minor offenders from gaol**
- **high level control of offenders while serving a sentence in the community**
- **addressing offending behaviour through community based rehabilitation programs**
- **addressing the affect of the program on affected families.**

## ■ **Home Detention Availability**

During the period of the study, the scheme was available in a limited number of geographical areas within NSW. These areas included the:

- **Sydney Metropolitan region**
- **Hunter and Newcastle region**
- **Illawarra and Wollongong region**

It was initially decided that in order to maintain optimum surveillance coverage, the scheme would only be available to offenders in the above areas. It was anticipated that consideration would be given to further expansion into rural and remote areas if the surveillance logistics proved possible.



## ■ Home Detention Personnel

The Home Detention Scheme (HDS) developed a specific organisational structure which reflected the rigorous supervision requirements of the scheme.

The HDS is managed by the Director of the Home Detention Scheme who has responsibility for overseeing all components of the Scheme and has primary input into the development of program initiatives.

The Scheme was organised into five **Home Detention Units (HDU)** corresponding to the above mentioned NSW regional areas. These Units were as follows:

- **Maitland and Hunter District**
- **Wollongong and District**
- **Sydney city and inner suburbs**
- **Parramatta and West Sydney**
- **Bankstown and South/West Sydney**
- **Central Coast (est. Nov 1998)**

Each Unit is managed by a senior officer known as a **Unit Leader**. The Unit Leader is responsible for the overall management of their assigned Units. Unit Leaders directly supervise all staff attached to the Unit and are responsible for the dissemination of information pertaining to the Scheme in their region.

Each Unit has a number of **Home Detention Officers**. These officers were existing Probation and Parole Officers especially

chosen for their extensive experience in supervision. The number of officers attached to the Unit reflects the potential offender population under HDS supervision in each area. These officers perform all the duties required of the 1996 NSW Home Detention Act and are responsible for all aspects of their supervision caseload.

A **Clerical Officer** is attached to each of the Home Detention Units. This position performs all the necessary clerical and organisational components of the HDU.

## ■ Home Detention Scheme Strategies

In order to fulfil the aims and objectives of the Act, the HDS was divided into a number of operational pathways or strategies. These components were as follows:

### ■ Stakeholder Awareness and Usage

One of the most important aspects of measuring the success and/or failure of the scheme hinged on the level of usage of HDOs within the Courts where HDS operated.

Unit Leaders facilitated the dissemination of information pertaining to the HDS with the various stakeholders and agencies with an interest in and/or directly using the legislation.

Information sessions were organised with judicial officers and legal representatives in each area, along with individual consultations with interested persons.

These information sessions continued throughout the duration of the study period.

It was anticipated that due to the innovation

of the HD Act it was likely that the usage of the option within the participating NSW Courts would be initially slow. It was also predicted that usage would change when judicial officers decided for themselves whether the Act was a useful sentencing tool.

#### ■ **The Assessment Process in the NSW Courts**

A standard assessment process was developed and implemented as the primary instrument to be used by Home Detention Officers when assessing the eligibility and suitability of an offender referred for the Scheme.

This process of assessment for home detention within the Courts is relatively straightforward:

#### ■ **Step One**

An offender is found guilty of an offence and sentenced to a period of 18 months or less to be served by way of full-time custodial imprisonment.

#### ■ **Step Two**

After the imposition of sentence, the convicted offender can request a referral for home detention provided that the offender's circumstances fit the eligibility criteria set down in the Act. If the judicial officer considers that home detention may be appropriate, the offender will be referred for an assessment. A referral stays execution of the sentence until a decision is made on whether the offender is to be given home detention or not.

The Court also must decide whether the offender is to be released on bail or placed in

custody for the duration of the assessment.

Eligible offenders that are refused an *assessment* by the Courts can pursue the normal appeal process.

#### ■ **Step Three**

The referral is directed to an appropriate Home Detention Unit and both eligibility and suitability assessments are undertaken. The findings from the assessment are presented to the presiding Court. Refer to **Appendix 10** for examples of assessments reporting ineligibility, suitability and unsuitability. All offenders found suitable for HDS must sign official consent forms agreeing to abide by the regulations stipulated in the legislation. Based on the HDU's recommendation, the Court then confirms the sentence and makes the final decision as to whether to place the offender in full time custody within a prison or on the Scheme.

Eligible offenders that are refused a placement on home detention by the Courts can pursue the normal appeal process.

For a more detailed illustration of the Assessment Process, refer to the Assessment Process Flow Chart in **Appendix 11**.

#### ■ **Assessment in the Community**

The assessment process required for home detention referrals concerning community issues is comprehensive and rigorous.

The Act requires that all avenues of inquiry are undertaken to ensure that the offenders placed on the Scheme pose no potential threat to their families or to the larger community.

For example, in the course of an average

assessment, an Officer would instigate the following measures before completing an assessment report:

- **computer checks with Government agencies concerning offender's history of offending, family relations and any other outstanding issues**
- **extensive interview/s with offender, explaining the regulations and gaining written consent to willingly participate**
- **extensive interview/s with all co-habitants, explaining the regulations and gaining written consent to willingly participate**
- **interviews with employers where relevant**
- **arrangements made with Methadone clinics or other health services if required**
- **interviews with community and/or govt agencies to facilitate case management design**
- **address any resource needs of offender**
- **design appropriate case management which incorporates technical surveillance, drug and alcohol counselling if required and work or educational requirements.**

#### ■ **Liaison with DOCS**

An important objective of the HDS is to

ensure the optimum health and safety of children directly affected by the imposition of a home detention order.

Home Detention Units were actively involved with the NSW Department of Community Services (DOCS) in developing protocols used in the assessment process where children were involved.

The DOCS data base searches are conducted on individuals referred for home detention assessment. These searches focused on the individual's history as a carer for children. For example, the DOCS data base details any:

- **recorded child abuse**
- **past or existing Child Care Orders**
- **history of DOCS official notifications concerning the safety of children**

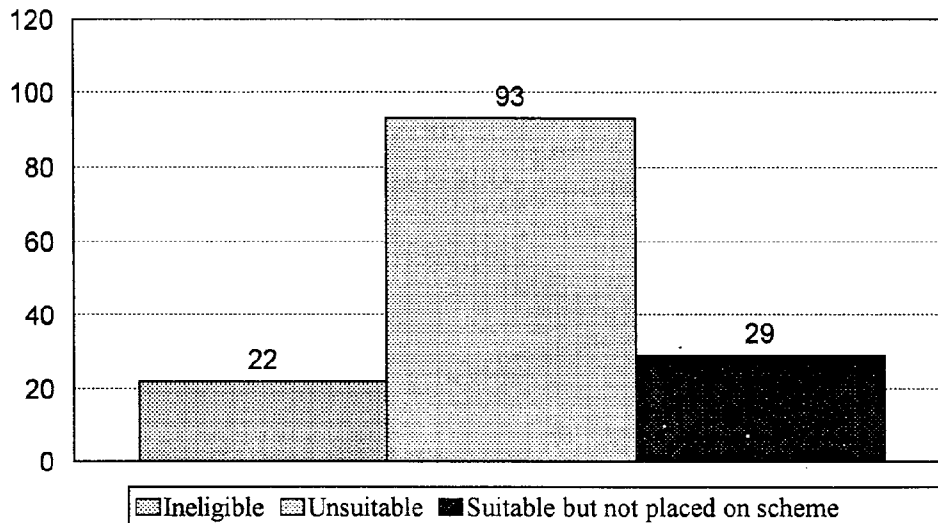
A comprehensive data form was designed to assist with the computer safety checks and is used in all assessments where children are involved.

Since the commencement of the NSW Home Detention Scheme, DOCS has assisted in approximately 420 safety checks. Of these safety checks, approximately 25% were deemed either unacceptable, required further assessment or required special conditional provisions before proceeding with the court procedure.

DOCS also provided information sessions for home detention officers where HD

## NSW Home Detention Scheme

Number and outcome of home detention assessments undertaken



study period - Feb 1997 - Aug 1998.

Figure 3

Officers were taught the importance of maintaining close surveillance and focus on the emotional and physical safety of children during any involvement with an HDO.

### ■ Overall Assessment Information

During the study period (February 1997 to August 1998) the NSW Home Detention Scheme (HDS) assessed **510** offenders for inclusion into the program.

Of the **510** offenders referred for assessment, **426** (83.5%) were from Local Courts and **84** (16.4%) were from District Courts.

Of the **84** offenders referred for a home detention assessment from District Courts, **20** (23.8%) were appeal matters originating from Local Courts.

Of the **510** assessments undertaken **22** (4.5%) offenders were found to contravene the eligibility criteria laid out in the Home Detention Act. Of the **22** ineligible offenders, **4** (18%) were women.

Of the **510** assessments undertaken **93** (18%) offenders were found to be unsuitable for inclusion in HDS.

Of the **510** assessments undertaken **29** (5%) offenders were found to be suitable for home detention but were not placed on the scheme.

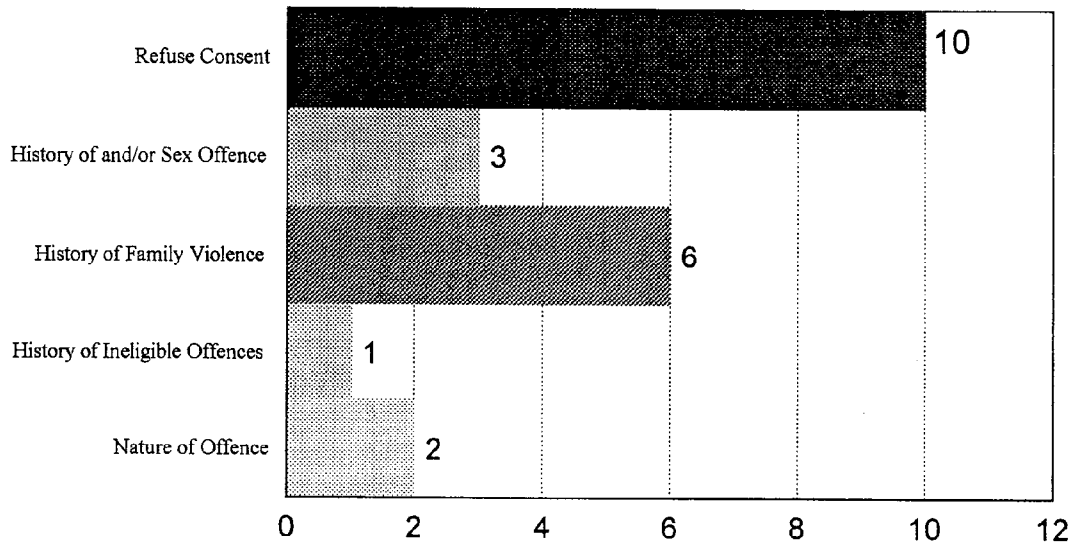
The chart above illustrates the number and outcomes of home detention assessments undertaken in the study period.

### ■ Ineligible Assessments

During the study period, **22** (4.3%) of the **510** offenders referred for home detention

## NSW Home Detention Scheme

### Categories of Ineligible Assessments



22 ineligible assessments during study period Feb 1997 - Aug 1998

Figure 4

assessments, were deemed ineligible using criteria set down in the HD Act. The chart below details the reasons why these offenders were deemed ineligible. As shown, 10 (45%) of the 22 ineligible offenders were deemed ineligible due to their refusal to comply with the legislated regulations. The reasons most commonly given for refusal to consent were as follows:

- unwillingness to remain drug and alcohol free
- unwillingness to submit to electronic monitoring
- unwillingness of family to consent to participation

The voluntary nature of home detention accounted for the reasonably high number of

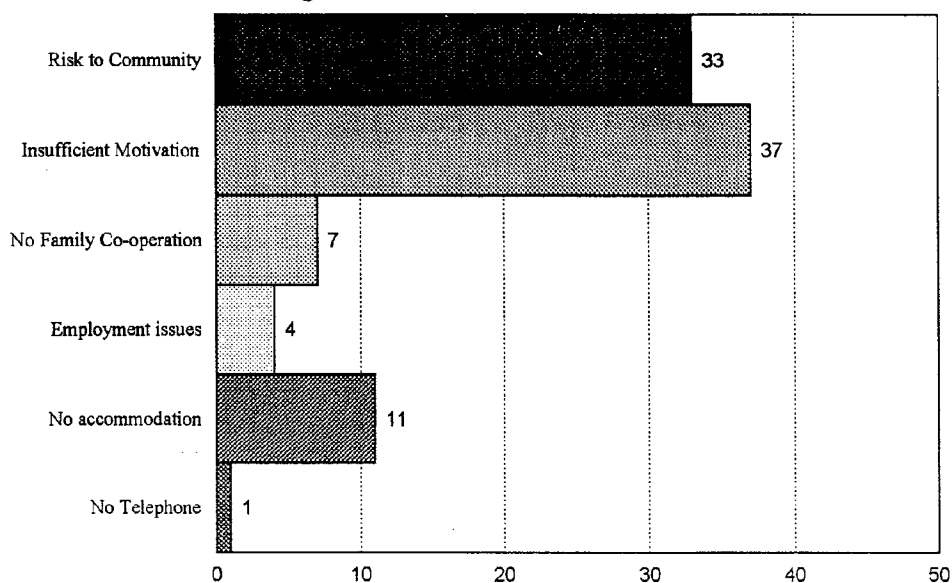
refusals to consent to participate in the scheme. These offenders who refused home detention served their sentence in full-time correctional facilities.

Six (7%) of the 22 ineligible offenders were deemed ineligible due to either the nature of their offences or had a history of convictions for offences deemed ineligible in the legislation.

Six (7%) of the 22 ineligible offenders were deemed ineligible due to existing Apprehended Violence Orders (AVO). In three of these cases, the AVOs were over four years old.

One (4.5%) of the 22 ineligible offenders was deemed ineligible for HDS due to pending charges which resulted in a full-time custodial sentence of more than 18 months.

## NSW Home Detention Scheme Categories of Unsuitable Assessments



93 unsuitable assessments during study period Feb 97 and August 98

Figure 5

### ■ Suitable Assessments not placed on home detention

During the study period, 29 (5.6%) of the 510 assessed offenders were found suitable to participate in the scheme but were not placed on the scheme. Of these 29 offenders, 24 appealed their sentence and were not imprisoned, 1 offender was refused placement on the scheme by order of the presiding judge, 2 offenders failed to appear at their confirmation of sentence hearing and warrants were issued and 2 offenders were placed in custody due to other charges.

### ■ Unsuitable Assessments

During the study period, 93 (18%) of the 510 offenders referred for home detention assessments were deemed unsuitable using criteria set down in the HD Act. The chart above details the reasons why these

offenders were deemed unsuitable.

As shown in the above chart, 37 (40%) of the 93 unsuitable offenders were assessed as unsuitable due to their insufficient motivation to comply with the home detention legislated regulations. The most common examples of insufficient motivation included:

- detected drug and/or alcohol use during assessment period
- unwillingness to attend organised assessment interviews
- unwillingness to submit to electronic monitoring
- unwillingness to address offending behaviour

All offenders found unsuitable for home detention were directed to serve their full-time sentence within a Correctional Centre.

**Thirty three (35%)** of the **93** offenders were assessed as a potential risk to the community and were therefore found unsuitable for inclusion into the scheme. The most common causes of undue risk were:

- **likelihood of committing further offences**
- **threats/action of violence towards any member of family or community during assessment**
- **drug and/or alcohol use during assessment**

**Eleven (12%)** of the **93** offenders were assessed as unsuitable due to inadequate accommodation arrangements. The HD Act stipulates that all reasonable efforts are to be made by home detention officers to secure adequate accommodation for all offenders assessed for home detention, if required. This stipulation was included to establish a sense of equality of access to all eligible offenders referred to the HDS.

The **11** offenders unable to acquire suitable accommodation even with the assistance of home detention officers, were hampered by the following factors:

- either:
- **living in hostels with no private access to a telephone and unable to afford to move to private accommodation**
- or
- **living with no fixed address and without the support of relatives**

or

- **unable to secure NSW Department of Housing assistance for emergency public housing**

or

- **unable to secure affordable housing in areas compliant to surveillance needs**

**Seven (7.5%)** of the **93** offenders were found unsuitable due to the lack of family co-operation. In these cases, families of offenders had initially agreed to co-operate with the scheme regulations but as the assessment period progressed, family co-operation was withdrawn. For example, during one assessment, an offender's family had signed the official agreement, but on further assessment appointments, the HD Officer was concerned at the level of coercion used by the offender in forcing his wife to agree to participate. It appeared obvious from these interviews that the offender's wife was unwilling to co-operate and was being forced by the offender and the rest of the family to participate. Consequently, this offender was found to be unsuitable for the scheme.

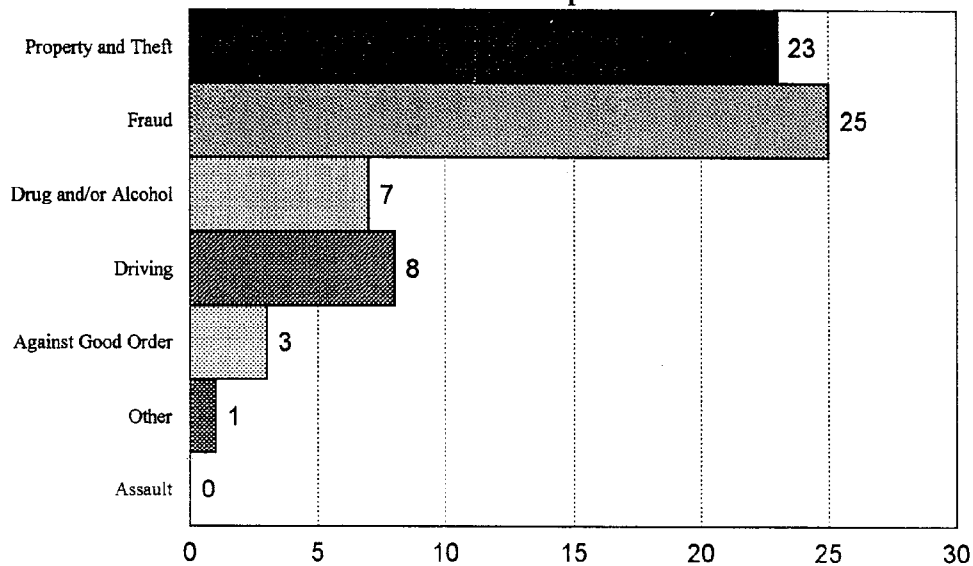
**Four (4%)** of the **93** offenders were charged with offences during their suitability assessment and were deemed unsuitable for the program. All these offences were related to crimes allegedly committed prior to the assessment for home detention.

**Four (4%)** of the **93** offenders were deemed unsuitable due to problems with employment issues.

For example, if an offender worked in an

## NSW Home Detention Scheme

### Women - Most Serious Offence - placement on Scheme



67 women offenders placed on home detention between Feb 97 and Aug 98

Figure 6

industry which required mobility such as Taxi driving, close and random supervision would become impossible with the Home Detention Units not being able to guarantee sufficient supervision could be undertaken.

One (1%) of the 93 offenders was found to be unsuitable for home detention due to a problem accessing a telephone line. This offender would not agree to pay an outstanding telephone account and was therefore unable to arrange a new connection for the purposes of electronic monitoring.

#### ■ Female offenders placed on home detention.

The chart above illustrates the breakdown of offence types which led to a NSW Home Detention Order for 67 women offenders during the study period.

Twenty five (37.3%) women offenders placed on home detention were convicted of fraud related offences. The most common fraud convictions included:

- Obtain Benefit by Deception
- Obtain Money by Deception
- Imposition
- Making False Instruments

Twenty three (34.3%) women offenders placed on home detention were convicted of property offences.

The most common property offences committed by these women included:

- Shop lifting



- **Break Enter and Steal**
- **Larceny**

Eight (11.9%) women offenders placed on home detention were convicted of driving charges. These offences included:

- **Driving Manner Dangerous occasioning Death**
- **High Range PCA**
- **Driving whilst Disqualified**
- **Drive Manner Dangerous**

Seven (10.4%) women offenders placed on home detention were convicted of drug related crimes. These included:

- **Possess Prohibited Drug**
- **Supply Prohibited Drug**

Three (4.4%) women offenders placed on home detention were convicted of offences related to a breach of a previously imposed penalty. These included:

- **Breach of CSO**
- **Breach of Recognisance Order**

One (1.4%) woman offender placed on home detention was convicted of threatening and harassing a witness in a legal court trial.

■ **Male offenders placed on home detention.**

The chart below illustrates the breakdown of offence types which led to a NSW Home Detention Order for 299 male offenders, during the study period.

Ninety seven (32.4%) male offenders placed on home detention were convicted of driving charges. These offences included:

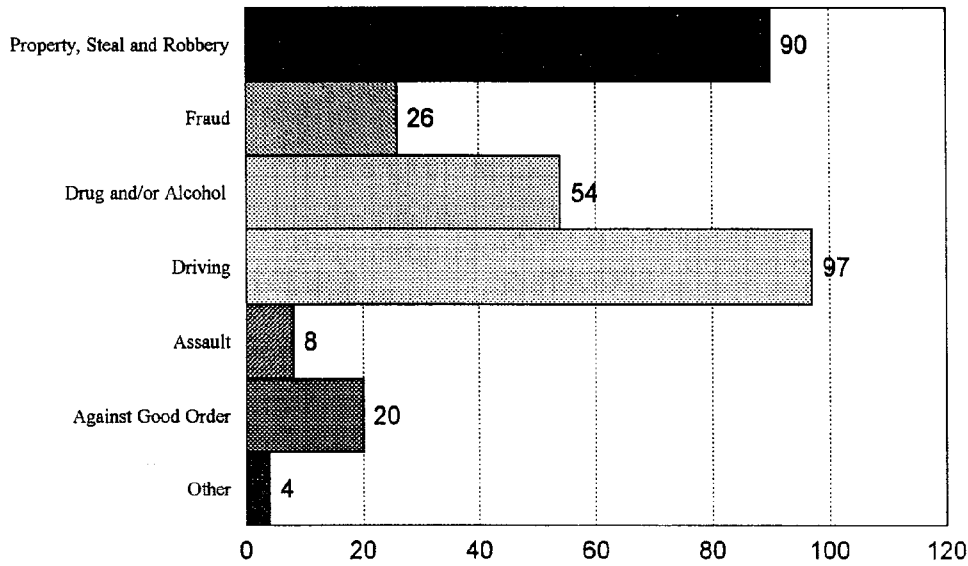
- **Driving Manner Dangerous occasioning Death**
- **Mid Range PCA/High Range PCA**
- **Driving whilst Disqualified**
- **Drive Manner Dangerous**

Ninety (30.1%) male offenders placed on home detention were convicted for property offences. The most common property offences included:

- **Robbery**
- **Stealing**
- **Shop lifting**
- **Break Enter and Steal**
- **Larceny**

Twenty six (8.6%) male offenders placed on home detention were convicted of fraud related offences. The most common fraud convictions included:

## NSW Home Detention Scheme Male - Most Serious Offence - placement on Scheme



299 men from 366 assessments, placed on home detention between Feb 97 and Aug 98

Figure 7

- Obtain Benefit by Deception
- Obtain Money by Deception
- Imposition
- Making False Instruments

Fifty four (18%) male offenders placed on home detention were convicted of drug related crimes. These included:

- Possess Prohibited Drug
- Supply Prohibited Drug
- Cultivate Prohibited Drug
- Manufacture Prohibited Drug

20 (6.6%) male offenders placed on home detention were convicted of offences related to a breach of a previously imposed penalty. These included:

- Breach of Periodic Detention
- Breach of Community Service Order
- Breach of Recognisance Order

Eight (2.6%) male offenders placed on home detention were convicted of assault charges. These charges included:

- Common Assault
- Resist Police
- Affray

## ■ Sentence Length of Offenders placed on NSW Home Detention Scheme

As stated earlier in this report, **366** offenders were placed on home detention between February 1997 and August 1998.

**Two hundred and eighty (76.5%)** offenders placed on home detention received equivalent full-time custodial sentences of 6 months or less.

The large percentage of offenders serving 6 months or less placed on home detention indicated two important matters regarding the type of offender placed on the scheme. These were:

- **judicial officers in Local Court divert offenders convicted of offences warranting full-time incarceration but on the middle to high end of the sentencing scale pertaining to Local Court.**
- **judicial officers in the District Court divert offenders convicted of offences warranting full-time incarceration but on the low end of the sentencing scale pertaining to District Court.**

As stated earlier, definitions used to describe 'less serious offenders' varies across the criminal justice systems.

This study defines less serious offenders as set down in the legislation. This being offenders convicted of offences warranting full-time incarceration, but at the low end of the full-time incarceration scale. The

understanding of 'less serious offender' is also complicated by which level of court defines the term 'less serious offender'.

According to this definition, the sentence length distribution throughout the study period indicated that judicial officers in Local Courts were diverting less serious offenders from full-time custody. For example, of the **426** offenders referred for a home detention assessment in Local Courts, only **12%** were sentenced to 9 months or more.

If this situation was reversed and Local Courts referred a high number of offenders to home detention with offences incurring sentences above 9 months, the HD Act would not be effective in its intent to divert less serious offenders. It would signify that magistrates were referring offenders not normally regarded as less serious offenders, bypassing the acceptable sentencing parameters of Local Courts.

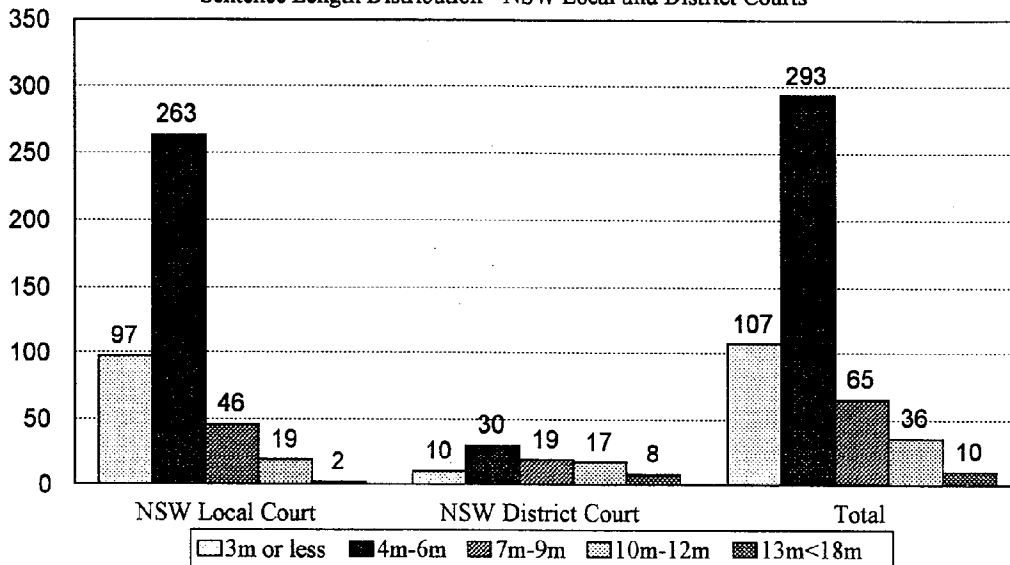
The District Court on the other hand, is also diverting minor offenders, but due to the more serious nature of offences before the District Court, the handing down of harsher penalties is more common.

For example, of the **84** offenders referred for a home detention assessment in the District Court, **67.6%** were sentenced to 9 months or more.

The number of people referred for a home detention assessment and sentenced for 12 months or more, were predominately sentenced in the District Court. This indicated that judges were diverting people regarded by the District Court as less serious offenders.

## NSW Home Detention Scheme

Sentence Length Distribution - NSW Local and District Courts



510 assessments completed during study period - Feb 1997 - Aug 1998

Figure 8

Total of 510 people referred for a home detention assessment - Feb 1997 - August 1998

The parameters of the legislation are more pronounced within the District Court due to the fact that the maximum sentence allowable within the HD Act is 18 months. The number of offenders referred by the District Court will always remain relatively modest.

During the study period, only 10 (2.7%) offenders placed on home detention were convicted of offences which received a sentence length of more than 12 months and less than 18 months. Nine of these 10 convictions were dealt with by the District Court. These offenders were convicted of the following offences:

- fraud offences (amounts over \$80,000)
- Drive Manner Dangerous occasioning Death/GBH
- manufacture of drugs

### ■ Progress through a Home Detention Order

During the study period an individual's progress through a Home Detention Order (HDO) was assessed according to a number of factors.

These factors included:

- drug and/or alcohol issues
- family structure
- access to an emotional and practical support network
- work and/or education issues
- motivation and self discipline

Each offender placed on the HDS had an

individual case management plan and surveillance regime designed to suit the requirements of their sentence and their individual lifestyle commitments.

The case management and surveillance regime for each offender was assisted by the identification of criminogenic and non criminogenic factors which impinge on the individual's ability to successfully complete a HDO.

These identified factors were utilised by supervising officers as benchmarks throughout an individual's HDO to ascertain the level of compliance to the legislated regulations of home detention.

■ **Supervision Regime**

Each individual placed on the home detention, must comply with the supervision regime designed specifically for them.

Also, each Home Detention Officer must comply with the specifically designed Home Detention Supervision Guidelines, when supervising offenders on HDS. Refer to **Appendix 12** for specific details.

The overall objective of the supervision regime was to compel an offender to observe the legislated regulation of home detention.

Supervision regimes resulted from comprehensive surveillance and case management planning. They were devised to operate during all aspects of an offender's life while under the imposition of home detention.

There were a number of dynamic factors considered when a supervision regime was designed for an offender. These included:

- **parental responsibilities**
- **family issues**
- **social and housing issues**
- **drug and alcohol issues**
- **health status**
- **religious and cultural commitments**
- **education and employment opportunities**
- **counselling and therapeutic requirements**
- **risk of re-offending**

These factors are fully identified and considered when a suitability assessment is undertaken. A representative from the responsible Home Detention Unit (HDU) presented the suitability assessment to the Court. This assessment outlined the supervision requirements for each potential HDO.

For example, offenders with sole parent responsibilities were given special leave from their homes to assist their children to school and back. They were also given extra weekly or fortnightly shopping hours to ensure the provision of household needs.

Offenders with problems with drug and/or alcohol use, were directed to attend specified counselling or workshop sessions throughout the duration of an HDO.

Offenders with suitable employment were

**Number and type of contact with offender serving a six months Home Detention Order**  
 details of each month of supervision period

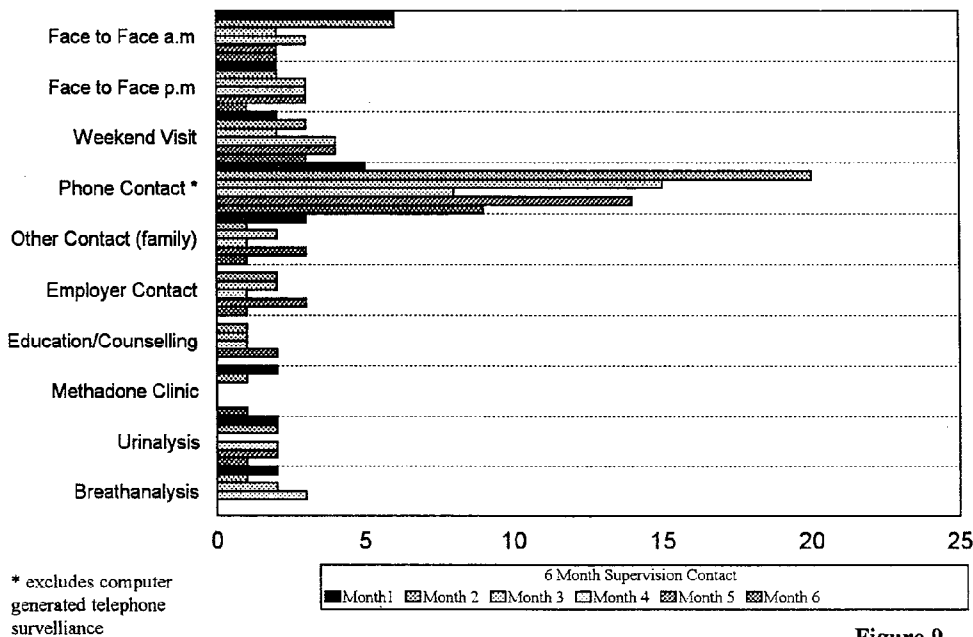


Figure 9

allowed to continue their work during an HDO. Supervision was arranged to accommodate the requirements of official surveillance involving places of employment.

On the other hand, all offenders without employment or parental responsibilities were directed to perform a minimum of 20 hours Community Service each week.

The chart above is an example of a supervision regime designed for an offender completing a six month sentence. This offender had been convicted of a number of previous offences, had an extensive drug using history and had parental responsibilities.

■ **Compliance with Home Detention regulation**

As part of the overall design of the study data was collected on the progression of all

offenders who completing HDOs during the study period.

Information was collated through the use of the NSW Home Detention Scheme Evaluation Form. The gathered information detailed any drug and/or alcohol use, breaches of regulation, case management issues, further court appearances, further criminal charges and any substantive lifestyle changes encountered throughout the duration of an HDO.

■ **Successful Completions**

For the purposes of the study, a successful completion of a HDO was defined as an individual who commenced and completed a home detention order without being revoked, taken off the program due to legal reasons or died during the course of an HDO.

**Three hundred and sixty six** offenders commenced an HDO during the study period. **163** offenders successfully completed an HDO during this period. **Two** offenders were officially taken off the program and placed in full time custody due to legal appeal outcomes and 1 offender committed suicide during the study period.

**Sixty one** offenders had their HDOs officially revoked.

**One hundred and thirty nine** offenders were still completing their HDOs when the study period concluded.

### ■ **Completion Reports**

A Home Detention Completion Report was undertaken for every offender who commenced and completed an HDO during the study period.

Completion Reports were developed as the primary instrument used by the Home Detention Units to inform judicial officers of the progress and official outcome of each offender placed on the program. All relevant judicial officers were sent a Completion Report on individuals who had been brought before their court and placed on home detention.

The principal components of the reports were as follows:

- **outcomes of any court ordered directives**
- **individual's progress through the HDO**
- **details of accomplishments during completion of HDO.**

Refer to **Appendix 13** for examples of completion reports sent to judicial officers. These examples illustrate the diversity of supervision requirements for home detention compliance.

On a number of occasions, judicial officers corresponded with relevant Home Detention Units (HDU) regarding the value of completion reports in assisting their professional duties. Refer to **Appendix 14** for an example of judicial response to receiving a Completion Report.

Some offenders who completed an HDO corresponded with judicial officers concerning their experiences whilst completing home detention. These offenders took the opportunity to speak publicly about their experiences on home detention and the emotional cost and/or benefit of the scheme as a whole. Refer to **Appendix 15** for an example of this correspondence.

### ■ **Official Sanctions**

Official sanctions were developed as the means of controlling the behaviour of offenders placed on home detention.

If an offender was found to be breaching a legislated regulation, the supervising HDU, would instigate a punishment regime known as **Sanctions**.

This regime was designed to react as soon as possible to an infringement of regulation. Each breach by an offender was discussed in HDU group meetings and group decisions were made on how best to deal with each individual breach.

The primary sanctions utilised were as follows:

- verbal warning or staff instructions
- written warnings
- increased Community Service instructions
- recommendation of formal breach

For example, if an offender was given permission to attend a drug counselling session at a local health centre and given one hour to complete the session and return home, surveillance would be maintained throughout by either phone contact or personal contact.

If the offender failed to return at the required time and no reasonable explanation was given, the supervising officer would report the incident and action would be taken immediately. The severity of the sanction would be dependent on the circumstances surrounding the incident.

Of the 250 who commenced and completed an HDO, either successfully or unsuccessfully, in the study period, 96 (38.4%) offenders were issued with a total of 158 sanctions.

As detailed in the chart below, the most common breaches involved the use of drugs and/or alcohol. Over 55.1% of all breaches were drug or alcohol related. Many offenders found it difficult to abstain from drug or alcohol use all together. This was particularly so if friends and family were consuming in the household. Of the home detainees with recognised problems with drug and alcohol use, 58% were sanctioned for drug use during the study period.

Offenders were also breached for failing to return to their residence after organised appointments. 24.7% of breaches involved this form of regulation violation.

Eighteen (11.4%) offenders failed to respond to the electronic monitoring equipment. Some offenders claimed that they failed to hear the telephone call etc. If this excuse was used on more than a few occasions, equipment was checked for faults. If no faults were detected, offenders were sanctioned.

Five (3.2%) offenders were sanctioned for tampering with equipment. These breaches usually resulted from offenders either cutting off the electronic monitoring band or leaving the phone off the hook.

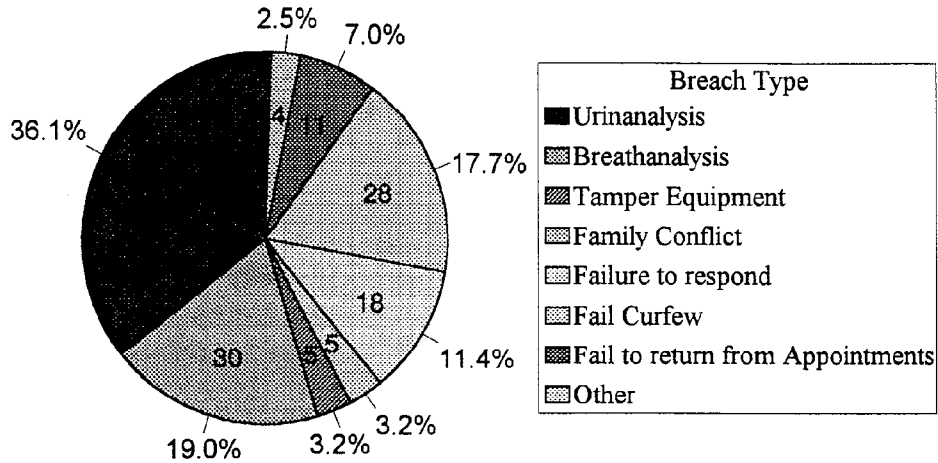
Five (3.2%) offenders were sanctioned due to family conflict. Breaches of this nature usually resulted from offenders arguing with family and leaving the premises without official permission from their supervising officer.

Of the 96 offenders issued with sanctions, 61



## NSW Home Detention Scheme

### Breach Occurrence during Home Detention study period



158 breach occurrences from 208 completed HDOs February 1997 - August 1998

Figure 10

(63.5%) progressed through to an official revocation. The remaining 35 (36.4%) offenders issued with sanctions addressed their problem behaviour and went on to successfully complete their HDOs.

Refer to **Appendix 16** for examples of case studies which deal with the process of sanctions in the HDS.

The deterrent value of the NSW Parole Board was useful during the imposition of sanctions. The threat of imprisonment through a NSW Parole Board revocation decision was instrumental in pulling up breach behaviour of a number of offenders placed on the scheme.

#### ■ Official Revocations on Home Detention

The NSW Home Detention Scheme developed a comprehensive process when recommending the official revocation of

offenders.

The primary reasons given for recommending an official revocation were:

- repeated breach of regulation
- abscond from official residence where HDO is undertaken

All recommendations for revocation were presented to the NSW Parole Board for consideration. The NSW Parole Board is an independent statutory body whose role is to oversee all decisions concerning the revocation of offenders placed on home detention.

When an offender is recommended for revocation of an HDO, the NSW Parole Board has the authority to revoke the order or impose a lesser penalty. These lesser penalties can include:

- **issue the offender with official warnings**
- **instruct the offender to increase their Community Service commitments**
- **instruct the offender to attend counselling, rehab etc.**

For specific details on the process undertaken when an offender is recommended for revocation, refer to **Appendix 17** for a flow chart depicting the complete process taken in disciplinary matters.

During the study period between February 1997 to August 1998, the NSW Parole Board rigorously enforced the HD regulation resulting in 61 offenders being revoked.

The following chart illustrates the frequency of most significant reason for revocation for male and female offenders during the study period.

The chart illustrates that 12 revoked home detainees who had been charged or convicted for new offences whilst completing an HDO. In all but one of these cases, the revocation recommendation was based on other infringements as well as the new offence. In some cases the revocation report had been submitted before the new offence was committed. It is important to note that although a total of 17 offenders were officially charged with new offences during the study period, only 12 of these 17 offenders were revoked. The remaining 5 were not revoked. In one case the new charge was dismissed. In the other cases, the circumstances varied but the alleged offences

generally occurred near the end of a term, were not serious and were contested.

**Nine** male offenders and **4** female offenders were revoked for drug use and **9** male offenders were revoked for alcohol use.

**Seven** male offenders were revoked for tampering with equipment.

**Six** male offenders and **2** female offenders were revoked for failing to complete activity plans directed by their supervising officers. These activity plans included:

- **Community Service Orders**
- **Drug/Alcohol counselling**
- **Psychological counselling**
- **Probation and Parole organised courses, such as Anger Management etc.**

**Ten** male offenders and **1** female offender were revoked for failing to either remain at home or failing to remain at the official residence designated for the duration of an HDO.

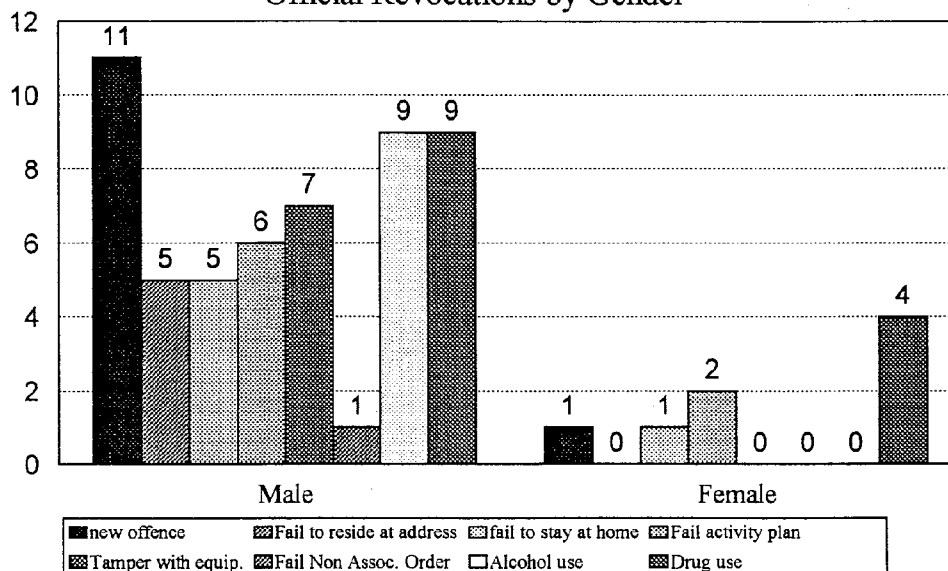
**One** offender was revoked for failing to adhere to an official non-association order instigated through the supervising HDU. This non-association order was initiated in an effort to compel the offender to stay away from an active drug user whilst completing an HDO.

#### ■ **Contesting a Revocation Order**

The HD Act allows for a provision of review

## NSW Home Detention Scheme

### Official Revocations by Gender



total of 61 offenders were revoked between Feb 1997 to Aug 1998

Figure 11

against revocation decisions made by the NSW Parole Board. All offenders who had their home detention orders revoked are able to legally contest their revocation orders at a review hearing by the NSW Parole Board.

Of the 61 offenders revoked during the study period, 44 (72.1%) indicated to the NSW Parole Board that they intended to contest their revocation. Of this group of 44 offenders, 26 (59%) carried through with their request for review and either appeared or were represented at a Parole Board meeting to argue their case. Of the 26 offenders who carried through with their request for review, 23 (88.4%) revocation orders were upheld and 3 (11.5%) revocation orders were rescinded. These 3 offenders were placed back on the HDS to complete their orders. All three completed their orders without further incident.

#### ■ Revocation Rate for offenders on home detention

Of the 366 offenders who commenced an HDO during the study period, only 208 offenders had completed HDOs at the end of the study period. An overall calculation of a monthly revocation rate for the study period will not be possible until all 366 offenders placed on home detention during the study period have either successfully or unsuccessfully completed their sentences.

In the mean-time, an interim revocation rate was calculated for the group of offenders on HDS that were expected to commence and complete their sentence within the time frame of the study period of February 1997 and August 1998.

This group consisted of 208 offenders. Their outcomes were as follows:

- **163 offenders successfully completed HDO**
- **42 offenders had their HDO revoked**
- **2 offenders were placed in gaol due to appeal decisions outcomes**
- **1 offender committed suicide whilst completing HDO**

The revocation rate for this group of 208 offenders was 20.1%.

A revocation rate by sentence length was derived by separately calculating the frequency of revocations in each sentence length group.

The following chart illustrates the number of successfully completed offenders in each sentence length category with the number of offenders who should have finished their orders but were revoked during the study period.

Sentence Length (months)	No. of offender	No. of revoc	revoc rate (%)
3m or less	63	12	19.0 %
4m-6m	111	27	24.3 %
7m-9m	16	1	6.25%
10m-12m	17	2	11.7 %
13m-18m	1	0	0.0%
<b>Total</b>	<b>208</b>	<b>42</b>	

As illustrated above, people serving between 4 and 6 months have a higher incidence of revocation than people serving any other sentence category.

The following factors may indicate some of the influences underlying the relatively high revocation rate for those offenders serving their sentences between 4-6 months:

- **drug and alcohol use**
- **history of criminal offences and convictions**

Most revoked offenders serving under 6 months had a history of petty crime and problems with drug and/or alcohol use. Most had served previous prison sentences for drug related offences.

In fact, most revokees also shared a similar history of prior penalties besides gaol. Most had penalty histories of Fines, Probation and CSO. Some revokees had previously served Periodic Detention in the past.

The age range of revoked home detainees was between 20 years and 47 years. Over 55% of all revoked detainees in the study period were aged between 18 - 30 years.

The most common offence types in the 4-6 month sentence length category were as follows:

- **driving offences**
- **alcohol related driving offences**
- **drug related property offences**

The total home detention group of 366 offenders placed on the program between February 1997 and August 1998, will continue to be monitored and a revocation rate will be eventually calculated when all these 366 offenders have completed their respective HDOs.

As a means of understanding the significance of the revocation rate of the home detention scheme during the study period, it was necessary to compare the home detention revocation rate to another community correctional option such as parole.

In May 1997, the NSW Department of Corrective Services published a report concerning revocation rates for people placed on parole throughout NSW for the period of 1990-1992.

It was found that during the study period the revocation rate for NSW Parole Board parolees was 34% and the revocation rate for the court based parolees was 23%.

On closer examination, it was found that people paroled with conditions to address drug and alcohol problems or attend counselling etc, the revocation rate increased to 38% for Parole Board parolees and 39% for court based parolees.<sup>1</sup>

These parolees were of similar profile as the offenders placed on home detention eg: past criminality and identified drug and alcohol problems.

In comparative terms, the revocation rate for the NSW Home Detention Scheme during the study period was encouraging.

The findings indicate that although the HDS is rigorous and intrusive, the revocation rate has remained reasonably low compared to

the cited parole revocation rate.

### ■ Issuing of Warrants

The NSW Parole Board has the responsibility to issue arrest warrants for offenders who have had their HDOs officially revoked.

These warrants are issued on the day the NSW Parole Board discharges a revocation order.

During the study period, the average period of time between the issue of an arrest warrant and the arrest of an individual was 2 - 4 days.

On 8 occasions, revoked offenders absconded from authority when informed that they were recommended for revocation. Of the 8 absconders, 7 (87.5%) were arrested and incarcerated within one month of being revoked and only 1 offender remained at large at the end of the study period.

### ■ Incarcerated Home Detainees

As part of the overall study, it was necessary to examine the processes developed by the NSW Department of Corrective Services in dealing with incarcerated revoked home detainees.

The Classification and Placement Unit, within the Department is responsible for identifying and clarifying the classification and/or security level of inmates within NSW Correctional Centres.

The principle underlying inmate classification lies in the promotion of secure and safe correctional facilities through the appropriate placement of inmates.

Appropriate placement of offenders is done through the verification of security and risk assessment outcomes, undertaken during the screening process of all inmates entering NSW Correctional Centres.

Classification of offenders also assists in the design of case management strategies used in the control and progression of inmates through the custodial system.

The Classification and Placement Unit in conjunction with the Home Detention Unit, will develop protocols aimed at addressing the needs of revoked home detainees who breach their HDOs and serve the balance of their sentence within prison. These protocols will include:

- maintaining a consistency in classification status for revoked home detainees
- continuity of case management strategies
- monitoring the emotional and physical well-being of revoked home detainees.

Inmates entering Correctional Centres are screened to determine immediate and subsequent needs. Reception screenings collect comprehensive information pertaining to the needs of each offender. This information is used throughout an individual's sentence to assist with all aspects of case management.

When a home detainee is revoked and incarcerated, all information pertaining to his/her orders are sent to Correctional Centres to assist in the continuity of case

management and duty of care.

As part of the study, a large number of revoked detainees were interviewed in Correctional Centres throughout NSW.

They were interviewed concerning their experiences on home detention and their experiences of imprisonment. The issues addressed in the interviews included:

- personal experience of the revocation process
- attitude towards HDU and supervising officers
- family issues
- classification and placement status since revocation and arrest
- experiences of imprisonment

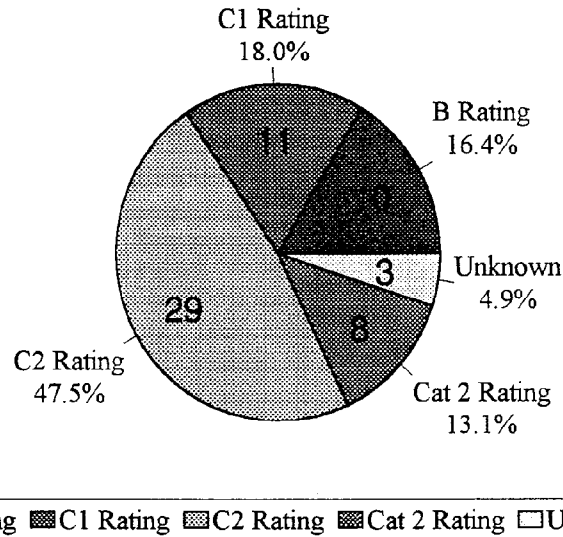
Overall, most revoked offenders were happy to discuss their experiences. The personal experiences of revoked offenders gathered through these interviews, is discussed in greater depth in the **Interview** section of this report. Information gathered on the procedural aspects of revocation are specifically dealt with in this section.

The interviews conducted in Correctional Centres consisted of two main groups:

- revoked detainees charged with new offences
- revoked detainees serving the balance of their sentence

## NSW Home Detention Scheme

### Correction Security Classification of Revoked Home Detainees



study period February 1997 to August 1998

Figure 12

#### ■ Classification Issues

During the first six months of the HDS, strategies to deal with revoked home detainees in the gaols were not clearly developed and a number of offenders interviewed stated that there was confusion over their classification status. This led to some confusion during placement recommendations. This in turn, resulted in these offenders receiving higher classifications than they had anticipated.

During the latter stages of the study period the inconsistency of past classification procedures had been addressed with most interviewed offenders stating that they had been classified within 3- 5 days of arrival in gaol. They also reported receiving appropriate classification levels ie C2 and were transferred to suitable correctional centres within two weeks of incarceration.

Classification categories are different for male and female inmates. The male classification categories range from A1, A2, E1(max) B, E2(med) and C1, C2, C3 (min). The female inmate classification categories are based on different criteria and range from Category 1 through to Category 4.

Using the NSW Department of Corrective Services, **Offender Management System** data, a statistical examination was undertaken to collate information concerning the classification and placement of revoked home detainees.

**Ten** (16.4%) revoked offenders were given B rating classifications when imprisoned, due to new charges laid against them.

When revoked offenders are remanded into custody to face new charges, their inmate status is registered on two levels. Firstly, the revoked offender is recorded as serving the

balance of their HDO and secondly, the revoked offender is recorded as a remanded inmate facing new charges. The classification given to these offenders is often based on the nature of the charge they face, rather than their status as a revoked home detainee.

**Eleven** (18%) revoked offenders were placed in C1 classification categories when incarcerated and **29** (47.5%) offender were placed in C2 classification categories when incarcerated.

All female revoked detainees were placed in minimum security Category 2 classification category when incarcerated.

Please refer to the chart above for illustration of the frequency and classification categories of revoked home detainees during the study period.

### ■ **Case Management in NSW Correctional Centres**

As discussed earlier, case management strategies are an intrinsic component of home detention. Case management strategies also form one of the cornerstones of offender management within correctional centres.

An area of interest in the study was to examine both:

- **the degree of case management continuity between home detention and prison**
- **the attitude of revoked offenders to continuing with case management strategies when placed in prison**

Most offenders interviewed were not concerned with pursuing the case management plans developed on home detention. They claimed that most of their energy was monopolised with other concerns, namely surviving their prison term unscathed.

Offenders placed on home detention convicted of drug and alcohol related offences were often directed to address their usage pattern during their sentence. Many revoked offenders stated that continuing counselling in prison was problematic and not desired by them.

All revoked detainees interviewed claimed that they were not directed by correctional authorities to continue prescribed home detention case management while completing the balance of their sentence.

A small number of offenders stated that although they attended regular A.A meetings in prison, as they had been doing on home detention, they had not pursued drug/alcohol counselling provided by the prison counsellors.

In a small number of interviews, revoked offenders who had been directed to maintain psychological counselling whilst on home detention, stated that they were not forced to continue this counselling in prison.

### ■ **Examination of Case Management Files**

In an effort to examine the extent of case management continuity for revoked detainees, an inspection of the inmate case management files for these offenders was undertaken. This inspection sought to examine the measures taken by correctional authorities to address the needs of revoked



detainees with specific needs.

The case management files of a random selection of revoked home detainees were examined. The following factors were scrutinised in each case file:

- reason given for security classification
- placement of revoked offender
- identification of special needs

On the whole, the case files reflected the following:

- demonstrated general compliance to departmental classification guidelines
- a number of classification decisions deviated from accepted classification guidelines, resulting in offenders receiving higher classifications than anticipated
- sufficient identification of special needs of offenders during reception screening
- fast response in dealing with revoked detainees presenting on reception to prison with immediate self harm potential
- long delays in most revoked detainees accessing psychological services when requested
- little or no effort to identify needs of inmates after initial reception

### screening in prison

It appeared from the examination of a number of case files of revoked detainees that a number of issues need to be addressed. These include:

- need for specific home detention classification guidelines to assist with the classification of home detainees
- more effort is required to assist revoked detainees to access specialised services within prison to deal with depression, drug and alcohol issues and family matters

### Prison Incidents

During the interviews with revoked detainees, issues of violence in prison and self harm were discussed.

A number of detainees stated that they had been assaulted by other inmates while serving the balance of their sentence in prison. These claims were later verified by examining official Departmental notifications. The reasons for these assaults were not discussed.

In 1 case the assault was of a serious nature and had resulted in the hospitalisation of the inmate involved.

On other occasions, these assaults had resulted in revoked offenders seeking protective custody.

Two inmates revoked for breaching home detention, stated that they had attempted

suicide in prison. These claims were later verified by examining appropriate Departmental notifications.

**One** inmate had attempted suicide when he had been informed by his supervising home detention officers that he was to be recommended for revocation to the NSW Parole Board.

While being interviewed, these inmates expressed the distress caused by their experiences in prison. These inmates stated they underwent extreme difficulties in adjusting to life inside prison and only the inmate who attempted suicide when told of his recommended revocation was identified as being potentially suicidal resulting in immediate professional assistance. The offender in question spent over a week in a specialised ward at Long Bay Hospital.

At the time of the report, all three offenders who attempted suicide have since gone on to complete their sentence without further incident.

Most revoked detainees stated that they had been very depressed when incarcerated. No detainees reported being referred or seeking specific counselling services in prison to address any depressive states they had experienced.

A number of inmates related how problematic it was to discuss their failure on the program with other inmates and staff. It appeared that inmates and staff lacked empathy or understanding of the exacting demands of home detention.

Most revoked offenders interviewed did not wish to draw attention to the fact that they failed home detention for fear of being ridiculed by both staff and other inmates.

Most claimed that other inmates perceived their failure on home detention as a joke and were scathing at the perceived ineptitude of these revoked home detainees.

### ■ **Offenders charged with new offences whilst on HDO**

During the study period, 17 (4.6%) of the 366 offenders placed on the HDS were charged with new offences whilst completing a HDO.

**Seven** (41.1%) of the 17 offenders were charged with driving offences. These included:

- **Drive whilst disqualified**
- **Drive without a licence**

**Six** (35.2%) of the 17 offenders were charged with property charges. These included:

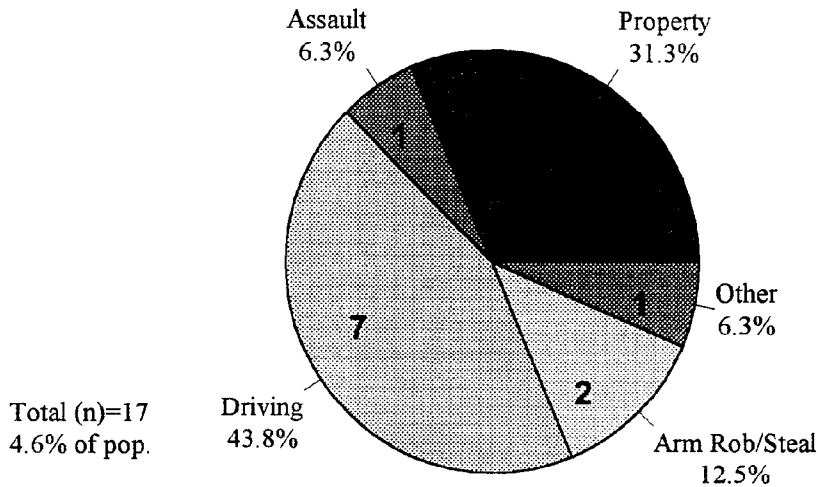
- **break, enter and steal**
- **shoplifting**
- **larceny**
- **receiving stolen property**

**Two** (11.7%) of the 17 offenders were charged with more serious offences:

- **Armed Robbery**
- **Robbery**

# NSW Home Detention Scheme

## Home Detainees Charged with new offences



Consolidated reports Feb 1997 - Aug 1998

Figure 13

One (5.8%) offender was charged with Assault, while **one** (5.8%) offender was charged with causing menace by telephone.

Of the 17 home detainees charged with new offences, whilst on HDO, 2 detainees had their charges dismissed or withdrawn.

**Four** (23.5%) offenders were still awaiting court appearances for their matters when the study period concluded.

### Electronic Monitoring

Since the early 1980's, advances in electronic monitoring systems utilised within criminal justice systems have been spurred on by the need for efficient cost effective programming, particularly in the United States of America.

Throughout the world, electronic monitoring systems are used in various areas within

criminal justice systems. These areas include:

- **bail bonds**
- **recognisance and curfew orders**
- **back-end home detention**
- **front-end home detention**
- **early release schemes**

Electronic monitoring is generally grouped into two categories:

- **passive systems**
- **active systems**

## ■ **Passive Systems**

Early innovations in electronic monitoring developed passive system equipment. Passive systems rely on offenders playing a role in ensuring correct monitoring.

For example, passive systems are dependent on bracelet attachments secured to the offender. Each bracelet attachment has its own verification unit which is attached to the offender's telephone line. Computer generated phone calls are randomly received by the offender who must then place the bracelet into the verification unit while at the same time, verifying his/her identity by answering the telephone call. If the offender fails to answer the phone call and/or fails to secure the bracelet in the verification unit, an electronic violation is recorded and supervising officers must quickly respond with immediate face to face contact.

## ■ **Active Systems**

Active systems, still rely on the use of a bracelet attachment, however, offender verification is determined through radio technology.

For example, offenders are given an approximate zone of movement, say 50 to 100 metres, to correspond with their home or work environment. The monitoring equipment emits regular radio signals. If the detainee goes out of the zone his/her departure is recorded. If the departure was not scheduled, an alarm is generated and immediately transmitted to the supervising officer via phone and pager links. The supervising officers are immediately notified of any violation and can react instantly.

## ■ **Latest Innovations in Electronic Monitoring**

The latest innovations in electronic monitoring equipment still under development, involve the concept of satellite tracking offenders under community orders.

It appears that the future of electronic monitoring will allow for a large number of offenders to be monitored, even violent offenders, due to the accuracy of satellite tracking, (Toombs 95:34).

Satellite tracking relies on micro chip implantation. This may appear fantastic at the moment, but proponents of this form of surveillance believe it can minimise the cost of electronic monitoring to such a degree that imprisonment may become obsolete in the next century. (Toombs 95:42)

There are, of course, huge ethical questions and dilemmas which arise from these futuristic theories and only time will tell if this path of futuristic technology is seriously undertaken, particularly in the United States of America where electronic monitoring is heavily relied upon to stem the ever - increasing population within their gaols and prisons.

## ■ **Electronic Monitoring and the NSW Home Detention Scheme**

The NSW Home Detention Scheme (HDS) currently utilises both passive and active systems in their surveillance of home detainees.

These systems are referred to as:

- **Telsol system - active system, utilising computer generated random telephone calls**

and

- **Elmo Tech system - passive system, utilising radio technology verification**

During the study period, the HDS trialed both passive and active verification systems.

It was decided that the most effective use of electronic monitoring was to use both systems within the scheme.

The Telsol system was the most common system utilised throughout the study period particularly in the following scenarios:

- **offenders unemployed or at home caring for children**
- **offenders with histories of problems with drug and/or alcohol use**
- **offenders deemed a low risk of leaving their residence without permission**

The Elmo Tech system was only utilised in a small number of cases, particularly in the following scenarios:

- **offenders holding down full-time work or education**
- **offenders deemed a high risk of**

**leaving their residence without permission**

## ■ **Monitoring System Preferences**

During the study period, interviews were conducted with offenders and their families concerning their experiences on home detention.

The major issues raised by offenders when questioned about their reaction to electronic monitoring were generally concerned with either the bracelet or the type of electronic system used on them.

The findings from these interviews concerning the bracelets were as follows:

- **most offenders were not concerned with having to wear the electronic bracelet and claimed that they didn't notice it after a few days**
- **most offenders stated that the bracelet did not interfere with any activities**
- **a small number of offenders complained about wearing the bracelet required for electronic monitoring. They claimed it was uncomfortable and awkward to wear**
- **a very small number of offenders claimed that the bracelet aggravated skin rashes. One offender interviewed was treated for an allergic reaction to the bracelet**
- **most offenders stated that they**

concealed the bracelet from view when in public

- a very large majority of offenders opted to have the bracelet fitted to their ankle rather than their wrist to assist with concealment
- a small number of inmates claimed not to be concerned with concealing the bracelet from public view

The findings concerning the type of electronic system elicited much more pertinent comment from offenders. The major findings are as follows:

- most offenders stated that they strongly disliked the Telsol monitoring system. Most claimed it was invasive, frustrating, and aggravating
- offenders with children were the most vocal opponents of the Telsol system
- most families of offenders stated that they disliked the Telsol system immensely and claimed it was very invasive
- a number of offenders claimed that the Telsol system was faulty and resulted in increased random phone calls. One offender claimed to receive 34 phone calls in one day before the problem was rectified.
- most offenders fitted with the Elmo Tech system claimed that

this system was more convenient, less invasive and allowed more freedom of movement

- offenders who worked during their home detention claimed the Elmo Tech system was much more conducive to work environments but vulnerable to breakage
- some offenders complained that the Elmo Tech system was more efficient in detecting violations related to leaving the home without permission

Home Detention Officers were also asked about their preferences concerning the available electronic monitoring systems.

One the whole, most officers interviewed felt that there were advantages and disadvantages with both systems. The following issues were raised by officers:

- both systems had high false alarm rates due to human error
- all officers had experienced late night false alarm call outs to offenders homes
- both systems were efficient deterrents to prevent undetected criminal activity
- both systems were efficient control devices to keep offenders from leaving their residence without permission

Overall, the NSW Home Detention Scheme has effectively used both active and passive

monitoring systems to the advantage of the scheme. This has allowed for more efficiency in the design and implementation of case management plans that fulfil the requirements of the legislation.

It is the intention of the scheme to continue to explore technical innovations to improve the overall design of the NSW Home Detention scheme.

## Cost Effectiveness of the Scheme

Among the potential benefits of Home Detention cited by the NSW Minister for Corrective Services when introducing the Home Detention Bill, was greater cost-effectiveness in the use of correctional resources.

It was anticipated that this cost-effectiveness would flow from the expected lower cost of managing detainees in the community versus managing inmates in correctional facilities.

### ■ Cost Factors

Cost factors concerning the Home Detention scheme (HDS) were influenced by the expectation that HDS was to provide an appropriate level of punishment for offenders who would otherwise be incarcerated while at the same time remaining less expensive than full-time custodial facilities to operate.

The objects of the HD Act demanded close control and monitoring of offenders within the community. This was necessarily labour intensive.

The operational parameters of HDS incorporate the following criteria:

- **home detention, like correctional centres must operate 24 hours a day, 365 days a year**
- **Home Detention Officers promote positive and crime free behaviour in home detainees. Home Detention officers therefore must perform counselling and guidance roles in addition to their responsibility for monitoring and enforcement of the home detention regulations.**
- **The HDS utilises specialised electronic monitoring systems to do the basic monitoring which has allowed the program to focus its human resources on random spot checking of compliance, response to alarms or crises and encouragement of offender development.**
- **The HDS expects officers to work as and when required rather than to a fixed schedule. This has avoided the need to roster multiple shifts.**

On this basis, the HDS has been designed to operate at a ratio of up to 10 detainees per unit of operational staff. During the study period this ratio had not been realised. During the Financial Year 1997 to 1998 the average staffing ratio was just under 5:1, but during the last two months of the review period (July - August 1998), the ratio had increased to nearly 7:1.

In contrast, New South Wales Correctional Centres operate at an overall ratio of approximately 2 inmates per operational

staff. It is noted that this ratio reflects the more stringent staffing requirements of medium and maximum security institutions as well as those of the minimum security institutions. Operational staffing of Correctional Centres also includes officers responsible for inmate escort and security of inmates at court. These functions have no direct counterpart in the HDS.

The absence of major capital assets and their associated acquisition and maintenance costs also favours Home Detention. The structure of the program also minimises the need for additional support staff.

### ■ Cost Comparison

According to the NSW Department of Corrective Services 1997-1998 Annual Report an inmate in minimum security currently costs **\$120.66** per day. This includes accrued capital costs, support costs and direct operating costs.

It was anticipated that the HDS when operating at or near capacity, would achieve an average daily cost of about **\$35** per detainee. As this was based on budget allocations which represent only direct operating costs, corporate support service costs may need to be factored in.

The staffing of the HDS and lack of capital assets creates a proportionally smaller requirement for corporate support services. It is estimated that this would add only \$ 1 per day to the cost of each detainee.

Although **\$35** per day was the projected cost of HDS it was anticipated that costs would be substantially higher during the initial stages of the scheme.

During the Financial Year of 1997-1998

HDS averaged **19** operational staff. This was considered the minimum number to provide the required coverage. Caseloads for this period averaged less than **50%** of the nominal capacity and average daily costs were **\$65**.

The use of the legislation has been increasing and during July-August 1998, the program operated at **68%** of capacity with an average daily cost of **\$48**.

If the daily cost of containing an inmate in NSW Correctional Centres is compared to the daily cost of supervising an offender on home detention, the overall cost savings of home detention are substantial.

For example, the 1997-1998 daily cost of containing an inmate in NSW Correctional Centres compared to home detention range as follows:

Security Rating of Correctional Centre	Cost per day
Maximum*	\$ 178.65
Medium*	\$ 167.84
Minimum*	\$ 120.66
Home Detention	\$ 48.00 (Jul -Aug 98)

\* Please refer to the 1997-1998 NSW Department of Corrective Services Annual Report for details.

Inmates completing sentences for offences similar to those set down in the eligibility criteria of the HD Act, are likely to serve their sentence in minimum security. Only in exceptional cases would inmates serving less than a 18 month custodial sentence be placed in either maximum or medium security correctional facilities.



If cost comparisons are drawn between the daily cost of inmate containment in minimum security facilities and home detention, there were potential cost savings of \$72.66 per inmate, per day at the end of the study period.

Overall, it is anticipated that HDS will continue to operate at approximately one-third or less of the cost of full time imprisonment.

It is envisioned that the cost of the program will continue to be closely monitored and examined in the future.

■ **Program Achievements**

In summary, the efficacy of the NSW Home Detention Scheme was of a high standard throughout the study period. The scheme has managed to competently achieve the following levels of performance:

- **maintained a high level of reliability and competence during the assessment of 510 people for inclusion in home detention during the first 18 months of operation**
- **supervised 366 offenders placed on the HDS during the first 18 months of operation with expertise and exaction**
- **maintained a rigorous standard of surveillance of offenders placed on HDS**
- **encouraged offenders to address offending behaviour through strategic case management**

- **maintained relatively low revocation rate of 20.1%**
- **professionally assisted families and friends of offenders to cope with the imposition of a home detention order**
- **demonstrated flexible work practices to accommodate the complex nature of the HDS**
- **there were potential cost savings of \$72.66 per inmate, per day at the end of the study period.**

1. For further details on the parole revocation and recidivism numbers during 1990 to 1992, please refer to Parole Conditions, Revocation and Recidivism: Indicator Study - Barbara Thompson, Research and Statistics Unit, NSW Department of Corrective Services, May 1997.

# Interviews

## with home detainees and their families

### Home Detention : A Prison in the Community

Over the years there has been a plethora of legal, social and empirical research undertaken concerning the penal and legal implications of alternative sentencing.

Most of these research studies have focused on either the technological efficacy of electronic monitoring or concentrated on court driven research examining the impact of alternative sentencing policy on prison populations and any potential cost benefits.

Research on the impact of home detention on affected families and the larger community is an under represented area within the fields of criminology and/or sociology.

Very few researchers have focused on examining precisely what happens to families when a family member is placed on home detention.

The extensive literature search conducted as part of the study highlighted that only a handful of studies conducted over the past twenty years focused on the effects of alternative sentencing on families.

One of Australia's leading theorists on the impact of home detention, Ann Aungles argues that there is a very good reason for the scarcity of research in this field. She believes that the families of offenders placed on home detention fall between the societal

spheres of domesticity and law and order. Aungles believes these people don't quite fit in either jurisdiction and are therefore marginalised or at worst, invisible as a group within the larger community. Aungles (1995:5).

The consequences of this invisibility result in little or no public discussion regarding the burden placed on family members to provide support, care and control during a sentence of home detention. In Aungles (1995:34) own words:

**“What is missing from penal discourses is detailed understanding of stresses imposed on the other carer/controller living inside the home, who typically is the wife or mother of the prisoner and whose services are drawn on unpaid.”**

Aungles argues that the lack of cooperative interaction between families and law and order agencies, results in a number of misconstrued assumptions concerning the responsibilities of offenders' families during home detention.

Aungles further argues that it is taken for granted by authorities that offenders placed on community based sentences will be cared for by their respective families even to the point of acting as warders, often directly replacing roles traditionally undertaken by institutional staff.

Aungles (1995:37) also argues that the responsibilities placed on families under community based schemes can often lead to conflict within the home. The acknowledgement of this conflict rarely comes to light for two reasons. Firstly, the families of offenders are often marginalised from the larger community and secondly, offenders and their families do not tend to

draw attention to this conflict for fear that either the offender or the program may be taken away.<sup>1</sup>

Aungles believes that the success of alternative sentences like home detention is embedded in the expansion of domestic life. In other words, home detention paves the way for an increasing reliance by the criminal justice agencies on private households acting as surrogate prisons. These new surrogate prisons are dependent on the unpaid emotional labour that surround every family for their existence and anticipated expansion. Without tapping into the emotional labour invested by families in each other, community sentencing would fail. The success of community sentences is conditional on the support level offered by families of offenders subjected to this form of sentencing.

A recent review of electronic monitoring by the British Home Office (1996) made some effort to report the attitudes of offenders and their families in relation to the imposition of curfew orders and electronic monitoring.

It was noted that family members reported some positive experiences with electronic monitoring. For example:

**“ Family members were almost always supportive and in some cases they felt that the sentence was useful as their partner/son was at home and keeping out of trouble.”**

Mair and Mortimer (1996:23)

Unfortunately, this study did not go into any great depth concerning the full range of

responses of the affected offenders and therefore no definitive conclusions can be drawn.

This recent British study also surprisingly claimed that it was difficult to both locate and interview families of offenders placed under curfew. Of a total of 83 curfew orders made during the study period, only 13 offenders and their families were located and agreed to be interviewed.

One research study into conflict within families under community based programs was conducted by Quinn and Holman (1991) in Texas, United States of America. This study sought to measure the extent of intra-familial conflict among offenders placed on community supervision. The primary research method utilised empirical data analysis and psychometric testing. The findings indicate that the propensity towards violence for those under supervision is in direct relationship with the number of people living in the household where the Order takes place.

**“ data suggests a need for correctional supervision to be sensitive to the greater likelihood of more intrafamilial conflict within larger households.”**

Quinn and Holman (1991:24)

In 1987, the then Victorian Office of Corrections released a discussion paper on the advantages and disadvantages of using home detention schemes. The author, Malcolm Feiner argued that unless families freely consent to involvement without coercion by the offender, there is a real danger that families could become victimised by the offender.

Feiner (1987:3) also argued that co-habitants

could experience difficulties if they refuse permission:

**“ Co-habitants who... object to a home detention order may experience subsequent vengeance from the offender.”**

There was extensive debate within both houses of the NSW Parliament when the Home Detention Bill was presented.

There was considerable concern that families of offenders placed on home detention would be adversely affected.

The legislative review of HDS conducted by the NSW Department of Correctives Services, Research and Statistics Unit was interested in researching the affects of the HD Act on families directly affected by the imposition of home detention sentences.

For example, the Hon. Ian Cohen, when discussing the Home Detention Bill in the Second Reading on October 15 1996, raised these important issues:

**“ There is concern regarding the impact of the legislation on families. The Government plans to review the legislation, and one of the impacts that must be monitored closely is it’s potential to generate conflict within families. There is a very real chance that the partners of detainees, mainly women, will carry a great burden from the scheme while dealing with a frustrated and restricted partner in the home.”**

(Uncorrected *Hansard* proof, p 24)

During this debate, The Hon. Ann Symonds also expressed her concerns:

**“ I am worried about the extent to**

**which the family will be incorporated into the system of punishment.”**

(Uncorrected *Hansard* proof, 15/10/96, p8)

Symonds also argues that home detention has the potential to alleviate suffering caused to children by separation from their parents when serving a full-time custodial sentence.

**“ Home detention is particularly significant in decreasing the likely trauma, pain and unnecessary suffering of children who are involved with offending families.”**

(Uncorrected *Hansard* proof,15/10/98, p8)

During parliamentary debate in the Legislative Assembly on 18 September 1996, concerning home detention, Mrs Chikarovski, MP for Lane Cove, argued that little research had been conducted on the effects of home detention on families of offenders placed on home detention. Mrs Chikarovski also commented that it was possible that home detention could easily become a trigger for family conflict:

**“ I have been told that people entering the system (home detention) do not necessarily cope well with the pressure cooker environment of being unable to drink and to relax with the family as previously...The pressure could result in their taking out their frustrations on those around them.”**

(Uncorrected *Hansard* proof,p17)

The debate raised valid concerns on the importance of instigating research into the effects of home detention on offenders and their families. It was essential that a major component of the research study centred on

the experiences of families and friends of home detainees as they manoeuvred through the rigorous components of the HDS program.

The NSW Home Detention Scheme (HDS) recognised the importance of the role of families within the overall efficacy of the scheme. The needs of families and friends of offenders placed on home detention were identified as an integral part of the general program design and were incorporated into most aspects of the case management of offenders on the program.

Over the course of the review 75 offenders were approached to participate in the home detention interviews. 65 offenders agreed to participate and 10 offenders declined to participate. The group of 65 offenders interviewed, consisted of 40 offenders whose orders were revoked and 25 offenders who had less than a month to serve of their home detention sentence. Women offenders constituted 25% of all interviews conducted with offenders

When possible, families and friends of the 65 offenders participating in the interviews were approached to participate in the interview schedule. Forty five family members and/or friends of offenders placed on HDO were approached to participate in the home detention interviews. 35 individuals agreed to participate and 10 individuals declined to be interviewed. Women constituted 80% of all interviews conducted in this group.

All participants in the interview schedule were asked to complete a study consent form which stipulated the conditions of the interviews. Refer to **Appendix 18** for details of the Home Detention Research Study Consent Form.

## ■ Interviews conducted with Home Detainees, their Families and Friends

Throughout the research study, an extensive interview schedule was undertaken. Please refer to **Appendix 19** for details of the Interview Schedule. These interviews form pivotal reference points within the program evaluation of the Home Detention Scheme. This has enabled a more comprehensive and far-reaching analysis of the determining factors effecting the successful/non successful completion of home detention than has previously been conducted.

All interviewees were asked to detail their experiences of home detention, both agreeable and adverse. They were also asked their opinion concerning the effectiveness of the scheme in relation to their own criminal behaviour. Overall, the following **keypoints** emerged from the interviews:

- many people reported an increase in the range and diversity of family coping skills used in adapting to home detention
- overall, home detention facilitated greater communication between family members
- most offenders acknowledged self discipline and motivation as key elements in successfully completing home detention
- a number of families perceived an increase in low grade conflict within their homes during the completion of home detention
- some families reported a disruption to regular sleep

patterns caused by frequent monitoring calls

- most families reported an overall decrease in drug and/or alcohol consumption in households
- many families reported an increased awareness of the impact of drug and/or alcohol use within the family environment
- a number of families reported an increase in stress and tension levels during home detention due to the restrictions imposed by the home detention regulation
- some families reported a perceived change to their familial and personal privacy while completing home detention
- some families reported difficulties with adapting family activities to minimise the effect of home detention on children
- some families reported an increase in the emotional stability of children whilst a parent completed home detention
- many families reported a stabilisation and/or increase in the household income during the completion of home detention
- Some families reported a reliance and in some cases, a dependency on the supervising Officer assigned to them
- Many families reported an increased awareness by the

offender of the impact their criminal activity had on the general well being and future of their family.

The following section focuses on the most common issues raised throughout the interviews:

#### ■ Relationships and Communication within Families

The overwhelming majority of offenders interviewed during the study felt that a Home Detention Order (HDO) fundamentally influenced them in either maintaining or developing closer relationships with their families.

Many offenders reported that in the past, prior to HDO, it was common to experience an emotional distancing from their family when they were required to complete a full time custodial sentence. This emotional distancing occurred despite the fact that it was acknowledged there were adequate facilities within NSW Correctional Centres to promote and foster family contact.

The heart of the issue lies in the fact that the NSW Home Detention Scheme (HDS) has the potential to improve, maintain or develop healthy family communication.

Many interviewees stated that healthy communication is an integral component in assisting both the offender's attitude to his/her past offending behaviour and the family's level of acceptance of past offending behaviour.

For example, one offender interviewed discussed the fact that in his past full-time gaol sentences, his energy and time was

monopolised in finding ways of surviving day to day. This need for an heightened survival attitude left little time for emotional reflection particularly relating to his offending behaviour or the affect his offending behaviour may have had on his family. He explained that although he had weekly visits from his wife and children, he did not wish to discuss his experiences in gaol with them for fear of frightening them. Conversely, he also felt that his family did not wish to discuss their feelings about his separation from them so as to not stress or worry him. He then explained that while completing home detention things were vastly different.

He expounded on how home detention allowed him the opportunity to really see the effect his offending behaviour had on his family, particularly his children.

He related that his son told him that he felt a great deal of relief that he no longer needed to lie about the whereabouts of his father to his school friends and that he no longer worried every night that his father might die in prison like he had seen on television.

The offender stated that this had a profound affect on him. He had never taken the opportunity in the past to discuss these issues with his son and was unaware of the stress levels the children were experiencing due to the consequences of his criminal activities. He described this personal revelation as a catalyst to the reassessment of his life priorities and gave him the impetus to try a new direction in life.

This offender has since gone on to complete his Order without incident.

Another offender when describing the perceived differences between full-time

prison and home detention (HD) focused on the opportunities afforded by home detention to make life choices which did not involve future criminal activities:

*" Home Detention has given me the chance to see my mistakes and right them... Also it has given me the chance to make the right choices in life and start fresh for myself and my kids".*

#### **Single Father on HD**

This offender has since gone on to complete his Order without incident.

During one interview, an offender focused on the positive aspects of completing home detention:

*" The most positive part of home detention is realising what I had been missing out on with the family"*

#### **Male on HD**

This offender has since gone on to complete his Order without incident.

Throughout the interviews it became apparent that most offenders and their families relied on a strong network of social and/or professional support throughout the duration of a home detention order. One detainee commented:

*" I know that without the support of my family and best friend, I would have been out that door... I remember one time screaming down the phone to my mum to come and help me deal with the kids. I was going crazy, no drugs,*



*no drink, no time out, the kids were mucking up... Anyway, Mum came over and sorted everyone out, including me. Mum said she didn't mind. She said she was glad to help, because in the past when I was using drugs, I would never ask for help and things would always get a lot worse, I would end up in trouble"*

#### **Single Mother on HD**

Despite two minor breaches of home detention regulation this offender successfully completed her Order.

A number of detainees and their families discussed the influence of home detention in facilitating communication within the family.

It is important to note that most families reported that one of the most frustrating things about home detention was the fact that the same issues that trigger healthy family communication can also trigger conflict. For example, one detainee commented:

*" The best thing about home detention is being with the kids all the time, the worst thing about home detention is being with the kids all the time"*

#### **Single Mother on HD**

Another detainee commented on the difficulty of maintaining a healthy relationship:

*"I'm so grateful not to be in gaol, but to tell the truth, sometimes the walls just close in and the last thing you want to do is sit down and have*

*a cup of tea with the missus. That's when I think I'll go mad if I don't get out of this house... I then feel really guilty and think about all she has done for me"*

#### **Male on HD**

This frustration can also be felt by the partners of individuals completing home detention. One woman interviewed discussed the changes she had made under the imposition of her husband's Order:

*"I was really pleased when my husband was accepted on the Program. He went to gaol last time and I was really lonely. I thought that under home detention we could spend time together, but I soon realised that there was no way we could go down the club or to the races and even our friends didn't like to come over... no drink in the house. It was a tough six months, I tell you, but I would do it again if I had to... I can play a mean game of Scrabble now!"*

#### *Wife of Offender on HD*

One woman interviewed discussed the extra burden placed on her regarding the upkeep of the family without the full assistance of her husband who was completing home detention. Although her husband had served a periodic detention sentence in the past, she had no idea of the extra effort she needed to make to keep the family on an even keel nor the blow to her own self esteem. She explained:

*" I was pushed to the limit during my husband's sentence. I had to hold down a job, do all the shopping, take the kids to*

*school, take them to sport on Saturday, and so on. On top of all this, we decided not to tell any of our friends about the Order, so consequently I had every Tom, Dick and Harry telling me I was a 'doormat' and I should get my husband off his bum to do his fair share... If he ever gets done again, I'll tell everyone the truth and he can deal with the fallout, not me"*

#### *Wife of Offender on HD*

During one interview, an offender had a friend visiting. This friend agreed to describe the impact home detention had on her relationship with her friend. She explained that she had experienced the offender's increased reliance on the support offered by their friendship, both emotionally and practically. Both the offender and her friend were single mothers with young children. The friend explained that she felt the offender's mood swings had become more noticeable during home detention, partly due to frustration, partly due to the effects of a drug free environment. These mood swings had led to minor disagreements, but overall she found her friend more together emotionally. She described one of her experiences:

*" I came over to see if Sarah\* was O.K. I found her sitting on the lounge, still in her pyjamas, crying. She said she couldn't stand it anymore, she just wanted to leave everything and disappear. She shouted at me to leave. I didn't panic. I told her to wake up to herself and go take a shower. I then rang her [HD] Officer and asked if Sarah could do her weekly shopping now. He said O.K., 2 hours only and remember to page him when we got back... This sort*

*of thing only happened now and again. I reckon the [HD] Officer knew how important this was to Sarah, you know, like preventing some kind of crisis".*

#### **Friend of Offender on HDO**

\* To safeguard personal confidentiality, all names have been changed.

Sarah's friend also explained that due to the offenders decreased use of illicit drugs and her enrolment in a local methadone program, she herself had stopped her own illicit drug use and enrolled in the same methadone program. She commented:

*" When my mate got on the 'done (methadone), and she liked it, I thought I might give it a go... Well that was two months ago, I feel more normal than I have felt in a long time"*

#### **Friend of HD offender**

Most people interviewed agreed that the *key* improvements in communication and relationships included:

- **less disruption to children's lives than if carer was sent to prison**
- **overall increase in family activities**
- **overall decrease in drug and alcohol use within the household**
- **increase in home based family activities**

## ■ Parental Responsibility

One of the most important issues for a large number of offenders on home detention was the significant changes they experienced in their roles as parents. Most home detainees found that crucial changes were needed within general family life to successfully complete home detention. This was particularly so for single parents.

The everyday responsibilities of being a parent were fundamentally affected during home detention. Many families take for granted the mechanisms used to organise and take care of children. Under home detention many offenders had to utilise more assistance and support from friends, family and community agencies to successfully complete a sentence.

It became apparent that single parents on home detention were more reliant on support networks, than two parent families. This is not of course, a new phenomenon. The fact that these single parent offenders choose to cultivate support networks is seen, by them, as a positive step in successfully living within the community. For example, one offender commented:

*“ You know what gaol is like, each man for themselves. You spend your time finding ways to survive, to minimise the damage and you spend your nights crying and missing your kids. Out here on home detention, you know where your kids are, you know they are O.K. and you learn to understand that people will help if you ask them”*

Single Mother On HD

There are some unique problems associated with parental responsibilities whilst completing an Order.

Supervising officers ensure adequate provisions is made within an individual's case management to assist parenting needs. These conditions include escorts to and from school, shopping trips and emergency provisions in case of accidents.

While offenders viewed these provisions as essential, other unforeseen problems arose when dealing with everyday life with their children.

These included:

- **maintaining and/or developing effective parental control**
- **planning for household needs**
- **organising activities for the children in the home**
- **dealing with a child's need of entertainment and stimulation**
- **dealing with school organised activities**
- **maintaining optimum health status of children**
- **dealing with the impact of HDS on the lifestyle of a child.**

One offender explained just how difficult it is to maintain parental control:

*“ I have three kids, 7,5 and 2 years. The younger ones are easy to*

*manage, but the 7 year old is a handful. She knows I can't leave the house, so when we have a fight, she just runs off down the road, knowing I can't chase her. Luckily we live in a cul-de-sac and she knows all the neighbours. I do the ring around and then someone always brings her home. If she ever ran off past the cul-de-sac, I would have to risk being breached and run after her. There's really no choice is there?"*

**Mother on HD**

A further comment illustrates the potential difficulties of maintaining a perceived normal family life:

*"I don't own a fridge or a car, so they [HD Officers] allowed me to go out to the local shops for the daily things. I had 45 minutes, to drop the little one at pre-school, the bigger ones at school do the daily shop and get home. They phoned before I left and when I got home. It put my nerves on edge running against the clock every day... too bad if one of the kids left their homework at home"*

**Single Mother on HD**

By far the biggest area of concern for parents of young children completing home detention was the impact of computer generated random phone calls as part of the surveillance regime.

Interviewees reported that computer generated random phone calls had a great impact on the health and well-being on a number of their children.

As these surveillance calls were computer generated, so there was no way offenders could know when the calls would take place. A large number of families under this form of phone call surveillance complained that the phone calls generated after 9pm generally disturbed smaller children asleep in the house. One offender commented:

*"The worst thing about Home Detention is when the phone rings at night. We have it by the bed but the kids are light sleepers and they nearly always wake up. I then have to spend forever to get them back to sleep and whammo, the bloody phone rings again!"*

**Mother on HD**

Another offender explained:

*"The kids got pretty bad there for awhile. They would wake up in the morning in a bad mood, complain about every little thing.. "I don't like Coco Pops.. I don't like toast" you know what I mean... They were always running late for school. Anyway, after a month or so the phone calls backed off a little at night and the kids starting getting a good night sleep for a change and things got a lot better"*

**Father on HD**

One father described how hard it was for him to cope with parenting due to his own the lack of sleep brought about by the random phone surveillance:

*"The Program is fine, it's just being phoned up 2 or 3 times in the early hours of the morning really upset me. The children were the*

*ones who really suffered because of my mood swings. It's really hard looking after two children when your sleep pattern is thrown into chaos. A person just can't cope when they haven't had the right sleep. For a single person I'd agree with phone calls, no matter how many, but when there's children involved it's different."*

#### Single Father on HD

##### ■ Family Privacy

One aspect of home detention which was investigated was its potential impact on family privacy.

As part of the interview schedule with family members only, participants were asked their opinions concerning any perceived changes to the privacy of their family and if they felt their rights to privacy had been compromised during the imposition of home detention.

The responses to this question were generally divided into two groups. The first group felt that their privacy had been invaded and the second group did not feel that their privacy had been compromised much at all.

The distinguishing factor which seemed to determine family responses to this issue was the division of families into those who were very familiar with the criminal justice system and those families that were not overly familiar with the criminal justice system.

For example, the vast majority of families that had perceived a compromise of their privacy rights had in the past predominately peripheral experience with the criminal justice system.

Most of the families that did not feel their privacy had been compromised had extensive histories of crime and justice agency intervention.

As one offender explained:

*" I've been on both parole and probation. I'm used to people checking up on me, so's the wife. It was no big deal having the [HD] officers come over... the phone calls gave me the shits though"*

#### Male on HD

On the other hand, a wife of an offender placed on home detention who had little experience with criminal justice agencies felt that her house wasn't hers for the duration of the HDO. She felt that she had to be on her best behaviour and keep the house immaculately clean just in case an officer stopped by. She pointed out the fact that officers can enter any part of the house if they chose and this alarmed her although she had not experienced any such demands by officers.

She explained:

*" It's my house as much as his (offender on HDO). Sometimes it really annoys me that these officers call in at all hours without notice...Don't get me wrong, they're a nice bunch, but it can get a bit embarrassing"*

#### Wife of offender on HD

##### ■ Family Conflict

It was anticipated that there were a number of aspects involved in completing home

detention which may have had the potential to increase stress and conflict within families.

The most commonly identified conflict triggers by families were as follows:

- **computer generated monitoring phone calls after 9pm**
- **curtailment of family activities outside the home**
- **remaining drug and alcohol free**
- **boredom and restlessness**
- **compliance with the rigorous home detention regulations**

For example, one offender explained that his role within the family seemed to change while he was on home detention. This change in role upset him and contributed to the increased tension within his family.

He described a typical scenario at his home towards the end his HDO:

*“ It got to the stage that no-one else in the house would answer the phone and when the phone would ring everyone would just look at me, like it was my only job and I would be forever running back to the phone”*

#### Male on HD

This offender’s experience is not uncommon and quite a number of offenders commented on how home detention had shifted the usual roles within the family dynamic. A number of interviewees spoke about a change in

perceived expectations and responsibilities in their role within the family unit. This was linked up with adapting to life under home detention.

A most interesting phenomena to emerge in interviews was the perception of space within families. The meaning of this ‘space’ pertains to the creation of roles within families. This is most easily explained when a family is accustomed to periodic absences of one member of that family due to imprisonment and therefore develop ‘spaces’ to accommodate these absences. For example, grandparents may step in to primary carer roles, women may take over as primary income providers, elder children may act as carers for younger siblings. This was sometimes referred to by interviewees as ‘survival tactics’. When circumstances changed by the imposition of home detention the accepted roles in times of family crisis can fundamentally shift.

When the pre-existing ‘survival tactics’ are no longer required under home detention it appears that families undergo substantial changes to adapt to a changed set of ‘survival tactics’.

It appears that some families are more successful than others at this transitional change.

An interviewee whose husband was placed on home detention explained how this transition affected her family:

*“ It was really weird when Steve\* was placed on home detention. It took awhile for everyone to get used to Steve being home and not in gaol like usual....we were always bumping into each other, getting in each other’s way “whose turn is it*

*to cook? ... have you got the money for the phone bill?... did you ring the kids?... you know that sort of stuff. It took about a month then everything sort of settled down”*

#### **Wife of Offender on HDO**

\* To safeguard personal confidentiality, all names have been changed.

An example of conflict that can potentially arise during home detention is related to parenting roles. It appeared that a number of offenders experienced some conflict between themselves and their children particularly surrounding the restrictions on family activities. It appeared that although children over seven or eight years seemed to grasp the concept of home detention, most did not fully appreciate how rigorous the restrictions on their parents movements were. For example,:

*“ It’s really hard to explain to your kids that you can’t take them down to the local pool even in this weather, because of home detention. They get upset and don’t understand. My man then has to go with them and I end up sulking at home until they get back.”*

#### **Mother on HD**

Another aspect of conflict broached in interviews was that of domestic violence.

Of the 366 offenders placed on home detention, 4 incidents of domestic violence were reported during the study period of February 1997 and August 1998. Three of the 4 offenders involved in these incidences were men. All offenders involved in these incidents were approached and 3 offenders agreed to be interviewed.

Although domestic violence is a sensitive and traumatic area within the dynamics of a family, the study acknowledged the importance of investigating this area to establish the impact home detention may have had on aggravating the possible triggers of domestic conflict.

Of the 3 offenders interviewed, 2 acknowledged themselves to be the victims of domestic violence while the remaining female offender acknowledged herself to be the violent protagonist in a family conflict.

All 3 offenders interviewed claimed that home detention played a minor role in the conflict and claimed that other factors were more important.

These factors included:

- unresolved personal issues
- dispute over financial issues
- drug and/or alcohol use

As one offender stated:

*“ Look, it was between me and my partner. It’s no-body’s business, we should have been left to sort ourselves out, without everyone interfering... I gave as good as I got and that was the end of it... Home Detention didn’t see it like that and I was forced to move in with my mum”*

#### **Woman on HD**

The study into home detention is not the forum to examine the complexities

surrounding domestic violence but it is vital to note that although the current HD Act filters out offenders with histories of domestic violence, there are no guarantees that home detention is not aggravating domestic violence triggers in a small number of families. Further monitoring is called for to enable a clearer picture to emerge.

#### ■ **Surviving a Home Detention Order**

Offenders and their families were asked to nominate, in their opinion, the necessary essentials to successfully complete home detention. The most common responses were:

- family and social support
- motivation and self discipline
- remaining drug and alcohol free
- working or seeking employment
- good relationship with the supervising Home Detention Unit
- attending CSO, Courses, Counselling etc
- family's ability to adapt to rigorous nature of home detention
- healthy family communication.

A large number of offenders interviewed for this study claimed that completing home detention was a very difficult task.

As many of the interviewees had previous experiences with either full time custody or

periodic custody, many drew comparisons between home detention and prison.

A number of detainees explained that the skills required to complete a gaol sentence, are fundamentally different to the skills required to complete home detention.

The major differences lay in an individual's ability to cope with the diverse requirements and expectations of home detention compared with the restricted life within prison.

As one detainee explained:

*“Being on home detention gave me time to think about my future and future plans. People may think you get those opportunities in prison but you don't. Prison is about survival, end of story”*

#### **Male on HD**

In a number of cases, detainees survived an HDO by developing an over reliance on their supervising officers, rather than developing self reliance skills.

For example, a small number of interviewees stated that during their home detention, they felt they relied heavily on support from their supervising officer. These interviewees were either elderly, living alone or had little experience with the criminal justice system.

Some of these interviewees expressed concern that they did not feel that could cope with the demands of everyday life without the professional support available to them through the home detention officers.

During an interview with a home detainee serving a sentence of more than 12 months,



the detainee explained that she felt in some ways home detention defined her whole existence. All her activities were focused on fulfilling the stipulations of the program and that nothing was done in her household that did not involve home detention in some way.

She explained that she was very reliant on the support offered by her supervising officers and looked forward to their regular visits and phone calls. She expressed her concern that she will be very lonely when her HDO comes to an end.

When asked why she felt so reliant on the supervising officers, she explained that prior to her sentence she had led a very active role within the community which was curtailed due to the home detention regulation, leaving a large gap in her social interaction. She also did not want people to know about her sentence and therefore declined most social contact during her sentence. This meant that her usual avenues of social interaction were no longer available and she began to rely more and more on the regular contact with her supervising officers.

She did not perceive this situation to be problematic until her sentence was nearing completion and she suddenly felt very aware of the dependency she had built up over the months of her sentence. She explained that she discussed her concerns with her supervising officers and case management strategies were designed to minimise the dependency. These included scaled down contact, exit counselling, future planning discussions etc.

#### ■ Drug and Alcohol Issues

One the most important issues identified by individuals completing home detention was drug and/or alcohol use.

During the assessment phase, every offender and their family/friends are fully informed that no alcohol or illicit drugs can be consumed during an HDO. As stated in an earlier section of the report, **68.3%** of offenders placed on an HDO have acknowledged problems with drug or alcohol use. This regulation proved very difficult to adhere to for a majority of detainees.

As one offender explained:

*“ I’ve been hanging out for a drink... It’s a hard lesson learning to cope with things without at least a ‘joint’\*. There’s been many a night where I’ve been so tempted, but I don’t think it’s really worth it in the end.. I did get caught once, on a urine test, I got chewed out by my Officer, I got a warning letter... that put the wind up me and it’s never happened again.”*

**Man on HD**

\* 'joint' refers to a cannabis cigarette

The heart of this issue lies in the fact that in many communities the accessibility to illicit drugs is generally high, apart from the fact that alcohol is a legal drug and freely available.

This is in direct contrast to inmates within NSW correctional centres. It was acknowledged by inmates interviewed for the study that although a limited supply of illicit drugs are available within correctional centres, the financial and social price is often too prohibitive and potentially dangerous for many inmates to manage without encountering untold risk. As one offender stated:

*“ Only a bloody idiot would get mixed up with the mob that runs*

*drugs in here (prison)... It's a mug's game... Before you know it, they're taken your 'buy up', your 'runners', and you still 'owe' them" \**

### HDO Revoked Detainee

\* this quote includes certain words pertaining to prison jargon. For example, 'buy up' refers to the weekly provisions inmates can order using their own expenses to supplement the provisions provided by the Department. 'Runners' refers to sports shoes owned by the inmates and not the government issue shoes provided by the Department. To 'owe' a drug debt in prison is a notoriously risky business which can result in serious physical injury to the person perceived to be owing the drug debt.

Although, the Department acknowledges and expends substantial financial and manpower costs, in excess of \$3.7 million<sup>1</sup>, battling drug use within prisons, no one could argue that inmates are exposed to the same level of drug and alcohol availability, as are home detainees who have to combat the daily barrage of an ever increasing range of drugs and alcohol available in the general community without giving in to drug/alcohol consumption.

An interesting fact to emerge from the conducted interviews was the fact that some offenders who breached their HDO due to drug use, found that being in prison was a good 'drying out' facility. Prison is not everyone's ideal rehabilitation facility, but it seemed an all too familiar choice for some revoked detainees. For example, one offender explained:

*"I wimped out... I couldn't take the pressure of Home Detention and stay off heroin at the same time. It's my own fault... I deliberately busted\* so I would go to gaol. I*

*needed time out"*

### HDO Revoked Detainee

\* used heroin

Interviews with offenders with acknowledged alcohol problems tended to illicit different responses than those of illicit drug users.

During a number of interviews with offenders convicted of alcohol related offences, they demonstrated some difficulties in acknowledging and/or accepting the culpability of their offending behaviour which led to a sentence of home detention.

For example, a number of offenders who were placed on home detention as a direct consequence of their crimes related to alcohol consumption, argued that they should be allowed to consume alcohol up to .05% while completing a sentence on home detention. There seemed little understanding that their alcohol consumption had led to criminal behaviour and the seriousness of the penalties incurred. Most expressed the view that they were unlucky to get caught by authorities and firmly believed they were not a threat to the health and safety of the larger community.

As the official regulation forbids any consumption of alcohol or illicit drugs during the completion of home an HDO, there were a number of issues particularly relevant for individuals and households where a pre-existing drug/alcohol problem had been identified. These were as follows:

- Pressure placed on family to refrain from using drugs/alcohol leading to an overall decrease in

**consumption.**

- **Need for individuals to develop coping skills away from alcohol and drugs.**
- **General decrease in overall socialising while on home detention**
- **Offenders experiencing social pressure to consume alcohol and/or illicit drugs while on home detention**
- **Increase in low grade familial conflict**
- **Increase in good healthy communication between family members.**

In order to assist in developing the skills required to adhere to the strict non drugs/alcohol regulations, many detainees participated in drug and alcohol counselling programs organised through the NSW Probation and Parole Service.

For example, of the 166 offenders who successfully completed a home detention order during the study period, 56 (33.7%) attended specified Probation and Parole Service courses at designated Attendance Centres.

Overall, of the 366 offenders placed on home detention, 150 (40.9%) offenders were directed to attend some form of drug and/or alcohol counselling during their home detention sentence.

## ■ **Family Income during home detention**

The study examined the effect of home detention on family incomes in households participating in home detention.

Overall, most families interviewed believed that during the completion of a home detention order, their respective household incomes had either stabilised or increased.

Families were asked whether they thought their general spending patterns had changed. Most families believed that there were marked differences in their spending. The most perceived changes were:

- **decreased expenditure on drugs and alcohol**
- **decreased expenditure on social activities outside the home**
- **decreased expenditure on take-away foods, etc**
- **decreased expenditure on overall travel expenses, excluding travel to work**
- **decreased expenditure on personal items such as clothing, shoes etc**
- **increased expenditure on alleviating credit debts, etc**
- **increased expenditure on groceries**
- **increased expenditure on home entertainment, including videos, Phone Tab etc**
- **increased expenditure on home**

furnishing etc

- increased expenditure on telephone bills.

Families were asked to speculate on the reasons for the changes to their spending patterns during a home detention order. Most families agreed that the primary motivator in influencing spending patterns were home detention regulation.

Drug and alcohol consumption was predominately nominated as principal consumer goods dramatically curtailed by home detention, thereby affecting spending patterns. Most families stated that overall drug and alcohol consumption decreased within the household if one member was under sentence. Most agreed that the effects of this decreased expenditure was evident within a very short time.

Spending patterns in relation to personal items were also directly affected. Many detainees interviewed did not feel they were given enough time to shop for personal items and many stated that throughout the duration of their sentence they had not purchased any new personal items for themselves or their children. Although, in general, this was not perceived by the detainees as a great problem, it did concern some single parent detainees with young children.

During one particular interview, a detainee serving more than 12 months, stated that she was looking forward to getting a haircut when she had completed her sentence. It had not occurred to her to approach her supervising officer to request the time to arrange a haircut.

*“ The regulations don’t say*

*anything about me being allowed time out to get a haircut, so I never asked.”*

### Woman on HDO

Families were also asked to estimate the extent they felt their household income had stabilised and/or increased during home detention.

Most families stated that their household income had indeed stabilised and in most cases increased during home detention. This was primarily caused by the decreased expenditure on drugs and /or alcohol.

A number of families explained that there were perceived differences in household income when comparing home detention with imprisonment. In the past, when a member of the family was sent to prison, their financial contributions were usually withdrawn, which in some cases caused great financial hardship and often precipitated rental debt or in some cases, eviction from their homes.

The significant difference with home detention was the fact that in most cases, the financial contribution of the detainee was not usually withdrawn. For example, unemployed detainees are entitled to financial assistance from the Commonwealth to seek employment. Detainees with employment at the time of sentencing were likely to keep their positions while they served out their sentence.

Of the **208** offenders who completed a home detention sentence during the study period, **14** previously unemployed offenders gained either full-time or part-time positions and **10** previously unemployed offenders gained casual work. **One** offender who previously

had full-time employment lost their position due to the strict regulation of home detention.

Most detainees who were working during their home detention sentence stated that they usually sought overtime at their workplace to fill in time. This usually resulted in a boost to their income and was advantageous to the family unit.

Other detainees stated that during their home detention sentence that they spent many hours working on either home or car maintenance projects. The costs of these projects varied but overall, the expenditure did not outweigh the previous expenditure on drugs and/or alcohol.

There was one area of expenditure which caused concern for most people on home detention. This concern was caused by the increase in expenditure on household telephone bills. Most people interviewed agreed that they had not anticipated this increased expenditure. This increased expenditure was brought about by three main areas:

- telephone calls to supervising officers
- increased calls to friends and extended family
- increased calls concerning households needs, ie banking, medical etc

In some cases, interviewees estimated that their telephone bills increased by over 50%. In most cases, interviewees acknowledged that their telephone bills increased between

20% or 30% during the completion of a home detention order.

Overall, most families agreed that the stabilisation and/or increase in household income was directly related to the imposition of home detention on the family.

### ■ Dealing with Home Detention Officers

The ability to successfully deal with home detention officers emerged as a key issue among offenders and their families.

Throughout the interviews it became apparent that in most families considerable effort was invested in developing good working relationships with supervising officers. The common issues that were seen as important were:

- regular discussions with officers about general household issues
- investment of trust in supervising officers for assistance and understanding particularly in a crisis
- ability to openly discuss issues regarding an Order that may be confronting
- recognition that the work performed by officers was demanding and of high calibre
- recognition that sanctions imposed by officers were not personal but rather program driven.

Most offenders and their families

acknowledged that the role of the supervising officer was usually well executed and appreciated.

As one offender stated:

*“ I would like to thank all Home Detention Officers, I came in contact with during the time I spent on the program. They were all professional, helpful and fair. They were pleasant to my family. I appreciated the way they communicated with my employers”*

**Man on HD**

This male offender successfully completed his Order.

A small minority of offenders did find that there was conflict with officers particularly concerning some mandatory program procedures.

For example, all offenders placed on home detention were subjected to random urinalysis and breath analysis. Testing is only completed on a same sex basis, ie female officers test female offenders etc. On a few occasions during the conducted interviews, offenders did complain about incidences of perceived insensitivity on the part of an officer. As one offender explained:

*“ It was really embarrassing. The officer came into my place of work and asked me for a urine sample. The sample was taken in a public toilet with the door open. It was awful... I don't reckon I deserve that sort of treatment”*

**Female offender on HD**

During interviews with revoked detainees, offenders were asked if the relationship with their supervising officers played a role in their revocation. On the whole, these offenders did not feel that officers contributed to the problems that led to revocation. As one offender explained:

*“ It was my own fault. The officers I dealt with were straight up and pretty helpful. I can't blame them for my own mistakes.”*

**HDO Revoked Detainee**

Another revoked detainee stated:

*“ I didn't have any problems with them (officers) on the whole. I just couldn't stop drinking and ended up being busted”*

**HDO Revoked Detainee**

## ■ How tough was the Program

Offenders were asked to comment on whether they thought home detention was difficult to complete.

A number of detainees interviewed had no previous experience with law enforced penalties while other detainees had previous experiences with imprisonment and/or other community based penalties and so were able to draw comparisons.

Generally speaking, offenders felt there were a number of distinct areas which influenced their opinions concerning the rigorousness of HDS . These were:

## ■ regulation of Home Detention Scheme

- **personal safety**
- **living with family and/or friends**
- **remaining drug and alcohol free**

- **commit offences**
- **consume drugs or alcohol**
- **tamper with electronic monitoring**

## ■ **Regulation of the Home Detention Scheme**

Almost all offenders interviewed stated that although they had been given adequate information pertaining to the rigorous nature of the HD Regulation, most were shocked at how tough the scheme actually was.

One offender stated:

*“I did not think all the restrictions would be as bad as they were. To even get a loaf of bread was a big drama”*

### **Male Offender on HD**

The vast majority of interviewees thought that the regulations of home detention were difficult to cheat without being caught.

As one detainee explained:

*“ The only way I think you could cheat (breach HDO regulations without being caught) would be if you had a twin! There’s no other way.”*

### **Male Offender on HD**

Overall, interviewed offenders felt that there were three types of behaviour which were impossible to do on home detention without being detected. These were:

Some offenders felt that the home detention regulation should not be as tough due to the community based nature of the scheme.

A number felt that remaining alcohol free was unfair, particularly if they felt they did not have a problem with alcohol consumption. Some detainees suggested that the alcohol limit should be made .05%, similar to drink driving laws. Others felt that the occasional beer with the family would cause no harm to the larger community.

## ■ **Personal Safety**

A number of offenders interviewed described a very real fear for their personal safety while completing a prison sentence compared to the relative safety of completing a sentence by way of home detention.

A number of interviewed offenders had experienced either full time custody or periodic detention in the past. They spoke with authority on the possibility of assault within correctional centres, despite every effort made by centres to minimise the threat of violence by other inmates. One female offender interviewed described her past experience:

*“ You do not have the worry of being hurt like you would if you were in prison by other inmates. I did weekend detention before and I had four other women that were wanting to bash me and that is an*

*experience I would never want to go through ever again... "*

#### **Woman on HD**

This offender has since gone on to successfully complete her Order.

Another offender described the vulnerability of an individual to potential harm while completing a custodial sentence. He believed that individual circumstances are of vital importance in determining whether a person can survive gaol:

*" It was a very beneficial program for me to participate in. I could not have handled gaol in the respect that I am not a very large person therefore I would be very vulnerable. I think the Courts should look more closely at that when sentencing people to full time gaol"*

#### **Man on HD**

Another offender summed up a common attitude of detainees on home detention:

*" There is not any more inhumane, degrading nor depressing place like prison. A stay there would certainly not make a better person out of me".*

#### **Man on HD**

### ■ Living with the Family

As discussed earlier in this report, there were some interesting issues surrounding the difficulties of living with family and/or friends while completing a home detention

order.

Some offenders alluded to the fact that in some ways serving a sentence by way of home detention was like living two lives. On the one hand, offenders had to faithfully comply with the HDO regulations while at the same time try to maintain some semblance of normality. This sense of duality was nominated by some offenders as the toughest aspect of home detention.

### ■ Remaining Drug and Alcohol Free

This issue has already been discussed at length. A number of offenders drew conclusions concerning the differences in remaining drug/alcohol free in prison as opposed to home detention. For example an offender stated:

*" Gaol would not overcome most drug use whereas regular urine tests conducted during HD would make most people stop, at least for that period."*

#### **Man on HD**

Most offenders agreed that the Home Detention scheme (HDS) focused attention on the importance of random urine tests and breath analysis as a tool of compliance. This was generally acknowledged as the toughest regulations of HDS to observe.

### ■ Dealing with a crisis on Home Detention

For most detainees, a potential family crisis is a very real fear. The study sought to examine the extent home detention may undermine family harmony and co-operation,



culminating in a crisis.

This was a very difficult area for some interviewees to discuss and a number of offenders and their families declined to discuss the matter.

During one interview, a mother of a offender discussed a particular event within the family environment which resulted in her son leaving the family home thus potentially breaching his order.

The particular incident had been building up over a number of weeks and involved a number of aggravating factors, such as irregular sleep patterns for all family members, the offender's decreased use of cannabis, cramped living conditions, etc.

After a few weeks of family disagreements, the frequent squabbles began to escalate and were not resolved. On one particular night, the offender complained about feeling trapped and was extremely frustrated that he could not leave the house to attend a social function. After threatening to leave the family house, the argument grew particularly nasty and resulted in the offender storming out of the house and not returning for three hours.

The home detainee's action was eventually sanctioned after a full and frank Home Detention Unit meeting and the officers instigated extra support for the offender and his family. As a consequence these actions successfully diverted a potential revocation.

Another illustration of family crisis was a recent tragedy involving an offender who had completed a lengthy sentence on home detention. This offender committed suicide shortly after completion of his sentence. In a media interview with the offender's parents,

they stated that they felt the fact that their son had been placed on home detention assisted him in ways to combat his grief and contrition surrounding his offence. They stated:

**“ If he was sent to jail, he would have taken his life long before this”**

**Newcastle Herald 14/11/98, pg 8**

The offender's parents also stated that they were thankful that their son was not sent to gaol and felt that the home detention scheme had provided valuable grief counselling and emotional support to them.

**“ The people at Home Detention are fighting an uphill battle but it is such an important scheme”**

**Newcastle Herald 14/11/98, pg 8**

While this young man was under sentence he was able to access a high level of support from his supervising officers. When his sentence was completed there was no guarantee that this emotional support would continue through community agencies.

Although blame cannot be cast in any direction, there was a sense of overwhelming sadness that this young man could not, in the end, overcome his personal grief.

## **Home Detention Personnel**

Throughout the study a number of individual and group interviews were conducted with personnel attached to the scheme. These personnel groups were:

■ **Director of Home Detention Scheme**

- **Unit Leaders of Home Detention Units**
- **Home Detention Officers**

The major findings from these interviews were as follows:

- **flexible staff ratio strategies are crucial to overall good management**
- **almost all the officers interviewed felt that their work was satisfying and rewarding**
- **it was agreed by most of the officers interviewed that their work was demanding, difficult and complex.**
- **almost all officers conceded that their work increased stress levels within themselves and their families**
- **colleague support and effective team work were cited as essential to individuals working on scheme**
- **all officers interviewed had interceded in crisis situations involving offenders they were supervising on the scheme**
- **most officers acknowledged that their work required a great deal of responsibility due to the high levels of accountability to the courts and to the HD Unit.**
- **a small number of officers had either been threatened or**

**assaulted in the course of their duties involving the revocation of an offender.**

### ■ **Staying Motivated**

An identified aspect of working as a home detention officer was the ability to stay focused and motivated while supervising detainees.

The responsibilities of the position involved professional intervention and high levels of negotiation across a broad cross section of people and government and non government agencies.

During one interview, an officer described the motivational elements necessary to complete the responsibilities of the position:

- **the ability to effectively assist clients because of the nature of home detention intervention**
- **high levels of interaction with clients and their families**
- **ability to instigate constructive problem solving and development of coping skills with clients.**

It was acknowledged by some officers that remaining motivated was at times difficult particularly if they were under stress due to workload expectations or if they were working with difficult clients.

### ■ **Agency Interaction**

Another area that sometimes hampered

motivation was interaction with other government and/or non government agencies.

Overall, it was acknowledged that the cooperation between agencies was generally satisfactory and improving.

On the other hand, when interagency co-operation breaks down the effects can be devastating.

For example, an officer described her recent dealings with a number of government and non government agencies during a crisis with a difficult client.

During the supervision of this client, involvement with a range of support agencies was necessary. These agencies ranged from government community services, community health services, acute psychiatric services and the local police service.

After several months of supervision a crisis occurred which resulted in the offender exhibiting disturbing behaviour whilst having custody of a small child. The crisis occurred outside normal hours. If this offender had been under another form of community based order (such as probation or parole), the NSW Probation and Parole Service would not normally be expected to be involved.

The situation was exacerbated by the use of illicit drugs. It was at this point that agencies withdraw their services apart from the local police service, despite requests for assistance from the home detention officer.

Each agency, in turn, declined all requested assistance. The officer was informed by each agency that the client failed to meet that

particular agency's criteria for further assistance and it was decided that the issue was in fact a law and order issue and no further intervention was necessary.

Ironically, the drug service agency declared the crisis a psychiatric problem and the acute psychiatric service deemed the crisis an illicit drug problem, thereby cross-validating their respective withdrawal of service.

This critical situation was eventually dealt with in a conjunctive effort between the responsible Home Detention Unit and the local police service. The officer supervising this client was very distressed by the withdrawal of treatment to the client and was very stressed by the whole incident. She felt that without the assistance of the police, the crisis would have escalated beyond control.

This incident illustrates just how fragile co-operation can be between services interacting with offenders serving a community based sentence. It also raises the issue of agency demarcation across social services and between community and law and order agencies. If community based sentences are to succeed the need for more appropriate interagency co-operation should be prioritised. Case management particularly with difficult clients also needs to be appropriately addressed.

### ■ Dealing with a Crisis

As part of the responsibilities of supervising individuals placed on the scheme, home detention officers are expected to deal with personal crisis affecting their clients. Crisis work for these officers often involves professional intervention, complex decision making and personal stress.

An illustration of a crisis which occurred

during the study period involved the suicide of an offender completing an order.

This offender's order was nearing completion and he had demonstrated good progress through his sentence. He was a young man with parental responsibilities and was battling drug and alcohol problems. Throughout his home detention he had been striving to apply himself to improving his employment potential, but had been sanctioned on a number of occasions for drug use.

His supervising officer had known this offender for a considerable amount of time through previous community orders and had developed a healthy working and personal relationship with the offender.

The supervising officer was well aware of the efforts the offender had made in battling his drug and alcohol use and maintained regular contact with him. During the order, the supervising officer had made 57 contact visits with the offender and had monitored his progress very closely. The officer had also formed a good relationship with the offender's family.

The suicide of this offender was not expected. His family were both shocked and grieved by the death of this young man.

His supervising officer was also grieved and saddened by his death. All the personnel within the Home Detention Unit responsible for this offender, assisted the supervising officer to deal with this tragedy. Assistance included debriefing sessions, caseload reallocation, professional and personal support.

The supervising officer believed the suicide could not have been foreseen and was partly

brought about by the young man's panic over his inability to effectively deal with a drug/alcohol problem and unresolved personal issues.

During the Coronial Inquest into the young man's suicide, the State Coroner Derek Hand also believed that it appeared the offender could not, in the end, successfully deal with some areas of his life. Mr Hand stated:

**“ It is a sad thing, I mean the Home Detention is basically to try and re-establish someone who has been sentenced and is also to place an onus on them to try and make something of their lives, but on this occasion it got the better of him”**

(D.Hand, Coroner Report, 22/11/98)

Mr Hand also stated that he thought home detention could be a lot harder to complete than some people believed. The fact that offenders are expected to rigidly comply with rigorous regulation while maintaining a life in the larger community is not largely appreciated.

**“ it seems to me that many people would consider it much harder than being in a gaol, particularly one where you have some latitude”**

(D.Hand, Coroners Report 22.11.98)

The supervising officer and indeed the whole Home Detention Unit involved with this young man, acutely felt the tragedy of this suicide and as a result have come to acknowledge the impact their work has on their own personal lives. This team of professionals are very conscious of the need to maintain healthy support networks both

personally and professionally.

### ■ **Dealing with confrontation**

Home detention officers are often placed in situations where they must confront offenders concerning particular aspects of their behaviour.

These officers conduct the vast majority of their work within the personal homes of offenders. It is therefore necessary to utilise negotiation and interpersonal skills that require a high level of expertise.

A number of officers discussed this sometimes dangerous aspect of their work. On the whole, the HD officers involved have had extensive experience with confronting and negotiating with offenders and expressed the belief that they could deal with most presented situations.

The most problematic aspect of case management for an officer was when revocation proceedings were initiated against a client. Confrontations may reach a crisis point between the offender and/or the family. Anger and frustration could often also be directed towards the supervising officer. There were a number of reported incidences of conflict or difficulties between officers and clients due to revocation decisions. Incidents also occurred when officers intervened during minor domestic disputes. During the study period, it was reported that officers intervened in minor family disputes on numerous occasions

One of the most important tools to diffuse a potentially violent situation for officers was to utilise a team approach to revocation decisions. This mechanism diffused any concerns of victimisation and allowed for a more balanced approach to case

management. Revocation decisions were never taken lightly or without extensive team consultation.

Throughout the interviews, officers identified the following skills as being essential in the specialist day to day work practice within home detention:

- **high levels of experience, self motivation and self discipline**
- **ability to act quickly and appropriately in a crisis**
- **an open and consultative approach to case management**
- **ability to understand the rigours of the Program and the impact on offenders and family**
- **utilisation and participation in group decision making processes.**

In summary, the interviews with all the various people directly associated with the operation of the home detention scheme were enlightening, insightful and of great value to future planning.

These interviews serve a potent reminder that above all else, the influence of home detention lies in its ability to transcend cultural and family boundaries. Its success or failure depends on its ability to remain flexible enough to impose court ordered penalties without imposing undue strain on the families and friends of offenders living with home detention.

1. The figure of \$3.7 million pertains to the 1998 NSW Department of Corrective Services budgeted costs in specific areas of drug detection within correctional centres. The cost does not include the drug and alcohol counselling services provided within correctional facilities.

# Exit Survey

As part of the overall home detention study, the Home Detention Exit Survey was incorporated into the main study as a useful tool to gather further information concerning the affects of home detention on offenders and their families. The principal aims of this survey were as follows:

- ascertain the level of difficulty experienced by offenders placed on HDO.
- gather information on the perceptions of HDO compared to custodial incarceration.
- gather information on the advantages and disadvantages of HDS on the individuals placed on the scheme.

Refer to **Appendix 7** for details of the Exit Survey form.

All survey participants were informed that confidentiality would be maintained and no names were recorded.

The survey was sent to offenders that had less than one month to serve of their minimum sentence.

During the study period, 140 offenders were sent the survey to complete and return to Departmental Research and Statistics Unit for collation. Of the 140 offenders sent the survey, 65 (46.5%) completed surveys were returned.

The main findings are as follows:

## ■ Information about the Home Detention Scheme

**Sixty three** (96.9%) survey participants felt that they had been given sufficient information about home detention to make a reasonable choice to participate.

A number of community agencies voiced concerns that offenders may not be provided with sufficient information concerning the scheme to make informed choices about consenting to participate. According to the results of the survey, the information disseminated by the Home Detention Officer was excellent in assisting offenders and their families.

## ■ Participation in the Scheme

Survey participants were asked to consider their experiences on home detention and decide whether they would in hindsight, still agree to participate in the scheme.

**Fifty nine** (90.7%) offenders agreed that they would still agree to participate in the scheme given the choice again. On the other hand, **4** (6.1%) indicated that they would not choose to participate in the scheme given their choice over, and **2** (3%) indicated that did not know whether they would agree to the option of home detention again.

One offender commented:

*“If I wasn’t a father, I’m not sure I would have participated in this program”*

## ■ Expectations of the Scheme

Survey participants were asked to indicate whether home detention was better or worse than they expected.

**Thirty Three** (50.7%) offenders felt that home detention was as they expected. **22** (33.8%) offenders felt that home detention was somewhat better or better than they had expected and **10** (15.3%) offenders felt the scheme was somewhat worse or worse than they expected.

Home detainees were asked to comment on their expectations of the scheme. Many home detainees took this opportunity to detail their experiences on the program. The diversity of responses was of great assistance to understanding precisely what offenders and their families experience on the scheme.

For example, one offender commented:

*“ The phone calls at times nearly broke me, my sleeping pattern was shattered”*

Another offender explained:

*“ I found that being on home detention was good. At first I thought it would be horrible, being confined to my home, but I am now so grateful for being excepted to participate in home detention, because I am with my family, and I got to jobs around the home that I never had time to do before.”*

One offender found home detention to be extremely difficult to get used to:

*“ It was the longest year of my life.”*

## ■ Prison versus Home Detention

Survey participants were asked to state whether they thought home detention was better or worse than prison.

Of the **65** responses received, **46** (70.7%) felt that home detention is better than going to gaol. **One** (1.5%) offender felt gaol was better than home detention and **18** (27.6%) had no previous gaol experience and did not respond.

It was not surprising to find that over **86%** of respondents who felt home detention was better than gaol, nominated being with their family as the major benefit of the scheme. Other benefits nominated included better access to health services, control of personal environment and opportunity to seek employment.

## ■ Monitoring Calls

The findings from the survey indicate that the computer generated phone calls caused the most disruptions to the lives of home detainees and their families.

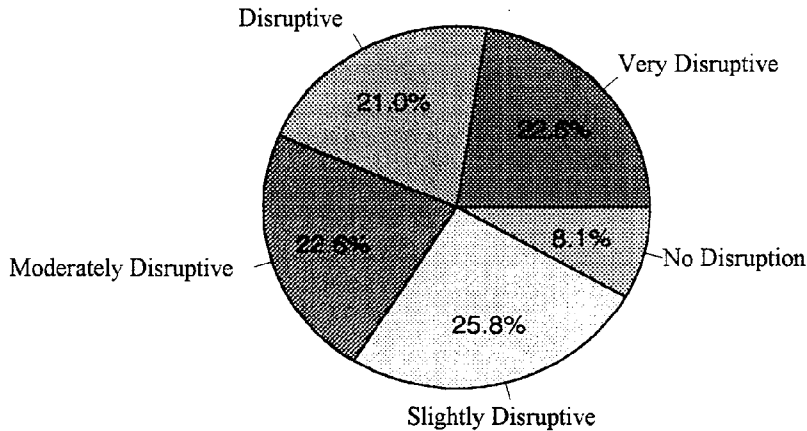
**Thirty nine** (60%) offenders responded that the monitoring calls were too frequent. **Twenty five** (38.4%) offenders felt that the frequency of calls were about what they expected and **one** (1.5%) offender claimed that the monitoring calls were not frequent enough.

During the personal interviews conducted in the study, offenders were asked to approximate the number of phone calls they may have received in one day. These



## NSW Home Detention Exit Survey

### Effect of Monitoring calls on normal routine /lifestyle



65 responses from the Exit Survey Feb 97 to Aug 98

Figure 14

estimates varied according to the surveillance stage reached by the offender. For example, people estimated that when they were first placed on the scheme the frequency of monitoring calls ranged from a minimum of 12 calls a day to a maximum of 16-18 calls a day.

Offenders nearing the completion of their sentence stated that the frequency of monitoring calls ranged from 5 to 10 calls a day.

As one can imagine, the frequency of these monitoring calls has the potential to cause disruption to the routine and lifestyle of a family.

Respondents were asked to indicate the level of disruption caused by the monitoring calls to their family. The responses indicated that the level of disruption perceived by families was varied and possibly dependent on the

pre-existing routine of the families involved. The chart above illustrates the responses to the question of family disruption caused by the monitoring calls.

#### ■ Contact with Supervising Officers

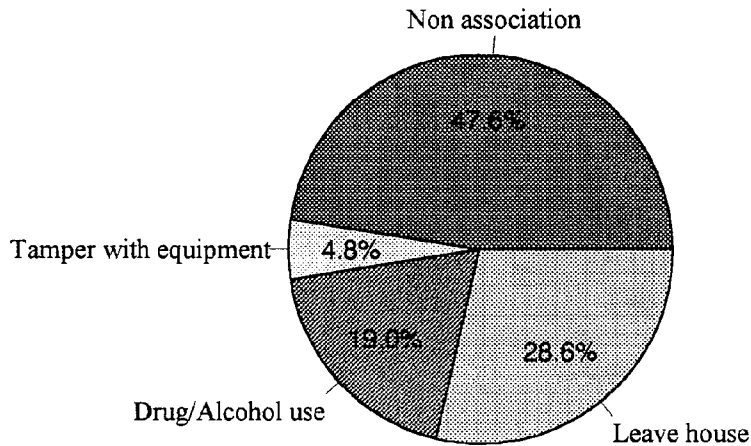
Respondents were asked to comment on the potential disruption caused by the frequent visits of supervising officers.

**Seven** (10.7%) offenders indicated that they thought the contact visits from supervising officers caused disruptions to the family life. **Fifty six** (86.1%) offenders claimed that the contacts visits from supervising officers did not disrupt family life. One offender explained:

*“ My children thought xxxxxx (officer) was a nice person and we had no complaints.”*

## NSW Home Detention Exit Survey

### Which regulations are easiest to breach?(n=15)



15 (10.7%) respondents claimed regulation could be breached without detection

Figure 15

#### ■ Breaching Regulations

As part of the Exit Survey, offenders were asked whether it was possible for a person to breach the home detention regulations without being caught.

Of the total respondent population of 65, only 15 (10.7%) offenders believed that it was possible to breach the regulations without being caught.

Offenders were also asked to stipulate which regulation breach was the easiest to get away with. Please refer the chart above for details.

The most common response was the belief that visits from friends/family who have been deemed non- associates through criminal history etc, by the Home Detention

Unit was the easiest to hide from supervising officers.

Another regulation which was identified by offenders as possible to breach without detection was the regulation pertaining to absence from residence without permission.

Nineteen percent of the respondent population believed the consumption of drugs and alcohol could continue under supervision and only 4.8% of this group believed a home detainee could tamper with home detention monitoring equipment without detection.

During the interviews conducted in the study, offenders were asked about the possibility of breaching regulation without being detected. Most offenders believed that

it is possible to get away with breachable behaviour for a short amount of time, but most believed that offenders that breached the regulations would be caught out eventually.

Offenders stated that the reasons why there was a high level of detection by the supervising officers were due to the following factors:

- **diversity of surveillance techniques**
- **frequency of contact**
- **reliability of monitoring equipment**
- **regular use of urine and breath testing**

The discussion concerning the possibility of breaching regulations without being caught, elicited comment from a number of offenders who were affronted that other offenders could take advantage of the scheme. One offender commented:

*“I think people on home detention should respect every rule and abide by them. After all, it is a privilege to receive home detention.”*

Another offender stated:

*“They would have to be stupid to want to breach the regulations. They could lose their only chance of staying out of prison.”*

## ■ **Positive Aspects of Home Detention**

As expected, over 90% of survey respondents nominated interaction with the family and increased communication with partner and/or family as the most positive aspects of home detention.

Home detainees also felt that gaining access to community services such as AA and Community Health Centres were positive aspects of the scheme.

Offenders also nominated the access to drug and alcohol programs as a major plus for the scheme.

Only one (1.5%) offender felt there were no positive aspects to home detention.

## ■ **Negative Aspects of Home Detention**

Survey respondents were asked to indicate the most negatives aspects of the scheme. The vast majority nominated the strict confinement to home as the most negative aspect of the scheme. This was closely followed by boredom, increased stress for the family and remaining drug and alcohol free.

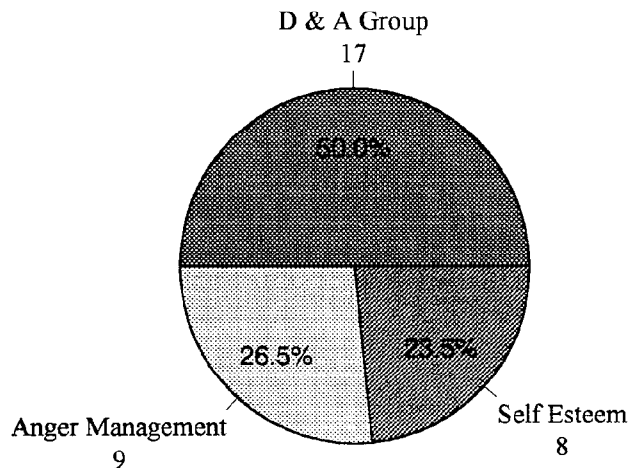
Survey respondents also disliked the overall disruption caused to family life by the imposition of home detention. Three (4.6%) offenders felt that there were no negative aspects to home detention.

## ■ **Attendance Centre Participation**

Survey participants were asked whether they had attended any specified Probation and

## NSW Home Detention Exit Survey

### Participation in Attendance Centre programs



34 (52.3%) of respondents participated in P & P Course

Figure 16

Parole organised programs.

**Thirty four** (52.3%) of survey respondents stated that they had attended a course during their home detention sentence.

The chart above illustrates the frequency and type of courses attended by offenders placed on home detention.

The majority of survey respondents stated that they attended a specific drug and/or alcohol course during the completion of their sentence. This is consistent with the number of offenders on home detention with a history of drug and alcohol problems. As stated earlier in the report, it is likely that if drug and alcohol problems are identified in the assessment process, the offender would have been directed to attend appropriate courses whilst completing their sentence.

Anger management and self esteem groups were the other significant programs attended by home detainees. Few detainees are directed by Court to attend these groups, although a number of home detention assessments recommend involvement in such groups.

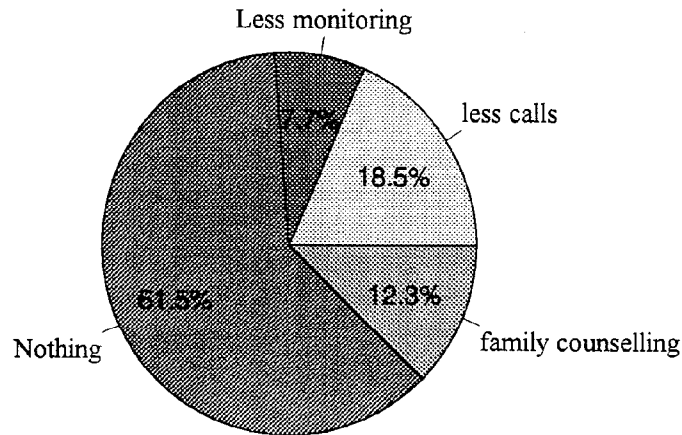
#### ■ Potential Changes

Survey respondents were asked whether certain aspects of the home detention scheme should be changed.

**40** (61.5%) offenders stated that there was nothing about the program they would change. On the other hand, **12** (18.4%) of the respondents felt that there should be changes made to the current regime of computer generated monitoring calls.

# NSW Home Detention Exit Survey

## What would things would you change about the Scheme?



65 Responses in Survey

Figure 17

8 (12.3) of survey respondents felt that they would have like to see more assistance from supervising officers in dealing with family problems.

on for accurate reporting of the attitudes of offenders placed on home detention.

As one offender explained:

It is feasible to assume that offenders who benefited from the scheme were willing to discuss their experiences, while people who did not benefit from the scheme were not. This usually skews the outcome of a survey of this nature.

*“It would have been good to have counselling and stress management for the family unit in regards to living under home detention... the family often felt isolated and frustrated.”*

The outcomes from this survey are best used as an evaluation tool for use in the home detention program management. The survey outcomes are useful in a number of ways:

Five (7.6%) of survey respondents indicated that they would like to see a general move towards less overall monitoring.

- **useful conduit for information sharing**
- **indicator of usefulness of management strategies**

### ■ Summary

It must be acknowledged that the responses from the Exit Survey cannot be totally relied

- allows offenders a voice in the overall program management
- indicator of changes in family trends etc

# Interviews with community agencies

As part of the overall research study, consultation with relevant community agencies was undertaken. Information provided by these agencies benefited the overall understanding of how the HD Act impacted on offenders, their families and friends and the larger community. Please refer to **Appendix 20** for details of the agencies consulted.

In general terms the concerns raised by community agencies were as follows:

- the impact of the HD Act on issues of personal privacy
- the impact of the HD Act on affected children
- the impact of the HD Act on indigenous people
- the impact of the HD Act on widening the criminal justice system

## ■ Privacy Issues

The NSW Privacy Committee was consulted over issues of privacy for NSW citizens directly affected by the imposition of a home detention order.

The HD Act Regulation allows for wide-scope access to private households in order to fulfil the rigorous requirements of offender supervision. The NSW Privacy Committee raised a number of important issues surrounding the impact of these intrusive supervision guidelines. These issues included:

- the manner in which official searches were conducted in households, particularly searches of children's property
- required late night access to households by supervising officers
- intervention in domestic affairs by supervising officers
- sensitivity to issues of privacy

As reported in the **Interview** section of this report, issues surrounding privacy were raised in interviews conducted with offenders and their families and friends. During these interviews, people reported the following:

- most interviewees stated that they were compliant with the intrusive requirements of supervision although they didn't, on the whole, like it.
- most interviewees stated that supervising officers remained mindful of the impact of the home detention regulation on privacy and respected the importance of family privacy
- no interviewees reported

**incidences where supervising officers had behaved inappropriately when dealing with children**

- **a number of interviewees stated that on some occasions, supervising officers initiated unnecessary discussion of the supervision regime in the presence of children.**
- **most interviewees stated that supervising officers had demonstrated consideration of the need for personal privacy**
- **most interviewees stated that late night (after 10 pm) face to face contact was not frequent, unless electronic monitoring alarms were activated.**

The importance of maintaining the privacy of offenders and their families was an integral component of workshops and team meetings of the Home Detention Units (HDU). As stated earlier in the report, the supervising officers employed within the Home Detention Scheme (HDS) were very experienced Probation and Parole Officers with many years training in dealing with the complex issues of supervising offenders in the community and therefore approached home detention supervision with the required skills.

During the interviews with home detention officers, it was apparent that issues of privacy were taken very seriously. Most officers demonstrated a comprehensive understanding of the importance of respecting family privacy.

Home detention officers often found that mutual respect was tested when offenders were found to have breached the home detention regulation.

It was sometimes necessary to discuss the circumstances surrounding breaches with members of the household involved. This was, at times, very difficult but in most incidences these discussions were conducted to cause as little distress as possible to the families and were regarded by most families as a means of debriefing from a critical situation.

At times, supervising officers were asked by family members to discuss personal family matters which impacted on the completion of an HDO. For example, in one case, an offender was having difficulty dealing with his sentence and the impact of offending behaviour on himself and his family. In this case, the supervising officer was approached by the family to assist with developing coping skills to deal with this difficult period. In order to assist the family, the officer was privy to the family's personal and financial history.

This assistance was difficult for both the family and the supervising officer, but overall, the assistance was completed without compromising the family's integrity.

### ■ **Dealing with Children**

Consultation with the NSW Child Protection Council was a valuable tool when examining the possible impact of home detention on children. The NSW Child Protection Council was very concerned about any adverse effects the HD Act may have on children. The Council's main concerns were as follows:



- maintaining the well-being of children affected by home detention
- potential for children to become socially isolated by the imposition of home detention
- potential for increases in family conflict in households with children

Although no interviews were conducted with children without their parents being present, it became obvious that some children did feel the effects of home detention in both a positive and negative way. The main findings were as follows:

- most of children preferred to have their parents/carers on home detention than in prison
- a number of children complained about the frequency of telephone surveillance calls
- most children over 8 years old complained that they were not involved in as many social activities with their parents during home detention
- some children stated that their social activities increased outside the home with activities with their extended family
- some children stated that they were pleased that there more home based activities during home detention

- a number of children complained about the fact that their parents/carers were confined to their homes
- children with single parents had more difficulties than other children in adjusting to home detention.

During the study, it was difficult to ascertain the effect of home detention on children below the age of 5 or 6 years. Information pertaining to these children was reliant on the information gained during interviews with their parents/carers.

In the course of interviews with offenders and/or their families, a number of young children were present. During these interviews, parents and carers of young children living under home detention did express some concern about maintaining the socialisation of their child/ren while completing an HDO. This was particularly so for families with single parents. A number of families discussed the strategies they used to combat the isolation of their children. These included:

- requesting permission to attend day care classes
- spending more time at home with their extended family
- spending time away from the house with extended family

Overall, home detention is not the ideal situation to raise children, but

overwhelmingly, these children prefer home detention to the alternative of being separated from their parents through a prison sentence.

■ **Indigenous People on home detention**

During the course of the study, the Aboriginal Justice Advisory Committee (AJAC) were consulted on the possible impact of the HD Act on Indigenous people living in NSW. The former Chair of AJAC, Mr Lloyd McDermott, expressed some concerns regarding the appropriateness of the Act in terms of assisting Aboriginal and Torres Strait Islander communities in NSW. The main concerns were as follows:

- **the concept of 'home' in the legislation may not fit the concept of 'home' within ATSI communities**
- **the implementation of the legislation could negatively impact on the kinship and cultural practices within ATSI communities**
- **a number of Indigenous people may not have the practical resources to participate in home detention**

It was on these issues that Mr McDermott was hesitant to recommend home detention within NSW.

During a number of interviews with Aboriginal home detainees, it became apparent that Mr McDermott was correct in some of his concerns. A number of

aboriginal interviewees stated that home detention was difficult to complete for a number of reasons. These were:

- **family obligation and commitments**
- **remaining drug and alcohol free**
- **restriction placed on leaving the house**

A number of home detainees discussed the difficulties of fulfilling family obligations while completing HDO. Most stated that family issues were only resolved through group discussion and group assistance.

For example, one detainee during her placement on home detention was asked by her sister to intervene in a family dispute. She felt obliged to assist although she may have risked her HDO. Eventually the matter was resolved when the offender approached other family members to help out.

Drug and alcohol consumption was another area of concern for Aboriginal home detainees. During interviews, a number of detainees discussed the pressure of remaining drug and alcohol free during HDO. Some detainees described the importance of sharing a drink with family and friends and how difficult it was to explain the restrictions of home detention included absolutely no consumption of drugs or alcohol. On a number of occasions, indigenous home detainees were sanctioned for alcohol and cannabis use.

Another area of concern to some home detainees was the restriction placed on access to the community. A number of

detainees discussed problems they had with supervising officers due to their lateness returning home from pre-arranged appointments. On most occasions, the detainees were issued with warnings to comply with the regulation or risk being breached. Most offenders discussed their problems with their supervising officer and stated that on most occasions the officers understood their concerns.

There was concern that ATSI people may miss out on home detention due to a lack of resources such as access to a telephone and appropriate housing. The Home Detention Data Base revealed that no ATSI people were assessed as unsuitable for home detention on these grounds.

As this scheme currently only operates in mainly urban environments, access to resources and supervision may be a problem for some ATSI people who live in rural areas of NSW if the scheme is expanded.

Supervising officers also acknowledged the difficulties some Aboriginal home detainees faced as they completed their orders and therefore initiated specific case management strategies to further assist them.

In the latter stages of the study, Mr McDermott decided that although he had some reservations about home detention, these were outweighed by the alternative of full-time custody.

**“ As you are no doubt aware, I was initially a little apprehensive about the programme as it applies to Aboriginal and Islander detainees... On reflection however, I concede that any alternative to prison custody should be encouraged.”**

Lloyd McDermott, then Chairman of the

Aboriginal Justice Advisory Committee (AJAC):

### ■ **Widening the Criminal Justice Net**

During discussions with the NSW Council of Civil Liberties two main areas of concern were identified. These were:

- **privacy rights**
- **widening the net of the criminal justice system**

As discussed earlier, privacy was an issue of great importance in the overall Home Detention Scheme. The NSW Council of Civil Liberties is justified in its concern for the maintenance of privacy rights for people directly affected by the imposition of home detention.

On the issue of ‘netwidening’ of the criminal justice system, Mr Tim Anderson from the NSW Council of Civil Liberties explained the general concerns the Council held over the potential of community schemes like ‘front-end’ home detention to increase the number of people directly or indirectly supervised by the State via the criminal justice system.

In other words, schemes such as ‘front-end’ home detention may seek to decrease the overall prison population, but it only succeeds in increasing the overall number of people under the influence of the State.

The Council felt that ‘back-end’ home detention schemes may be a more appropriate form of community sentencing. Back-end home detention schemes

concentrate on releasing offenders from prison in an effort to facilitate re-integrative case management strategies to assist offenders to successfully move back into the larger community.

Although it is still too early to determine the impact of 'front-end' home detention scheme on the NSW criminal justice system in empirical criminological terms, it is worth noting that, as yet, there has been no substantial Australian theoretical work examining the impact of community sentences on court systems and the larger community.

Therefore, a definitive understanding of the impact of 'front-end' home detention scheme on the NSW criminal justice system will remain, at this stage in the future.

In sociological terms, the Council were justified in concern over the increase in people under the influence of the State via the criminal justice system.

How then is the level of influence measured to establish the potential damage caused by an over zealous State control?

The **Interview** section of this report conveys the clear message that home detention is not a black or white issue. The effects of home detention vary from family to family, person to person and situation to situation. It would be impossible to quantify the degree of influence the State has over people affected by home detention.

It is fair to say that this influence is felt by most people on the scheme and it is also fair to say that the scheme remains flexible enough to accommodate most difficulties experienced by offenders and their families while they navigate themselves through a

very intrusive State controlled community sentence.

In summary, consultations with community agencies were valuable resources in assisting with the identification of issues impacting on offenders and their families living under the imposition of home detention. It would seem vital that consultation of this nature is continued in the future as the means of facilitating meaningful discourse over the impact of community sentencing initiatives like home detention on the people directly affected and the impact on the general community.

part two

# Court Data

An integral component of this study was an examination of the use of the HD Act in lower and higher courts of NSW.

The success or failure of the legislation in NSW Courts hinged on two main factors:

- the frequency of home detention referral within NSW participating courts
- the impact of the HD Act in participating courts

In order to explore these factors, it was decided to:

- examine the relevant court statistics
- conduct interviews with judicial officers

It was thought that by using two different methods of research a clearer perspective of the impact of home detention on the NSW court system would emerge. The following areas were particularly relevant:

- the frequency and pattern of home detention referrals from local courts and the District Court
- any evidence of netwidening within the NSW criminal justice system due to the home detention legislation

- the attitudes of judicial officers and legal representatives concerning the relevance of the legislation

## Home Detention referrals from participating Courts

During the study period it was possible for 35 Local Courts and the District Court sitting in 9 locations to refer offenders for assessment in the Home Detention Scheme (HDS).

During 1997, 26 Local Courts referred offenders for home detention assessments and the District Court, sitting in 8 locations, referred offenders for home detention assessments. These courts were located within 3 specific geographical areas:

- Sydney metropolitan area
- Hunter region
- Illawarra region

During the study period, a total of 510 offenders were referred for home detention assessments.

As a development to the Home Detention Data Base, the 1997 referrals from local courts and the District Court were separated into two categories: eligible and ineligible. The eligible assessments were further separated into suitable and unsuitable categories.

These numbers were then compared with figures provided by the NSW Bureau of Crime Statistics and Research (BOCSAR), based on the 1997 NSW Lower and Higher Criminal Court Statistics.

BOCSAR was asked and agreed to calculate the number of potential eligible offenders for home detention from court statistics only focusing on courts involved in the HD scheme. The parameters of the statistical enquiry were as follows:

- identification of all offenders whose offence was similar to offences allowable within the eligibility criteria of the HD Act
- the number of eligible offenders who were sentenced to a full-time custodial sentence for offences falling within the eligibility criteria of the HD Act

Please note that the HDS did not commence until 27 February 1997.

Please also note that the figures provided by BOCSAR are raw data pertaining to the imposition of full-time custodial sentences, referred to as cases, by those courts participating in the Home Detention scheme and does not allow variances due to appeal outcomes, and ineligible offence history.

The results are as follows:

### Frequency of actual Home Detention Referrals in Local Courts compared with Potential Pool of eligible Home Detention Referrals during 1997

Court Location	No. admitted to scheme	No. assessed but not admitted to scheme	Total referred for assessment	Potential eligible offenders (BOCSAR data)	(%) of potential offender pop. referred for home detention*
Balmain	5	-	5	32	3%
Bankstown	8	2	10	48	21%
Belmont	1	-	1	63	1.5%
Blacktown	-	-	-	102	0%
Burwood	3	2	5	348	1.5%
Campbelltown	5	6	11	141	8%
Camden	1	2	3	15	*
Central	-	-	-	291	0%
Cessnock	5	1	6	51	12%
Downing Cen.	5	6	11	84	13%
Fairfield	-	-	0	255	0%
Gosford	9	5	14	69	20%

Court Location	No. admitted to scheme	No. assessed but not admitted to scheme	Total referred for assessment	Potential eligible offenders (BOCSAR data)	(%) of potential offender pop. referred for home detention*
Hornsby	1	-	1	97	1%
Kogarah	-	-	-	27	*
Kurri Kurri	-	-	-	7	*
Liverpool	5	4	9	230	4%
Maitland	3	1	4	37	11%
Manly	-	-	-	57	0%
Newcastle	3	1	4	143	3%
Newtown	2	-	2	64	3%
Nth Sydney	3	1	4	8	*
Parramatta	19	9	28	400	7%
Penrith	4	2	6	159	4%
Port Kembla	-	-	-	9	*
Raymond Terrace	1	1	2	2	*
Redfern	-	-	-	29	*
Ryde	2	-	2	31	6.5%
St James	-	-	-	9	*
Sutherland	6	1	7	131	5%
Unknown	-	1	1	-	*
Wallsend	-	1	1	43	2%
Waverley	5	4	9	118	7.5%
Windsor	-	-	-	-	*
Wollongong	1	3	4	103	4%
Woy Woy	5	4	9	16	*
Wyong	13	5	18	43	41%
<b>Total</b>	<b>115</b>	<b>60</b>	<b>175</b>	<b>3262</b>	

\* Percentages have been calculated for Local Courts with over 30 potential eligible offenders for home detention assessments during 1997



### Frequency of actual Home Detention Referrals in the District Court compared with Potential Pool of eligible Home Detention Referrals during 1997

Court Location	No. admitted to scheme	No. assessed but not admitted to scheme	Total referred for assessment	Potential eligible offenders (BOCSAR data)	(%) of potential offender pop. referred for home detention*
Campbelltown	1	2	3	12	25%
Downing Cen.	9	2	11	39	28%
Gosford	-	-	-	5	
Liverpool	2	1	3	7	
East Maitland	1	0	1	1	
Newcastle	1	1	2	16	12.5%
Parramatta	2	1	3	13	23%
Penrith	3	1	4	8	
Wollongong	8	1	9	5	
<b>Total</b>	<b>27</b>	<b>9</b>	<b>36</b>	<b>106</b>	

\* Percentages have been calculated for the District Court with over 10 referrals for home detention assessments during 1997

The data provided by the BOCSAR clearly indicated that at least **3262** offenders sentenced in Local Courts in 1997 were technically eligible for home detention assessments. Of this **3262**, only **175** (5.3%) offenders were actually referred by judicial officers for home detention assessment.

The data also indicated that at least **106** offenders sentenced in the District Court in 1997 were technically eligible for home detention assessments. Of this group of **106**, some **32** (30.1%) offenders were referred for home detention assessment.

For details concerning the statistics provided by BOCSAR, refer to **Appendix 20**. The tables provide the breakdown of eligibility by offence type and court.

During 1997, the total number of finalised cases in both Local and Higher Courts resulting in a term of imprisonment was **7469**. Of these cases, the number of sentenced receptions in NSW Correctional Centres was **5904**. Please refer to Endnote<sup>1</sup> for details concerning sentenced receptions in NSW Correctional Centres.

The total number of offenders technically eligible for home detention assessment by the **44** participating courts, constituted **55.2%** of all sentenced receptions in NSW Correctional Centres in 1997. This excludes those people sentenced to serve the balance of their sentence due to breach of parole orders.

The data on referral numbers from participating courts, identified the following

concerns:

- **evidence of home detention referral disparity between Local Courts and the District Court**
- **uneven use of the home detention legislation in Local Courts**
- **consistent use of the home detention legislation in the District Court**

### ■ **Diversion in Local Courts**

As demonstrated in the previous table, the number of people referred for home detention assessment varied from court to court.

There is evidence to suggest that the use of the HD Act in Local Courts (LC) was uneven.

To obtain an understanding as to why usage varied so much in LCs, a number of factors needed to be examined. These factors included:

- **the number of matters dealt with at each particular court**
- **appropriateness of the HD Act in assisting magistrates in the sentencing process**
- **attitude of magistrates towards diverting less serious offenders from full-time imprisonment**

It is important to note that each court is subjected to variances in court responsibilities reflecting the size and use of

a court. For example, Balmain LC in 1997 dealt with **32** matters resulting in the imposition of imprisonment, whereas Burwood LC dealt with **348** matters resulting in the imposition of imprisonment.

This is not to suggest that there is more crime occurring in Burwood, rather that the catchment area of Burwood LC is much larger as are the number of magistrates attached to Burwood LC.

As a simple exercise, the number of home detention referrals leading to placement on the HDS of two similar inner city LCs were calculated to illustrate the differences that can occur between similar courts. During 1997 Balmain LC diverted **15.6%** of offenders sentenced to imprisonment into the HDS. At the same time Newtown LC diverted **2%** of offenders into the HDS.

These inconsistencies in the number of referrals for a home detention assessment can also be demonstrated if data are compared between other similar metropolitan courts such as Bankstown LC and Blacktown LC. During 1997, Bankstown LC referred **10** offenders for home detention assessment, whereas Blacktown LC referred **no** offenders for home detention assessment.

Bankstown LC diverted **16.6%** of eligible offenders sentenced to imprisonment into home detention. At the same time Blacktown LC diverted **none** into the HDS.

Small LCs in the Hunter and Illawarra regions were also compared. Unfortunately, the referral numbers in most regional Local Courts were too small for reliable analysis. Although caution must be exercised as numbers involved are very small, they do indicate the potential influence of individual Magistrates over the use of the home detention legislation in courts of this size.

Local Courts in the larger regional centres of Newcastle and Wollongong show similar low referral patterns. During 1997, Newcastle LC referred 4 offenders for a home detention assessment and placed 3 people on HDS. Likewise, Wollongong LC referred 4 offenders for a home detention assessment, but only placed one person on HDS.

Despite the large number of offenders estimated by BOSCAR to have been technically eligible for a home detention assessment, combined, these two courts only referred 8 offenders for a home detention assessment and placed 4 (1.6%) offenders on HDS despite the total potential pool of 246 technically eligible offenders in these regional areas.

It is difficult to imagine why magistrates in Newcastle and Wollongong LCs only referred 8 offenders for home detention assessments despite the estimated number of potentially eligible offenders in these regional areas.

The BOSCAR data indicated that if the eligible offender populations of Central and Fairfield LC were combined a total of 546 would have been eligible for a home detention assessment. However, as stated previously, no offenders were referred for home detention assessment during 1997.

It is hard to argue that these two Courts have similar offence type profiles which then explains the lack of referrals for home detention assessments. Although both courts dealt with offenders convicted of offences deemed eligible using the HD Act eligibility criteria, the offence profiles significantly varied between the courts. Fairfield LC tended to deal predominately with matters associated to drug related charges and against good order offences, whereas Central LC tended to deal with larceny, common assault and break, enter and steal offences.

Refer to **Appendix 20** for details.

Courts with little or no referrals for home detention assessments may have had a number of factors in common to explain the failure to utilise the HD Act. These included:

- **magistrates unwilling to use the HD Act**
- **large volume of matters before the Court hinders usefulness of HD Act**
- **legal representatives unwilling to request referrals**
- **offenders may be unaware of the option of home detention**

The low number of referrals in the above mentioned LCs contrast sharply with the number of home detention referrals from other courts such as Wyong LC. During 1997, 18 referrals for home detention assessments were made. As a consequence significantly high numbers of eligible offenders were diverted to home detention in the Wyong area.

The North Sydney LC also had reasonably high home detention referral numbers in 1997. From the 8 potential eligible cases for referral, 4 referrals were made.

Overall, the number of referrals for home detention from LCs was surprisingly low during 1997.

During the first half of 1998, the number of referrals from LCs improved, although the unevenness of referrals across LCs remained.

The available data indicated that courts

significantly utilised the HD Act in 1997 continued to use home detention in the first half of 1998, with some of these courts dramatically increasing their use.

For example, in 1997 Campbelltown LC referred 11 people for home detention assessment. In the first half of 1998, the number of home detention referrals had increased to 40 a three fold expansion.

Wyong LC also continued to increase its use of the HD Act. In 1997 18 people were referred for home detention assessment. In the first half of 1998, the number of home detention referrals had expanded to 44, an increase of 158% for the first six months.

Liverpool LC referred 9 people for home detention assessment in 1997. In the first half of 1998, Liverpool LC had increased referral numbers by 5, constituting an increase of 175% for the first six months of the year.

The courts that did not refer offenders for home detention assessments in 1997 continued the same pattern of non referral with the exception of Central LC where 4 people were referred in the first six months of 1998.

There were no incidents where courts decreased referrals for home detention assessments between 1997 and 1998.

Please refer to **Appendix 21** for details of the total number of referrals from particular Local Courts and the District Court during the study period of February 1997 to August 1998.

Based on the available data, it can be expected that referrals for home detention assessments from participating LCs will continue to increase over the next few years. Unfortunately, it also appears that the LCs not utilising the HD Act, may continue not

to do so unless steps are taken to address this matter with the courts concerned.

## ■ **Diversion from District Courts**

In 1997, the NSW District Court (DC) placed 27 people on the HDS. During this time, it is estimated that 106 people who came before the DC were technically eligible for a home detention assessment.

It is noted that the overall number of people brought before the DC who may be eligible for home detention is small and likely to remain so. For example, in 1997, the overall number of finalised cases in the DC resulting in the penalty of imprisonment was 1588.<sup>2</sup>

As illustrated in the previous table, the overall number of home detention referrals was quite even across the various locations where the District Court sits with the exception of sittings at Gosford.

During 1997, the DC sitting at Gosford referred no offenders for home detention assessment, despite the fact that it was estimated that 5 offenders were technically eligible for HDS.

In the first half of 1998, the DC sitting at Gosford had only referred 1 offender for home detention assessment.

During 1997, the DC sitting at Downing Centre referred 11 offenders for home detention assessments. In the first half of 1998, this court referred 33 offenders for home detention assessments, a projected increase of over 400%.

The reason for the increase in home detention referrals is most likely due to the volume of appeal matters relating to refused requests for home detention in the Local

## Courts.

The DC sitting at Newcastle also experienced an increase in home detention referrals in the first half of 1998. During 1997, 2 people were referred for assessment. In the first half of 1998 this number had increased by 7 to a total of 9 home detention referrals.

Based on the available data, it can be expected that referrals for home detention assessments from the DC will continue to slightly increase over the next few years. It also appears that the DC sitting at Gosford may continue to lag behind other locations where the DC sits.

## ■ Comparisons of Court imposed Penalties

As part of the study, it was decided to examine the impact of home detention legislation on the use of other penalties in all courts participating in the Home Detention scheme.

In order to effectively complete this exercise, the research parameters were delineated as follows:

- offence types allowable within the eligibility criteria of the HD Act
- data from courts using HD Act
- study parameters include: Jul-Dec 1995 and Jul-Dec 1996, prior to commencement of HD Act
- study parameter: Jul-Dec 1997, after commencement of HD Act
- penalties examined only included: imprisonment, home detention,

## periodic detention and community service orders

The results are shown in the table below:

Since its commencement, the use of the HD Act has yet to have a discernable impact on the use of certain non-imprisonment/custodial penalties handed down in the participating courts examined.

Even though it is possible to speculate on the impact of home detention on the overall court sentencing patterns over time, there were a number of problems with extrapolating figures from the court data which needs to be addressed. These were:

- inaccurate recording of the number of home detention orders imposed in available court statistics
- failure of some courts to differentiate between full-time custodial sentences and home detention in court recordings and statistics

## Use of Penalties in participating Courts Jul-Dec 1995, 1996 and 1997

Jul-Dec	Prison	Home Detention	Periodic Detention	CSO	Sub Total	Total of all penalties
No.						
1995	1582	-	520	1537	<b>3639</b>	25530
1996	1733	-	605	1443	3781	27546
1997	1567	91	491	1390	3539	25728
% of Sub total						
1995	43.5	-	14.3	42.1		
1996	45.8	-	16.0	38.2		
1997	44.3	2.6	13.9	39.3		
% of Total						
1995						
1996	6.2	-	2.0	6.0	<b>14.2</b>	
1997	6.3	-	2.2	5.2	<b>13.7</b>	
	6.1	0.35	1.9	5.4	<b>13.7</b>	

### ■ Comparisons of imposed penalties between HD Courts and Non HD Courts

A comparison of the pattern of penalties imposed by HD Courts and Non HD Courts may shed some light on determining the impact of the HD Act on the overall imposition of penalties by NSW courts.

This type of analysis was hampered by the same problem mentioned earlier in the report, that is, the failure by the courts to accurately record the imposition of a home detention sentence. This made for tremendous difficulties in data analysis and any consequent analysis of the data.

As illustrated in the charts below, courts with no access to home detention were using the imposition of imprisonment for a higher

percentage of cases than courts with access to home detention.

Closer examination revealed that there were a number of other important differences between the courts. For example, courts with no access to home detention were not using periodic detention to the same degree as courts with access to home detention. It is important to note that there are Periodic Detention Centres in Bathurst, Grafton, Mannus and Tamworth. Offenders living outside accessible distances to these Centres, may impact on the use of this penalty by judicial officers.

On the other hand, the courts with no access to home detention are using the penalty of Community Service Order (CSO) on comparable terms as courts with access to home detention.

However, there are a number of issues that

must be considered before any opinions can be drawn from the available data.

These include:

- most non HDO courts also have little or no access to Periodic Detention facilities, due to offenders residential locations
- most non HDO Courts also have less access to a diverse range of court penalties apart from CSO and imprisonment
- attitudinal differences between judicial officers in HD Courts and Non HD Courts

**The impact of the Home Detention Act on the imposition of penalties imposed by NSW Courts 1995 - 1997**

<b>1. (a) Courts Using Home Detention Legislation (1997)</b>						
	<b>Prison</b>	<b>HD</b>	<b>PD</b>	<b>CSO</b>	<b>Sub Total</b>	<b>Total</b>
<b>No.</b>	3617	148	10190	3060	7915	56617
<b>%</b>	6.4	.3	1.9	5.4	14.0	
<b>% of total penalties</b>	46	1.9	13.8	38.7		
<b>2. (b) Courts Not Using Home Detention Legislation (1997)</b>						
	<b>Prison</b>	<b>HD</b>	<b>PD</b>	<b>CSO</b>	<b>Sub Total</b>	<b>Total</b>
<b>No.</b>	2322	-	243	1770	4335	34910
<b>%</b>	6.65	-	.7	5.1	12.4	
<b>% of total penalties</b>	53.6	-	5.6	40.8		

## The impact of the Home Detention Act on the imposition of penalties imposed by NSW Courts 1995 - 1997

<b>2. (a) Courts Using Home Detention Legislation (January - June 1998)</b>						
	<b>Prison</b>	<b>HD</b>	<b>PD</b>	<b>CSO</b>	<b>Sub Total</b>	<b>Total</b>
<b>No.</b>	1791	156	523	1613	4083	27624
<b>%</b>	6.5	.6	1.9	5.8	14.8	
<b>% of total penalties</b>	<b>43.9</b>	<b>3.8</b>	<b>12.8</b>	<b>39.5</b>		
<b>2. (b) Courts Not Using Home Detention Legislation (January-June 1998)</b>						
	<b>Prison</b>	<b>HD</b>	<b>PD</b>	<b>CSO</b>	<b>Sub Total</b>	<b>Total</b>
<b>No.</b>	1226	3	139	934	2302	17429
<b>%</b>	7.0	-	.8	5.4	13.2	
<b>% of total penalties</b>	<b>53</b>	<b>-</b>	<b>6</b>	<b>40.6</b>		

### ■ Comparisons of Offence Type

In an effort to examine the impact on the HD Act on the imposition of penalties for particular offence types, a necessary examination of the 1995-1997 data from participating courts was required. The following offence types were used in the examination:

- **Fraud**
- **High Range Prescribed Concentration of Alcohol (High Range PCA)**

These offence types were selected for specific reasons. Fraud related offences were

the most common offences committed by female home detainees during the study period.

Driving offences (including High Range PCA) were the most common offence types committed by male home detainees during the study period.

These offence types were also chosen as they illustrate the diversity of penalties imposed for convictions within these offence types, including full-time custodial sentences.

The results of this examination is tabled below:



**Impact of Home Detention Act on imposition of penalties for offence  
types Fraud and High Range PCA  
1995-1997**

**(a) Fraud**

1995	Prison	HD	PD	CSO	sub.Total*	Total*
No.	61	-	23	120	206	724
% of sub Total	29.6	-	11.2	58.2		
% of Total	8.4	-	3.2	16.6	28.4	

1996	Prison	HD	PD	CSO	sub.Total*	Total*
No.	64	-	25	89	178	1228
% of sub Total	35.9	-	14.0	50.0		
% of Total	5.2	-	2.0	7.2	14.5	

1997	Prison	HD	PD	CSO	sub.Total*	Total*
No.	42	12	28	127	209	1207
% of sub Total	20.1	5.7	13.4	60.8		
% of Total	3.5	.99	2.3	10.5	17.3	

\* Sub Total refers to the number of offences of this type falling within the eligibility criteria of the HD Act.

\* Total refers to all cases of this offence type in NSW Courts.

**(B) High Range Prescribed Concentration Alcohol (High Range PCA)**

1995	Prison	HD	PD	CSO	sub.Total*	Total*
No.	31	-	28	95	154	1573
% of sub.Total	20.1	-	18.2	61.7		
% of Total	2.0	-	1.8	6.0	9.8	

1996	Prison	HD	PD	CSO	sub.Total*	Total*
No.	16	-	26	86	128	1574
% of sub.Total	12.5	-	20.3	67.2		
% of Total	1.0	-	1.6	5.5	8.1	

1997	Prison	HD	PD	CSO	sub.Total*	Total*
No.	20	7	26	86	139	1334
% of sub.Total	14.4	5.0	18.7	61.9		
% of Total	1.5	.52	1.9	6.4	10.4	

\* Sub Total refers to the number of offences of this type falling within the eligibility criteria of the HD Act.

\* Total refers to all cases of this offence type in NSW Courts.

It must firstly be understood that the figures in the charts above relate only to courts with access to the NSW Home Detention scheme and secondly, the numbers only apply to fraud offences that fall within the strict eligibility criteria of the HD Act. For example, any fraud offence receiving more than 18 months sentence would be excluded.

As demonstrated in the charts above, it may be premature to speculate on whether the HD Act adversely impacted on the use of other forms of penalties imposed throughout courts with access to the Home Detention scheme.

## ■ Fraud

There is some indication that the imposition of imprisonment for people convicted of fraud offences falling within the HD Act eligibility criteria, has decreased in 1997, compared to 1995 and 1996. It is possible to surmise that the introduction of the HD Act, effectively diverted a small number of these less serious offenders from prison. In fact, since 1995 the imposition of imprisonment

has steadily decreased for fraud offences that fall within the home detention eligibility criteria. Although the imposition of imprisonment for fraud and High Range PCA began falling prior to the introduction of home detention, the HD Act may have assisted in this overall decrease. It is likely that other reasons unexamined in this study, may also have contributed to the overall decrease in the imposition of imprisonment for these offence types. A proportion of minor fraud offenders have been diverted from prison to home detention.

If the HD Act had adversely impacted on the imposition of other penalties, there would be a decrease in the use of both periodic detention and community service orders. This would have indicated that judicial officers were diverting offenders from these forms of penalties rather than diverting offenders from imprisonment.

The table above indicates, there was relatively steady imposition of period detention penalties for fraud offences during 1995, 1996 and 1997. It does not appear that

the use of home detention has reduced the use of periodic detention for fraud offences.

The imposition of community service orders (CSO) by the courts demonstrated an inconsistent use over the same period. Between 1995 and 1996 there was a 8% decrease in the imposition of CSO, while between 1996 and 1997, there was a 11% increase in the imposition of CSO for fraud offences falling within the eligibility criteria of the HD Act.

It appears the fluctuations in the imposition of CSO for fraud offences may have little to do with the commencement of home detention and may be influenced by other factors such as frequency and nature of charges in 1996 and/or changes in offence detection.

#### ■ **High Range Prescribed Concentration of Alcohol (High Range PCA)**

The data indicated that the offence of High Range PCA, falling within the eligibility criteria of home detention, did not frequently receive penalties of CSO or imprisonment.

However, the data indicated that the imposition of imprisonment for the offence of High Range PCA with a sentence length under 18 months, has decreased since 1995.

The imposition of and CSO has remained relatively constant for HRPCA over this three year period. It also appears that HD has had little impact on the imposition of penalties for offences of this nature falling within the eligibility criteria of the HD Act.

Overall, it is acknowledged that the pattern of imposition of penalties would benefit from analysis over a longer time frame to establish any substantial findings.

In summary, the court data examined in the course of this study was essential to the overall understanding of the perceived success or failure of the HD Act.

It is evident that although the initial uptake of the legislation was slow in the majority of courts, the usage rate within most courts is improving. It was disappointing to find that the Local Court usage rates of the HD Act was uneven and limited. It is hoped that in the future the HD Act will secure increased usage in Local Courts.

It is recommended that court data relating the implementation of the HD Act should continue to be monitored as the means of identifying sentencing trends, impact on the use of penalties and effect on the prison population.

# Netwidening and Home Detention

Opponents of community sanctions such as home detention, argue that besides being an ineffective custodial model, community sentencing has the potential to foster an escalation within the population subjected to social or state control. (Gendreau, 1994:54).

In sociological terms the increased use of custodial models such as community sanctions is often referred to as the 'social control net'. (Austin and Krisberg, 1981:34)

The three main types of social control nets defined by Austin and Krisberg are:

- **Wider Nets**  
**Reforms that increase the proportion of individuals whose behaviour is regulated and controlled by the State**
- **Stronger Nets**  
**Reforms that increase the State's capacity to control individuals through intensifying state intervention**
- **New Nets**  
**Reforms that transfer intervention authority from one agency or control system to another**

Academics, such as Petersilla have postulated that community sentences such as home detention effectively and systemically widen the net of the criminal justice system.

A degree of clarification is required before one can successfully identify whether elements within the criminal justice system are, in fact, widened by the use of community sentencing.

For example, in social terms, the study found that community sentencing does in fact extend it's influence over the lifestyle of the non-criminal population within society personally affected by the imposition of a home detention order.

Home detention orders extensively rely on the support and assistance of family members of offenders to effectively function. Therefore, the State has substantial influence over the behaviour of affected family members which can lead to State intrusion on personal and family privacy, family behaviour and movement.

On the other hand, netwidening within the criminal justice system is a different matter. The theory of criminological netwidening centres on the certainty that community sentencing directly increases the population of state controlled citizens.

This denotes the belief that if community sentencing is unavailable, certain offenders convicted before the courts for minor offences would normally have receive a minor penalty such as a fine or warning etc.

The introduction and use of community sentencing by-passes the accepted minor penalties and increases the overall penalty hierarchy. This, in turn, increases the population under the supervision of the

criminal justice agencies and increases the punitive nature of penalties imposed on offenders coming before the court.

There is also an argument that community sentences increase the overall punitive nature of sentence lengths. (Austin and Krisberg 1981:40)

In the United States of America, many criminological research studies have indicated that the use of community sentences have systemically increased the overall punitive scale of sentences. (Petersilla and Corbett 1994: 76). American courts operate a sentence bargaining system to assist the efficiency of the criminal courts. This sentence bargaining system extensively utilises community sentencing options.

For example, an offender may be sentenced to a 3 month prison sentence which is bargained for a 6 month home detention order. US criminologists therefore argue that the net of the criminal justice system is fundamentally widened and strengthened through this practice.

This is in direct contrast to the use of home detention in NSW. The HD Act allows certain offenders the opportunity to serve their full-time custodial sentence at home without increasing the minimum or fixed term length of sentence.

Palumbo et al (1995:23) argue that alternatives to incarceration lead to inevitable net-widening as well as incurring extra costs. These conclusions are based on the findings of a particular house arrest program in Arizona, USA.

Overall, the principles underlying community sentencing tend to promise a large number of criminal justice reforms. For example, Clear

Flynn and Shapiro (1987:284) argue that by promising too much, community sanctions usually guarantee their failure.

**“ Intensive supervision is expected to reduce prison crowding, increase public protection, rehabilitate the offender, ... and save money. Even a sceptic is bound to be impressed.”**

At no point could one argue that sentence bargaining exists within the criminal justice system of NSW and Australia. Criminal statutes and legislation do not allow for this form of covert bargaining.

It is not surprising then that, in terms of the Australian context, there is little useful academic discourse surrounding the identification of netwidening within the Australian criminal justice system.

For example, on 16 October 1996 during parliamentary debate, the Hon. I Cohen, expressed his concern regarding the potential of the bill to widen the net of the NSW criminal justice system:

**“ I remain concerned that the home detention scheme may serve as an additional sentencing option rather than as a general diversion from prison, despite the clear intent of the bill... I expect that if there is evidence of the netwidening the Parliament will move rapidly to amend the bill and restore it's principal intent: that home detention is used only as a diversion from the expensive and socially damaging option of prison.”**

(Uncorrected *Hansard* proof, p14)

Due to the concerns raised concerning netwidening, the legislation stipulated that an

offender must be sentenced to a term of full-time imprisonment before being assessed for suitability for home detention as a means of serving the sentence. It was thought that by limiting the access to home detention only to offenders imprisoned for a full-time custodial sentence, a true diversion from prison would be achieved.

As stated in the HD Act:

**" The objects of this Act are to provide for home detention as a means of serving a sentence of full-time imprisonment."**

HD Act 1996, No 78

As a further measure to control potential netwidening the HD Act stipulated that the Act is not provided for offenders who might be better dealt with via periodic detention and/or other non custodial sentencing options:

**" It is not the object of this Act to divert to home detention offenders who might be appropriately dealt with by way of periodic detention or by a non-custodial form of sentence."**

HD Act 1996, Part One:Section 4 (2)

It was therefore important to initiate an analysis of available data to determine whether the legislation of the HD Act was successful in limiting the potential for netwidening the criminal justice system.

### ■ **Netwidening Exercise using JIRS**

A simple statistical exercise was undertaken in conjunction with the NSW Judicial Commission, using the Judicial Information

Research System (JIRS) to examine whether it was possible to determine if criminological netwidening had occurred since the introduction of the HD Act.

JIRS was developed by the NSW Judicial Commission as a means to assist judicial officers during the sentencing process. The aim of JIRS is to promote sentencing consistency across court jurisdictions in an effort to respond to the needs of the community, legislation and the judicial community.

JIRS is a statistical aid used by judicial officers to assist them in determining appropriate sentence length and structure. When a Judicial Officer is determining an appropriate sentence for an offender convicted of a specific offence and would like to view averages, percentages etc of a particular offence, JIRS can offer statistical support.

For example, a judicial officer can feed a number of variables into JIRS, such as age, prior offences etc and JIRS can produce the graphs of sentence lengths for the specific offence and supplied variables. Although JIRS is only intended to act as a guide in the process of sentencing, it is of great assistance if a judicial officer requires quick, and useful sentencing information.

By utilising JIRS a possible means of measuring the consistency of home detention sentences in terms of the probability of receiving a prison sentence, could be achieved.

As well as measuring consistency, JIRS may elicit any netwidening occurring through the use of the HD Act. By extracting data for JIRS from actual sentences handed down using the HD Act, it would be possible to compare these sentences with the probability

of obtaining a full-time custodial sentence.

This exercise used statistical data of 11 actual sentences dealt with in Local Courts and served by way of home detention. These 11 examples were selected for specific reasons. Firstly, these examples represent common offences of people placed on home detention and uncommon offences of people placed on home detention during the study period. Secondly, this exercise sought to examine specific offence types rather than offence groups in an effort to measure the complexity of judicial sentencing for specific offences.

**Frequency of people convicted of certain offences placed on home detention during study period Feb 1997 - Aug 1998**

Offence Type	Male	Female	Total
Drive whilst disqualified	57	4	61
Obtain benefit by deception	19	16	35
Poss. housebreak implements	29	2	31
Supply Heroin	15	5	20
Breach CSO	8	2	10
Steal Motor Vehicle	9	0	9
Supply Cannabis	1	1	2
Goods in Custody	1	1	2
Embezzle	1	0	1

**Affray** | 1 0 1

This data was fed to JIRS along with the following variables:

- **offence type under either the NSW Crimes Act 1900, Drug Misuse and Trafficking Act 1985, Traffic Act 1909 and Community Service Orders Act 1979**
- **age of offender**
- **prior history of offender**

JIRS utilised all information concerning all cases before NSW Courts between April 1993 and March 1998, to assist with the analysis.

This statistical exercise was successful in identifying consistencies and inconsistencies between home detention sentences and other prison sentences.

It was less successful in determining the existence of netwidening caused by the use of the HD Act.

It must be noted that JIRS only captures a limited number of factors which are critical in determining the sentence of a convicted offender. This indicates that other critical determinants of sentencing not recorded by JIRS, may be influential when determining sentencing.

The following chart demonstrates the outcome of a selection of offences examined using JIRS:

## Likelihood of receiving full-time custodial sentence JIRS Data Base\*

Offence Type	Prior History	Age	Likelihood of receiving full-time custodial sentence (%)
Obtain Financial benefit by deception s178BA Crimes Act 1900	Yes	30-45	17%
Possess House Breaking Instruments s114(1)(b) Crimes Act 1900	Yes	30-45	57%
Steal Motor Vehicle s154AA Crimes Act 1900	Yes	21-30	51%
Supply Heroin s25 Drug Misuse Act 1985	Yes	21-30	67%
Supply Cannabis s23(1)(b)	Yes	30-45	20%
Affray s93C (1) Crimes Act 1900	No	<21	0%
Breach DWD S7a(2)(a) Traffic Act	Yes	30-45	18%
Breach CSO S23(1) Community Service Orders Act	Yes	21-30	46%
Breach CSO S23(1) Community Service Orders Act	No	21-30	26%
Embezzlement s157 Crimes Act 1900	Yes	30-45	5%
Goods in Custody s527C(1) Crimes Act 1900	Yes	>45	12%

\* JIRS data base is compiled by extracting all criminal cases dealt with between April 1993 and March 1998.



As illustrated, a large majority of the sentences handed down were within acceptable sentencing parameters for each particular offence type.

Supply Heroin and Steal Motor Vehicle reflect the tough penalties imposed for these offences. People convicted of these offences and serving home detention sentences easily fell into a high probability of receiving full-time custodial sentences.

The same cannot be said for some other offences examined. For example, during the study period, one offender was convicted of Affray and sentenced to imprisonment by way of home detention. Using the JIRS, it was evident that it was highly unlikely that any offender, under 21 years of age and with no prior history of criminality convicted of this offence, would normally receive a penalty of imprisonment. It is quite likely that this sentence was an anomaly, although it may be an example of netwidening and cannot be lightly dismissed.

The JIRS also examined a sentence handed down to an offender placed on home detention for the offence of embezzlement. According to JIRS, only 5% of offenders aged between 30-45 with a prior criminal history are likely to receive a sentence of imprisonment for a similar offence.

It must be assumed that the Judicial Officer who dealt with this matter felt that there were circumstances surrounding the case that warranted a term of imprisonment. On the other hand, this sentence may be an example of strengthening the net of the criminal justice system by using the HD Act.

These slight variations on standard sentencing patterns do not indicate any propensity for netwidening or net-strengthening within the criminal justice

system, although it is recommended that systematic analysis be undertaken to extensively examine any perceived changes in sentencing patterns within court jurisdictions.

From this introductory examination of sentencing patterns it is possible to determine that the JIRS data suggests that netwidening has not been rife but netwidening cannot be ruled out completely.

The fact that offenders must be convicted and sentenced before requesting a referral for a home detention assessment seems to hinder any possible problem with potential netwidening.

Although it is difficult to speculate on whether netwidening would occur if home detention were made available as a pre-sentence option, it is possible to assume that inconsistencies in sentencing patterns could become more pronounced as well as a possible blurring between community sentence options. This could ultimately open the door to sentence netwidening.

Following on from this mixed success in ascertaining the effect the HD Act had on netwidening the NSW criminal justice system, it was decided that the home detention research study continue in a joint research exercise with the NSW Judicial Commission. This future study will examine attitudinal differences between judicial officers by way of survey in relation to the use of home detention and periodic detention legislation within NSW courts.

Unfortunately for this particular report, this survey will not be undertaken until the latter half of 1999 in order to fit in with the NSW Judicial Commission research program.

# Interviews with Judicial Officers

When the HD Act was introduced there was debate among interested stakeholders as to whether the legislation was of any value in assisting courts to deal with convicted offenders.

Due to the far reaching implications of the HD Act, it was generally anticipated that its use in NSW courts would be initially slow until judicial officers had an opportunity to determine for themselves whether the legislation was of assistance in their day to day professional responsibilities.

As part of the overall research design, it was thought vital to interview judicial officers who had utilised the HD Act within their courts.

During the study period, 24 judicial officers were randomly selected from the geographical areas participating in the NSW Home Detention scheme and approached to discuss the impact and appropriateness of the legislation.

Of the 24 judicial officers approached, 3 officers declined to be interviewed.

The interviews were semi-structured and conducted at the convenience of each judicial officer. To maintain confidentiality, no names were recorded, nor were any interviews audio recorded.

The issues discussed during the interviews were as follows:

- the potential use of home detention as an adequate scheme to fulfil the objectives of the HD Act
- the appropriateness of the HD Act in assisting with sentencing less serious offenders
- possible systemic 'netwidening' due to the use of the Home Detention scheme
- experiences of individuals when requesting a home detention assessment and consequent sentencing confirmations by the presiding magistrates/judges
- experiences with various stakeholders towards the Home Detention scheme; ie families, legal representatives and community groups
- the impact of home detention on families and co-residents of offenders placed on the scheme

In general terms there were several themes throughout the conducted interviews. The interviews revealed that magistrates had similar opinions on most issues regarding the HD Act, while District Court judges also shared similar opinions on most issues regarding the HD Act. On some issues magistrates and judges were very dissimilar in their responses. The following important issues were discussed:

- most judicial officers interviewed would prefer to have the HD Act function as a pre-sentence option rather than the current sentence procedure set down in the legislation
- most judges felt that the eligibility criteria of the HD Act could be made more flexible without compromising the intent of the legislation.
- some magistrates felt that the eligibility criteria of the HD Act could be made more flexible without compromising the intent of the legislation.
- most judicial officers felt that home detention assessments were well executed and reliable tools when deciding whether to grant a Home Detention Order
- some magistrates stated that they 'second guessed' the outcome of a home detention assessment before granting an assessment
- most judicial officers felt that the legislation could be used effectively to divert less serious offenders from prison
- some magistrates felt that certain offences influence whether or not they will grant a home detention assessment even if the offence is allowable within the eligibility criteria of the HD Act
- a number of magistrates raised the concept of 'cocktail' sentencing

- most judicial officers felt that the Home Detention Scheme should be made available on a state-wide basis
- most judicial officers agreed in principle to the concept of 'back-end' home detention but differed on how 'back-end' home detention should function

#### ■ Eligibility criteria of the HD Act

A number of judicial officers interviewed felt that the eligibility criteria was satisfactory and indeed could be made more flexible without compromising the intent of the Act. This argument hinged on the necessary judicial examination of the individual circumstances of a crime.

It was felt that the current HD Act stipulating a maximum sentence length of 18 months aggregate or less, was sufficient to account for the severity of sentence imposed for an offence allowable under the eligibility criteria.

It was also argued that offenders receiving an aggregate sentence of 18 months or less for offences allowable for inclusion in home detention should be individually regarded as less serious offenders.

For example, one judge stated that on a number of occasions offenders before him had been convicted of offences currently inside the ineligibility criteria of the HD Act. Due to the individual circumstances of the crime and the personal circumstances of the offender, it was conjectured that these offenders may well have been more

appropriately placed on home detention rather than prison.

In one such case, the judge said that an individual convicted of malicious wounding would have benefited from inclusion in the home detention scheme. This individual had used a penknife to inflict a wound on the victim's hand. Although the circumstances of the crime warranted a full-time custodial sentence, it was felt that if home detention was available for the offence of malicious wounding, the judicial officer would have had the latitude to explore the possibility of allowing a home detention assessment. If so, the offender may have benefited from the scheme rather than being directed to prison.

The current restrictions of the ineligibility criteria were also felt in other offences such as manslaughter. A number of judicial officers agreed that in limited circumstances, the offence of manslaughter may attract a sentence of less than 18 months and that in those cases, some of the individuals convicted may have been suitable for a home detention assessment. For example, during the study period, one person was serving a full-time custodial sentence of less than 18 months for manslaughter. Without going into the specific details of the case, an opinion of the appropriateness of a home detention assessment cannot be determined. This example merely illustrates that if the HD Act was available for this offence, the judicial officer would have more scope to effectively deal with individual offenders.

The offence of assault occasioning Actual Bodily harm, currently ineligible within the HD Act, was also raised by judicial officers as an offence category that could be considered for exclusion in the HD Act ineligibility. For example, a number of judicial officers commented that they had dealt with people convicted of assault that

could have been potentially referred for a home detention assessment.

Restrictions imposed by the ineligibility criteria were not confined to current offences, the criminal or violent history of an offender was also grounds to eliminate certain offenders.

A number of judicial officers claimed that on a few occasions they had been frustrated with the rigid eligibility criteria surrounding issues of past criminal history.

For example, a judicial officer reported a case involving a less serious driving offence. Due to an AVO issued on the offender dating back four years, the offender was not eligible for a home detention assessment, despite the fact that the matter had been resolved between the defendant and his wife over three years ago. This incident was among a number of cases that were not referred for home detention due to the existence of old AVOs. It was thought that if the restriction placed on AVOs was downgraded from 5 years to 3 years, the HD Act would be more utilised.

A number of judicial officers claimed that dealing with offenders with more serious criminal histories can also illustrate the problems with the current rigid ineligibility criteria of the HD Act.

For example, in March 1997 at Bankstown LC an offender was convicted of driving offences warranting a full-time custodial sentence. A referral for home detention was requested. During the initial eligibility assessment, it was found that the offender had been convicted of manslaughter in 1945, and therefore according to the current HD Act he was ineligible for a home detention assessment.

Although this is an extreme example, it successfully illustrates the sometimes over-conscientious intent of the HD Act.

A number of judicial officers felt that there was some scope for more discretion for judicial officers to determine how relevant the criminal history of an offender is when referring an offender for a home detention assessment and whether or not this history could impede the successful completion of a community sentence such as home detention. It was agreed that restrictions of 10 years could be placed on offenders with previous convictions relating to specified violent offences, allowing more scope for discretionary action by judicial officers.

Another important issue raised concerning the eligibility of offenders for home detention assessments centred around the legal standing of inchoate offences. An inchoate offence refers to any preliminary offence such as attempt, conspiracy or incitement. During the study period, a Crown Advocate opinion was sought in relation to the eligibility of a particular inchoate offence for a home detention assessment. On that occasion, the Crown Advocate determined that in that particular case, the offender was eligible for a home detention referral, but every case would need to be looked at separately. This would mean a costly, time-consuming exercise and a number of judicial officers felt that clarification is warranted through legislative amendments to the current HD Act to increase the efficient use of the Act.

#### ■ **Diversion of less serious Offenders from prison**

Most judicial officers interviewed stated that they felt the HD Act was in theory an effective means of diverting less serious

offenders from full-time incarceration.

A number of judicial officers interviewed felt that where possible, the legislation could effectively punish less serious offenders without utilising the penalty of imprisonment.

For example, a number of District Court judges interviewed, stated that where feasible, they used the HD Act to divert offenders from prison, when they felt home detention could be of most value to both the community and the offender involved.

Some District Court judges stated that due to the serious and often unpleasant nature of their work, it was often a relief to deal with less serious matters and less serious offenders.

When an opportunity to divert an offender who presents no perceived threat to the larger community, they would generally consent to a home detention assessment.

District Court judges are often given sufficient time to discern the full extent of mitigating and aggravating circumstances surrounding a particular crime and given this time, are often able to appropriately refer an offender for a home detention assessment.

In these cases, the use of the HD Act was closely tied to their understanding of the potential threat of the offender to the larger community.

For example, a number of offenders found guilty of substantial fraud related offences in the District Court were directed to serve their sentence by way of home detention. These offenders had some or all of the following in common:

- little or no history of previous offences
- no history of violence
- vulnerable personal circumstances; ie aged/ frail/ disability
- parental responsibilities
- showed contrition and commitment to repay debts

In other words, these people, although convicted of serious crimes warranting full-time imprisonment, were not considered threatening to the larger community and were consequently referred for a home detention assessment as a more effective way addressing offending behaviour.

It is noted that these particular offenders placed on home detention during the study period, were rarely sanctioned and all completed their sentences without incident.

The issue of diversion is crucial to understanding the usage rates of the HD Act in the participating courts.

While the interviewed District Court judges were able to appreciate the potential benefit of diverting certain individuals from prison, a number of magistrates interviewed were more reluctant to promote diversionary sentencing using the HD Act.

During interviews with some magistrates, the following issues were raised to explain the perceived reluctance to use the HD Act:

- volume of work in most Local Courts does not allow for time consuming legislation like the HD Act
- perception that certain offence types are unsuitable, eg drug offenders
- belief in the usefulness of full-time custody as a deterrent
- with particular offenders, magistrates have used a diverse range of penalties and other community services in the past without success, prison is seen as the last resort

These responses assisted in understanding why the referral numbers were low in the Local Courts.

The sheer volume and scope of work in some of the Local Courts may explain the attitude certain magistrates have regarding the relevance of the HD Act.

Does legislation like the HD Act become more of a hindrance than a help in these courts? Responses to this question were varied. Most magistrates agreed that the HD Act does have a place in the scheme of sentencing, determining exactly where that place is, was another matter.

As illustrated in the referral numbers in various Local Courts, it is obvious that some magistrates view the HD Act as a useful sentencing tool and use it quite extensively, while other magistrates do not regard the legislation as useful and do not use it at all.

On the other hand, the use of the HD Act in the District Courts demonstrated a more consistent approach. From the interviews, it is evident that on the whole, judges sought to use the legislation if circumstances were appropriate. This consistent use is reflected in the earlier table which details the home detention referral numbers from the NSW District Court.

### ■ Sentencing Ladder

In a number of interviews the question arose as to where home detention legislation sat on the ladder of sentencing and the scales of punishment and deterrence.

For example, can an offence warranting full-time custody be justifiably diverted to home detention without compromising the integrity of the criminal justice system and when does an offence warrant periodic detention or other forms of alternative sentencing?

Throughout a number of interviews it was evident that there were differing opinions as to where home detention sat on the sentencing ladder.

Sixty % of interviewed judicial officers felt that it was appropriate to regard it as a form of full-time custody, while 40% felt that it was not equivalent to full-time custody and should not be treated as so.

Other interviewees, particularly magistrates, stated that they relied on the Court of Criminal Appeal (CCA) rulings when determining the usage of the HD Act in their courts. During the study period, there were a number of important rulings handed down concerning offences falling within the eligibility criteria of the HD Act. Offences including Imposition, Obtain Benefit by Deception and Drive Manner Danger

occasioning Death. The CCA rulings can function as a guide for use in the sentencing process and the recommendations contained within these rulings are valuable examinations of points of law.

One magistrate briefly described the processes he applied when determining the most appropriate form of sentencing:

- (i) Firstly, the big picture is examined, ie any CCA rulings pertaining to the offence under sentence.
- (ii) Secondly, the sentencing ladder is examined ie most appropriate sentencing option when the circumstances of the crime are examined.
- (iii) Thirdly, risk assessment is required if community sentence is preferred.

In one particular interview, a judicial officer argued that the use of the HD Act was an individual choice and indicative of risk assessment principles undertaken by judicial officers as an everyday part of their day to day responsibilities.

He argued that the use of the HD Act hinged on one's professional and idealistic standards in determining the level of risk involved when granting a home detention assessment. The primary aim being to ensure that allowing offenders onto home detention will not threaten the safety and well being of the general community.

All judicial officers interviewed stated that they had acted responsibly regarding the needs of the community when they sentenced an offender to serve his sentence by way of home detention.

Most were comfortable with the processes undertaken to grant a home detention assessment for two essential reasons:

- **professional ability to discern the implications and intent surrounding the circumstances of a crime**
- **trusted assistance from the home detention units consigned to conduct the necessary assessments**

Most judicial officers interviewed stated that in order for this legislation to work effectively, there must be a high level of trust of the Home Detention Units conducting the necessary assessments and subsequent supervision. All judicial officers interviewed stated that in their experience the home detention assessments they had ordered were very thorough and conducted in a manner which addressed all concerns of the Court. All interviewed judicial officers were aware of the completion reports provided by each Home Detention Unit when an offender they had placed on home detention completed their sentence either successfully or unsuccessfully. These completion reports were seen as valuable tools enabling a closer understanding of the effects of home detention on offenders and their families.

It was noted that a number of judicial officers admitted that they second guessed the outcome of home detention assessments before agreeing to allow an assessment to take place. This second guessing was done for a number of reasons:

- **anticipation of the issues which may prove problem during a home**

**detention assessment**

- **anticipation of assessment outcome concerning offenders with drug and alcohol problems**
- **anticipation of assessment outcome concerning offenders with chronic physical and mental health issues**
- **not allowing certain offenders to build their hopes up for home detention if unsuitability was likely**

- **Influence of offence type on granting Home Detention assessment**

Ten % of all interviewed judicial officers expressed the belief that people convicted of certain offences currently allowable under the current HD Act, should not be either granted a home detention assessment, nor placed on home detention. The nominated offences were as follows:

- **drug offences**
- **serious drink driving offences**
- **multiple drug related offences**

The judicial officers that felt certain offences should not be included in the eligibility criteria of the HD Act. They felt that home detention did not fulfil the control requirements of full-time custodial sentences for these types of people.



It was felt that the following issues were not addressed by the use of home detention for this type of offence:

- **insufficient deterrent factor**
- **inadequate punishment**
- **insufficient means of addressing drug and alcohol related offending behaviour**

Most of this small group of interviewed officers felt that community sentences for drug offenders in particular do not assist offenders to address their behaviour and could potentially create a worse situation particularly for families directly affected by the imposition of home detention. Refer to the **Interview** section of this report for details of the benefits of drug counselling within the community.

A number of interviewees referred to the principles of 'shock incarceration' as an efficient method to deal with most less serious offenders appearing before Local Courts. A short, sharp spell in prison was seen as a solution to halt petty crime amongst less serious offenders.

The use of 'shock incarceration' principles has predominately remained within the United States of America in the form of boot camps or similar styled environments. On the whole, Australian correctional systems have not favoured the principles of 'shock incarceration' in mainstream correctional management, due to its unreliable outcomes in offender behaviour. Refer to the **Reference** section for details of 'shock incarceration' models.

On the whole, these opinions were not widely held by most interviewed judicial officers.

### ■ **Cocktail Sentencing**

The concept of cocktail sentencing was raised during a number of interviews with judicial officers.

Cocktail sentencing refers to the concept of splicing together a mixture of sentencing options to create an individualised sentence. An illustration of cocktail sentencing would be as follows:

An offender is found guilty of property offences and sentenced to nine months full-time custody. A judicial officer could then direct that two months of this sentence be served by way of full-time custody, five months by way of home detention and the remaining two months by way of periodic detention.

Cocktail sentencing allows more control by the magistrate or judge on the manner by which the offender is to serve a set sentence.

It could also be a recipe for disaster if penalty equivalences are not considered when determining the sentence length for an offence.

The blurring of penalty options also occurs with cocktail sentencing to the detriment of the accepted punishment hierarchy.

On the whole, these opinions on cocktail sentencing were not widely held by most interviewed judicial officer.

■ **Pre-sentencing versus post-sentencing options of home detention**

A large majority of judicial officers interviewed felt that the HD Act should be amended so that home detention would function as a pre-sentence option rather than as a post-sentence option.

At present, offenders must be convicted and sentenced to full-time incarceration before home detention can be considered. If home detention was used as a pre-sentencing option, it was felt that the legislation would be more widely used.

A number of interviewed judicial officers speculated that the slow uptake of the legislation could be generally attributed to this problem. It was thought that if a home detention assessment was available when the presentation of a pre-sentence report was submitted to the court, it could save a lot of time and effort.

It was also felt that if home detention was a pre-sentence option it was unlikely that netwidening or net strengthening would occur. Some judicial officers did concede that if home detention was a pre-sentence option, it may be likely to blur the boundaries between it and other community sentence options such as periodic detention and community service orders.

A number of interviewed judicial officers surmised that unless the HD Act is amended to a pre-sentence option, the use of the current legislation will remain under-realised.

The responses concerning pre/post sentencing procedure were not fully anticipated in the course of the study. In essence this issue encompasses the

fundamental concerns surrounding the principles of appropriate sentencing. It raises questions about the legitimacy of applying full-time custodial sentences for essentially less serious offenders even if the public are perceived to expect harsh deterrents for criminal behaviour.

This conflict also raised issues concerning judicial discretion. During the interviews many officers felt that if diversion legislation such as the HD Act was available at the pre-sentence stage of a conviction, they could exercise more discretion when addressing individual needs.

During one particular interview a magistrate complained that due to the current structure of the HD Act he was unable to refer an offender for a home detention assessment, although it seemed the most appropriate course of action. He therefore felt compelled to direct a period detention order instead.

He claimed that if the HD Act was available as a pre-sentence option he would be given more scope and latitude to effectively deal with the matter by way of home detention.

Although this judicial officer expressed derision over the perceived inadequacies of the HD Act, the researcher felt that this officer had indeed acted in the most appropriate manner by clearly differentiating between periodic detention and home detention and acting accordingly.

It is difficult to argue against the continuance of this post sentence legislation without meeting a certain degree of opposition from judicial officers. They have strong arguments for advocating the HD Act be amended as a pre-sentence option, but all research findings indicate that the potential to blur the community sentence boundaries

is greatly increased as is the danger of indirectly increasing the population of full-time custodial offenders.

### ■ **Back-end versus Front-end home detention**

During the interviews, judicial officers were asked to comment on the validity of back-end home detention as opposed to the current front-end HD Act.

On the whole, magistrates preferred the option of back-end home detention over front-end home detention for the following reasons:

- **'back-end HD' incorporated a portion of the imposed sentence to be served in prison**
- **'back-end HD' facilitated reintegration into the larger community**
- **'back-end HD' functioned as a practical deterrent while at the same time allowed for rehabilitative components**

Most District Court Judges interviewed agreed with the principle of back-end home detention, although it was felt that both back-end and front-end home detention schemes could operate simultaneously quite successfully.

A number of judges felt that the decision to grant a back-end home detention order should not be determined during sentencing but rather determined at a later stage by the NSW Parole Board on application through a

system of set principles.

Some judges expressed the opinion that to alter the way an offender serves a full-time custodial sentence prior to completion of their minimum term could only be determined by a statutory body such as the NSW Parole Board presided over by a District Court judge so as to not compromise the Truth in Sentencing Act 1989.

In these terms, back-end home detention was viewed as an extension of the existing security classification structure operated by the Classification and Placement Unit within the NSW Department of Corrective Services.

In summary, the interviews with judicial officers directly responsible for the effective use of the HD Act within NSW courts was a very worthwhile exercise.

The points covered during these interviews highlight the importance of consulting judicial officers in the course of any general review of criminal law legislation. The insights offered by these integral stakeholders can assist in gaining an comprehensive understanding of both how the judiciary implement new legislation and the effect new legislation has on their overall responsibilities and professionalism.

1. The number of finalised cases in Local and Higher Courts was taken from the NSW Bureau of Crime Statistics and Research, NSW Criminal Court Statistics 1997, p14, 68. The number of new sentenced receptions into NSW full-time Correctional Centres in 1997, was taken from the statistics available from the NSW Department of Corrective Services Research and Statistics Unit. When the 1997 sentenced receptions into NSW full-time Correctional Centres is broken down between court jurisdictions the breakdown is Local Court - **4570**, District Court - **1229** and Supreme Court - **105**. The figure quoted in the report does not include Parole sentences.

2. It is noted from the 1997 NSW Bureau of Crime Statistics and Research, NSW Criminal Court Statistics 1997, that the number of cases finalised in the District Court resulting in imprisonment was **1588**. This number relates to cases and not people. For example, a person may be facing two separate cases at once, therefore separate data will be collected on the each individual case rather than data on the person involved. The number of sentenced receptions from District Court in 1997 was **1229**.

# Legislative Interpretation of the HD Act

As part of the overall research study it was necessary to examine the most significant legislative interpretations of the HD Act.

These interpretations fall within four main areas:

- **rigour of the scheme as a substitute for full-time custody**
- **general and personal deterrence**
- **rehabilitative benefits of home detention**
- **appropriate referrals for home detention assessments**

## ■ **Rigour of the Program**

During the parliamentary debate surrounding the passing of the Home Detention Bill through the NSW Parliament, some Members were critical of the possibility that home detention could offer a rigorous supervision regime within the community.

The second reading debate in the Legislative Assembly on 18 September 1996, raised issues concerning the belief that the larger community would consider home detention as a soft option offered to criminals within NSW. For example, Mr Schultz, MP for

Burrinjuck, stated:

**“Given the public expectation of punishment fitting the crime, and concerns about any softening of the approach to dealing with prisoners within our corrective system, I am quite sure - as has been indicated to me by a number of my constituents - that this issue of home detention is regarded as a soft option by the mainstream community and that the community will not accept it.”**

(Uncorrected *Hansard* proof, p 24)

Other objections to home detention centred on the belief that home detention would be inadequate as a controlled supervision regime for convicted offenders. For example, during the debate on 15 October 1996, the Hon. M.J. Gallacher stated:

**“ The bill...will be easily manipulated by offenders throughout our community.”**

(Uncorrected *Hansard*, proof p 29)

The findings from the study clearly indicate that the current NSW Home Detention Scheme is a rigorously enforced substitute for full-time imprisonment.

The extensive interviews conducted with offenders and their families indicated that home detention is a difficult, yet generally successful replacement for full-time imprisonment.

Offenders placed on the program were required to adhere to strict comprehensive legislative regulations including intrusive 24 hour surveillance. As was demonstrated throughout the study, the surveillance of these offenders is very constant.

On the question of whether home detention can be compared to full-time custody, it must fully explore the precise parameters for comparison.

As illustrated in the interviews with offenders on home detention, the large majority expressed the opinion that the home detention scheme was intrusive, rigorous and demanding. The expectations imposed on these offenders by the home detention regulation, ensured that the control and supervision of these offenders within the community was very well maintained.

It must be noted that during the study period between February 1997 and August 1998, the precedent judgement of the CCA was *R v Smith - CCA - Aug 1997*. This judgement stipulated that home detention was to be treated as a comparative sentence to a full time custodial sentence served in a minimum security correctional centre. Grove J. stated:

**“ It can be observed that pursuant to Home Detention Regulation 9 there are prescribed standard conditions applying to home detention which are restricting upon freedom of movement of the prisoner under sentence upon terms which are comparatively as rigorous as those as would be applied to a prisoner in a minimum security institution who was permitted work or study release privileges.”**

This judgement reflected the object of the HD Act. Grove J. stated:

**“ ... an order for home detention is a collateral order to a sentence of imprisonment...”**

In October 1998, the judgement of *R v Smith - CCA - Aug 1997* was overturned by *R v*

*Jurisc - CCA - Oct 1998*. The *Jurisc* judgement is currently the precedent ruling.

The research study findings concerning the rigour of the NSW Home Detention scheme are somewhat contrary to a recent judgement of the Court of Criminal Appeal. In the recent judgement of *Regina v Jurisc - CCA - Oct 1998*, Sully J. refers to his earlier comments in *R v Pine ( unreported - CCA - 4 March 1998)* concerning the perceived conditions of home detention in NSW:

**“I cannot see how home detention with inter alia, comfortable accommodation, furniture and fittings, home cooking, the company of spouse and/or family and a generally unregulated timetable, could be regarded as not more lenient than full-time incarceration in an institution under administration of the Department of Corrective Services.”**

Although it may be fair to draw comparisons between private households and prison cells, it is unfair to assume all offenders placed on home detention live in comfortable and almost enviable surroundings. Sully's J. comments seem to presume that offenders placed on home detention are all living in conditions that reflect a comfortable lifestyle.

The study did not find that all offenders placed on home detention were residing in accommodation described by Sully J.

On the contrary, a substantial number of offenders interviewed as part of this study stated that they were, in fact, living in below-standard housing, struggling to make ends meet and dependent upon Commonwealth assistance. Details concerning the income of households has been discussed at length in the **Interview with Families and Friends**

section of this study.

Sully J. also assumes that offenders placed on home detention complete their home detention orders by way of unregulated timetables. This study found that the reality of life under home detention was quite the opposite to Sully's J. comment.

During the study period, offenders placed on home detention were under 24 hour constant surveillance by use of electronic monitoring, drug testing and personal contact with supervising officers. The study could find no examples of offenders placed on the scheme who were not subjected to very rigorous control and supervision.

Sully J. continues this argument in *R v Jurisic Oct 1998*. He states:

**“I accept that the standard conditions of home detention are burdensome: but it seems to me that they are burdensome in the sense of being, by and large, inconvenient in their disruption of what would be the normal pattern and rhythm of the offender's life in his normal domestic and vocational environment.”**

Sully J. appears to under-estimate the intrusive effects of 24 hour, 7 days a week, State controlled surveillance on an individual and his/her family living with the imposition of such a rigorous surveillance regime.

To refer to home detention as an inconvenience, illustrates a lack of understanding and/or empathy of the intrusive impact home detention has on the people directly affected. This ranges from the imposition of automatic telephone contact in the early hours of the morning, through to knowing intimate details of the family's daily routine.

Sully J. seems to underrate the adverse effects of high control community based regimes while at the same time overestimating the ability of individuals to simply regard home detention as an 'inconvenience' to the normal pattern and rhythm of their lives.

Sully J's. perception of life under home detention has been substantially formed from his knowledge of the limited Crown Appellate cases before the Supreme Court involving District Court judgements involving the use of the HD Act.

Based on the interviews undertaken with offenders and the general demographic findings from this research study, the circumstances of the individual involved in the particular Crown Appellate case before the Supreme Court, Mr Jurisic, was atypical of the general profile of offenders placed on home detention.

Unlike most people assessed for home detention, Mr Jurisic was employed in a managerial position, had no past juvenile criminal convictions and only past adult driving convictions. Mr Jurisic also had a history of cocaine use.

Refer to the **Profile** section of this report for details concerning the commonalities within the demographic profile of offenders assessed and/or placed on home detention within NSW. Briefly, the commonalities included:

- **use of either alcohol, cannabis and/or heroin**
- **in receipt of Commonwealth assistance**

- **working in semi-skilled or non-skilled professions**
- **past juvenile convictions**
- **past adult convictions and penalties including imprisonment**

Interviewed home detainees spoke at great length of the difficulties of completing a home detention sentence. This form of imprisonment cannot be merely regarded as inconvenient. During the completion of a home detention order, an offender's whole life is defined through compliance to the home detention regulations. These regulations are similar to those imposed on an inmate in prison.

Refer to the **Interview** section of this report for details concerning the extent of the physical and emotional impact of home detention on offenders and their families.

One therefore, should view home detention as a particular form of full-time imprisonment with a low security rating, rather than some form of non-custodial sentencing option.

In the recent Court of Criminal Appeal judgement, *R v Jurisic - CCA - Oct 1998*, the judgement stipulated the following:

**“A term of imprisonment by way of home detention is a substantially less onerous sentence than imprisonment within the confines of a prison.”**

Arguments concerning degrees of onerousness are not of much value unless one identifies the contextual boundaries.

Using this argument, comparisons between

prison and home detention are dependent on the perceived role of retribution, denunciation and rehabilitation within the context of overall offender sentencing and containment.

This study found that the most quantifiable differences between home detention and prison lay between the physical environments of prison and the physical environment of a private home.

Most arguments concerning the onerousness of home detention compared to prison, focus on the home comforts of home detention compared to the sterile physical environment of correctional facilities.

Almost all offenders interviewed acknowledged that to successfully complete a home detention order, one needs fundamentally different, but equally proficient, coping skills as those skills required to complete a sentence of custodial imprisonment. The demands of both forms of imprisonment are very exacting.

Offenders felt that home detention was a very difficult regime to successfully complete. The following reasons were given by offenders as the most onerous aspects of home detention:

- **constant 24 hour intrusive surveillance**
- **frequent urinalysis and breath analysis**
- **remaining drug and alcohol free in the community, especially when others in the household or visitors need not abstain**



- remaining within the confines of the home unless permission is granted to leave to attend professional appointments
- forced completion of community service, and other relevant programs
- impact of home detention regulation on family activities
- lack of privacy for self and family

Offenders also nominated the most advantageous aspects of home detention. These included:

- decreased fear for personal safety
- opportunity to stay with family
- opportunity to seek community services/programs
- opportunity to seek employment

One of the most significant issues that will need to be addressed in the future is the debate concerning where the penalty of home detention lies in relationship to the overall hierarchy of penalties imposed in NSW courts.

The recent Court of Criminal Appeal finding, *R v Jurisic - CCA - Oct 1998* complicated the future use of home detention within NSW courts. This judgement raises important issues on the legitimacy of referring to home detention as a legitimate form of full-time imprisonment.

The principle components of the Jurisic judgement were as follows:

- re-enforcing the call for home detention referrals to be completed after sentence is determined
- home detention is a less onerous form of imprisonment
- an appeal process is available for both the term of imprisonment and the home detention order itself.

The judgement left open the question of the applicability of home detention to offences properly sentenced to a full-time custodial sentence of 18 months or less.

The Jurisic judgement did not examine nor decide if the particular offence before it fits the criteria for inclusion to home detention, just that the required penalty for the offence in question exceeded the maximum of 18 months permissible under the HD Act.

How NSW courts interpret the use of home detention as an alternative to imprisonment, while fulfilling the intent of sentencing, is integral to the future use of the HD Act.

It is apparent that more open debate is required within the judiciary and across the larger community before the future of home detention is secured.

In many ways, the different interpretations of the legitimacy of home detention as a alternative to imprisonment, is directly reflected in the uneven referral figures in the Local Courts of NSW.

There is evidence to suggest that some judicial officers do not feel that the HD Act is appropriate for certain numbers of less serious offenders, such as petty drug offenders and therefore refuse to refer offenders for assessments. Other judicial officers flatly refuse to use the legislation because they do not feel that home detention is equivalent to full-time custody.

On the other hand, a number of judicial officers do regard the HD Act as a useful tool when dealing with less serious offenders. In fact, during a number of interviews with judicial officers, some commented that in certain cases, offenders convicted of even more serious offences should be considered for home detention. In these cases, judicial discretion would be required to determine the mitigating and aggravating circumstances of each crime and the circumstances behind any action leading to more serious criminal behaviour.

The findings of the study indicate that it would be feasible to investigate the possibility of extending the current eligibility criteria of the current HD Act to incorporate more serious offences while still maintaining the fixed or additional term at a maximum of 18 months.

The scheme has proven to be a efficient means of controlling offenders within the community and there is no suggestion that in certain cases, offenders convicted of more serious offences could not be considered for home detention.

A recent statement by the NSW Director of Public Prosecutions re-enforced the keystones of criminal sentences.

**“Sentences are intended to provide deterrence, retribution and reform.”**

Nicholas Cowdry SMH 24.2.99 p13.

In these terms, a sentence served by way of home detention can demonstrate these three components. Refer to the **Efficacy of the Scheme** section for details on how effective home detention can be in managing to control offenders under sentence while at the same time encourage offenders to address their offending behaviour.

### ■ **Retribution and Deterrence**

During the Parliamentary debate surrounding the introduction of home detention, there was some speculation on whether home detention could function as a general law and order deterrence if the larger community felt that home detention could not exact retribution for offending behaviour.

For example, during the second reading in the Legislative Council on 15 October 1996, the Hon C.J.S Lynn stated:

**“The Government appears to have forgotten that society demands that criminals be punished for criminal behaviour, rather than be rewarded for it with a range of soft rehabilitation options.”**

(Uncorrected, *Hansard*, proof, p 16)

The findings from the home detention research indicated that the scheme was an efficient tool in exacting appropriate penalties for certain offending behaviour. Refer to the **Interview** section for details on how offenders perceive the rigorousness of home detention as an exacting penalty for certain offences.

During the second reading in the Legislative Council on 15 October 1996, The Reverend

the Hon F.J Nile raised the issue of whether home detention could operate as a useful law and order deterrent when dealing with crime:

**" Basic questions of justice arise. What penalty is adequate for the crime? What is an adequate deterrent to reduce crime in our society? Community perception is that governments of all persuasions are soft on crime."**

(Uncorrected, *Hansard*, proof, p 30)

In general terms law and order deterrence functions on two levels. Firstly, deterrence can operate as a *general* deterrence, wherein they function to impede overall criminal activity within society. General deterrence is intended to function as a signal to all citizens that any criminal behaviour will result in punishment. It is envisioned that general deterrence act as a stark reminder of the consequences of criminal behaviour.

Deterrence can also operate as a specific/personal hindrance, as it functions to deter a particular offender convicted of a particular criminal offence.

The Court of Criminal Appeal's recent judgements involving Crown Appellate cases of home detention, allude to an argument of the potential deterrence of home detention. Does the punishment of home detention act as a general deterrent to future crime in the same way as the deterrence of prison?

As far as deterrence can be sustained, findings from this study indicate that home detention can function adequately as a personal deterrence for less serious offenders to deter potential criminal activity whilst completing a home detention order.

For example, during the study period, 96

offenders were issued with sanctions. **Sixty one** offenders progressed through to an official revocation. The remaining **35** offenders issued with sanctions addressed their problematic behaviour and went on to successfully complete their HDOs.

Unfortunately, it is not possible to examine or determine the potential of home detention to act as a general criminal deterrent until more data is collated pertaining to the use of the HD Act over, at least, another three years. At that time it may be possible to examine whether home detention can function as an effective general deterrent within the NSW criminal justice system.

Examining the recidivist rates for the people placed on home detention may also be a means of examining both the potential general and personal deterrent factors of home detention.

The statistical analysis needed for this exercise cannot be undertaken for at least another three years. After this time, it may be possible to examine the level of re-offending behaviour of this group of people and some useful conclusions may be drawn on the impact of home detention as a general deterrent.

As reported earlier, **4.6%** of offenders placed on home detention were charged with new offences whilst completing an order. These charges included minor offences such as shoplifting etc and one serious charge of armed robbery. This finding indicates that the offenders placed on home detention are, in general, well supervised whilst in the community.

It should also be noted that the study found even offenders with problems with chronic drug and alcohol use were successfully

curtailed by the rigorous enforcement of the home detention regulation.

The most successful mechanisms to control drug and alcohol use was regular and frequent urinalysis and breath analysis.

This study found that regular drug and alcohol testing proved a successful immediate deterrent for most offenders placed on the program. Refer to the **Efficacy of the Scheme** section of this report for details on the success of sanctions as personal deterrence.

Until more data is analysed in the future planned research studies into home detention, there can be no reason to assume that the imposition of a home detention order cannot function as an equally adequate and useful tool of personal deterrence among less serious offenders compared to imprisonment.

### ■ Rehabilitation Benefits

During the Parliamentary debate surrounding the HD Act, some Members expressed the view that home detention could function as an effective rehabilitation tool for sentencers. As the Hon. P Staunton stated on 15 October 1996:

**“The most important aspect of the legislation is that home detention should assist in the long-term rehabilitation of offenders. The well-known major principles that underpin the approach to sentencing are not only retribution and deterrence but also, most importantly, rehabilitation. Any sentencing policy that directs it’s attention more to rehabilitation than to retribution is to be welcomed.”**

(uncorrected *Hansard*, proof, p 24)

The concept of rehabilitation remains one of the cornerstones of all Australian criminal justice systems. Rehabilitation is an inherent factor contained within the principles of sentencing and containment of offenders.

This study found that many offenders placed on home detention were acutely aware of the assistance offered by home detention to assist with lifestyle changes away from potential future criminal behaviour. During the interviews with both successful and non-successful offenders placed on home detention, common themes ran through the responses to the rehabilitative potential of home detention compared to the direct alternative of full-time imprisonment. These common themes were as follows:

- **realisation of the impact of their offending behaviour had on their family**
- **support offered by the supervising officers to seriously address problem behaviour within the context of the community**
- **healthy interaction with family and larger community**
- **opportunity to pursue vocational opportunities**
- **remaining drug and alcohol free while living in the community**

Refer to the **Interview with Family and Friends** section of this study for in depth details of the above mentioned themes.

It will not be possible to examine whether the rehabilitative components of home detention are ultimately successful for a number of years. After sufficient time a recidivist study should be initiated to determine whether home detention has impacted on the pattern of offenders who had originally participated in the NSW home detention scheme.

### ■ **Appropriate referrals for home detention assessment**

At present, there is no court data collected on the number of offenders who request a home detention assessment and are refused.

There is currently no way of ascertaining the number of offenders that are refused a home detention assessment. This study found that although a great amount of data could be collected once an offender had been granted an assessment, it was impossible to determine even an approximate number of offenders who requested an assessment and were refused.

This is incongruous with other stringent procedural guidelines undertaken as part of the overall home detention legislation and so must be addressed.

The HD Act sets out very distinctly and concisely the procedures which must be undertaken to fulfil the legislative requirements. The one area which currently has no restrictions is the total discretion given to judicial officers when deciding whether an offender is appropriate for a home detention assessment. The fact that the uneven referral figures in the Local Courts indicate that magistrates are in fact exercising this discretion in an inconsistent manner.

During the study period, 20 offenders were granted a home detention assessment in the NSW District Court following the instigation of appeal procedures resulting from sentences brought down in NSW Local Courts.

A number of these offenders claimed during research interviews that they had requested a home detention assessment in the Local Courts only to be refused. It was then necessary to initiate an 'all grounds' appeal process which resulted in the granting of a home detention assessment as a direction from the District Court.

During the study period, the only vague indicators of appropriateness for home detention assessments may well have been from the small number of Crown Appellate cases involving a sentence of home detention, rather than legislative guidelines.

This study therefore highlights the need for the development of more specific guidelines concerning the most appropriate offenders for referrals for a home detention assessment. This should assist with the promotion of more consistent use of the HD Act in NSW courts.

A means of monitoring the number of cases where home detention is requested by either, the offender, the legal representative or the judiciary would also be a most useful start to determining the most appropriate guidelines for assessment referral. To this end, court staff at the participating courts could collect data on the number of requests and refusals for home detention assessments and the reasons why particular referrals were refused.

If Court staff collected this data, it may be possible to determine the actual number of

offenders who request a home detention assessment. With this information, it would be possible to determine the best methods of addressing the current low referral numbers in Local Courts.

This will also assist in the ongoing co-operation which is required to ensure the continued success of this particular legislation.

# Conclusion

The concept of home detention elicits a plethora of tangible possibilities. On the one hand it offers NSW a potential solution to lower the escalating cost of imprisonment, while at the same time promising the tough supervision of offenders within the larger community.

Alternatively, home detention can be seen to usher in a wave of new alternative sentencing options, offering humane correctional containment models to effectively manage less serious offenders in the community.

Home detention offers correctional authorities the opportunity to free up some much needed bed space for more serious offenders, while at the same time offering the community the security of supervising offenders within the community in a rigorous manner.

Home detention also offers families the opportunity to remain together while completing a custodial sentence.

Finally, home detention offers the individual the opportunity to address offending behaviour surrounded by the support of his/her own environment and without the potentially harmful affects of imprisonment.

It was these main issues that formed the backbone of a critical element of the research conducted.

## ■ Lessons in Co-operation

Throughout the home detention review it became apparent that there were a wide range of stakeholder groups with particular interest in the ramifications of the HD Act. These stakeholder groups included:

- **offenders assessed and/or placed on home detention**
- **families and friends of offenders placed on home detention**
- **government agencies directly involved with ensuring the implementation of the legislative requirements of the HD Act**
- **community agencies interested in the affect of the HD Act on offenders, their families and the larger implications for the NSW criminal justice system and general community**
- **the judiciary entrusted to perform the necessary legal requirements of the HD Act**
- **legal representatives acting on behalf of offenders assessed and/or placed on home detention**

The findings from the study indicated that if the interests of these stakeholders were to be realised in relation to the HD Act, it was necessary for these groups to initiate extensive co-operative integration.

The study found that the successful operation of home detention is dependent on successful, multi-faceted government and

community co-operation. Each involved stakeholder agency must be willing to co-operate with other stakeholder agencies for the scheme to work effectively.

Each stakeholder must be willing to mediate their role within the larger framework of the legislation in order to realise the benefits of an alternative sentence such as home detention.

The review of the home detention legislation sought to examine the impact home detention had on each of these identified stakeholders and how stakeholder interaction impacted on securing the aims and objectives of the HD Act.

The following findings from the study illustrate the diversity of co-operation and integration required by the HD Act:

- offenders placed on home detention must co-operate with supervising officers to fulfil the requirements of the Home Detention regulation in order to successfully complete their sentence
- offenders must co-operate with their families to successfully complete their HDO
- families must be willing to concede some degree of privacy for home detention to operate successfully in their home
- children need to co-operate with their carer/parents completing a HDO to maintain healthy relationships

- judges and magistrates must be willing to refer eligible offenders for a home detention assessment
- judges and magistrates must trust Home Detention Units to complete a comprehensive home detention assessment
- home detention officers must be willing to co-operate with offenders in developing effective case management strategies to ensure the successful completion of a HDO
- home detention officers must be willing to co-operate with families to ensure the needs of families are fulfilled
- home detention officers need to co-operate as a team unit to ensure best practice principles while supervising offenders in the community
- community agencies must co-operate with home detention units to ensure offenders and their families are supported during a home detention order

During the study it was obvious that if stakeholders failed to co-operate in achieving the aims and objectives of the HD Act, the desired outcomes of safe, rigorous community sentencing were not fully realised. This problem is best illustrated in the **Interview** section of this report in the discussion concerning crisis intervention in the community.

One of the crucial components to support



co-operation and increased use of the home detention scheme was identified as the increased dissemination of information pertaining to the usefulness of the HD Act within the courts and the larger community.

This study clearly shows that more resources must be fully and carefully allocated to the provision of information concerning the operational aims and objectives of the HD Act for the following groups:

- offenders
- families and friends of offenders
- legal centres and legal representatives
- judicial officers
- government and non government community services
- local community centres

This study found that although offenders and their families were fully informed of the requirements of the home detention regulation during the assessment conducted by home detention officers, most offenders and their families knew nothing of the HD Act prior to court proceedings.

What became apparent was that some offenders stated that they had either learned of home detention via friends or relatives that had been involved in the completion of a previous home detention sentence or had learned of home detention in past gaol sentences by way of informal discussions between inmates.

If more information concerning home detention were available to a wider population than by mere word-of-mouth then the number of requests for home detention assessments would increase. This would in turn, impact on the usage rates by judicial officers. This then could facilitate a flow on effect throughout the whole court system and in doing so increase the overall use of home detention as an incarceration model for less serious offenders.

### ■ Future Directions

During the completion of the home detention review, it became apparent that the future direction of the NSW home detention scheme hinges on a number of issues. These are:

- general acceptance of home detention as a useful sentencing option for less serious offenders
- acceptance of home detention as an alternative to imprisonment
- continued commitment by all criminal justice agencies to diverting less serious offenders from full-time imprisonment
- increased numbers of home detention referrals from participating courts through more acceptance of the HD Act by judicial officers
- reasonably low revocation rates
- maintenance of a low rate of offences committed by offenders placed on the home detention

- **continued support from families directly affected by the imposition of a home detention order**
- **maintenance of a rigorously enforced home detention regulation by supervising officers**
- **maintenance of a rigorously enforced home detention regulation by NSW Parole Board**

### ■ **Summary**

The findings indicate that the current home detention scheme is a rigorous, well maintained and highly reliable scheme allowing offenders to complete their sentence within the community without presenting a threat to the larger community.

In summary, the review of the home detention scheme has allowed the unique opportunity to explore the social and legal impact of alternative sentencing within the courts and community of NSW.

It is hoped that this study will be of value as a tool to assist interested stakeholders and the larger community to understand the complex implications of a community sentencing in NSW.

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# **Appendices**



## Home Detention Programs within Australia and New Zealand

The following information pertaining to home detention schemes within Australasia was completed as part of the overall home detention review. The information was gathered through both correspondence and phone interviews. The briefing was completed in October 1998 and has not been updated.

### New South Wales

The NSW govt embarked on a pilot program known as Intensive Community Supervision in 1992. In 1996 the NSW parliament passed the Home Detention Act enabling the current program to become operational. The current 'diversionary' program is being reviewed by the NSW Department of Corrective Services Research and Statistics Unit and the results of this evaluation will be tabled in the NSW Parliament in February 1999.

### Victoria and Tasmania

Currently there are no home detention or electronic monitoring schemes operating in either State. Recent letters sent to the Research and Statistics Unit from appropriate representatives indicate that there is currently no intention of introducing home detention or electronic monitoring and at this stage there are no feasibility studies planned.

### South Australia

South Australia operates two streams of home detention, a bail alternative and a 'back end' scheme. Home Detention bail system has 60 -70 participants daily and is running a 40% revocation rate. According to the S.A representative interviewed, the State has saved substantial expenses since it's introduction.

The 'back end' scheme operates as an administration responsibility. The current legislation stipulates no limit on sentence length for participants, the only offences not eligible fall within DANCO Cat 1 and 2 (predominately violent offences). All assessments for home detention must be approved by the Prisoner Assessment Committee which is similar to the Parole Board without being a statutory body. This committee consists of community representatives, senior Police Service personnel, custodial staff, parole and probation staff and representatives from Aboriginal communities.

Evaluations for home detention are completed as a joint effort between custodial and community officers. The principles of case management are incorporated into the evaluation and all officers are encouraged to participate in the evaluations for home detention. At present there is some resistance to the implementation of case management and it is believed that it will take a few years before there is significant improvements.

The community officers are responsible for the family evaluations and all reports are presented to the Prisoner Assessment Committee before approval is granted.

The current scheme has approximately 120 participants per day, 10% of these are women offenders. There is an under representation of Aboriginal offenders largely due to the current

exclusion of DANCO Cat 1 and 2 offences. This is being currently reviewed. The revocation rate is approximately 15%. All offenders who breach their order are returned to prison to serve the balance of sentence. The Parole Board and the Prisoner Assessment Committee have close liaison protocols to ensure continuity. Any breach circumstances are utilised in applications for parole.

Offenders placed on home detention are supervised by specific Home Detention Officers and can progress through 3 levels of graduation, thereby preparing them for parole or release. This service is available throughout all of South Australia, although there are problems with remote areas and there may be a need to establish working relationships with Family and Community Services or even Elders within Aboriginal communities in order to operate the scheme.

### **Northern Territory**

Legislation introduced in 1987 enables courts to order offenders to serve a period of home detention as an alternative to imprisonment. Offenders assessed by Community Corrections as suitable for home detention have their prison term suspended and are placed on home detention under conditions imposed by the court. This scheme is a 'front end'/diversionary option, as a direct alternative to imprisonment. Conviction for a breach results in the offender being incarcerated to serve the full sentence originally imposed by the courts.

This program is operational in 34 communities across the Territory. In 1996/97, 90 offenders were placed on the program and the successful completion rate was 73%. The most common offences leading to home detention were driving offences.

### **Western Australia**

For the past ten years, W.A has had two streams of home detention. The first stream is Home Detention Bail, which forms part of the available bail conditions issued by the courts. The second stream is 'back end' home detention. This program is open to all offenders serving less than 12 months. Offenders must serve 1/3 or 1 month of their sentence whichever is greater. After this period is served they are then released into the home detention program. No figures are available at present.

The program is managed by the Probation and Parole Service without the involvement of the judiciary or custodial services. The program has been contracted out to private companies and they are responsible for all electronic monitoring and door to door checks. There are no components of reintegration counselling etc or involvement with the Probation and Parole Service. In cases where the offenders do not have access to a telephone, the State provides an incoming phone service to fulfil the needs of electronic monitoring. This service is withdrawn when the order is completed.

The program is operational across the state and special arrangements are made in remote areas to ensure that all incarcerated West Australians can participate.

During a recent interview with the current Acting Director of this program, it was stated that the scheme had been operational for at least 10 years and unaware if any reviews or evaluations had taken place of this period. It was also stated that this program was seen purely as a 'containment' exercise and not intended to function as a reintegration 'tool'.

## Queensland

Queensland operates an Intensive Community Supervision Order (ICSO) as well as a 'back end' home detention scheme. The ICSO is legislated as a post sentence voluntary option for all offenders serving less than 12 months. There are approximately 130-140 people on ICSO at any time and is available in all areas. The supervising officers are from Community Corrections. Any detainees who breach their Orders must serve the balance of their sentence in full time custody.

The Home Detention Scheme is a post prison option for all offenders throughout Queensland, regardless of the nature of their offence. An offender is only eligible for home detention four months prior to parole. All applications to the scheme must be approved by either the Queensland Community Corrections Board for offenders serving more than 5 years and Regional Community Corrections Boards for offenders serving less than 5 years.

There are approximately 70 -100 offenders serving home detention at any time, with 25% female representation. Aboriginal offenders have the option of participation in specialised programs consisting of half way houses, particularly in far north Queensland. There is no electronic monitoring on this scheme. All checks are carried out by random phone calls and physical contact by Community Corrections Officers.

## New Zealand

The NZ Dept of Justice is currently preparing a final report for the introduction of legislation concerning home detention. Between 1995-1997, a comprehensive study completed by the Dept of Justice examined a pilot program introduced into NZ. This program was designed as a 'back end' option. The major findings are as follows:

- **Cost Effectiveness** - It cost NZ\$44,800 to place a person on Home Detention and NZ\$43,700 place them in minimum security prison. The cost of HD was higher than expected due to the low numbers placed on the program due to legislative restrictions. This should be addressed with new legislation.
- **Reintegration** - There were marked improvements in family relationships, communication, employment and positive relationships with supervising officers. Elements that detracted from reintegration were restrictions on activities, some lost employment opportunities deemed inappropriate and lack of constructive activities for offenders. There is some doubt by the researchers concerning the appropriateness of reintegration as a primary objective for a programme with such marked control features.
- **Diversions** - The pilot aimed to get some inmates out of prison early. Overall there is evidence to suggest that most of the detainees were released earlier than they otherwise would have been released.
- **Compliance and Re-arrests** - The pilot numbers were low therefore it cannot be assumed that the capacity of the program to achieve compliance has been fully tested. On the issue of re-arrests, follow up periods between 4 months and 2 years indicate that 11 out of 37 offenders had been subsequently charged with new offences. The figures are too

low to draw any worthwhile conclusions, nor was it possible to assess whether reoffending rates are any higher or lower than reoffending after other forms of release.



New South Wales

# Home Detention Act 1996 No 78

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New South Wales

# Home Detention Act 1996 No 78

Act No 78, 1996

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An Act to provide for home detention as a means of serving a sentence of imprisonment in certain cases. [Assented to 1 November 1996]

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**The Legislature of New South Wales enacts:**

## **Part 1 Preliminary**

### **1 Name of Act**

This Act is the *Home Detention Act 1996*.

### **2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

### **3 Definitions**

In this Act:

*additional term* has the same meaning as in the *Sentencing Act 1989*.

*assessment report* means a report referred to in section 10.

*Board* means the Parole Board established under the *Sentencing Act 1989*.

*fixed term* has the same meaning as in the *Sentencing Act 1989*.

*home detention order* means an order referred to in section 11.

*minimum term* has the same meaning as in the *Sentencing Act 1989*.

*supervising officer* means a person employed in the Probation and Parole Service who is designated a supervising officer for the purposes of this Act.

### **4 Objects**

- (1) The objects of this Act are to provide for home detention as a means of serving a sentence of full-time imprisonment, and to that end:
  - (a) to define the class of sentences of imprisonment that may be served by way of home detention, and the class of offenders who are eligible to serve a sentence in that way, and



- (b) to provide for due assessment of eligible offenders so as to determine their suitability, and the suitability of their circumstances, to serve a term of imprisonment by way of home detention, and
  - (c) to provide for the making and revocation of home detention orders and for the imposition of conditions applicable to home detention:
    - (i) specifying periods of confinement and the circumstances in which the offender may be absent from home, and
    - (ii) regulating the conduct of the offender while subject to home detention and providing for the monitoring of that conduct, and
    - (iii) generally defining the constraints and privileges pertaining to home detention.
- (2) It is not the object of this Act to divert to home detention offenders who might be appropriately dealt with by way of periodic detention or by a non-custodial form of sentence.

## Part 2 Home detention orders

### 5 Sentences that may be served by way of home detention

- (1) A home detention order may be made in respect of a sentence of imprisonment comprising:
  - (a) a fixed term of imprisonment not exceeding 18 months, or
  - (b) a minimum and an additional term that do not in the aggregate exceed 18 months.
- (2) If a person is sentenced to two or more terms of imprisonment that are to be served concurrently, and if each such sentence is one to which subsection (1) applies, a home detention order may be made in respect of each of the sentences so as to allow them to be served concurrently by way of home detention.
- (3) If a person is sentenced to two or more terms of imprisonment that are cumulative, a home detention order may only be made in respect of the sentences so as to allow them to be served cumulatively by way of home detention if in the aggregate the minimum and additional terms required to be served, calculated in accordance with section 9 of the *Sentencing Act 1989*, do not in the aggregate exceed 18 months.

### 6 Home detention not available for certain offences

A home detention order cannot be made in respect of a sentence of imprisonment for any of the following offences:

- (a) murder, attempted murder or manslaughter,
- (b) sexual assault of adults or children or sexual offences involving children,
- (c) armed robbery,
- (d) any offence involving the use of a firearm,
- (e) assault occasioning actual bodily harm (or any more serious assault, such as malicious wounding or assault with intent to do grievous bodily harm),
- (f) stalking or intimidation contrary to section 562AB of the *Crimes Act 1900*,

- (g) a domestic violence offence against a person with whom the offender would wish to reside, or continue or resume a relationship, if a home detention order were made,
- (h) any offence under the *Drug Misuse and Trafficking Act 1985* prescribed by the regulations for the purposes of this paragraph, or any other offence so prescribed.

### **7 Home detention not available for offenders with certain history**

- (1) A home detention order cannot be made for an offender:
  - (a) who has at any time been convicted of any offence mentioned in section 6 (a) or (b) or any other offence prescribed by the regulations for the purposes of this paragraph, or
  - (b) who has at any time been convicted of stalking or intimidation contrary to section 562AB of the *Crimes Act 1900*, or
  - (c) who has within the last 5 years been convicted of a domestic violence offence against a person with whom the offender would wish to reside, or continue or resume a relationship, if a home detention order were made, or
  - (d) who is, or has been within the last 5 years, subject to an apprehended violence order made for the protection of a person with whom the offender would wish to reside, or to continue or resume a relationship, if a home detention order were made.
- (2) Offences prescribed by regulations made for the purposes of subsection (1) (a) may include offences under a law of the Commonwealth or of another State or a Territory.

### **8 Other circumstances precluding order**

- (1) A home detention order cannot be made unless:
  - (a) the offender concerned has consented in writing, in the form prescribed by the regulations, to the making of the order, and
  - (b) the persons, if any, who would be residing with the offender during the period of the offender's home detention have consented in writing, in the form prescribed by the regulations, to the making of the order.

- (2) For the purposes of subsection (1) (b), the consent of children below a prescribed age or of persons suffering a prescribed disability may be given on their behalf by such other persons as the regulations may determine or may, if the regulations so provide (and subject to any prescribed conditions), be dispensed with.
- (3) A home detention order must not be made if the court considers it likely that the offender will commit any sexual offence or any offence involving violence while the order is in force, even though the offender may have no history of committing offences of that nature.
- (4) A home detention order must not be made unless the offender has been assessed under section 10 and the relevant assessment report recommends that the sentence might be appropriately served by way of home detention.
- (5) A court may, for reasons appearing to it to be sufficient, decline to make a home detention order despite the contents of the assessment report.

## **9 Referral for assessment of suitability**

- (1) The court by whom a person is sentenced as referred to in section 5, or any court reviewing such a sentence, may refer the offender for assessment as to the suitability of the offender for home detention as a means of serving the minimum term of the sentence (or, in the case of a fixed term sentence, the whole of the fixed term).
- (2) When a court refers an offender for assessment under this section, the referral stays the execution of the sentence until it is decided whether a home detention order is to be made, and the court may defer compliance with section 8 of the *Sentencing Act 1989* until such a decision is made.
- (3) When execution of a sentence is stayed under this section:
  - (a) the sentence does not commence to run until the stay expires as provided by section 11, and
  - (b) for the term of the stay the offender may be remanded in custody or granted bail in accordance with the provisions of the *Bail Act 1978*.

**10 Assessment of suitability**

- (1) When an offender is referred under section 9 for assessment, the offender's circumstances are to be investigated by the Probation and Parole Service and a report prepared in relation to the suitability of the offender for home detention.
- (2) The following must be taken into account and addressed specifically in the report:
  - (a) any criminal record of the offender, and the likelihood that the offender will re-offend,
  - (b) any dependency of the offender on illegal drugs,
  - (c) the likelihood that the offender will commit a domestic violence offence,
  - (d) whether any circumstances of the offender's residence, employment, study or other prospective activities would not permit effective monitoring of a home detention order,
  - (e) whether persons with whom the offender intends to reside or to continue or resume a relationship understand the requirements of the order and are prepared to live in conformity with them, so far as may be necessary,
  - (f) whether the making of the order would place at risk of harm any person who would be living with or in the vicinity of the offender,
  - (g) any matter prescribed by the regulations.
- (3) The regulations may require an assessment of the effect of the order on any children who would be living with or in the vicinity of the offender to be carried out in a manner and form prescribed by the regulations.
- (4) The officer preparing the assessment report is entitled to take into account any matter that seems to the officer to be relevant to whether a home detention order ought to be made for the offender concerned, whether or not it is a matter mentioned in this section.
- (5) If it appears to the officer preparing the assessment report that the offender is homeless:
  - (a) all reasonable efforts must be made by the Probation and Parole Service, in consultation with the offender, to find suitable accommodation, and

- (b) the report is not to be finalised until those efforts have been made.

## 11 Home detention order

- (1) A court that has sentenced an offender may by order direct that the minimum term of the sentence concerned (or, in the case of a fixed term sentence, the whole of the fixed term) be served by way of home detention.
- (2) A reference in subsection (1) to a court that has sentenced an offender:
  - (a) includes a reference to that court even if constituted by another person or other persons, and
  - (b) in the case of a sentence passed by a Local Court, includes a reference to any Local Court.
- (3) A home detention order must not be made:
  - (a) if the making of the order in the case concerned is prohibited by a provision of this Part, or
  - (b) if the court is not satisfied, having regard to the contents of the relevant assessment report, that the order is appropriate in the circumstances of the case.
- (4) At such time as the court makes or declines to make a home detention order, a stay of execution of sentence under section 9 expires, and in cases where the order is not made, the sentence of imprisonment is to be carried out.
- (5) Section 8 of the *Sentencing Act 1989* applies to the carrying out of a sentence as referred to in subsection (4), and the court may, in fixing a commencement date for the relevant term of imprisonment, take into account time spent by the offender on remand pending assessment under section 10.

## **Part 3      Operation of home detention orders**

### **12    Undertakings**

- (1) Each offender for whom a home detention order is made is required to sign a home detention undertaking in connection with the order.
- (2) An undertaking is to set out in general terms the obligations of the offender while undergoing home detention and signify the offender's willingness to meet those obligations and any monitoring requirements in connection with them, including submission to blood and urine testing as required.

### **13    Conditions governing home detention**

- (1) The following conditions apply to home detention:
  - (a) conditions prescribed by the regulations as standard conditions of any such order,
  - (b) additional conditions:
    - (i) specified by the court on the making of the relevant home detention order, or
    - (ii) notified by the Board under subsection (3).
- (2) Conditions applying to home detention may include conditions relating to the offender's employment while the home detention order is in force and may require the offender to perform community service work while not otherwise employed.
- (3) Additional conditions may be revoked or varied, and new conditions may be added, by the Board by notice in writing served on the offender concerned.
- (4) Subsection (3) does not permit revocation of any standard conditions or conditions imposed by the court, or allow the conditions to be varied so as to be inconsistent with standard conditions or conditions imposed by the court.
- (5) A supervising officer must take all reasonable steps to ensure that the offender is aware of the sanctions applicable to a breach of the conditions of the offender's home detention.

#### **14 Breach of conditions of home detention**

- (1) A breach of the conditions applying to home detention may be dealt with in accordance with sanctions prescribed by the regulations.
- (2) If:
  - (a) in the opinion of a supervising officer, an offender has committed a serious breach of the conditions applying to the offender's home detention, or
  - (b) an offender repeatedly breaches those conditions,

it is the duty of the officer to apply to the Board for revocation of the home detention order.

#### **15 Inquiry into alleged breach of conditions**

- (1) When an application is made under section 14 for revocation of a home detention order the Board may, by notice in writing served on the offender, require the offender to appear before it on a date, and at a time and place, specified in the notice, to show cause why the home detention order should not be revoked.
- (2) An offender is required to comply with a notice under this section served on the offender.
- (3) If an offender on whom a notice under this section has been served appears in answer to the notice, the Board is to consider such evidence and submissions as may be given or made by or on behalf of the supervising officer and the offender in relation to the application.
- (4) If an offender on whom a notice under this section has been served does not appear as required by the notice, or if the offender's whereabouts are unknown or the offender cannot for any other reason be served, the Board may proceed to inquire into the alleged breach of conditions in the absence of the offender.
- (5) The Board may exercise any of its functions under this section even if the home detention order concerned has expired.



- (6) If an offender on whom a notice under this section has been served does not appear as required by the notice, or if the offender could not be served with notice, the Board may, if it thinks fit, issue a warrant for the arrest of the offender, authorising the offender's detention in a prison or other place of confinement specified in the warrant until:
- (a) the expiry of a period of 7 days after the offender's apprehension under the warrant, or
  - (b) the warrant is revoked by the Board,
- whichever first occurs.

#### **16. Decision of Board regarding alleged breach of conditions**

- (1) When the Board is of the opinion that it is proper to do so in the circumstances of the case, the Board may by order revoke the relevant home detention order and by warrant commit the offender to prison to serve a period of imprisonment equal to the period commencing on the effective date of revocation of the order and ending on the date of expiry of the fixed or minimum term of the sentence in respect of which the order was made.
- (2) When making a revocation order under this section the Board may, if it thinks fit, direct that the revocation take effect as from an earlier date, being the date on which the conditions of the relevant home detention order were contravened or a later date, and in such a case the order is taken to have been revoked on that date.
- (3) The Board, if it is satisfied that the offender has committed a breach of the conditions applying to the offender's home detention but is not of the opinion that the order should be revoked, may discipline the offender in such manner as the regulations may prescribe.
- (4) The Board may exercise any of its functions under this section even if the home detention order concerned has expired, and whether or not any notice or warrant has been issued, or any inquiry held, under section 15.

### 17 Notice of revocation

- (1) As soon as practicable after the Board revokes a home detention order, the Board must cause a notice under this section to be served on the offender to whom the order related.
- (2) The notice must:
  - (a) fix a date, occurring not earlier than 14 days nor later than 28 days after the date on which it is served, on which the Board is to meet for the purpose of:
    - (i) reconsidering the revocation of the home detention order, and
    - (ii) if the home detention order is taken to have been revoked on an earlier day than the day on which the Board decided to revoke the home detention order, determining whether the specification of the earlier day should be revoked or varied, and
  - (b) require the offender to notify the Secretary of the Board, not later than 7 days before the date so fixed, if the offender intends to make representations to the Board in relation to the revocation of the order or the specification of the earlier day, or both, and
  - (c) be in the form prescribed by the regulations, and
  - (d) except as provided by subsection (3), be accompanied by:
    - (i) a copy of the order which revoked the home detention order, and
    - (ii) copies of the reports and other documents used by the Board in making the decision to revoke the home detention order and, if appropriate, to specify the earlier day.
- (3) Nothing in this section requires an offender to be provided with a copy of so much of a report or document as may, in the opinion of a judicial member of the Board, endanger or inappropriately identify any other person.

**18 Review of revocation**

- (1) If an offender on whom a notice has been served under section 17 has duly notified the Secretary of the Board that the offender intends to make representations to the Board, the Chairperson of the Board is required to convene a meeting of the Board, on the date set by the notice, for the purpose of:
  - (a) reconsidering the revocation of the home detention order, or
  - (b) determining whether the specification of the earlier day should be revoked or varied,or both, as the case may require.
- (2) At the meeting of the Board convened pursuant to the notice, or at a subsequent meeting to which consideration of the matter is adjourned or postponed, the offender may make submissions to the Board with respect to the revocation of the home detention order and, if appropriate, the specification of the earlier day.
- (3) After reviewing all the reports, documents and other information placed before it, the Board is to decide whether or not it should:
  - (a) rescind the revocation of the home detention order concerned, or
  - (b) revoke or vary the specification of the earlier day.
- (4) A decision under this section has effect according to its terms even if the home detention order concerned has expired.

**19 Application to Court of Criminal Appeal**

The provisions of section 41 (1) of the *Sentencing Act 1989* apply to the revocation by the Board of a home detention order in the same way as to the revocation by the Board of a parole order, and the provisions of subsections (2) and (4) of section 23 of that Act apply to an application made under this section.

**20 Warrants**

- (1) A warrant under this Part is to be signed by the Chairperson, Alternate Chairperson or Deputy Chairperson of the Board.
- (2) An instrument that purports to be a warrant signed in accordance with this section is to be presumed to be such a warrant until the contrary is proved.

## **Part 4 Miscellaneous**

### **21 Expiry of home detention order**

Unless sooner revoked, a home detention order expires when the relevant sentence is served or the offender is released on parole.

### **22 Eligibility for parole**

Nothing in this Act affects the operation of any provision of Part 3 of the *Sentencing Act 1989*, or any other provision of the law relating to parole of prisoners. Any such provision applies, with any necessary modifications, to an offender who served the fixed or minimum term of a sentence of imprisonment by way of home detention in the same way as to an offender who had served it in a prison.

### **23 Revocation of home detention order by court**

In sentencing a person to whom a home detention order relates to imprisonment for another offence, a court may exercise any of the powers of the Board under section 16.

### **24 Service of notices**

- (1) Any notice required by or under this Act to be served on an offender in respect of whom a home detention order is in force may be served by posting it, addressed to the offender, to the address nominated for the purposes of the offender's home detention.
- (2) Such a notice may be served on an offender in custody by service on the offender's custodian, and is to be dealt with in accordance with the regulations.
- (3) The means of service authorised by this section are in addition to any means that would, in the absence of this section, be sufficient for valid service of the notice.

### **25 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

**26 Proceedings for offences**

Proceedings for an offence against this Act or the regulations may be taken and disposed of in a summary manner before a Local Court constituted by a Magistrate sitting alone.

**27 Amendment of Bail Act 1978 No 161**

The *Bail Act 1978* is amended as set out in Schedule 1.

**28 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives and to determine the impact of the Act on families.
- (2) The review is to be undertaken as soon as possible after the period of 18 months from the commencement of section 11.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 18 months.
- (4) The Minister is to continue to monitor, and report to both Houses of Parliament on, the impact of this Act on families. Such a report must be tabled at least once in each calendar year after the year in which the report referred to in subsection (3) is tabled.

**Schedule 1 Amendment of Bail Act 1978**

(Section 27)

**[1] Section 16 Extension of meaning of “adjournment” in section 6**

Omit “and” where lastly occurring in section 16 (f).

**[2] Section 16 (h)**

Insert after section 16 (g):

- (h) the term of a stay of execution of sentence under section 9 of the *Home Detention Act 1996*.

[Minister’s second reading speech made in—  
Legislative Assembly on 20 June 1996  
Legislative Council on 15 October 1996]

BY AUTHORITY

# Home Detention Regulation 1997

under the

Home Detention Act 1996

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Detention Act 1996*.

Minister for Corrective Services

## Explanatory note

The object of this Regulation is to prescribe matters necessary or incidental to the operation of the *Home Detention Act 1996*. The Regulation contains provisions prescribing, among other things:

- (a) offences, in addition to those mentioned in the Act, in respect of which home detention is not available, and
- (b) the standard conditions applicable to home detention, and
- (c) forms to be used for the purposes of the Act.

This Regulation is made under section 25 of the Act and under the other provisions of the Act mentioned in the Regulation.

Home Detention Regulation 1997

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## Home Detention Regulation 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Home Detention Regulation 1997*.

#### 2 Commencement

This Regulation commences on

#### 3 Definition

In this Regulation:

*the Act* means the *Home Detention Act 1996*.

#### 4 Forms

The forms set out in Schedule 1 are to be used for the purposes for which they are appropriate.

#### 5 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

## **Part 2 Home detention**

### **6 Drug offences for which home detention not available**

For the purposes of section 6 (h) of the Act, offences under sections 23 (2), 24 (2), 25 (2), 26, 27 and 28 of the *Drug Misuse and Trafficking Act 1985*, where the number or amount of prohibited plant or prohibited drug concerned is a commercial quantity within the meaning of that Act, are prescribed offences.

### **7 Assessment of effect of order on children**

- (1) If a child under the age of 18 years would be living with an offender serving home detention, an assessment is to be carried out under the Act of the effect of the order on the child.
- (2) The assessment is to be carried out jointly by a supervising officer and an officer employed in the Department of Community Services in accordance with child protection risk assessment procedures approved by the Director-General of that Department.

### **8 Consent of co-residents**

- (1) For the purposes of section 8 (2) of the Act, the consent of a child under the age of 18 years or of a mentally incapacitated person may be given by the Commissioner of Corrective Services.
- (2) The Commissioner of Corrective Services must have regard to the assessment referred to in clause 7 when determining whether to give consent.

### **9 Standard conditions applying to home detention**

For the purposes of section 13 (1) (a) of the Act, the following are standard conditions of home detention:

- (a) the offender must be of good behaviour and must not commit any new offence,
- (b) the offender must advise a supervising officer as soon as possible if arrested or detained by a police officer,
- (c) the offender must reside only at premises approved by a supervising officer,

- 
- (d) the offender must remain at the approved residence at all times other than when engaged in specified activities approved of or arranged by a supervising officer or when faced with immediate danger (such as in a fire or medical emergency),
  - (e) the offender must adhere to the specified activity plan during approved absences from the approved residence,
  - (f) the offender must advise a supervising officer as soon as practicable after departure from the approved residence due to immediate danger,
  - (g) the offender must accept any visit to the approved residence by a supervising officer at any time,
  - (h) the offender must submit to searches of places or things under the immediate control of the offender, as required by a supervising officer,
  - (i) the offender must submit to electronic monitoring (including voice recording) of compliance with the home detention order and comply with all instructions given by a supervising officer in relation to the operation of monitoring systems,
  - (j) the offender must not tamper with, damage or disable monitoring equipment,
  - (k) the offender must comply with any direction of the supervising officer in relation to association with specified persons,
  - (l) the offender must not consume alcohol,
  - (m) the offender must not use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained,
  - (n) the offender must submit, as required by a supervising officer, to breath testing, urinalysis or other medically approved test procedures for detecting alcohol or drug use,
  - (o) the offender must authorise any medical practitioner or counsellor or other person to provide information to a supervising officer,
  - (p) the offender must accept any direction of a supervising officer in relation to the maintenance of or obtaining of employment,

- (q) the offender must inform any employer of the home detention order and, if so directed by a supervising officer, of the nature of the offence that occasioned it,
- (r) the offender must authorise contact between any employer of the offender and a supervising officer,
- (s) the offender must engage in personal development activities or in counselling or treatment programs, as directed by a supervising officer,
- (t) the offender must undertake community service work when not otherwise employed (not exceeding 20 hours per week), as directed by a supervising officer,
- (u) the offender must not possess or have in his or her control any firearm or other offensive weapon,
- (v) the offender must comply with all reasonable directions of a supervising officer.

#### 10 Sanctions for breach of home detention order

- (1) For the purposes of section 14 (1) of the Act, a supervising officer may deal with a breach of the conditions applying to a home detention order.
- (2) The supervising officer may impose any of the following sanctions for such a breach:
  - (a) a formal warning,
  - (b) a more stringent application of the conditions of home detention in accordance with the terms of those conditions, such as:
    - (i) an increase in required hours of community service work,
    - (ii) a reduction in the extent of planned or previously permitted out-of-residence activities,
    - (iii) further restrictions on association.
- (3) For the purposes of section 16 (3) of the Act, the Board may discipline an offender by imposing any of the sanctions referred to in subclause (1) or by imposing additional specific conditions or varying the conditions of home detention.

**11 Notice of inquiry into alleged breach of conditions**

- (1) A notice under section 15 (1) of the Act must be served on the offender at least 7 days before the date on which the offender is required to appear before the Board.
- (2) The Board must send a copy of each such notice to the Commissioner of Corrective Services.

**12 Revocation of home detention order by court**

If a court revokes a home detention order under section 23 of the Act, the registrar or clerk of the court must send written notice of that fact to the Commissioner of Corrective Services and to the Board.

## **Part 3 Miscellaneous**

### **13 Service of notices where offender in custody**

- (1) As soon as practicable after receiving a notice in accordance with section 24 (2) of the Act, the custodian of an offender must ensure that:
  - (a) the notice is read to the offender, and
  - (b) the effect of the notice is explained to the offender, and
  - (c) the notice is handed to the offender.
- (2) Notice of an offender's intention to make representations to the Board concerning the revocation of a home detention order:
  - (a) must be given by the offender to the custodian, and
  - (b) must be sent by the custodian to the Secretary of the Board.

## Schedule 1 Forms

### FORM 1

#### RECORD OF HOME DETENTION ORDER

#### Home Detention Act 1996

#### 1 Sentencing details

Case No:.....

Conviction Date: .....

\*Local/\*District Court at: .....

Offender:.....

Date of birth: .....

Offence: .....

#### Particulars of imprisonment imposed by Court

\*Fixed/\*Minimum term of:.....

to commence on: .....

and

\*\*Additional term of: .....

to commence at the expiration of minimum term and to expire on:.....

Earliest day eligible for release to parole is:.....

\*The above term of imprisonment is to be served cumulatively on:.....

\*Fixed/\*Minimum term of:.....

that commenced on: .....

#### 2 Service by way of home detention

Pursuant to the provisions of the *Home Detention Act 1996*, the Court directed that the offender serve the above \*fixed/\*minimum term by way of home detention.

**3      Conditions imposed by the court**

In addition to any other conditions to which the home detention order is subject, the following additional conditions were imposed by the court:

.....  
.....

.....  
Registrar/Clerk of the court

\_\_\_\_\_  
\* Delete if not applicable



---

**FORM 2**  
**HOME DETENTION UNDERTAKING**  
**AND**  
**CONSENTS OF OFFENDER AND CO-RESIDENTS**  
**Home Detention Act 1996**

**1 Home detention undertaking**

I understand that serving my sentence by way of home detention depends on my compliance with all conditions of the home detention order. Therefore, I agree that, while the order is in force, I will:

- (a) be of good behaviour and commit no new offence,
- (b) advise a supervising officer as soon as possible if arrested or detained by a police officer,
- (c) reside only at premises approved by a supervising officer,
- (d) remain at the approved residence at all times other than when engaged in specified activities approved of or arranged by a supervising officer or when faced with immediate danger,
- (e) adhere to the specified activity plan during approved absences from the approved residence,
- (f) advise a supervising officer as soon as practicable after departure from the approved residence due to immediate danger,
- (g) accept any visit to the approved residence by a supervising officer at any time,
- (h) submit to searches of places or things under my immediate control as required by a supervising officer,
- (i) submit to electronic monitoring (which may include voice recording) of compliance with the home detention order and comply with all instructions regarding the operation of monitoring systems,
- (j) not tamper with, damage or disable monitoring equipment,
- (k) comply with any direction of a supervising officer in relation to association with nominated persons,
- (l) not consume alcohol,
- (m) not use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained,

- (n) submit to breath testing, urinalysis (or other medically approved test procedures) to determine alcohol or drug use as required by a supervising officer,
- (o) authorise any medical practitioner or counsellor to provide information to a supervising officer,
- (p) accept the direction of a supervising officer in relation to the maintenance of or seeking of employment,
- (q) inform any employer of the home detention order and, if so directed by a supervising officer, the nature of the offence,
- (r) authorise contact between any employer and a supervising officer,
- (s) engage in personal development activities, or in counselling or treatment programs as directed by the supervising officer,
- (t) undertake community service work when not otherwise employed, as directed by a supervising officer,
- (u) not possess or have in control any firearm or other offensive weapon,
- (v) comply with reasonable directions of a supervising officer,
- (w) comply with any additional conditions imposed by the court or the Parole Board.

## 2 Sanctions

I understand that, as an alternative means of serving a sentence of imprisonment, home detention will be strictly enforced. Failure to comply with any of the conditions of the order will be penalised by the imposition of some sanction and may lead to revocation of the home detention order by the Parole Board. I acknowledge and accept that:

- (1) arrests during the term of home detention will be reported to the Board
- (2) convictions for offences committed during the term of home detention will be referred to the Board for consideration of revocation
- (3) failure to comply with the conditions may be referred to the Board for consideration of revocation or any of the following sanctions may be imposed:
  - (a) a formal warning
  - (b) increased community service work
  - (c) reduction in out of residence activities
  - (d) restrictions on associations
  - (e) imposition by the Board of specific additional conditions



**FORM 3**  
**WARRANT FOR APPREHENSION AND DETENTION**  
**Home Detention Act 1996**

To all police officers in the State of New South Wales, and to all keepers of correctional centres in the State.

WHEREAS ..... was sentenced to .....  
by ..... (Court) at ..... on ..... for  
the offence(s) of .....

AND by order of the Court dated .....  
was ordered to serve home detention, NOW the Parole Board issues this  
warrant authorising any police officer to apprehend the said .....

- \* and remove him/her to a correctional centre
- \* and to remove him/her to .....
- \* to serve the portion of his/her fixed or minimum term of imprisonment unexpired on .....
- \* for the purpose of conducting, within 7 days, an inquiry as to whether the order should be revoked.

The Parole Board \*has revoked/is to consider the revocation of the home detention order for breach of the following terms and conditions of the order, namely:

.....

This warrant is sufficient authority for the apprehension of the said and \*his/her removal to and retention at the place required by this warrant.

.....  
Judicial Member of the Parole Board

\*Delete if inapplicable.

**FORM 4**  
**NOTICE TO OFFENDER OF REVIEW BY THE PAROLE BOARD**  
**Home Detention Act 1996**

TO ..... (*Name of offender*)

TAKE NOTICE that the Parole Board at its meeting on .....  
made an order for revocation of your home detention order to date from .....

The Board will reconvene on ..... at ..... (*time*) in order to reconsider the revocation of your home detention order.

A copy of the order made that revoked your home detention order is attached.

\* Copies are attached of reports and other documents used by the Board in reaching its decision to revoke your home detention order.

You may make submissions to the Board with respect to \*the revocation of your home detention order/\*the date of revocation of your home detention order. If you wish to do so, you are required to notify the Secretary of the Board not later than .....

.....

Secretary of the Parole Board

\*Delete if inapplicable.

FORM 5

NOTICE RELATING TO REPRESENTATIONS TO BOARD ON  
REVIEW OF REVOCATION OF ORDER

Home Detention Act 1996

To the Secretary of the Parole Board

from ..... (*Name of offender*)

TAKE NOTICE that I \*do not intend/intend to make representations to the Board at the review to be held on ..... to reconsider whether my home detention order should be revoked.

At that time,

I \*do not wish/wish to appear before the Board.

I \*do not intend/intend to be legally represented.

\* I wish to be represented at this meeting  
by .....  
of .....  
and seek the consent of the Board for this person to attend for this purpose.  
My reasons for requesting representation by the named person are:

.....  
.....  
.....

Signed: .....

Date: .....

\*Delete if inapplicable.

**FORM 6**  
**NOTICE OF REVOCATION OF HOME DETENTION ORDER**  
**Home Detention Act 1996**

TAKE NOTICE that on ..... (date) the ..... (Court)  
 at ..... revoked the home detention order made  
 by ..... (Court) on ..... (date)  
 in respect of ..... (offender).

\*The court directed that the home detention order be taken to have been  
 revoked on.....

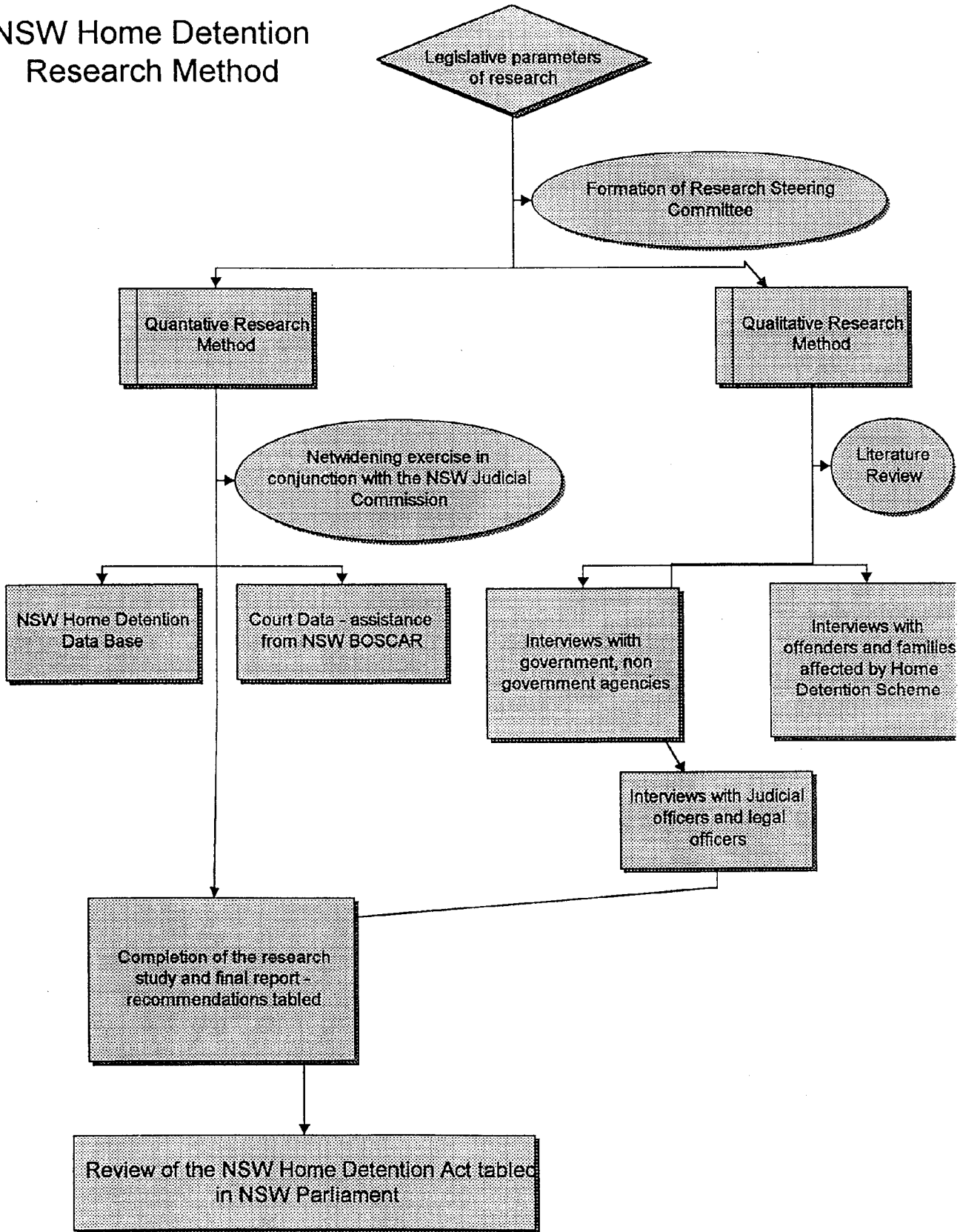
.....

\*Registrar/\*Clerk of the Court

TO:  
 The Commissioner,  
 Department of Corrective Services  
 The Parole Board

\_\_\_\_\_  
 \*Delete if inapplicable.

# NSW Home Detention Research Method





## **Membership of the NSW Home Detention Research Steering Committee**

<b>Christine Coumarelos</b>	NSW Bureau of Crime Statistics and Research
<b>Stephen Cumines</b>	NSW Judicial Commission
<b>Simon Eyland</b> (Convenor)	NSW Department of Corrective Services
<b>Kyleigh Heggie</b>	NSW Department of Corrective Services
<b>Ivan Potas</b>	NSW Judicial Commission
<b>Ken Studerus</b>	NSW Probation and Parole Service, Home Detention Unit

## HOME DETENTION ASSESSMENT INFORMATION PROFILE

### SECTION A - PERSONAL DETAILS

1. NAME ..... 2. DOB.....
3. MIN NO ..... 4. CNI NO .....
5. SEX  MALE  FEMALE
6. COUNTRY OF BIRTH ..... IF AUSTRALIA, STATE OF BIRTH .....
7.  ABORIGINAL  TORRES STRAIT ISLANDER  NEITHER
8. FIRST LANGUAGE ..... OTHER .....
- INTERPRETER NEEDED?  Yes  No
9. MARITAL STATUS  Never Married  Married/De facto  Separated
- Divorced  Unknown  Other
10. DOES THE OFFENDER HAVE ANY CHILDREN?  Yes  No
- If Yes, how many? ..... Number of children living permanently in household? .....
11. LIVES WITH (during proposed Home Detention Order)
- Parents  Partner & children  Partner  Children only
- Siblings  Self  Other .....
12. POSTCODE OF RESIDENCE ..... SUBURB .....
13. EDUCATION  Primary  Secondary
- Trade/Apprentice  Tech/University  Other .....
14. EMPLOYMENT STATUS  F/time employment  P/time employment
- Unemployed  Domestic duties
- Student  Other .....
15. IF WORKING, PLEASE SPECIFY OCCUPATION .....
16. PENSION STATUS  Unemployment  Disability
- Sole parent  Aged
- Not Applicable  Other .....
17. HAS THE OFFENDER HAD A HISTORY OF DRUG AND/OR ALCOHOL USAGE WITHIN THE  
LAST 12 MONTHS?
- Yes  No  Don't Know
- If Yes, please identify ALL drug/alcohol use?
- Alcohol  Pills (specify) .....  Heroin  Cannabis
- Speed  Cocaine  Methadone  Hallucinogens
- Steroids  Other (specify).....
18. WHAT IS THE OFFENDER'S MAIN DRUG OF CHOICE?
- Alcohol  Pills (specify) .....  Heroin  Cannabis
- Speed  Cocaine  Methadone  Hallucinogens
- Steroids  Other (specify).....  Not Applicable
19. HAS THE OFFENDER PARTICIPATED IN ANY DRUG/ALCOHOL REHABILITATION  
PROGRAMS WITHIN THE LAST 12 MONTHS?
- Yes  No  Don't Know
- If Yes, please state where .....

20. WAS THE OFFENDER UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, AT THE TIME OF OFFENCE(S)?

- Yes  No  Don't Know

21. WAS OFFENCE(S) DRUG AND/OR ALCOHOL RELATED?

- Drug  Alcohol  Both  Not Applicable

22. IS THE OFFENDER CURRENTLY ON A METHADONE PROGRAM?

- Yes  No

If Yes, please state: Length of time on Program .....  
Current Dosage ..... Clinic Location .....

23. IS THE OFFENDER IDENTIFIED AS (either by self or other): Please tick all that apply

- Intellectually Disabled  Physically Disabled  
 Mentally Ill  Not Applicable  
 Having Chronic debilitating illness (specify) .....

**SECTION B - CONVICTION HISTORY**

1. SUMMARY OF **PRIOR CONVICTIONS** -

- JUVENILE**  Homicide  Non Aggravated Assault  Aggravated Assault  
 Sexual  Robbery  Fraud  
 Property  AVO(breach)  Against Good Order  
 Drug Offences  Driving  Other .....  
 No juvenile history

2. SUMMARY OF **PRIOR CONVICTIONS** -

- ADULT**  Homicide  Non Aggravated Assault  Aggravated Assault  
 Sexual  Robbery  Fraud  
 Property  AVO(breach)  Against Good Order  
 Drug Offences  Driving  Other .....  
 No adult history

3. SUMMARY OF **PRIOR PENALTIES**

- JUVENILE**  Full time custody. How many times? .....  N/A  
 Community Service Order. How many times? .....  N/A  
 Probation  1 time  2 times or more  N/A  
 Fines  1 time  2 times or more  N/A  
 Other (specify) .....  No prior penalties.

4. SUMMARY OF **PRIOR PENALTIES**

- ADULT**  Full time custody. How many times? .....  N/A  
 Periodic Detention. How many times? .....  N/A  
 Community Service Order. How many times? .....  N/A  
 Probation  1 time  2 times or more  N/A  
 Fines  1 time  2 times or more  N/A  
 Other (specify) .....  No prior penalties

**SECTION C - COURT PROCEDURE**

1. COURT LOCATION .....  Local  District  Supreme

2. IS THIS AN APPEAL MATTER?:  Yes  No

3. MOST SERIOUS OFFENCE.....

4. OTHER OFFENCE(S) .....

5. AGGREGATE SENTENCE: Min Term: ..... Add Term: .....





# HOME DETENTION EVALUATION FORM

## SECTION A

1. NAME ..... 2. DOB.....  
 3. MIN NO ..... 4. HDO COMMENCEMENT DATE .....

5. DID THE OFFENDER SUCCESSFULLY COMPLETE THE HDO ORDER?  
 Yes       No

6. WAS THE OFFENDER'S HDO RECOMMENDED FOR REVOCATION?  
 Yes       No

If Yes, briefly state reason for recommendation:

.....  
 .....  
 .....

7. WAS THE OFFENDER'S HDO REVOKED?  
 Yes       No

If Yes, Parole Board decision date: .....

Date of issued Warrant: .....

Date of incarceration (*if status is unknown, please state At Large*): .....

8. DID THE OFFENDER HAVE OTHER HDOs AT THE TIME OF REVOCATION?  
 Yes       No       Don't Know       Not Applicable

If Yes, how many: .....

9. DID THE OFFENDER CONTEST THE HDO REVOCATION?  
 Yes       No       Don't Know       Not Applicable

If Yes, Please specify reason:

.....  
 .....

WAS THE REVOCATION:       Upheld       Rescinded

10. WAS THE OFFENDER ISSUED WITH OFFICIAL SANCTIONS WHILE ON THE HDO?  
 Yes       No

Please tick the reasons and indicate the number of breach occurrences:

	No.		No.
<input type="checkbox"/> Positive Urinalysis .....	.....	<input type="checkbox"/> Failure to answer telephone .....	.....
<input type="checkbox"/> Positive Breath Analysis .....	.....	<input type="checkbox"/> Breach of Curfew .....	.....
<input type="checkbox"/> Tampering with equipment .....	.....	<input type="checkbox"/> Failure to keep appointments .....	.....
<input type="checkbox"/> Family conflict .....	.....	<input type="checkbox"/> Other (specify) .....	.....

11. PLEASE INDICATE THE TYPE OF SANCTION USED IN BREACH OCCURRENCES (*only complete if applicable*)

<input type="checkbox"/> Positive Urinalysis .....	<input type="checkbox"/> Failure to answer telephone .....
<input type="checkbox"/> Positive Breath Analysis .....	<input type="checkbox"/> Breach of Curfew .....
<input type="checkbox"/> Tampering with equipment .....	<input type="checkbox"/> Failure to keep appointments .....
<input type="checkbox"/> Family conflict .....	<input type="checkbox"/> Other (specify) .....







**(b) Communication with family/friends**

Greatly Increased                      No Change                      Greatly Decreased  
1                      2                      3                      4                      5

**(c) Motivation in seeking employment/training**

Greatly Increased                      No Change                      Greatly Decreased  
1                      2                      3                      4                      5

**(d) Anger Management**

Greatly Increased                      No Change                      Greatly Decreased  
1                      2                      3                      4                      5

6. TICK COMPONENTS OF CASE MANAGEMENT COMPLETED OR CONTINUED ON EXPIRY BY OFFENDER WHILE ON HDO?

( excludes mandatory components eg: Urinalysis, Breath Analysis and Four Stage Monitoring)

- Psychological Counselling
- Family Counselling
- Community Assistance ie. AA Meetings
- Methadone Program
- Vocational Counselling
- Other (Specify) .....
- Drug and/or Alcohol Counselling
- Domestic Violence Counselling
- Offender-Victim Conferencing
- Parenting Counselling

7. DID THE OFFENDER PARTICIPATE IN ANY GROUP PROGRAMS AT A PROBATION AND PAROLE ATTENDANCE CENTRE?

- Yes
- No

If Yes, please tick all program participation:

- Drug and/or Alcohol Program
- Anger Management
- Other (specify) .....
- District Officer Group Programs
- Self Esteem Group

8. WERE ANY ADDITIONAL RESOURCES REQUIRED TO COMPLETE THE HOME DETENTION PROGRAM?

- Yes
- No

Please specify: .....

.....  
HOME DETENTION OFFICER (print name)

.....  
signature

.....  
HOME DETENTION TEAM

.....  
date

## HOME DETENTION ORDER EXIT SURVEY

Response No: .....

1. Were you and/or your family given enough information about Home Detention so that you could make a reasonable choice to participate?

- Yes       No       Don't Know

2. Knowing what you know now, would you still have agreed to participate in Home Detention?

- Yes       No       Don't Know

If No, why?

.....  
 .....  
 .....

3. Did you find Home Detention better or worse than you expected?

- Better                       Somewhat Better       As Expected  
 Somewhat Worse       Worse

Please Explain:

.....  
 .....  
 .....

4. Do you think the Home Detention is better than being in prison?

- Yes       No       Don't Know

(a) If Yes, why? (Please tick all that apply)

- Being with family
- More control over your environment
- Better environment at home
- Access to community resources better (eg D&A Counselling etc)
- Medical Health issues easier to deal with
- Opportunity to obtain work
- More Privacy
- Other, specify .....

(b) If **No**, why? (please tick **all** that apply)

- Less access to personal 'time out' (eg. *Hobbies etc*)
- Too many intrusions by HD Officers
- Less to do at home, then in prison
- Less opportunity to access assistance (eg. *Education, counselling etc*)
- Increased stress and conflict within the family/co-residents
- Increased loneliness
- Other, specify .....

5. Do you feel that the frequency of the monitoring calls was:

- Not frequent enough       Too frequent
- Just about right           Not Applicable

6. What effect did the monitoring calls have on your normal routine/lifestyle?

- Very Disruptive           Disruptive
- Moderately Disruptive     Slightly Disruptive
- Not at all disruptive

7. Did the monitoring calls create any problems for you and/or your co-residents?

- Yes       No       Not Applicable ( lives alone)

If **Yes**, how were these problems created?

- Having to limit time on the phone
- Interruption caused by monitoring calls
- Monitoring calls disrupted family life( eg calls throughout the night)

8. Do you feel that the frequency of contact with the Home Detention Officer was:

- Not frequent enough       Just about right
- Too frequent               Don't Know
- Not Applicable

9. Did the frequency of visits from the Home Detention Officer create any problems for you and/or your co-residents?

- Yes       No       Not Applicable ( lives alone)

If **Yes**, please explain?

.....  
.....  
.....  
.....

10. Do you think a person could breach the HDO regulations without being caught?

- Yes       No

If **Yes**, which regulations could a person breach the *easiest*?

- visits from friends who are not supposed to (non association)
- Tampering with equipment
- Undetected Drug and/or Alcohol use
- Leaving your home without permission
- Other, specify .....

11. What was the most difficult part of the Home Detention? (Please tick **all** that apply)

- Being confined to home
- Boredom
- Increased disagreements with family and/or co-residents
- complying with HDO case plan (*attending counselling, finding work etc*)
- Disruption caused to family life
- Increased stress to family and/or co-residents
- Remaining Alcohol and/or Drug free
- Other, specify .....
- No difficulties at all

12. What was the most positive part of the Home Detention? (Please tick **all** that apply)

- Interaction with family
- Access to community assistance (*eg. AA Meetings, counselling*)
- Assistance by the Home Detention Officer
- Increased communication with partner and/or family
- Assistance with drug and/or alcohol problems
- No positive parts of HDO
- Other, specify .....

13. Did you participate in any organised program at the Attendance Centre?

- Yes       No       Not Applicable

If Yes, please indicate which programs you participated in:

- Drug and Alcohol Group                       Anger Management Group
- Self Esteem Group                               Violence Prevention Group
- Other (specify) .....

14. What would you change about the Home Detention program?

- Nothing - good/great program
- Inconvenience/ discomfort of ankle band
- Stricter monitoring of offenders on program
- Less monitoring of offenders on program
- More assistance from HD Officer in dealing with family problems
- More access to community assistance (eg counselling)
- More reasonable timing of monitoring calls
- Other, specify .....

15. Was your Home Detention Order revoked?

- Yes       No

If Yes, please explain the circumstances:

.....  
.....  
.....  
.....

16. Are there any comments you would like to make concerning your experience on the Home Detention Program?

.....  
.....  
.....  
.....

**THANK YOU FOR YOUR ASSISTANCE**

DATE:

# HOME DETENTION REVOCATION STATUS INFORMATION PROFILE

- 1. Name: .....
- 2. Min No: .....
- 3. Date of Birth .... /.... /....
- 4. ABSTI: Yes / No
- 5. Sex: Male / Female
- 6. Most Serious Offence:.....
- 7. Other Offences: .....
- .....
- .....
- 8. Length of Sentence : Years ..... Months ..... Days .....
- 9. Date of Sentence: .... /.... /....
- 10. Commencement Date: .... /.... /....
- 11. Sentence Expiry Date: .... /.... /....
- 12. Date of Revocation: .... /.... /....
- 13. Did detainee contest Revocation Order? Yes / No / Unknown
- 14. Was the Revocation Order? Upheld / Rescinded / Withdrawn
- 15. Date of Custody: .... /.... /....
- 16. Gaol Placement: .....
- 17. Classification on Reception: .....
- 18. Reason for Revocation: .....
- .....
- .....
- .....

Comments:

Date:

## **Government and Non Government Agencies consulted during the NSW Home Detention Research Study**

- Aboriginal Justice Advisory Committee
- Australian Centre for Critical Inquiry
- Children of Prisoners Support Group
- NSW Bureau of Crime Statistics and Research
- NSW Child Protection Council
- NSW Council for Civil Liberties
- NSW Department of Community Services
- NSW Department of Corrective Services
- NSW Judicial Commission
- NSW Legal Aid Commission
- NSW Office of the Director of Public Prosecutions
- NSW Police Service
- NSW Privacy Committee
- Queensland Corrections
- South Australian Department of Correctional Services
- Tasmanian Department of Corrective Services
- UNYA
- University of New South Wales - Law Faculty
- University of Wollongong, Sociology Faculty
- Victorian Department of Justice - Office of the Correctional Services Commissioner
- Western Australian Department of Corrections

**DEPARTMENT OF CORRECTIVE SERVICES**  
**Probation & Parole Service**  
**HOME DETENTION ASSESSMENT**

Date of Birth:

Sentenced to a total of 9 months imprisonment at \_\_\_\_\_ **OR**  
Adjourned for Assessment to \_\_\_\_\_

*This Home Detention Assessment is based on current circumstances and therefore only valid for today's ( \_\_\_\_\_ ), Court appearance. For further consideration a new Assessment would be required.*

On \_\_\_\_\_ 98 an Officer of this Service interviewed Mr \_\_\_\_\_ and his co-resident. The Home Detention structure and expectations were outlined to the offender. A further appointment was made for \_\_\_\_\_ 98.

On \_\_\_\_\_ 98 the writer attended the offender's residence and was advised by his co-resident that she had asked Mr \_\_\_\_\_ to leave because of his excessive and threatening behaviour due to his level of intoxication. Mr \_\_\_\_\_ at no stage, contacted this Service to advise of his change of circumstances.

On \_\_\_\_\_ 98, this Service was contacted by Mr \_\_\_\_\_'s Solicitor who stated that his client had instructed him to advise that he would prefer to complete the present sentence by way of full time custody as he did not believe that he could comply with the rigid structure and the expectation that he would remain alcohol free.

Mr \_\_\_\_\_ is therefore ineligible to undertake the Home Detention Programme as he is not prepared to consent to such an Order.

Probation and Parole Officer



# PROBATION & PAROLE SERVICE

## HOME DETENTION ASSESSMENT

D.O.B.

Local Court-

Magistrate:

Sentence: 3 months Imprisonment on each

Offence: Take & Drive Conveyance without Consent

Drive Unlicensed

This Home Detention Assessment is based on current circumstances and therefore only valid for today's Court appearance. For further consideration an update assessment would be required.

Ms. has been assessed as unsuitable for a home Detention Order.

When initially interviewed on 1998 Ms. admitted to being a regular user of an illegal substance. It was clearly explained to the offender that the Home Detention program required participants not use illegal drugs.

On 26, 1998 Ms. was telephoned and after reading the Home Detention Undertaking agreed to the conditions of that undertaking which included not to use prohibited drugs.

A home visit was made by this Service on 28 1998 to obtain a urine sample from the offender to establish the extent of her drug problem and to arrange appropriate treatment and counselling. However, even though she was advised on the day prior of the above pending home visit and urinalysis she did not comply with the request for a urine sample. This Service offered to return later that day or on the following day for a urine sample however, both these times were inconvenient for the offender. Once again it was explained to the offender that Home Detention is a drug free program and unless she demonstrate by means of urinalysis that she can be drug free she will be assessed as unsuitable for a Home Detention Order.

On 3rd August, 1998 urine samples were obtained from Ms. and her partner Mr. which later confirmed the presence of three illicit substances in the urines of both.

On 1998 Ms. was telephoned and agreed to make herself available for a home visit on the morning of and also to present herself for a drug assessment and counselling at the Drug & Alcohol Services at 2.30pm on the same day. However, she did not keep her drug counselling appointment or her appointment with this Service.

As Ms \_\_\_\_\_ lacks the resolve and motivation to adhere to the strict conditions of the Home Detention program, particularly the condition not to be dependent on illegal drugs, (Sec 10 (2) (b) of the Home Detention Act), she is assessed as unsuitable for an order. This Service also has grave concerns regarding domestic violence issues involving her partner Mr \_\_\_\_\_

Home Detention Officer  
District Office  
Probation & Parole Service

1998



**Department of Corrective Services**

PROBATION & PAROLE SERVICE



DISTRICT OFFICE

Phone: (02)

Fax: (02)

**PROBATION AND PAROLE  
HOME DETENTION ASSESSMENT**

Name:

Date of Birth:

Court: Local Court

Date of Court: 1997

Magistrate:

Offences: Stealing, Drive Manner Dangerous, Assault Police

Sentence: 6 months Fixed Term Imprisonment on 1997

Mr has been assessed as suitable for the Home Detention Programme in accordance with Section 10 of the Home Detention Act.

The terms and conditions of the Programme have been explained to Mr, his parents and his defacto wife (the co-residents). They have given their written consent to the undertaking which is attached.

**Present Circumstances**

Mr is living in the family home with his parents and his defacto wife. Despite his long criminal history and drug abuse, the parents appear to render appropriate support to him. He has been in the current relationship with his defacto wife for two (2) years and she also has stated her support to Mr

Mr has been unemployed since last released from custody in this year. He is seeing a Case Manager at C.E.S. and he will continue that contact with a view to gaining employment or participating in an appropriate course.

cont./2

## HOME DETENTION ASSESSMENT

Name:

Mr. \_\_\_\_\_ is currently on a Methadone Programme under Dr \_\_\_\_\_ and is on a daily dose of 90mls. Despite this, his heroin use has continued. Contact with Dr \_\_\_\_\_ revealed a history of "dirty" urine testing (i.e. positive over the past eight (8) months, for heroin use), and two (2) urine tests conducted by this Service during the course of the assessment also proved positive for heroin. Initially, and perhaps unsurprisingly, given the above, Mr \_\_\_\_\_ appeared unmotivated to accept the rigorous demands of the Home Detention Programme. More recently however, he has come to accept that this is an opportunity for him to confront and hopefully effectively deal with his problems. He understands that only after careful consideration has a decision been made to assess him as suitable. He understands also that any future use of an illegal drug will result in revocation.

The offender is currently serving a 50 hour Community Service Order (Attendance Centre only) ordered by the \_\_\_\_\_ District Court on \_\_\_\_\_ 1997. His overall attendance has been described as satisfactory and he has completed 22 hours at this stage.

### Key Issues

Mr \_\_\_\_\_ presents as a person with low self-esteem and has a lengthy history of drug abuse. He also appears to have a sceptical view on law and order. Despite the support from his family members and his stated intention to maintain a drug free and constructive lifestyle, ongoing professional assistance as well as close monitoring appears essential in order to prevent possible relapses.

The following approved absences from home are intended to re-enforce the rehabilitation aspects of Mr \_\_\_\_\_ term on the Home Detention Programme:

- attend methadone clinic daily;
- attend counselling sessions by Dr \_\_\_\_\_ once a fortnight, or as directed;
- attend appointments with the case manager at \_\_\_\_\_ every fortnight and to attend appropriate courses and interviews as directed;
- attend educational programme at the \_\_\_\_\_ Attendance Centre once a week.

### Summary

Electronic monitoring on a staggered 24 hours basis (7 days a week), frequent unannounced home visits, agency checks as well as strict curfews will assist in minimising the likelihood of re-offending.

Mr \_\_\_\_\_ will be regularly subjected to urinalysis and breathalyser tests.

cont./3

**HOME DETENTION ASSESSMENT**

**Name:**

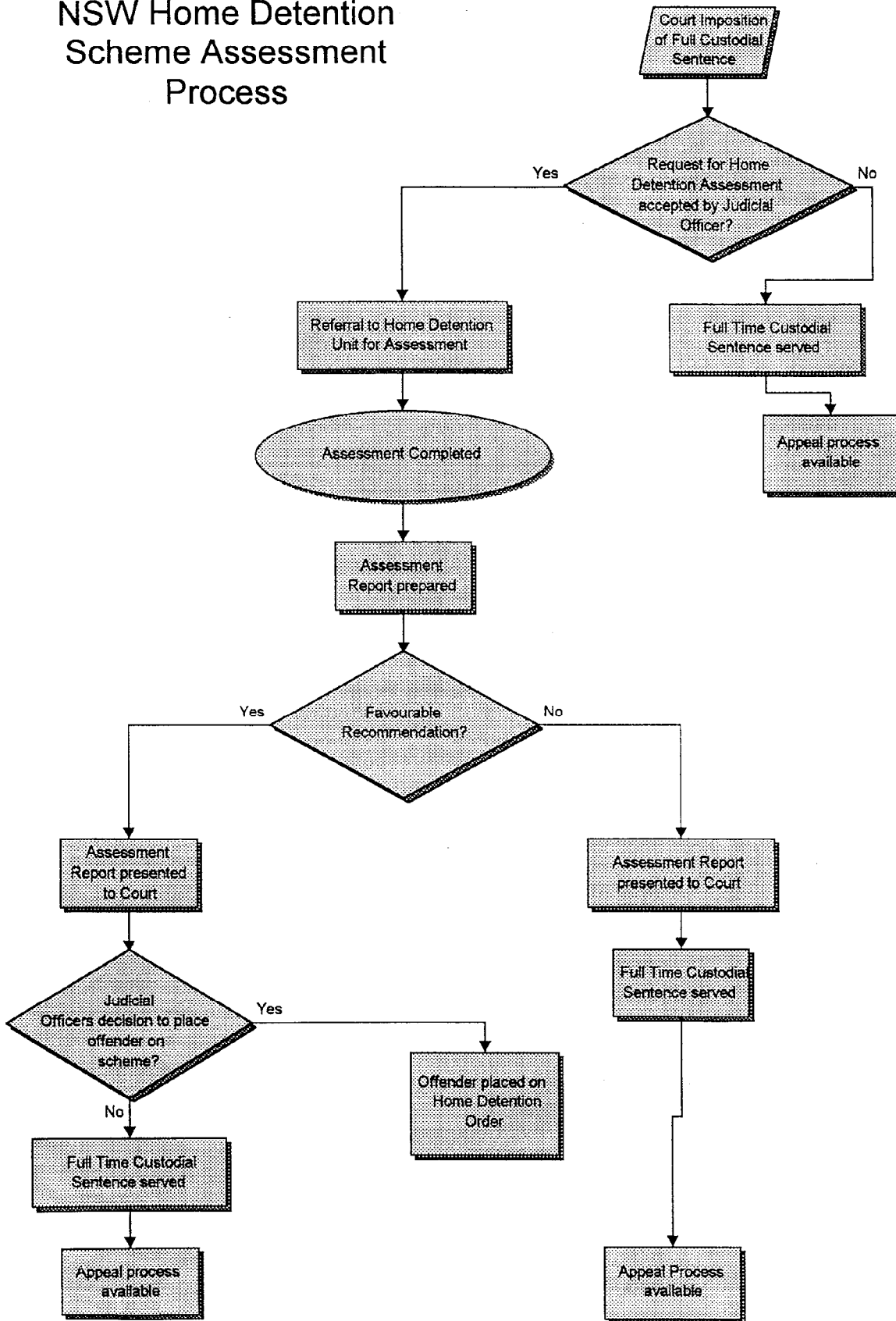
Given Mr \_\_\_\_\_'s lengthy criminal and drug abuse background, the Home Detention Programme appears not to be an easy option for him, nevertheless, he stated his genuine intention to complete the Programme.

Home Detention Officer  
**HOME DETENTION PROGRAMME**

1997

Pager No:

# NSW Home Detention Scheme Assessment Process



## Appendix

# HOME DETENTION SUPERVISION GUIDELINES

Supervision in the program will be divided into four roughly equal stages of decreasing intensity. It will be noted that participants sentenced to less than three months will commence their program in Stage 2. As an adjunct to the decrease in the mandatory controls which will apply at each stage it is expected that officers will build into their supervision a diminution of intensity so as to both reward participants for exemplary performance and to increasingly place reliance on the participant to accept responsibility for compliance within the control regimen which has been established. Progress through the stages will be subject to satisfactory performance and officers may delay transition or return participants to an earlier stage as a sanction for infringement of program conditions. In any event the mandatory controls are to be seen as minimums only and should in no way inhibit an officer from increasing intensity or frequency in any specific area.

The responsible officer or substitute will be available on a 24 hour basis through a paging service to respond to electronic monitoring alarms or offender crisis situations. The immediate mode of response will be by phone but, if the issue cannot be resolved electronically within a reasonable time, an in-person response is expected.

## CONTACT

A Home Detention officer must attend court when a report on the suitability of an offender for Home Detention is submitted. If the offender is released to a Home Detention Order, arrangements for installation of electronic monitoring equipment should preferably be made for the same day or, if this is not possible, within 24 hours.

Minimum contact levels have been set for each stage of the program. Officers are responsible to ensure that these minimum standards are met and they may impose higher levels of contact should that be appropriate.

In Stage 1 minimum contact will be at a rate of 20 per month, based on an expected average of five per week. Of those 20 contacts 12 will be face to face, the remaining eight may be by telephone or with employers, family/significant social contacts, therapists or counsellors.

At least four contacts will be at home and two of a weekend.

In Stage 2 minimum contacts remain at 20 but face to face contacts reduce to 10. The remaining 10 contacts may be made up as in Stage 1 and the same specification applies as to numbers of home and weekend.

In Stage 3 contacts are reduced to 16 per month with a minimum of eight face to face and the remainder as in previous stages

At least two contacts will be at home and one of a weekend.

In Stage 4 contacts are further reduced to 12 per month with six of these face to face and the remainder as previously prescribed.

At least two will be at home and one of a weekend.

The establishment of a reporting regimen is not seen as an essential ingredient of the program but officers may direct participants to report to them at district offices as required and this will count as a mandatory face to face contact.

Officers should contact employers at least twice per month and routinely inspect pay slips at normal pay intervals.

Officers will, at least once per month, verify attendance at vocational training, counselling or any other prescribed activity.

If the participant is unemployed the officer will endeavour to ensure that every effort is being made to obtain employment and will randomly verify attendance at job interviews.

Contact will be made by the officer with police at the station closest to the participant's residence and any other as may be appropriate.

## **CURFEW**

A curfew (confinement to place of residence) will apply in all stages of the program. Home detainees are generally subject to control of out-of-residence activities 24 hours per day, seven days per week. In addition, maximum daily out-of-home hours are set down for each stage. All absences from the home will therefore require the officer's approval as to time and purpose. Unauthorised absences or failure to return at specified times will be regarded as breaches of curfew. Approvals may be given orally but they will need to be entered on supervision records to avoid error and dispute.

Officers may vary the degree of specificity as to times, locations and activities as a means of gradually relaxing the intensity of supervision and increasing the reliance on the participant to self-regulate.

Standard core curfew times are also set but these may be varied to accommodate employment, study courses or other approved activity. Absence during designated core time or in excess of maximum out-of-home hours should only be permitted in an emergency. The officer will, if possible, subsequently verify the bona fides of the emergency.

In Stage 1 the maximum time out-of-home will be 14 hours, standard core time between 8.00 pm and 6.00 am.

In Stage 2 the maximum time out-of-home will be 16 hours, standard core time between 10.00 pm and 6.00 am.

In Stage 3 the maximum time out-of-home will be 18 hours, standard core time



between 11.00 pm and 5.00 am.

In Stage 4 the maximum out-of-home hours may be further increased if performance has been exemplary but absence beyond 12.00 midnight should not be permitted unless required to accommodate employment.

## **RESIDENCE/TRAVEL**

Overnight travel will not normally be permitted.

Should death or serious illness occur in the participant's family or other appropriate circumstances arise, a specified journey may be approved by the Director of Home Detention.

The participant will not change residence without the prior approval of the officer and such change must be within an area serviced by the Home Detention program.

## **BREATH ANALYSIS/URINALYSIS**

The officer will be responsible to ensure that random breath tests are conducted at least weekly during the initial stage where there are indications of an alcohol abuse problem. If testing is satisfactory at this stage and in all other cases, breath analysis should be conducted in response to signs or reports of alcohol use.

All participants may be required to submit to urinalysis. If there is a prior history, or suspicion of drug use, the officer will be responsible to ensure random urinalysis tests are conducted. The suggested frequency of testing is once per month for marijuana and four times per month for other illegal drug use. If after four tests all results are negative the officer may suspend regular testing. Spot checks should continue and the response to signs or reports of use should be further testing. A positive test result will result in increased frequency of testing and the assignment of infringement points.

Experience to date suggests that, where there is any history of abuse, early testing during assessment is critical to positively establish the current situation, to establish the parameters of supervision and to insure that any required therapeutic interventions commence near the beginning of the Home Detention term.

## **OUT OF HOME ACTIVITIES**

### **Employment**

Subject to the requirement to inform employers of Home Detention status, paid work opportunities should generally be approved. Factors which may lead to disapproval include excessive travel time, inability to confirm attendance or concerns about potential for criminal association (eg work as a bouncer at a Kings Cross strip club).

### **Pre-employment/job search**

For unemployed offenders able to work, this should be an area of emphasis. Home Detention presents an excellent opportunity to encourage and support the development of marketable skills.

### **Personal Development/Counselling/Treatment**

Such activities in response to assessed needs should also be emphasised in case planning. Access to community resources is considered a significant benefit of Home Detention. Referral to such services for evaluation during assessment will assist in rapid development of suitable case plans.

### **Community Service Work**

If a detainee is unemployed, not in full-time study, not in a residential treatment program and does not have primary child care responsibilities, the officer will arrange for the offender to perform work of community benefit. This should consist of at least eight but not more than twenty hours per week. Other detainees may also be directed to perform community work but such work has a lower priority than developmental activities responsive to identified needs. Such community work will generally be co-ordinated through the local CSO organiser. In appropriate circumstances work may be organised separately for a detainee or group of detainees if adequate monitoring can be arranged. The OH&S requirements for work site assessments should be reviewed with the CSO organiser in such cases.

### **Other Structured Activities**

Child care responsibilities, age, health problems, physical or mental disabilities or other factors may prevent a detainee from engaging in work, vocational training or community service. In such cases other structured activities should be encouraged to relieve the tension of confinement, avoid social isolation and give co-residents some space. Kinds of activities that might be considered include playgroups, fitness training, church/community/senior citizens social groups or hobby activities.

### **Family Care/Family Activities**

Home Detention permits offenders to maintain family ties and continue to undertake family responsibilities. Family related activities which might be appropriately approved include shopping, taking children/aged parents for medical appointments, play activities with children, family social gatherings or school functions.

### **Considerations Relevant to Approval**

With all out of home activities a range of factors should be considered before approval is given. These include ability to monitor and/or verify the activity, degree of benefit to rehabilitation/personal development, benefit to detainee's family, risk of re-offending, level of demonstrated reliability and length of time under supervision. Activities of a purely leisure or social nature should generally not be approved early in the term of a Home Detention Order. The requirement to seek approval for all outside activities should be used to encourage offenders to plan ahead. Officers should not routinely approve requests to go out for cigarettes, get a video etc. Such needs should be met either by other family members or as a planned adjunct to another activity.

## **CASE RECORDING**

Home Detention officers will work in the field far more extensively than has been traditional and will need special practices for case recording.

The case history as currently used by the Service will be maintained. The variation will occur in the manner of recording case notes. A Home Detention Supervision Log has been designed to be kept with the officer in the field so that all contacts may be contemporaneously logged and officers will have with them at all times an up-to-date recording. Significant notes, suitably dated, can be recorded on the reverse of the form. This form, one per client, will record all contacts with clients, employers family etc as well as urinalysis checks and will cover a one month period.

At the end of the month the officer will transfer this form to the case history. At the same time the officer will review the case ensuring that all conditions have been met and varying the case plan, curfew hours etc, if required.

### **INFRINGEMENT**

A point system has been devised and is set out in the table below to guide officers in their response to various infringements. Although the points will remain absolute the responses are to be seen as minimums only and do not restrict the officer's right to increase intensity of supervision or frequency of contact.

### **HOME DETENTION INFRINGEMENT POINT SYSTEM AND PROGRAM SANCTIONS**

<b>Type of Infringement (Max No)</b>	<b>Points</b>	<b>Officer Action Required</b>	<b>Sanction</b>
Arrest-new offence	-	Inquiries re details of allegation; notify court, copy of report to Director, Home Detention	Increase controls (curfew, drug/alcohol testing, etc) as appropriate
Conviction - new offence	-	Breach report	recommend revocation
Major breach of curfew (absence 2 hours or more without approval)	20	1st - formal interview, inquiries to confirm circumstances, final warning 2nd - inquiries to confirm, breach report	allocate points; additional limits on outside activities; increased contact frequency; recommend revocation

Type of Infringement (Max No)	Points	Officer Action Required	Sanction
Minor breach of curfew (max. 3)	10	1st - Formal interview, inquiries to confirm circumstances; formal warning  2nd - As above plus final warning  3rd - Inquiries to confirm; breach report	allocate points; increased contact frequency  allocate points; additional limits on outside activity  recommend revocation
Refusal to submit to breath/urine/blood testing	-	Breach report	recommend revocation
Failure to produce urine sample as directed	-	1st - Return after a period for second attempt  2nd - Formal warning  Return after 2 hours for second attempt.	re-test within 24 hours  If no samples, treat as refusal
Drug/Alcohol use (max. 3)	10	1st - Formal warning  2nd - Final warning; directive to attend counselling/treatment  3rd - Breach report	allocate points; increase testing frequency  allocate points; additional limits to outside activities; in-patient detox if required  recommend revocation
Deviation from planned & approved activity (max. 3) (If deviation exceeds 2 hrs, treat as major breach of curfew.)	5	(as for minor curfew breach)	allocate points
Change of residence without approval (max. 2)	10	1st - Formal warning  2nd - Breach Report	allocate points  recommend revocation
Failure to notify of change of circumstance (other than residence, eg employment, new arrest) (max. 3)	5	1st - Enquires to confirm details; formal warning  2nd-Final warning  3rd-Breach report	allocate points  allocate points; increase contact frequency  recommend revocation
Possession of firearm/offensive weapon	-	breach report	recommend revocation

Type of Infringement (Max No)	Points	Officer Action Required	Sanction
Failure to cooperate with Electronic Monitoring: - phone off hook - unplugging equipment - tampering	20	1st - inquiries to confirm details; final warning  2nd - breach report	allocate points; increase contact frequency  recommend revocation
Refusal to: - admit to home - submit to search - authorise release of information	-	breach report	recommend revocation
Exceed Point Quota (30)	-	breach report	recommend revocation

Each officer will have responsibility to monitor participant compliance with the conditions of the program and, in the event of non-compliance, to apply appropriate sanctions.

### **SUBMISSION OF BREACH REPORTS**

The above infringement point system provides a guide to the application of the provision of sections 14 (2) (a)&(b) of the Home Detention Act which mandate that "serious" or "repeated" breaches of Home Detention conditions will lead to an application for revocation of the order. While the words "serious" and "repeated" allow some discretion as to when such applications are required, the point system sets some limit on the exercise of that discretion. Use of that discretion should be further guided by consultation with the Unit Leader and other team members to ensure consistency of approach.

Where a breach has occurred but the points system does not indicate revocation as the expected sanction, revocation may still be in order. The Parole Board has authority to revoke for any breach of Home Detention. If, in light of all the circumstances of a case, an offender is deemed to be at risk of serious re-offending, an application for revocation should be submitted in response to even a minor breach. Here again, officers should consult with colleagues to resolve any doubts.

When a decision has been taken to submit a breach report, this should be completed immediately and forwarded by the most expeditious means to arrive at the Board on the first working day following decision to breach. Having received the breach report the Board, under Section 16 of the Act, has authority to order revocation of the Home Detention Order without hearing and direct that a warrant be issued for the offender's arrest. Procedural fairness is in such cases provided (as in the case of parole revocation) by review of the revocation after arrest. Where appropriate the Board may alternatively, under Section 15 of the Act, call an offender before it by notice to show cause why a Home Detention Order should not be revoked. Such preliminary inquiry before revocation is expected to be the exception rather than the rule. Recommendation for such inquiry should not be included in Home Detention Order breach reports without express agreement of the

Unit Leader.

Contents of the breach report should closely parallel the contents of the breach of parole report as set out at page 3-41 of the NSW Probation Service Guide plus the original Home Detention assessment.

After submission of the breach report officers should maintain close liaison with the Board to ensure early consideration and, if there is to be an inquiry, to ensure the offender has notice of the hearing. Upon issuance of a warrant officers should follow up to ensure it has been entered in the Police records system and should actively co-operate with local police to facilitate early execution of the warrant. Credibility of the Home Detention Program requires that offenders in breach of an Home Detention Order be dealt with expeditiously.

## **CASE PLANNING/ CASE REVIEWS**

The existing Probation Service Case Management System applies to Home Detention generally but some modifications are necessary to align with the short-term, intensive nature of Home Detention. All Home Detention offenders are assessed before entry into the program but those assessments generally focus on suitability. It is appropriate and feasible, therefore, to complete an initial case assessment, set a clear objective and develop an appropriate case plan at the same time as the assessment for court. This should insure the early identification of developmental needs and the establishment with the offender before entry of a plan to deal with these. Given the expected 6 month average length of Home Detention terms, it is imperative that case plans are quickly decided and implemented.

The initial case plan should be submitted on the PSF95 form to the Unit Leader for review and confirmation within one week of Home Detention entry. Further reviews are to be scheduled in accordance with the assessed "Danger Rating" of each client. No presumption as to rating should be made by virtue of commitment to Home Detention but this may be considered as one factor in assessing "danger".

## NOTIFICATION TO POLICE

To insure that we are informed when Home Detention offenders are re-arrested or come to police notice, it is necessary to advise two branches of the police that an individual has been placed on an Home Detention order. The Crime Data Centre is responsible for insuring that a warning or flag appears on the screen whenever an inquiry is made about an offender on Home Detention. The Criminal Records Unit is responsible for entering the criminal history details of offenders. The former insures instant notice of our interest and the latter insures that the custodial sentence to be served by way of Home Detention will appear correctly when the offender's criminal history is examined at anytime in the future. These agencies should also be notified when an offender completes or is terminated from Home Detention. Form letters for entry and completion are attached.

The attached protocols between the Department of Corrective Services and the NSW Police Service outline the responsibilities of each party with regard to offenders on Home Detention.

New South Wales Government

**Department of Corrective Services**  
PROBATION AND PAROLE SERVICETel: (02)  
Fax: (02)**Attention: His Honour, Judge**  
District Court  
Court House

NSW

**NAME:**  
**D.O.B:**  
**DISTRICT COURT:** 1998  
**OFFENCE:** Break Enter and Steal  
**SENTENCE:** 24 Weeks to be served by way of Home Detention  
Additional Term 11 Weeks (No Supervision)

Mr completed his period of Home Detention on 1998.

As outlined in the Home Detention case plan, he was directed to undertake courses at Attendance Centre on Personal Development and Stress Management which he completed as required.

He was subject to random urinalysis, the first sample showing a small amount of cannabis. All subsequent urine samples were clean. Regular breath testing throughout the Home Detention Programme did not indicate that he was using alcohol.

In receipt of Social Security benefits, Mr initially showed no inclination to seek employment, stating that he was better off financially receiving Unemployment Benefits. He was encouraged to consider a TAFE course but after some weeks, he stated that "nothing interested him". Consequently Mr was directed to carry out voluntary community service work and he was placed at the local St. Vincent De Paul warehouse



where his tasks included sorting clothing. Mr . worked as directed and with a positive attitude.

Three weeks ago he gained employment as a painter working 4-5 days each week. He took to the job with enthusiasm and found that employment has provided him with a better income.

It is considered that Mr benefitted from his involvement in Home Detention. He has now been released to an additional term of eleven weeks parole, with no supervision, as per the sentence imposed at District Court on 1998.

Home Detention Officer  
DISTRICT OFFICE

1998



**Department of Corrective Services**

PROBATION & PAROLE SERVICE



HOME DETENTION UNIT

PHONE (02)

Fax (02)

PAGER NUMBER

Magistrate  
Local Court

Dear

RE:  
DATE OF BIRTH:

at Local Court, you sentenced Mr to twelve months imprisonment to be served by way of Home Detention with an additional 6 months term of supervised Parole for offences of Obtain Benefit by Deception.

Mr has now successfully completed the Home Detention component of his sentence. His performance has been outstanding and his co-operation with this Service excellent. From the outset he adopted a positive stance and has maintained a committed and disciplined approach to the Programme over the past 12 months.

The detainee attended financial counselling and eventually sought bankruptcy.

He initially attended an alcohol counsellor and then progressed to relationship counselling with his wife. Both partners reported positively on the experience and appear to be more open and attune in their communications now.

Mr believes Home Detention gave him an opportunity to sort out what was of importance in his life and to build on this. He feels that the same and worthlessness he felt at the time of sentence would have been reinforced, perhaps entrenched, by serving his

sentence in gaol. As it is, he feels he has made progress in his personal and family life and has a sense of achievement both on this account and also on having completed a difficult Programme.

Yours faithfully,

Probation & Parole Officer  
Home Detention Unit, Maitland



Judges' Chambers,  
District Court,  
Sydney.

Mr  
Unit Leader, Home Detention  
Dept Corrective Services  
Probation and Parole Service

Dear

Many thanks for your letter of \_\_\_\_\_ 1998 regarding Mr \_\_\_\_\_  
who I sentenced at \_\_\_\_\_ on \_\_\_\_\_ this year to six  
months Home Detention.

To date he is the only person I have dealt with in that way. I thought his case was a most appropriate one to be dealt with by Home Detention and I am pleased that he has acquitted himself well over the period. More importantly I hope that he has benefited from the structure of the scheme and most importantly that he does not re-offend in the driving arena.

I would be grateful if you could pass on to him my congratulations on getting through what I am sure was a difficult time and I hope that his future turns out well for him.

I also congratulate you and the officers involved on a successful case resolution.

Kind regards

Judge

1998.

1997

The Director  
Home Detention Program

Dear Sir,

**Case No.**  
Convicted -                      Released -

I would like to take this opportunity to thank Mr                      , Magistrate for giving me the chance of serving my sentence on the Home Detention Program instead of serving my sentence in gaol. I have served a few gaol sentences for drug offences which did not teach me anything at all. Whereas the Home Detention Program opened my eyes and made me realise that I could change my ways and make a better life for myself and I am now looking forward to this.

Mind you the Home Detention Program is not as easy as it seems. Sometimes looking at the front door and knowing you can't go out or even go to the shop can be very hard to take. The chance of being able to work and to continue on with my Tech course in panel beating (which I have now completed and am happy to say passed) really helped me get through.

I truly appreciate the trust that                      and                      the Officers in charge of my supervision gave me. They were there to offer guidance and support and at times just to listen when I needed someone to talk to.

During my time on the Program my mother (who stood by me all the way) was diagnosed with cancer.                      and                      were caring and supportive not only for me but for my Mum as well. We had only just come to terms of my Mum's illness when my Grandmother (who never gave up on me) passed away.                      and                      helped me to get through this sad time by being there for me at any time when things got hard. I hope they know how very much I appreciated their help.

I decided to write this letter to let you know that serving my sentence on the Home Detention Program did make a difference, in a positive way, in my attitude towards my future. Hopefully the Home Detention Program will continue on and help others.

Yours faithfully,

cc.

## **CASE STUDIES DEALING WITH OFFENDER SANCTIONS**

### **Case Study One**

Offender J.C was placed on Home Detention program on 23 April 1997 for a period of twelve months following convictions for Take and Drive Conveyance, Goods in Custody and Break Enter and Steal x 2.

J.C has a history of illicit drug use. After being placed on the program the offender tested positive to unprescribed methadone on 2 June 1997, heroin on 7 June 1997 and 11 June 1997. The offender stated that the substances were provided by his girlfriend and an acquaintance. He was warned and directed to address his drug problem by entering the Odyssey House Program. He completed the six week assessment stage.

The offender's association with his girlfriend continued to pose problems due to her continued drug involvement. Further, the offender's mother informed the Home Detention Officer that she had observed the girlfriend injecting herself while in the company of the Offender. J.C later admitted that she had been using an illicit drug. The offender was verbally directed not to associate himself with his girlfriend. Despite that verbal direction, J.S allowed her to visit his home that same evening. He was warned again regarding possible breach action and a formal written direction was given to him on 27 August 1997, not to associate with his girlfriend.

On 7 th September 1997, the offender was observed by the Home Detention Officer to be in the company of his girlfriend. Further enquiries revealed other occasions where this had occurred. A breach report was tendered to the Parole Board on 12 September 1997. The Board revoked the offender's Home Detention Order on 15 September 1997 and directed issuance of a warrant. The Home

Detention Officer liaised with local Police when the offender was taken into custody on 17 September 1997.

### **Taken from Fact Sheet: Home Detention Revocations 11 July to 10 November 1997**

### **Case Study Two**

Offender C.W.B was placed on Home Detention for five months on 16 October 1997 at Bankstown Local Court with respect to ac conviction for DWD.

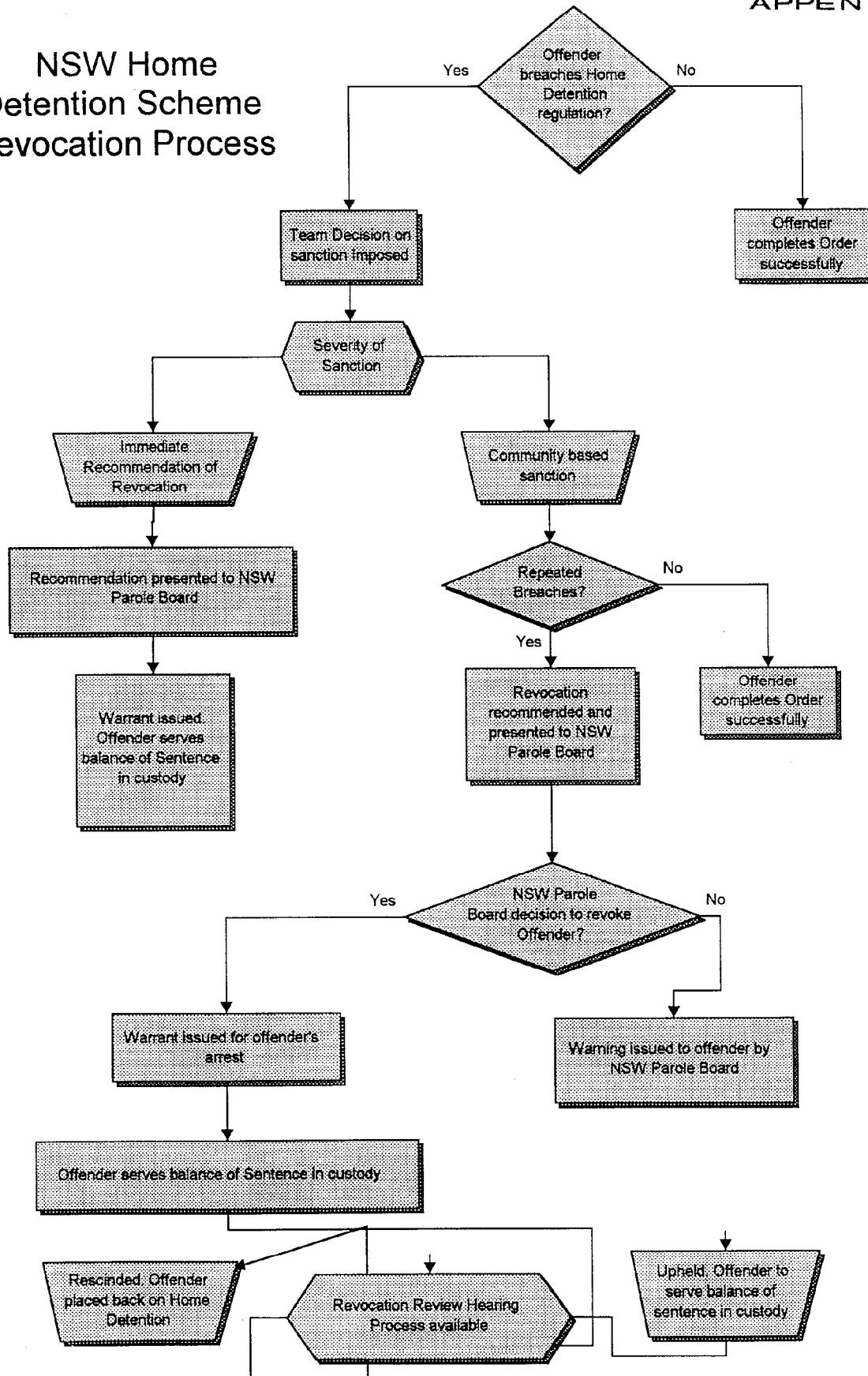
The 31 year old offender had maintained steady employment and complied with the terms of the Order without significant incident until the afternoon of 14 Feb 1998 when he was stopped by Police while operating a motor vehicle. As well as being charged with a fresh offence of DWD he was charged with a variety of additional charges stemming from his presentation of a driver's licence in another name. Bail was refused and during a subsequent hearing at Central Local Court on 15 Feb 1998, the offender sought to flee from the dock. A Corrections Officer was injured in the course of apprehending and subduing him.

The offender has had a history of manic depressive illness and information about this condition was passed to custodial officers by the supervising Home Detention Officer immediately after they were notified of his arrest.

A report submitted to the Parole Board on 16 Feb 1998 recommending revocation. The Board revoked his Home Detention Order on 17 Feb 1998 and the warrant was lodged with custodial authorities.

**Taken from Fact Sheet: Home Detention Revocations 11 Nov 1997 to 20 Feb 1998.**

# NSW Home Detention Scheme Revocation Process





<b>NSW DEPARTMENT OF CORRECTIVE SERVICES</b>
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<b>RESEARCH AND STATISTICS UNIT</b>
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## REVIEW OF THE HOME DETENTION SCHEME CONSENT FORM

The NSW Department of Corrective Services is conducting a review of the Home Detention Scheme. This review is intended to assist with the ongoing development of the Home Detention Scheme within NSW.

In order to successfully complete this review, we are interested in interviewing participants and co-residents of the Home Detention Scheme. The interview will take between 1/2 hour to 1 hour to complete. Participants are free to discontinue the interview at any time and there is no penalty of any kind if you do not wish to participate in an interview or do not wish to answer any questions put to you.

If you require any further information concerning this review, please contact Mr Simon Eyland, Director Research and Statistics Unit, NSW Dept of Corrective Services on: 9289 1557.

I, ....., understand the purpose of the study, 'Review of the NSW Home Detention Scheme', as explained above. I consent to participate in the study. My consent is voluntary and I understand that all information will be handled in the strictest confidence and that my participation will not be individually identifiable in any reports. I further understand that there is no penalty or prejudice of any kind for not participating in the study and that I can withdraw at any time.

.....

DATE:

NAME (signature)

.....

DATE:

WITNESS (signature)

## Interview Schedule for Home Detention Research Study

Overall, over **180** people were interviewed in the course of the research study into the 1996 Home Detention Act. The following groups were interviewed as part of this study:

- **Offenders and their families**
- **Revoked Home Detainees**
- **Judicial Officers and legal representatives**
- **Government and non government agencies**
- **Home Detention Personnel**

### Method of Interview Selection

- (A) **Interviews with offenders, families, judicial officers and legal representatives.** As far as possible, all interviews were randomly selected for participation, using the Home Detention Data Base. Each potential interviewee was approached by the researcher and asked to participate in an interview.
- (B) **Interviews with Home Detention Personnel.** As far as possible, all interviews were randomly selected for participation. Interviews were either arranged individually or through group interviews.
- (C) **Interviews with Government and Non government Agencies.** Individuals from relevant agencies were approached by the researcher as the means of assisting in the identification of issues which impact on individuals and the community by the use of the 1996 Home Detention Act.

### Interview Procedure

Confidentiality was preserved with all interviews with offenders, their families, judicial officers and legal representatives and home detention personnel. Names and locations were not recorded.

Most interviews took between 1 hour and 2 hours to complete. All offenders were asked to sign an official Consent Form before the interview commenced.

All interviews were conducted at the convenience of the interviewee and were conducted in person wherever possible.

Interviews with offenders were audio taped when permission was granted by the offender. These interviews are confidential and will not be made available.

### **Location of Interviews**

Interviews were conducted in a wide variety of locations. These include:

- Gaols within NSW
- Homes of offenders and their families
- Parole and Probation Offices
- Employment sites of offenders on HDS
- Judicial Chambers
- Government and Non Government Offices

NSW Higher Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by District Court

Offence group	District Court								
	Sydney	Campbelltown	East Maitland	Gosford	Liverpool	Newcastle	Parramatta	Penrith	Wollongong
Cause death by driving						1			
Assault	4							1	
Robbery	2			1			3	1	
Blackmail/extortion						1	1		
Breaking and entering	4	2		1		4	1	2	2
Fraud and misappropriation	8	1			1	1	3	3	
Receiving/unlawful possession	1				1	1	1		
Vehicle theft	2	1			1		1		
Other theft	2	3					2		1
Property damage						1			
Against justice procedures	4	1		1	2	2			1
Weapons		1				1			
Against good order	1								
Deal/traffic-opiates	4	1		1	1				

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

APPENDIX 2

NSW Higher Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by District Court

Offence group	District Court								
	Sydney	Campbelltown	East Maitland	Gosford	Liverpool	Newcastle	Parramatta	Penrith	Wollongong
Deal/traffic-cannabis		1				1	1	1	
Deal/traffic-other	6	1	1	1	1	3			
Manufacture/grow-cannabis									1
Other	1								
<b>Total</b>	<b>39</b>	<b>12</b>	<b>1</b>	<b>5</b>	<b>7</b>	<b>16</b>	<b>13</b>	<b>8</b>	<b>5</b>

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Balmain	Bankstown	Belmont	Blacktown	Burwood	Camden	Campbelltown	Central
Other assault	2	4	7	5	44	2	20	33
Other offences against the person	1	1		3	1	1	1	5
Breaking and entering	4	9	10	10	25		12	20
Fraud		1	2	3	11	1		13
Larceny by shop stealing	1	4	5	7			13	22
Other Larceny	3	2	2	4	40	1	10	46
Unlawful possession	3	4	1	2	27		7	35
Vehicle theft	5	3	1	11	47		14	18
Arson, damage by fire							1	1
Other property damage		1	3	3	3		1	12
Environmental								
Breach of orders	5	14	10	12	43	2	35	34
Other offences against justice procedures	1	1		4	17	1	7	8
Weapons		1		1	3			4
Prostitution					1			

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Balmain	Bankstown	Belmont	Blacktown	Burwood	Camden	Campbelltown	Central
Offensive behaviour			1					2
Other offences against good order	1			4	14	1	1	13
Possession and/or use:-opiates				1	5			2
Possession and/or use:-cannabis				2	15		1	
Possession and/or use:-other drug	1				10		1	3
Dealing and trafficking:-opiates					8			1
Dealing and trafficking:-cannabis	1				3			
Dealing and trafficking:-other drug					2	1		8
Manufacturing and/or growing:-cannabis				1	1			
Manufacturing and/or growing:-other drug					1			
Other drug offences					1			3
Cause injury by driving						1		
DUI drink/drug			1					
PCA - high	1	1	2	7	5	1	1	3
PCA - medium	1		4	3	2	1		1

(CONTINUED)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Balmain	Bankstown	Belmont	Blacktown	Burwood	Camden	Campbelltown	Central
PCA - low								
Dangerous, reckless or negligent driving	2		2	4	3		2	
Other driving offences		2	12	15	16	2	14	4
Other offences								
Total	32	48	63	102	348	15	141	291

(CONTINUED)



NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Cessnock	Fairfield	Gosford	Hornsby	Kogarah	Kurri Kurri	Liverpool	Maitland
Other assault	1	7	9	9	1		12	12
Other offences against the person							2	
Breaking and entering	9	13	12	10	5		19	5
Fraud	1	3		2		1	3	1
Larceny by shop stealing	1	11	5	11	1		37	
Other Larceny	3	12	3	4	3		13	1
Unlawful possession	4	17	2	1	4		18	1
Vehicle theft	5	16	10	3	2	1	36	
Arson, damage by fire								1
Other property damage	5	2	4	2			8	1
Environmental								
Breach of orders	7	39	14	33	1	1	23	5
Other offences against justice procedures	3	4	2			1	3	3
Weapons	1		2	1			2	
Prostitution					3			

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Rea No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Cessnock	Fairfield	Gosford	Hornsby	Kogarah	Kurri Kurri	Liverpool	Maitland
Offensive behaviour				1			1	
Other offences against good order		6		4	1		15	
Possession and/or use:-opiates	2	26		1			4	
Possession and/or use:-cannabis	2	2					1	2
Possession and/or use:-other drug		3		1	1			
Dealing and trafficking:-opiates		57	1				4	
Dealing and trafficking:-cannabis	2			2		1		1
Dealing and trafficking:-other drug		4		1			2	
Manufacturing and/or growing:-cannabis								
Manufacturing and/or growing:-other drug								
Other drug offences								
Cause injury by driving								
DUI drink/drug		4			1		1	1
PCA - high		3	1	2			3	1
PCA - medium			1				2	

(CONTINUED)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Cessnock	Fairfield	Gosford	Hornsby	Kogarah	Kunri Kurri	Liverpool	Maitland
PCA - low								
Dangerous, reckless or negligent driving		4		2			4	
Other driving offences	5	20	3	7	4	2	17	2
Other offences		2						
Total	51	255	69	97	27	7	230	37

(CONTINUED)

## NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Manly	Newcastle	Newtown	North Sydney	Parramatta	Penrith	Downing Centre	Port Kembla
Other assault	5	18	1		32	14	10	
Other offences against the person		2	1		4	1		1
Breaking and entering	16	14	11	1	37	18	3	5
Fraud	2	7	1		6	4	9	
Larceny by shop stealing	2	6				8		
Other Larceny	4	16	11		101	22	19	
Unlawful possession	2	10	6	1	35	9	6	
Vehicle theft	5	8	5	2	43	7	6	1
Arson, damage by fire	1	1		1	1	2		
Other property damage		5			6	4	3	
Environmental			1					
Breach of orders	12	30	13		62	23	2	
Other offences against justice procedures		1	1		8	16		
Weapons					1	1	3	
Prostitution								

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Rep No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Manly	Newcastle	Newtown	North Sydney	Parramatta	Penrith	Downing Centre	Port Kembla
Offensive behaviour		1			1		1	
Other offences against good order			2	1	10	3	2	
Possession and/or use:-opiates		1		1		1	1	
Possession and/or use:-cannabis		1			2	4		1
Possession and/or use:-other drug					7		1	
Dealing and trafficking:-opiates							5	
Dealing and trafficking:-cannabis							1	
Dealing and trafficking:-other drug					2		4	
Manufacturing and/or growing:-cannabis		2				2		
Manufacturing and/or growing:-other drug								
Other drug offences	1	1			2		1	
Cause injury by driving								
DUI drink/drug	1	3			2			
PCA - high	2	2		1	5	3	1	
PCA - medium	2	2			4	2		1

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Manly	Newcastle	Newtown	North Sydney	Parramatta	Penrith	Downing Centre	Port Kembla
PCA - low								
Dangerous, reckless or negligent driving		3	6		6	2	3	
Other driving offences	1	9	5		21	12	3	
Other offences	1				2	1		
Total	57	143	64	8	400	159	84	9

(CONTINUED)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Raymond Terrace	Redfern	Ryde	Sutherland	Wallsend	Waverley	Wollongong	Woy Woy
Other assault	2	1		19	4	9	11	3
Other offences against the person		1				1		
Breaking and entering	5	5	6	16	4	11	15	4
Fraud				4	3	8	3	
Larceny by shop stealing			4			6	4	
Other Larceny	1	5	1	27	3	13	13	2
Unlawful possession	2	4	2	6	2	7	9	
Vehicle theft	2	3	4	15	5	15	5	
Arson, damage by fire								
Other property damage					1	2	1	
Environmental								
Breach of orders	1	5	3	11	11	19	26	5
Other offences against justice procedures	3	3		1		7	1	
Weapons						2		
Prostitution								

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Raymond Terrace	Redfern	Ryde	Sutherland	Wallsend	Waverley	Wollongong	Woy Woy
Offensive behaviour	1	1	1	1				
Other offences against good order				3	2	3	3	
Possession and/or use:-opiates				1				
Possession and/or use:-cannabis	2		1			2		
Possession and/or use:-other drug	1		1	2			1	
Dealing and trafficking:-opiates						1	1	1
Dealing and trafficking:-cannabis				1	1			
Dealing and trafficking:-other drug								
Manufacturing and/or growing:-cannabis								
Manufacturing and/or growing:-other drug				1				
Other drug offences							1	
Cause injury by driving							1	
DUI drink/drug					1	1		
PCA - high	1		1	4	1	1		1
PCA - medium			1	3		1		

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)



NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court							
	Raymond Terrace	Redfern	Ryde	Sutherland	Wallsend	Waverley	Wollongong	Woy Woy
PCA - low				1		1		
Dangerous, reckless or negligent driving			4		1	2		
Other driving offences	2	1	2	15	4	6	8	
Other offences								
Total	23	29	31	131	43	118	103	16

(CONTINUED)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court	
	Wyong	St. James
Other assault	1	
Other offences against the person		
Breaking and entering	9	1
Fraud	3	6
Larceny by shop stealing		
Other Larceny	3	
Unlawful possession	3	
Vehicle theft	9	
Arson, damage by fire		
Other property damage	2	
Environmental		
Breach of orders	2	
Other offences against justice procedures	1	1
Weapons		
Prostitution		

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Reg No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court	
	Wyong	St. James
Offensive behaviour	1	
Other offences against good order		
Possession and/or use:-opiates		
Possession and/or use:-cannabis		
Possession and/or use:-other drug		
Dealing and trafficking:-opiates		
Dealing and trafficking:-cannabis		1
Dealing and trafficking:-other drug		
Manufacturing and/or growing:-cannabis		
Manufacturing and/or growing:-other drug		
Other drug offences		
Cause injury by driving		
DUI drink/drug		
PCA - high	2	
PCA - medium		

(CONTINUED)

Source: NSW Bureau of Crime Statistics and Research (Reg No: 98/91)

NSW Local Criminal Courts Statistics 1997

Number of offenders eligible for Home Detention Scheme  
Offence type by Local Court

Offence group	Local Court	
	Wyong	St. James
PCA - low		
Dangerous, reckless or negligent driving	1	
Other driving offences	6	
Other offences		
Total	43	9

Source: NSW Bureau of Crime Statistics and Research (Req No: 98/91)

**Frequency of Home Detention Referrals in Local Courts during study  
period Feb 1997 - Aug 1998**

<b>Court Location</b>	<b>No. admitted to scheme</b>	<b>No. assessed but not admitted to scheme</b>	<b>Total referred for assessment</b>
Balmain	5	1	6
Bankstown	15	9	24
Belmont	1	-	1
Blacktown	14	5	19
Burwood	8	7	15
Campbelltown	26	14	40
Camden	2	2	4
Central	2	2	4
Cessnock	9	3	12
Deniliquin	1	-	1
Downing Cen.	24	10	34
Fairfield	-	1	1
Gosford	18	13	31
Hornsby	3	-	3
Kogarah	-	1	1
Kurri Kurri	1	-	1
Liverpool	11	3	14
Maitland	11	2	13
Manly	-	-	-
Mossvale	1	-	1
Newcastle	4	1	5
Newtown	3	1	4
Nth Sydney	4	1	5
Parramatta	39	18	57
Penrith	6	1	7
Port Kembla	2	1	3
Raymond Terrace	3	1	4
Redfern	-	-	-

Court Location	No. admitted to scheme	No. assessed but not admitted to scheme	Total referred for assessment
Ryde	6	-	6
St James	1	-	1
Sutherland	8	4	12
Unknown	-	2	2
Wallsend	5	2	7
Waverely	10	5	15
Windsor	2	1	3
Wollongong	7	4	11
Woy Woy	9	6	15
Wyong	33	11	44
<b>Total</b>	<b>294</b>	<b>132</b>	<b>426</b>

**Frequency of actual Home Detention Referrals in District Courts during the study period Feb 1997 - Aug 1998**

Court Location	Suitable Assessment	Unsuitable Assessment	Total
Campbelltown	7	2	9
Downing Cen.	29	4	33
Gosford	-	1	1
Liverpool	2	1	3
East Maitland	2	0	2
Newcastle	7	2	9
Parramatta	8	1	9
Penrith	6	1	7
Wollongong	10	1	11
<b>Total</b>	<b>71</b>	<b>13</b>	<b>84</b>