



A PAPER FROM THE JUSTICE REFORM INITIATIVE

## ALTERNATIVES TO INCARCERATION: **IN TASMANIA**

August 2023

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## EXECUTIVE SUMMARY

Too many Tasmanians are trapped in a cycle of incarceration, repeatedly encountering a justice system that fails to address the causes of crime and entrenches ongoing justice system involvement. Over-incarceration in Tasmania causes significant harm – to the children and adults who are themselves incarcerated, to the families and communities who care for people who are imprisoned, and to the broader community as a consequence of the failure of imprisonment to improve community safety.

There is, however, the opportunity for Tasmania to lead the country in justice reform. The small size of the jurisdiction, the recent acknowledgement of the youth justice system's failings, and the capacity of the Tasmanian parliament to work together to improve community safety is critical foundational work. This report outlines the need for expanded investment by the Tasmanian Government into evidence-based programs and services run by the community sector (including First Nations-led organisations) that address the social drivers of contact with the criminal justice system and provide 'off-ramps' out of the justice system.

These programs (if properly resourced) will:

- Significantly reduce recidivism for children and adults and in turn improve community safety.
- Successfully divert children and adults who are at-risk of being involved in the criminal justice system.
- Strengthen families and communities who are too often 'managed' in justice system settings rather than receiving the support, care and opportunities that would make a difference in the community

- Result in significant cost-savings and substantial improvements in health and wellbeing across the community, including for victims.

The collective findings of the evaluations included in this report demonstrate the efficacy of community-led approaches that address the social drivers of over-incarceration. Similarly, the combined findings of evaluations of alternative models of policing, court and prison in this report demonstrate the way in which interactions with the justice system have the capacity to move people *away* from the justice system, if those interactions are non-punitive and focus on addressing the drivers of criminal justice system contact.

There has been welcome and timely recognition in recent years on the part of the Tasmanian Government about the failure of children's incarceration. The Justice Reform Initiative welcomes the Tasmanian Government's decisions to close down Ashley Youth Detention centre and to change the minimum age of detention to 14 years. We also welcome the leadership of the Tasmanian Government in acknowledging the failure of the existing youth justice system and the need to approach this policy area thoughtfully, and with an emphasis on evidence-based practice. There is, however, much more that needs to happen in terms of the resourcing of the community sector in Tasmania. In addition, there is the need to recognise that it is not only the youth justice system that is failing, but that the current system of adult imprisonment is failing as well.

The financial commitment to incarceration continues to increase in Tasmania, despite

overwhelming evidence that the current prison system (for both adults and children) is harmful, expensive, and ineffective. In Tasmania in 2021–2022, the total net operating expenditure on adult prisons was more than \$101.3 million,<sup>1</sup> with a further \$16.2 million spent on children’s incarceration.<sup>2</sup> The proposed new Northern Correctional Facility (NCF) is estimated to cost more than \$270 million.<sup>3</sup>

Jailing is failing to reduce offending and reoffending. Prison is criminogenic (that is, it increases the likelihood of future imprisonment), and its overuse causes enormous and inter-generational harm to First Nations communities and other populations who experience multiple and intersecting forms of marginalisation and disadvantage.

This report proposes a different approach. We argue that the answers to the problem of over-incarceration are located outside of the justice system. We note that we cannot imprison our way to a safer society, and that it is now time for Tasmania to turn away from its reliance on imprisonment.

Across the country, governments on both sides of politics have regularly adopted a ‘tough on crime’ approach to justice policy which has resulted in increasing numbers of people in prison. Although these kinds of approaches can be politically popular, they have been monumentally ineffective in reducing cycles of incarceration, ineffective in building safer communities and extraordinarily expensive. The imprisonment rate in Tasmania has grown significantly in the last decade and recidivism rates show us that what we are doing simply is not working. We need to take a clear-eyed and evidence-based approach to criminal justice, forming policy and practice around what *works* – not what is popular or based on kneejerk reaction.

There is strong evidence of the efficacy of community-led approaches that address the social drivers of over-incarceration, and examples of these are outlined in this report. Despite the strong

evidence base, we have seen only a piecemeal approach to resourcing, expanding, and evaluating these solutions. Community-led programs in Tasmania are already doing considerable work in breaking cycles of disadvantage for individuals impacted by the justice system. First Nations communities, and First Nations community-led organisations have been leading this work, often achieving remarkable outcomes with very limited support and resourcing.

The scope and capacity of these programs currently means that only a fraction of people who are at risk of imprisonment or at risk of recidivism are able to access them. The Justice Reform Initiative proposes a funding shift so that all Tasmanian children and adults who are currently ‘managed’ in the justice system, instead have the opportunity to receive effective support, care, connection, and opportunity in the community. This support needs to be available for both children and adults at different stages of contact with the justice system.

This report focuses on the evidence base of diversionary programs (including at the point of policing and court) as well as holistic support programs (including on release from custody). We also point to the importance of early intervention and prevention strategies for children and their families to engage those at risk before they encounter the system, and to address the social drivers of incarceration at the whole-of-community level.

The research outlined in the body of this report primarily draws on independent evaluations, some of which use matched administrative data as points of comparison, and some of which include randomised controlled trials (the ‘gold standard’ of evaluations) or time-series analysis to explore criminal justice trajectories over time. While this report also includes overviews of less comprehensive evaluations, all of the studies included in the body of this report explore the impact of the program, intervention, or support on people’s contact with the justice system.



The studies overviewed in this report outline findings that include:

- Early intervention and prevention programs reduce crime at a population level by between 5–31%,<sup>4</sup> reduce offending among at-risk populations by 50%,<sup>5</sup> significantly improve other health and wellbeing outcomes in children and families<sup>6</sup> and result in significant cost savings including those resulting from reduced criminal justice system contact over time.<sup>7</sup>
- First Nations place-based approaches have resulted in significant reductions in crime, criminal justice system contact, youth justice contact and significant cost savings, as well as improvements in a range of cultural, social, health and wellbeing measures.<sup>8</sup>
- Bail support programs significantly reduce reoffending (by 33%), increase compliance with bail conditions (by 95%),<sup>9</sup> improve a range of other social and health wellbeing measures relevant to the drivers of criminal justice system contact<sup>10</sup> and achieve cost savings when compared to an absence of bail support.<sup>11</sup>
- Post-release and diversionary community led programs have resulted in dramatic decreases in recidivism. Intensive post-release support programs focusing on people experiencing alcohol and other drug dependency other complex needs (483 participants) have achieved reductions in custody days (by 65.8%), reductions in new custody episodes (by 62.6%) and reductions in proven offences (62.1%) measured two years post-referral.<sup>12</sup> A First Nations-led post-release service has achieved recidivism rates of 4.1% (compared to 57.3% for a comparable cohort).<sup>13</sup> A place-based, intensive support service for children at-risk of criminal justice system involvement has dramatically increased the number of children engaging with education and/or employment (85%) and has led to significant reductions in crime (35%) in the surrounding community.<sup>14</sup>
- Alternative policing and alternative first-responder models reduce criminal justice system involvement and lessen the likelihood of arrest by 58%,<sup>15</sup> halve the rate of crime and justice system involvement,<sup>16</sup> significantly reduce levels of specific crime, improve health and wellbeing (especially for people with mental health conditions)<sup>17</sup> and address the social drivers of incarceration while avoiding contact with police.<sup>18</sup>
- Alternative and specialist court processes reduce contact with the justice system In-court diversionary programs reduce reoffending, increase health and wellbeing, and address the drivers of incarceration.<sup>19</sup> Those who have their matter dealt with in a community and neighbourhood justice court have reoffending rates that are 25% lower than those whose matters are heard in mainstream courts.<sup>20</sup> Restorative justice processes significantly reduce the likelihood of reoffending,<sup>21</sup> work to support people to connect with services and programs in the community<sup>22</sup> (as well as provide support to victims of crime)<sup>23</sup> and are extraordinarily cost-effective.<sup>24</sup> Drug courts reduce the likelihood of reoffending and improve access to alcohol and other drug treatment.<sup>25</sup> Mental health courts reduce reoffending and facilitate access to mental health treatment as well as improve other health and wellbeing measures.<sup>26</sup> First Nations courts reduce reoffending, empower First Nations communities, increase the likelihood of court attendance, and improve access to other supports and services.<sup>27</sup>

- Alternative detention models have extraordinarily low rates of recidivism. International therapeutic residential models for children (outside of detention centre settings) result in recidivism rates as low as 13.6%.<sup>28</sup> Rehabilitation and therapeutic incarceration models with a focus on alcohol and other drug treatment have recidivism rates as low as 2.0%.<sup>29</sup>

Alongside investing in evidence-based alternatives to incarceration, there is a concurrent need to continue to build and improve the evidence base in Tasmania, particularly for community-led programs. The community sector has not historically had the resources or opportunity to evaluate the efficacy of its work in a manner that can easily contribute to the growing body of research in this area. There is the need to ensure community-led organisations are funded adequately to both deliver services *and* have access to independent and transparent evaluation that generates high-quality data. There is an opportunity for the Tasmanian Government to build genuine partnerships with researchers, service providers, First Nations communities and other experts in the sector to continue to build the evidence base of what works in Tasmania. This report shows that there are multiple points of intervention that can make a difference, and that there are many examples of programs that work. They are, however, currently operating on a scale that is too small to make a systemic difference when it comes to reducing recidivism and reducing criminal justice system contact.

There is currently a commitment on the part of the Tasmanian Government for a new \$270 million prison in the north of the state. Meanwhile, there is incredibly piecemeal and limited funding for programs that we *know* have an evidence base when it comes to addressing the drivers of incarceration. We propose in this report that this \$270 million would be better spent on establishing a 'Breaking the Cycle' fund to build the capacity of the community sector to provide programs, with a particular emphasis on building the capacity of First Nations organisations.

We note the need to increase the availability, scope, and capacity of the kinds of community-led programs that have a strong evidence base in terms of breaking cycles of criminal justice system involvement. We also note the importance of improving the evidence base in Tasmania by ensuring there is funded independent and transparent evaluation available to community led organisations. We argue that there is an opportunity in Tasmania to turn around the current over-reliance on incarceration, and to genuinely invest in the evidence-based alternatives that we know will make a difference.

## ABOUT THE JUSTICE REFORM INITIATIVE

The Justice Reform Initiative was established in September 2020 with a goal to reduce Australia's harmful and costly reliance on incarceration. We seek to reduce incarceration in Australia by 50% by 2030 and build a community in which disadvantage is no longer met with a default criminal justice system response.

Our growing list of patrons include 120 eminent Australians, including two former Governors-General, former Members of Parliament from all sides of politics, academics, respected Aboriginal and Torres Strait Islander leaders, senior former judges, including High Court judges, and many other community leaders who have added their voices to the movement to end the cycle of incarceration in Australia. We also have more than 140 supporter organisations who have joined the movement to reduce incarceration. This includes the Australian Medical Association; The Law Council of Australia; Federation of Ethnic Community Councils; the Australian Council of Churches; the Australian Catholic Bishops Conference, and multiple First Nations led organisations and service delivery organisations who have expertise working with

The Justice Reform Initiative seeks to work with parliamentarians from all sides of politics, policy makers, people with experience of the justice system, and people of goodwill across the country to embrace evidence-based criminal justice policy in order to reduce crime, reduce recidivism, and build safer communities. We are working to shift the public conversation and public policy away from building more prisons as the primary response of the criminal justice system and move instead to proven alternative evidence-based approaches that break the cycle of incarceration. We are committed to elevating approaches that seek to address the

causes and drivers of contact with the criminal justice system. We are also committed to elevating approaches that see Aboriginal and Torres Strait Islander-led organisations being resourced and supported to provide appropriate support to Aboriginal and Torres Strait Islander people who are impacted by the justice system.

Our Tasmanian Patrons are noted below:

- **Greg Barns SC**, barrister, commentator, and spokesperson on criminal justice for the Australian Lawyers Alliance.
- **Rodney Dillon**, Advocate for Change.
- **The Honourable Lara Giddings**, former Premier and Attorney General of Tasmania.
- **Adjunct Associate Professor Terese Henning**, Former Director of the Tasmania Law Reform Institute.
- **Michael Hill**, former Chief Magistrate of Tasmania, and Former Acting Justice of the Supreme Court of Tasmania. Currently Adjunct Professor within the Faculty of Law at the University of Tasmania and Chair of<sup>11</sup> the Just Deserts Drug Court Support Group.
- **The Rt Revd Dr Chris Jones**, Vicar General and Assistant Bishop Anglican Diocese of Tasmania and CEO of Anglicare Tasmania.
- **Christine Milne AO**, former Senator for Tasmania and leader of the Australian Greens and current Global Greens Ambassador.

- The Rt Honourable Lord Mayor of Hobart, Councillor **Anna Reynolds**.
- **The Honourable Denise Swan**, Former Minister (Community Development, Status of Women, Aboriginal Affairs, Multicultural and Ethnic Affairs, and Local Government) and Member of the Tasmanian House of Assembly.
- **Professor the Honourable Kate Warner AC**, *Head Patron*, former Governor of Tasmania.
- **Professor Rob White FASSA FANZSOC**, Distinguished Professor of Criminology, School of Social Sciences, University of Tasmania.
- **The Honourable Jim Wilkinson**, former President Tasmanian Legislative Council, President of the Tasmanian Football Board, and former partner of the law firm Wallace Wilkinson & Webster.

## OVERVIEW OF REPORT: PARAMETERS AND LIMITATIONS

This report explores what works to keep people out of prison, and what Tasmania needs to do to reduce prison numbers and improve justice outcomes for the whole community. A selection of evidence-based approaches in Australia and internationally are overviewed that have a proven impact in terms of reducing incarceration.

This report is by no means an exhaustive account of 'what works'. It is intended to provide examples of the alternative approaches that already are making a difference *and* that have been robustly evaluated. Examples of these programs are outlined throughout the report and an overview of the principles underpinning best practice is included at **Appendix A**.

There are three parts to this report:

1. The first part of the report provides a snapshot of the Tasmanian justice system; the numbers of adults and children incarcerated, the cost, and the demographics of the populations who are in contact with the justice system. This section identifies the failures of incarceration and overviews the problems with the existing youth and adult criminal justice system. In this section, we draw on publicly available data from the Australian Bureau of Statistics, the Australian Institute of Health and Welfare and the Productivity Commission's Report on Government Services.
2. The second part (and the most substantial section of this report) looks at the research into evidence-based alternatives to

incarceration at multiple touchpoints along the criminal justice system trajectory. This includes evidence about what works in early prevention, different policing models, alternative court programs, programs that work inside prisons, and programs that work post-release. We draw on a range of formal evaluations from around Australia, and in some cases international jurisdictions. While this is not an exhaustive overview, it provides significant detail about the evidence base in terms of what works and is intended as a starting point for consideration about how an alternative and well-resourced approach to criminal and youth justice might operate in Tasmania.

3. The third part of the report identifies Tasmanian services, programs and responses to people in the justice system that have promising outcomes but have not yet had the opportunity to be formally evaluated. There are of course a number of excellent programs and services in Tasmania that are working with people impacted by the justice system, and wherever evaluations exist we have included these. However, it is clear that in recent years in Tasmania there has been both limited investment in community-led programs that work specifically to reduce incarceration (including importantly an absence of First Nations-led programs), as well as limited investment in evaluation of community-led programs. The absence of recent accessible evidence via evaluation in Tasmania is *not* of course evidence that programs are not working. It does, however, highlight the importance of

supporting and resourcing community-led organisations to implement independent and transparent evaluations. This section also includes a selection of Tasmanian programs that have been evaluated, have achieved clear success, but have not retained funding.

The Justice Reform Initiative is progressing ongoing mapping work of programs in Tasmania and welcomes any further information, evaluations, and case studies that people and organisations would like to share with us.

This report is focused on community-led alternatives at multiple points along the criminal justice system trajectory. However, we recognise that these alternatives are only part of the picture in terms of breaking cycles of disadvantage. Alongside this work there is also the need for significant investment in affordable and safe housing, mental health and disability support, alcohol and other drug treatment, employment and education, workforce development, and a range of infrastructure projects in regional and remote communities.

The examples and case studies overviewed in this report are from all around Australia and also include some international examples. However, we note the unique context of Tasmania when it comes to thinking through implementation particularly as this relates to the resources available to the Tasmanian Government, the size of the Tasmanian population, the geography that impacts on access to services, and the size of the social and welfare sectors.

## Part 1

# JAILING IS FAILING: THE STATE OF INCARCERATION IN TASMANIA

The most recent Productivity Commission data shows us that there are, on an average night 642 adults locked up in Tasmania's five prisons.<sup>30</sup> The prisoner population in Tasmania increased dramatically between 2011/12 and 2021/22, with the Productivity Commission noting an increase of more than 36% over the last decade (up from 473).<sup>31</sup> At the same time, crime rates in Tasmania have remained relatively stable. There is no causal relationship between high imprisonment rates and reduced crime. In fact, it is increasingly clear that in Tasmania, the rise in imprisonment is not driven by severity of offending, or crime, but rather by systemic failings and policy and legislative choices that end up funnelling people, mainly people who suffer disadvantage, unnecessarily into imprisonment.

The growth in the number of people in prison is in part associated with the increased use of remand. In 2012, the remand population in Tasmania constituted 18% of the total prison population. In 2022, 33% of people in prison in Tasmania were imprisoned on remand.<sup>32</sup> This is important in the context of this report as there are specific supports, services, and approaches for people on bail that have a strong evidence base in terms of reducing incarceration.

Although there are currently on average 642 people in prison in Tasmania, reception and release data allows a more comprehensive picture of the 'churn' of the Tasmanian adult prison population. In 2022, 1567 people were received into full-time custody in Tasmania,<sup>33</sup> and 1537 people were released.<sup>34</sup> When we are considering 'what works' to reduce the

numbers of people in prison, these are the numbers we need to consider.

Aboriginal and Torres Strait Islander adults are 6.5 times more likely to be in prison than the non-Aboriginal adult population<sup>35</sup> and account for 22.7% of Tasmania's prison population<sup>36</sup> despite just making up 5.4% of the general population.<sup>37</sup> The incarceration rate for Aboriginal and Torres Strait Islander Tasmanians is 797 per 100,000 adults, compared to 116 per 100,000 adults for non-Indigenous Tasmanians.<sup>38</sup> The number of Aboriginal and Torres Strait Islander people incarcerated has increased by 111% in Tasmania over the last decade (from 73 people to 154 people).<sup>39</sup> Over that same period the rate of non-Indigenous people in custody has increased by 20%.<sup>40</sup>

Each contact with the criminal justice system, as it currently operates, increases the likelihood of further interaction. More than two-thirds of people in prison in Tasmania have been in prison before – and this trend is rising. In fact, the known prior imprisonment rate rose from 60.7% in 2012 to 67.3% in 2022.<sup>41</sup>

The annual operating cost of imprisonment in Tasmania in 2021/22 was over \$101 million.<sup>42</sup> When capital costs are included, this increases to more than \$131 million.<sup>43</sup> The real direct cost per adult prisoner per day is \$432.27 or \$157,778 per year – the second highest in the country.<sup>44</sup>

The cost of the incarceration of children in Tasmania also requires attention. Although Tasmania (relative to other Australian jurisdictions) has fairly low rates of children's incarceration, the real recurrent expenditure on youth detention in Tasmania in

2021/22 was \$16.16 million.<sup>45</sup> Every incarcerated child in Tasmania costs \$4861.32 per day (or more than \$1.8 million per year per child).<sup>46</sup>

On an average day, there were eight children in detention in Tasmania in 2021/22.<sup>47</sup> Half of these children were Aboriginal and Torres Strait Islander.<sup>48</sup>

As is the case with the adults, the flow-through population is considerably higher than the static or average population. There were 44 children who were incarcerated in Tasmania over 2021/22.<sup>49</sup> Five of those children were aged between 10 and 13.<sup>50</sup> Data from the Australian Institute of Health and Welfare notes that across Australia children have on average two receptions into custody.<sup>51</sup> Although the data with regard to the actual number of the flow-through population of children in Tasmania is not immediately available, we can assume (as is the case with the adults) that it is significantly higher than the number of children incarcerated, given the short stays, and multiple receptions for each child, and the high rates of recidivism.

The majority of people incarcerated in Australia come from circumstances where they have experienced multiple and intersecting forms of disadvantage. The over-representation of First Nations people in our justice system both reflects and reproduces a raft of First Nations disadvantage: 30% of adults<sup>52</sup> and 56% of children<sup>53</sup> incarcerated are First Nations. People with mental health conditions are significantly over-represented (at least 40% of people in prison)<sup>54</sup> as are people with cognitive impairment.<sup>55</sup> Around 60% of people in prison have a drug and/or alcohol problem.<sup>56</sup> Half of all people in prison were homeless before entering custody<sup>57</sup> and a disproportionate amount come from a small number of 'postcodes of disadvantage' where access to education, healthcare, support, and employment are all comparatively lacking.<sup>58</sup>

The fact of disadvantage<sup>59</sup> cannot be used to discount the consequences of crime. However, it is crucial to understand the context in which most crime is committed<sup>60</sup> to build and implement effective policy to reduce the numbers of people in

custody and strengthen genuine alternatives to prison. Understanding the place-based nature of disadvantage when designing interventions is critical. The Dropping off the Edge Report is a useful resource in terms of identifying those postcodes of disadvantage in Tasmania. This report notes that disadvantage is geographically concentrated in Tasmania, including criminal justice system involvement.<sup>61</sup> The successful programs overviewed in this report note the way that disrupting the cycle of incarceration is in many ways about addressing the disadvantage that is driving people into custody.

The responsibility for the persistent overuse of imprisonment cannot be attributed to one side of politics or the other in Tasmania. This trend has been replicated across Australia. We have followed the politicised approach of the USA: building more and more prisons, at enormous cost, and ultimately failing to reduce reoffending. This situation is compounded through the often relentless 'tough on crime' rhetoric perpetuated in the media which has the capacity to undermine evidence-based reform efforts.<sup>62</sup>

There are opportunities to build pathways *out* of the justice system and improve our service delivery response at every contact point in the criminal justice system. There is the need to significantly scale up programs in the community and expand the capacity of the community sector to enable people who are caught in the justice system with a range of opportunities to genuinely rebuild their lives. Instead of committing to additional expensive prison beds, there is an opportunity for the Tasmanian government to focus attention and resources on evidence-based programs that work to reduce incarceration and decrease recidivism. The rest of this report is focused on this evidence base and the research that tells us what is working, and what we could be doing differently. Over-incarceration is preventable; we need to focus on the evidence, focus on the resourcing of evidence-based alternatives, and encourage the political will



on all sides of politics to build a different kind of justice system.

## **A quick note on building new prisons in Tasmania**

In 2018, the Tasmanian Government announced that they would commit to spending \$340 million on new prisons, including a new 270-bed prison in the north of Tasmania.<sup>63</sup> As this election commitment has progressed, the Justice Reform Initiative and many other advocates in Tasmania have urged the Tasmanian Government to take a much more thoughtful approach to building new prisons. The likely outcomes, cost and logic of building new prisons requires careful analysis. As is overviewed in this report, there is a need for the Tasmanian Government to reorient the way it responds to issues of prison overcrowding by instead investing in the drivers of over-incarceration. Building prisons is an incredibly expensive and ineffective response to both crime and increases in prison numbers.

The recent case study of Victoria is a useful example of ultimately unnecessary expenditure on additional prison beds. Victoria embarked on a prison expansion program in 2018 when there were significant increases in the prison population as a result of changes to bail legislation. However, there have since been significant decreases in the prison population (as a consequence of both policy shifts and Covid-19 related measures) and there are now two empty brand-new prisons in Victoria – both an adult prison and a children's prison. These prisons cost the Victorian Government more than \$1.5 billion,<sup>64</sup> and there is clearly no longer a need for them.

The proposal for a new Northern Prison in Tasmania requires rethinking. The Justice Reform Initiative proposes that whenever a business case for a new prison is submitted, a corresponding alternative business case, looking at the costs of imprisonment over the lifetime of the prison and the costs of investing in alternatives, should also be developed.

We are proposing in this report, that the \$270 million investment earmarked for the building of a new prison in Tasmania,<sup>65</sup> instead be invested in a

'Breaking the Cycle' fund to support evidence-based programs and services that will address the drivers of incarceration.

## **The cost of incarceration**

- The cost of building a new Northern prison will be at least \$270 million.
- Filling the 270 extra beds with prisoners, will cost the Tasmanian Government approximately \$42.6 million per year.<sup>66</sup>
- This money would be better spent in building and improving housing, education, community supports and services (including alcohol and other drug treatment, mental health, and disability services).

## **Will the new prison meet the needs of the local community?**

One of the reasons that has been given for building a new prison in the northwest of Tasmania is to better meet the needs of people in the region, so that people from the north and their families who have relatives inside do not have to travel the distances to the southern prisons.

In many Australian jurisdictions when new prisons have been built to 'meet the needs' of the local community, this has not been borne out in practice. In NSW, there are multiple recent examples of new prisons that have been built to 'service' local communities (Clarence, North Coast, and South Coast Correctional Centres) but operate instead to house people from all over the state with no mechanisms in place to ensure priority of placement is given to people who live locally. Genuine public consultation about the needs of the community in Tasmania should happen with the local community, alongside criminal justice system experts.

## Will it fix overcrowding?

The answer to overcrowding is not building new prisons, it is reducing the numbers of people going to prison. The best way to stop people going to prison is to address the drivers of incarceration.

The biggest increase in the Tasmanian prison population over the last decade has been the remand population. The Southern Remand Centre was officially opened on 6 July 2022 and commenced operations later that month.

The Southern Remand Centre in conjunction with the proposed Northern prison will increase the number of beds in Tasmania by 426. If beds are not shut down, this will result in Tasmania having a prison system with a capacity of 1094, an increase of close to 40%. New prison beds tend to fill regardless of crime rates. This will leave Tasmania with an even more excessive, harmful, and costly system. At the moment, there is already the capacity in the adult system to incarcerate 732 adults (90 more than have been imprisoned in 2021/22).<sup>67</sup>

There is a need for the mapping and analysis of the drivers of overcrowding and over-incarceration alongside the development of a justice service delivery map which identifies where there are genuine needs.

## PART 2

# WHAT WORKS TO REDUCE INCARCERATION

There is no single 'reform fix' to reduce the numbers of prisoners, however, there are multiple proven, cost-effective reforms that can work together to build pathways *away* from the justice system. Many of these reforms are already catalogued in many government and non-government reports and reviews.<sup>68</sup> In addition, there are clear examples and case studies from Australian and internationally that point to approaches led by the community and health sectors which can make a profound difference in disrupting entrenched criminal justice system trajectories.<sup>69</sup> There is also a growing body of more formal research exploring the impact of various models of support.<sup>70</sup> In Tasmania, there are multiple experts in both the community sector and the academic/research sector who have been leading the work in outlining reform strategies in this space.<sup>71</sup>

This Justice Reform Initiative focuses on the evidence in two distinct reform areas:

1. **Social and community support:** This includes early prevention; access to person centred holistic wrap-around support services; place based culturally safe support; mental health support; alcohol and other drug support; disability support; bail support; supported accommodation; and throughcare and post-release support.
2. **Justice system:** This includes policing (for instance, different first responder models and the different use of discretionary powers); courts (specialist and diversionary court models; alternative restorative and transformative justice opportunities) and imprisonment (therapeutic models of care).

We note there are two other critical justice reform areas (which we only touch on lightly in this report). These are:

3. **Legislative reform:** Raising the age of criminal responsibility; ending mandatory sentencing; restoring the presumption in favour of bail; allowing discretion for bail decisions in the Children's Court; ending the use of solitary confinement for imprisoned children; ending the use of adult prisons to house children; and embracing a human rights framework.
4. **Systems changes:** Including importantly mechanisms for genuine whole-of-government policy approaches.

## CHILDREN AND **YOUNG PEOPLE**

The incarceration of children in Tasmania, especially First Nations children, requires immediate action. We currently have a situation around Australia where we are unnecessarily incarcerating children each year – often on remand, and often for short disruptive periods of time. Children are being ‘managed’ in prisons, rather than receiving support, care, programs, education, and opportunities in the community. It is entirely possible to address the drivers of children’s incarceration – but we need to firstly acknowledge that children’s imprisonment is a policy failure, and secondly, resource genuine alternatives to incarceration on a significant scale.

The Justice Reform Initiative welcomes the Tasmanian Government’s decisions to close down Ashley Youth Detention centre and to change the minimum age of detention to 14 years. We also welcome the leadership of the Tasmanian Government in acknowledging the failure of the existing youth justice system and the need to approach this policy area in a thoughtful and evidence-based way.

Children – especially young First Nations children – need off-ramps from the criminal justice system into effective supports and interventions. Critical programs include housing and homeless services, support across care and child protection, support to retain engagement in education and health systems, and support to address poverty, trauma, and disability, alongside support to develop healthy relationships and family dynamics.

The compounding criminogenic nature of any criminal justice system involvement is well established.<sup>72</sup> Providing support and programs prior to a first contact with the criminal justice system is critical. There have been strong advocates for early prevention and intervention in Tasmania, including tireless work on the part of the Tasmanian Children’s Commissioner.<sup>73</sup> In addition, the issue of the importance of early intervention was highlighted in the Tasmanian Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings.<sup>74</sup> However, despite this, there has been only piecemeal resourcing for the kinds of programs that can and do make a difference. The need for increased funding and capacity for supports for at-risk children has been highlighted many times in Tasmania and around Australia. The Telethon Kids Institute study in Western Australia outlined the way children in prison with significant disability had rarely received the support and care they required in the community.<sup>75</sup>

Investment in a wide variety of community-based early intervention and developmental crime prevention policies and initiatives is key to preventing offending and diverting children away from the justice system in Tasmania.<sup>76</sup>

## EVIDENCE-BASED EARLY INTERVENTION AND DEVELOPMENTAL **CRIME PREVENTION**

Investing in early intervention and early prevention will reduce contact with the justice system. Children at risk of justice system involvement are also at risk of disconnection from education, poverty, homelessness, and a range of other forms of social marginalisation.<sup>77</sup> Children who are engaged with the child protection system are particularly at risk.<sup>78</sup>

Early intervention (secondary crime prevention) aims to intervene early in an individual's developmental pathway to address risk factors associated with offending and strengthen protective factors that support engagement in pro-social behaviour.<sup>79</sup> Early intervention commonly occurs early in life, but it can also occur later in life at a crucial transition point on a pathway to offending.<sup>80</sup> Children who are at-risk of justice system involvement often experience a number of individual, family, peer, school and community risk factors such as disconnection from education, unstable home environments, homelessness and poverty.<sup>81</sup> Programs that work to reduce contact with the justice system tend to address a multitude of these factors at once.<sup>82</sup>

Primary crime prevention focuses on modifying 'criminogenic' factors in physical and social environments to stop crime before it is committed.<sup>83</sup> Although there has been some investment in early intervention programs in Tasmania, this resourcing has been piecemeal. Primary crime prevention initiatives are lacking in Tasmania and Australia, despite their demonstrated crime prevention potential.<sup>84</sup>

While there are clear limitations to studies that focus primarily on costs, these findings are important in framing the significance of the impact of early intervention and prevention, not just financially, but in terms of a range of social and health wellbeing

measures. A study of children at-risk of criminalisation in New South Wales found that 7% of individuals under the age of 25 will account for half the estimated cost of the state's social services by the time they are 40 years old. Additionally, 1% of this cohort will be responsible for 32% of New South Wales justice service costs, highlighting that early intervention targeting a small percentage can reduce future costs significantly.<sup>85</sup>

A recent economic analysis of early intervention resourcing in Australia found that one dollar invested in early childhood education yields a return of two dollars.<sup>86</sup> The cost of late intervention in Australia has been estimated to be \$15.2 billion per year, including \$2.7 billion (18%) for youth crime.<sup>87</sup> Research findings support investing in capacity-building strategies that scale-up community-based approaches to early intervention. Building on the success of relatively small-scale and economically efficient community-led innovations that create the conditions for healthy development pathways early in life can be a path to larger-scale crime prevention.<sup>88</sup>

There remains a genuine opportunity in Tasmania to further invest in early intervention responses and build capacity for sustainable, scalable, place-based primary youth crime prevention.<sup>89</sup> Alongside this investment, there is the need for adjacent research in this area so that there is sufficient high-quality data and evaluations that can drive evidence-based policy and investment. There is a particular need for longitudinal studies, using some form of matched-group comparisons at the baseline to determine the impact of existing and new early intervention programs to reduce offending and improve community saf

Evidence-based case studies:

## What works in early intervention and prevention?

### **Child Skills Training and Behavioural Change Programs (Australian and International)**

In young people, the pre-frontal cortex (the part of the brain that controls executive functioning) is still developing. This means that children and young people are still developing the cognitive processes required to plan, control impulses and weigh-up the consequences of decisions before acting.<sup>90</sup> There are various examples of programs that aim to build children's skills and cognitive abilities in areas that are often related to antisocial behaviour and offending (for example, self-control, impulsiveness, perspective, and delayed gratification). Systematic reviews examining randomised-controlled trials of child skills training programs reported such interventions decrease antisocial behaviour by anywhere between 24–32% among the participants.<sup>91</sup> Similarly, systematic reviews of interventions that involve cognitive behavioural therapy have shown effects on youth offending with anywhere between a 21–35% reduction in recidivism among the participants.<sup>92</sup>

### **Parenting Programs (Australian and International)**

The parenting programs found to be the most effective at reducing antisocial behaviour and youth crime include parent–child interaction therapy, the Triple P (Positive Parenting Program) and the Incredible Years Parenting Program.<sup>93</sup> These programs typically involve training and education that supports parents to develop positive parenting skills and strong relationships with their children.<sup>94</sup> Systematic reviews of parenting program evaluations have estimated such interventions have resulted in anywhere between a 34–48% reduction in problematic child behaviour.<sup>95</sup>

The Triple P was developed in Australia and is now delivered around the world including in Tasmania where it is free for all parents and carers of a child who is aged 16 years or younger.<sup>96</sup> There is an abundance of research demonstrating the effectiveness of the Triple P in addressing risk factors for offending.

### **Sport Programs (Australian and International)**

There are limited evaluations in Australia with sound designs that evaluate the effectiveness of sport programs in preventing and reducing crime. However, a recent systematic review and meta-analysis of 13 control-group evaluations (two in Australia and the remainder overseas) found sport programs significantly protect against offending behaviour and related antisocial attitudes as well as significantly increase self-esteem and psychological wellbeing.<sup>97</sup>

### **Communities That Care (Australian and International)**

There is strong evidence that primary prevention models – such as the Communities That Care (CTC) model<sup>98</sup> – are successful in mobilising communities to address factors that increase the risk of justice system involvement. These risk factors include harmful substance use, low academic achievement, early school leaving and violence. A recent study evaluated the impact of the CTC model across communities in Victoria, Australia, between 2010 and 2019. This study supports the existing evidence that shows that CTC prevents youth crime at a population level. The findings demonstrate significant reductions in crimes associated with CTC including a 2% annual reduction in risk for crimes against persons and a 5% annual reduction in risk for crimes of property and deception.<sup>99</sup>

### **Home Visitation Programs (United States)**

Pre-natal and infancy home visitation programs show positive outcomes in terms of improving the health and wellbeing of children and families and reducing contact with the criminal justice system.<sup>100</sup> Within these programs, health professionals visit new parents (typically mothers or expected mothers) to provide support, care, and education pre- and post-birth. The most common home visiting programs involve sustained nurse home visiting (SNHV). The Elmira Nurse-Family Partnership program is an evidence-based SNHV program that originated in the United States.<sup>101</sup> This program has been shown to have sustained effects on outcomes for children and mothers within several randomised-controlled trials in the United States, the Netherlands, and the United Kingdom.<sup>102</sup> In the United States, young girls whose mothers participated in the program were less likely to be arrested than those whose mothers did not participate in the program.<sup>103</sup> In addition, participation in the program was shown to be associated with significantly reduced reports of child abuse and neglect, among other benefits.<sup>104</sup>

### **Mentoring Programs (International)**

Internationally, evaluations have found that mentoring programs are effective at reducing offending and supporting children and young people to engage in prosocial behaviour. One study that reviewed 25 experimental and quasi-experimental evaluations of mentoring programs and their impact on delinquency found a 19–26% reduction in behaviours of concern.<sup>105</sup>

### **After School Programs (International)**

Evaluations have shown that after-school programs that incorporate skills training, mentoring and/or academic components may reduce antisocial behaviour. Two robust systematic reviews of after-school program evaluations estimated between a 6–14% decrease in antisocial behaviour among the program participants.<sup>106</sup>

### **Anti-bullying/Anti-cyber Bullying Programs (International)**

Bullying is a known predictor of future offending and violence. Anti-bullying and anti-cyber bullying programs have the potential to reduce youth offending. There are various examples of programs in Australia and overseas that aim to intervene early (mostly during the school years) to reduce bullying. Several systematic reviews of anti-bullying and anti-cyberbullying program evaluations have estimated such interventions result in a reduction in bullying anywhere between 10–35% among the program cohort.<sup>107</sup>

### **The Perry Preschool Project (United States)**

Preschool programs provide early intervention and support for children at a crucial transition point in their development. There is evidence that certain behaviours in childhood are indicative of future offending.<sup>108</sup> In the United States, the Perry Preschool Project is an evidence-based program that supports children from disadvantaged backgrounds to prevent the onset of offending. The Perry Preschool Project provides high-quality preschool education to children aged three and four years old in small school-based sessions delivered by qualified teachers. In addition, teachers conduct a weekly home visit to support parents with at-home learning. An evaluation of the Perry Preschool Project found the program produced sustained effects well into adulthood. Positive outcomes include improved educational attainment, fewer teen pregnancies, reduced likelihood of spending time in prison, lower arrest rates for violent crimes, higher median incomes, and reduced likelihood of receiving government assistance.<sup>109</sup>

### **Fast Track (United States)**

Fast Track is an evidence-based early intervention program in the United States that focuses on disrupting the school-to-prison pipeline. The program delivers a series of multi-level, developmental and age-appropriate interventions to support children (from the age of five onwards), families and schools over a long-term developmental period. A 10-year longitudinal study found children who were randomly assigned to the intervention displayed a reduction in violent offences (31% reduction) and drug offences (35% reduction) as well as significantly lower internalising problems, externalising problems and alcohol and other drug use.<sup>110</sup> Fast Track costs \$58,000 per child over the 10-year investment period, which is cheaper than incarcerating one child for just one year.<sup>111</sup>

### **Youth Advocate Program (United States)**

The Youth Advocate Program was developed in the United States. It is a strengths-based intensive support and advocacy program that provides individually tailored and wrap-around support to young people who are at-risk of, or already experiencing, involvement with the justice system. Evaluations have shown the program is more cost-effective than incarceration, it reduces justice system involvement, and improves other factors in children's lives.<sup>112</sup> The Queensland Government has funded a 12-month trial of the Youth Advocate Program on the Gold Coast for children aged 10 to 17 years old.<sup>113</sup>



### **Youth Crime Action Plan (New Zealand)**

The New Zealand 10-year Youth Crime Action Plan<sup>114</sup> is an approach to reducing youth offending rates, with a focus on the overrepresentation of Māori people in the New Zealand justice system. The program has sought to have a 'genuine partnership with communities' by involving Māori communities, frontline practitioners, and schools. The program has involved working with 20 communities across New Zealand to develop their own solutions to youth offending problems.<sup>115</sup> In 2015, the New Zealand Justice and Courts Minister reported that the number of young people (aged 10–16) appearing in court had more than halved since 2007.<sup>116</sup> This approach is similar to that undertaken in the evidence-based Communities that Care program.

### **You Got This (Queensland)**

The University of Sunshine Coast conducted an independent evaluation of the Johnathon Thurston Academy 'You Got This' initiative, which aims to boost courage and self-belief in young people aged nine to 16 years old experiencing disadvantage. The Queensland Government noted the success of the program, outlining that the evaluation (based on the data of 39 participants, and also interviews with staff members and stakeholders) found successes in diversion, school re-engagement and a reduction of offending. The evaluation found there was a reduction in the number of offences committed by the young people who were at-risk and who participated in the program in Cairns. Nine out of 10 young people with a prior offending history who participated in the program in Cairns did not reoffend within nine months after completing the program.<sup>117</sup>

### **Youth Partnership Project (Western Australia)**

The Youth Partnership Project (YPP) brings together state government, local government and the community sector in a place-based, collective impact approach to youth justice. The project focuses on the early identification of young people aged 8 to 12 years old with complex needs, and the delivery of targeted community services to prevent their involvement with the justice system.

The Armadale Youth Intervention Partnership, part of the YPP, achieved a 50% reduction in reoffending for those who completed the program.<sup>118</sup> Evaluation of YPP social outcomes used modelling to estimate that without the intervention, participants were likely to cost the government ~\$3 million in the future. It concluded that if the YPP Youth Justice Model reduces participants' future reliance on government by 10%, the program almost pays for itself, with ~\$300,000 of reduced government costs.<sup>119</sup>

### **Resolve (Queensland)**

Resolve is an early intervention program for young people aged 10 to 16 years old who are at-risk of justice system involvement. The program is delivered in Logan through a joint partnership between Youth and Family Service, Griffith University, Overflow Foundation and Queensland Police Service. The program includes community outreach, diversionary activities and intensive case management that uses a flexible, relational, and strengths-based approach. The program also offers targeted and flexible individualised alcohol and drug interventions. A six-month review of the program showed early positive outcomes, with the majority of young people who exited the program meeting their goals or needs (79%), improving their level of hope (94%), improving their life skills (82%), and improving their wellbeing (88%). Griffith University is currently undertaking an outcome evaluation of the program.<sup>120</sup>

## **Evidence-based case studies: What works in tertiary crime prevention for children?**

Tertiary prevention programs are targeted at young persons after they have come into contact with the justice system and aim to prevent recidivism and repeated contact with the justice system.<sup>121</sup> Community-led services and strategies for children and young people in contact with the justice system encompass diversion and sentencing alternatives, in-prison programs, and post-release support. Youth-focused options consider the specific needs of young people and their families.

### **Weave (Creating Futures) Evaluation (New South Wales)**

This independent three-year evaluation of the Weave Creating Futures program (which provides intensive, culturally safe case work support to Aboriginal young people on release from custody) found that only 4.1% of the 93 young people who engaged in the program over the period of the evaluation reoffended. This compared to BOCSAR reoffending rates for young Aboriginal people, which are 57.3% for a comparable cohort.<sup>122</sup>

### **Griffith Youth Forensic Service (Queensland)**

Griffith University delivers the Griffith Youth Forensic Service in Queensland, which provides state-wide multisystemic and specialist assessment and treatment services for young people adjudicated for sexual offences. In 2015, a study evaluating the impact of the treatment provided by this service found it was equally effective at preventing sexual recidivism for Aboriginal and/or Torres Strait Islander and non-Indigenous youth. It also prevented violent and other recidivism for non-Indigenous youth living in remote and non-remote locations.<sup>123</sup>

### **Target 120 (Western Australia)**

Target 120 focuses on children between 10 and 14 years who have already had multiple contacts with police but have not yet been in detention. The program was first rolled out in 2018 in Bunbury and Armadale, and has since been expanded to Kalgoorlie, Kununurra, Northam, Albany, Port Hedland, Mirrabooka, Geraldton, Rockingham, and Midland. A government evaluation was conducted in 2020, and in announcing an expansion of the project, the WA Government noted that 50% of people who participated in the program had not gone on to offend.<sup>124</sup> Target 120 provides individualised support for young people at risk as well as additional coordinated support for their families for a period of 12 months.<sup>125</sup>

### **BackTrack Youth Services Impact Report (New South Wales)**

Over the last 10 years, the intensive, holistic and relational case work provided by BackTrack Youth Services has supported 1000 children and young people at-risk of criminal justice system involvement or who are entrenched in the justice system. An impressive 87% of the young people who leave Backtrack transition into employment or education. A University of New South Wales report about the impact of the program on the local community in Armidale found a 35% reduction in crime because of the engagement of young people in the program.<sup>126</sup>

### **Ted Noffs Foundation (Queensland and New South Wales)**

The Ted Noffs Foundation runs a residential alcohol and other drug treatment service called Program for Adolescent Life Management (PALM) for young people aged 13 to 18 years old with problematic substance and crime-related behaviours. A recent evaluation of this program analysed three pre-referral trajectories of convictions (no or low, moderate, or high-incline convictions) for over 891 young people referred to the PALM service in New South Wales. This study found treatment was associated with a significant decrease in convictions for the high-incline convictions trajectory, with 4.36 fewer convictions on average over five years post referral.<sup>127</sup>

### **Intensive Case Management (Queensland)**

In February 2023, the Queensland Government published a report summarising findings from a 2022 Nous Group evaluation of the government-led Intensive Case Management (ICM) program. ICM is modelled on evidence-based practice frameworks including multi-systemic therapy,<sup>128</sup> Collaborative Family Work,<sup>129</sup> the Good Lives Model<sup>130</sup> and Strengthening Families Protective Factors.<sup>131</sup> This evaluation found 42% of ICM clients did not reoffend (some for as long as three years post-intervention). Additionally, the evaluation showed ICM resulted in a 51% reduction in the frequency of offending (in comparison to a 29% reduction for young people receiving alternative youth justice supports) and a 72% reduction in the proportion of crimes against the person (in comparison to a 13% reduction for young people receiving alternative youth justice supports). It is estimated that the program results in an \$8.1–15.7 million saving through reduced frequency and severity of offending and reduced time in custody.<sup>132</sup>

### **Whitelion: Deadly Diversions Youth Support Service (Western Australia)**

The Deadly Diversions project is a collaboration between WA Police and Whitelion aimed at preventing young people in Perth's Northern suburbs from continuing their cycle of criminal justice system involvement. ROGS reporting notes that WA spent \$63 million on children's incarceration in 2021/2022.<sup>133</sup> The program provides 28 individuals with intensive case management support and addresses the root causes of their offending through individualised support, mentoring, and social engagement activities. The program focuses on improving long-term outcomes and addressing social factors such as education and literacy, connection to culture, housing, parenting, and counselling.<sup>134</sup> Outcomes from the service include that 73% of participants feel they have become more independent, 71% of participants feel better about the future, and there is evidence of a reduction in crime and antisocial behaviour.<sup>135</sup>

### **A Place To Go (New South Wales)**

The A Place to Go pilot has been operational in the Nepean Police Area Command and Parramatta Children's Court since November 2018. The program aims to improve supports and deliver a better service response for 10 to 17-year-olds in contact with the justice system, with a focus on young people on remand. It draws on services from across New South Wales Government and non-government service providers to deliver a coordinated and multiagency service solution that can support young people to change their life trajectory. A Place to Go uses a young person's contact with police and/or the court as an opportunity to intervene early and link them with appropriate community supports and services, court liaison staff, cross-agency panels and dedicated short-term transitional accommodation. An independent evaluation found that young people were supported in finding stable and appropriate accommodation, accessing health services, removing barriers to education, and connecting with their communities.<sup>136</sup>

### **Children's Court Youth Diversion (Victoria)**

In Victoria, the Children's Court operates a Youth Diversion Service based on restorative justice principles which aims to assist participants to take responsibility for their actions, repair harm and increase insight into the impacts of their offending upon the victim, their family, and the community. Children and young people can have court proceedings adjourned for up to four months to participate in diversion programs or services. They must acknowledge responsibility for the offence. An evaluation report found that the program was successful in diverting young people from the formal justice system. The Magistrates working across the pilot sites for the program uniformly agreed that it provided them with an important additional option to their decision-making process. All of the stakeholders and young people agreed that the program offered a positive alternative and filled an important gap to help keep the young people diverted from the formal justice system.<sup>137</sup> Please note, more detail about children's courts is outlined in the section on specialist courts further in this report.

## POSITIVE POLICING

The way policing operates around Australia has a significant impact on imprisonment rates. Reducing the number of people in prisons requires an examination of the 'front end' of the justice system, including the role, function, and operations of police. To stem the flow of people unnecessarily funnelled into the prison system, there is a need to rethink policing, particularly in communities that are over-policed.

A significant proportion of police resources and police personnel (some estimates are as high as 65%) are devoted to street policing.<sup>138</sup> The overwhelming majority of contact with the criminal justice system occurs through interactions with police on the street.<sup>139</sup> The nature of this interaction often determines the extent to which involvement in the criminal justice system is escalated or de-escalated, and whether a person is arrested, charged, and subsequently imprisoned.<sup>140</sup>

The current nature of policing results in many people being unnecessarily or inappropriately funnelled into the criminal justice system, rather than being free to go about their lives while receiving the support, care, and connection they require in the community. This is especially the case for First Nations communities, other racialised people,<sup>141</sup> people with disability, people with mental health conditions, and people living with other forms of disadvantage.<sup>142</sup> Of particular concern is the way in which policing activity in Australia can both accelerate and entrench contact with the criminal justice system for people who are not engaged in activity that puts the community at-risk.

Moreover, the nature of police interaction and engagement itself can be the exacerbating incident that results in activity or conduct that amounts to a criminal offence, resulting in charges being laid.<sup>143</sup>

The following are examples of policing activities that cause particular problems for people experiencing marginalisation:

- Preventative and race-based policing that targets particular groups of people, especially Aboriginal and/or Torres Strait Islander communities and other racialised groups.<sup>144</sup>
- Police focus on enforcing minor and public order offences resulting in an escalation of conflict and a confrontational atmosphere.
- Discriminatory exercise of police discretion in relation to the decisions to stop and search, arrest and charge.

Police are frequently called upon to perform a 'first responder' role that would be better performed by social and community support services and networks. Due to an under-resourced social sector, police are often called upon to 'manage' people in need of support services, rather than such people receiving the care, support and assistance that is required in the community. Too often, people with mental health conditions, disabilities and other forms of disadvantage are 'criminalised' in their interactions with police, when alternative pathways outside of the criminal justice system are not available.

In Australia and internationally, there are alternative models of positive policing where interactions with police result in improved outcomes in terms of both community safety and reducing the likelihood of criminal justice system involvement.

## Evidence-based case studies:

### What works in alternative policing models?

#### **PACER Program (ACT, TAS, NSW, VIC)**

The PACER program is designed to provide a specialist mental health early response to people experiencing a mental health crisis. It embeds mental health experts with first responders to support them to appropriately recognise, assess and respond to psychiatric incidents. It usually includes a police respondent, a paramedic and a mental health respondent working together. The paramedic is there to assess and treat any physical health emergencies. The police officer is there to make sure the PACER team, the person, and the community are kept safe. The mental health clinician is there to assess mental health needs and support the person in crisis. During the ACT pilot, of the 1,200 callouts to the PACER team, 900 people seen by the PACER team were able to stay in the community. 300 people still required hospitalisation either because PACER was unavailable at their point of distress, or they needed high level of care from the Emergency Department. The program is being continued and has now expanded to 7-days per week.<sup>145</sup> In Tasmania, PACER was launched as a two-year pilot in January 2022. By September, it had assisted 1,000 people experiencing an acute mental health issue. Of these, almost 80% were supported to remain in the community. On average there were 45 fewer mental health related presentations to the Royal Hobart Hospital emergency department every month.<sup>146</sup> The NSW model has seen cross-agency response to people experiencing mental health crisis, avoidance of Emergency Department presentations, provision of alternate pathways to care and avoidance of coercive measures. From November 2018 to September 2020, of the more than 1,500 PACER contacts, only 500 required further hospital-based assessment or treatment.<sup>147</sup> In Victoria, the PACER program has operated for several years. In 2014, the name of the initiative was changed to Mental Health and Police. A 2019 departmental evaluation indicated the effectiveness of the program, reporting that PACER units are effective in diverting people from emergency departments and that the co-response model helps improve the skills and knowledge of the police who work alongside mental health clinicians. The evaluation also noted that the effectiveness of the program is hampered by workforce shortages, especially in rural areas.<sup>148</sup>

#### **Police Force Mental Health Co-Response Trial (Western Australia)**

In January 2016, the Western Australia Police Force implemented the Western Australia Police Force Mental Health Co-Response (MHCR) Commissioning Trial. The MHCR involved mental health practitioners co-located with police at the Police Operations Centre, and two mobile teams operating in north-west metropolitan and south-east metropolitan districts and the Perth Watch House. Mental health practitioners were involved at each stage of a police response to and management of people experiencing a mental health crisis. An independent evaluation of the trial found that it had improved the safety and wellbeing of police and mental health consumers and increased collaboration between the relevant services. Mental health consumers and families, carers and supporters saw the model as a considerable improvement over the traditional police crisis response. Based on the success of the trial, in 2019 the model was expanded to cover the whole Perth metropolitan area.<sup>149</sup>

### **Mental Health Co-Responder (Queensland)**

In partnership with the Queensland Police Service (QPS), mental health co-responder models were established in Cairns in 2011<sup>150</sup> and in the West Moreton region in 2017. In 2019, the model was expanded to service the metropolitan south region and include Queensland Ambulance Service (QAS). Under this model, a team of experienced mental health clinicians are integrated either into a QPS or QAS first responder unit, which enables people experiencing a mental health crisis to be assessed and receive onsite intervention in the community.

A 2022 Queensland Government review of this program found the mental health co-responder model enabled timely and appropriate mental health care to be provided to people presenting to QPS and QAS in a mental health crisis, and that the program builds the capacity of QPS and QAS to respond to mental health crises when co-responder clinicians are not available. This evaluation further found the majority of participants (74%) were diverted from custody and the emergency department. Of the people who interacted with the program, 45% did not require further assistance after the crises was resolved, 17% were referred to primary care or community-based services, and 12% were referred to mental health services. Only 2% of people were taken in custody, while the remaining 24% of people were transported to the emergency department.<sup>151</sup> This model has since been expanded to cover other regions in Queensland such as Townsville<sup>152</sup> and Mackay.<sup>153</sup>

### **Cooperative Initiatives – Redfern Police and Tribal Warrior (New South Wales)**

Several cooperative initiatives between police and the local community have been introduced in Redfern, Sydney. In 2009, Redfern Police, Aboriginal community leaders and Tribal Warrior Aboriginal Corporation, instigated the 'Clean Slate Without Prejudice' program. In 2016, the 'Never Going Back' program was implemented with the additional assistance of Long Bay Correctional Complex General Manager. A 2016 review found the programs were having significant positive effects, including reductions in reported crime (particularly robbery and burglary), increased community confidence in police and enhanced resilience of communities and 'at-risk' groups.<sup>154</sup>

The principles underlying the success of the programs were:

- Treating community members with respect, giving them a clear voice that is listened to by police, giving community members explanations for police activity and decisions, and utilising reliable and fair approaches towards community members.
- Enhancing trust between police and community.
- Police familiarity with key leaders and community collaborators to assist with the design of programs that will have the greatest influence in communities.

### **Domestic and Family Violence Co-Responder Models (Queensland)**

In Australia and overseas, co-responder models that incorporate specialist domestic and family violence (DFV) workers within police responses have shown to improve the quality of services provided at incidents and improve access to additional supports. In January 2021, the Queensland Police Service (QPS) commenced a collaborative project with the Domestic Violence Action Centre where a domestic violence specialist was co-located within the Toowoomba QPS station. In April 2022, Queensland University of Technology Centre for Justice published an evaluation of this project, which concluded that the co-responder model improved the experience and integrated response for people experiencing DFV in Toowoomba. Other reported benefits included emotional support, information sharing, communication, efficiency, education, access to networks, and improved policy legitimacy.<sup>155</sup>

### **Aboriginal Community Patrols (Australia)**

There are over 130 Aboriginal community patrols in operation across Australia in metropolitan and rural locations.<sup>156</sup> Patrols operate without police powers and rely on mediation to move people on from risky situations. They rely on 'cultural authority' as well as their local knowledge of Aboriginal families and issues to navigate their way through and resolve situations which may, in the hands of state authorities, deteriorate.<sup>157</sup> These patrols work to keep people safe, assist in finding people accommodation and provide people with referrals. While each has a different focus depending on the local need, they work with people to encourage and support them towards safer behaviours and to find safe accommodation. They also work to keep women safe from violence and discourage violence through their presence and the respect they carry in communities. These models operate from a basis of caring for their communities, not criminalising them. They provide healthy role models for community members and their work reduces contact between Aboriginal people and the police.<sup>158</sup> The patrols have made a significant contribution to crime reduction and community safety strategies. Several favourable evaluations have found that the Patrols have resulted in reduced levels of offending, reduced fear of crime and reductions in alcohol and other drug-related problems. There is also evidence to suggest significant cost savings for key justice, health, and education agencies from the presence of community patrols.<sup>159</sup>

### **Aboriginal Community Liaison Officers (Australia)**

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) recommended that jurisdictions improve relations between police and Aboriginal people by appointing police aides and police liaison officers. Aboriginal Community Liaison Officers (ACLOs) play a pivotal liaison role between the relevant local Aboriginal community and police. They are community representatives within the organisation. In consultation with the community, ACLOs:

- Provide advice to senior police members on local Aboriginal issues
- Encourage Aboriginal communities to engage with police members to resolve issues
- Help to develop and deliver appropriate training programs

In its Pathways to Justice inquiry the ALRC received several submissions from Aboriginal Legal Services in the Northern Territory, Western Australia, New South Wales, and Victoria regarding the positive contribution from ACLOs in brokering connections between police and the community, with several noting the need for ACLOs to be stationed at all police stations and the need for them to be available after hours and on weekends.<sup>160</sup>



**LEAD Bureau (United States, Multiple Jurisdictions)**

Law enforcement assisted diversion is a community-based diversion approach that uses a harm-reduction lens with the aim of reducing involvement in the criminal justice system and improving community safety. Case managers work closely with police, prosecutors, and communities to provide alternative diversionary pathways that focus on addressing the drivers of contact with the criminal justice system. People involved in lead programs were 58% less likely to be arrested (compared to people in a control group who were not participating in lead programs).<sup>161</sup>

**CAHOOTS (Crisis Assistance Helping Out On The Streets) (Eugene, Oregon, United States)**

CAHOOTS is a different first responder model that has been running for more than 30 years. It is a mental-health-crisis intervention program founded in 1989 by the Eugene Police Department and White Bird Clinic, a non-profit mental health crisis intervention initiative. Calls to 911 related to drug use, disorientation, mental health crises and homelessness are routed to CAHOOTS.

Staff members respond in pairs; usually one has training as a medic and the other has experience in street outreach or mental health support. Responders attend to immediate health issues, de-escalate, and help formulate a plan, which may include finding a bed in a homeless shelter or transportation to a healthcare facility. The service operates 24 hours a day. Cahoots diverts close to 8% of all police calls, reducing the load on the police department. Evaluations of CAHOOTS have found it to improve access to health and welfare services<sup>162</sup> as well as saving an estimated \$8.5 million annually in public safety spending.<sup>163</sup>

**Portland Street Response (Oregon, United States)**

Portland Street Response (PSR), a program within Portland Fire & Rescue (PF&R), assists people experiencing mental health and behavioural health crises. The team is made up of mental health crisis responders, community health medics, community health workers, and peer support specialists. In their outcome evaluation it is noted that, in the six months between April and September 2022, PSR responded to 3228 incidents. This represented a reduction of more than 3.2% of total calls to police; an 18.7% reduction for the police in non-emergency responses and reduced the numbers of people called out to emergency departments. Most people were responded to by PSR, with only 1.9% of all calls resulting in a hospital admission.<sup>164</sup>

### **The Behavioural Health Emergency Assistance Response Division, B-Heard (New York City, United States)**

The B-HEARD Team is an alternative first responder model in New York City. Responders use their mental health expertise in crisis response to de-escalate emergency situations and provide immediate care. Evaluation of the pilot has found that the project reduces unnecessary transports to hospitals, increases connection to ongoing mental health care and reduces the number of times police respond to 911 mental health calls. In the 12 months to June 2022, there were approximately 11,000 mental health 911 calls in the pilot area. Of people assisted by B-HEARD:

- 54% were transported to a hospital for additional care – (compared to 87% under the traditional response).
- 36% were served in their community
- 24% were served onsite, including de-escalation, counselling, or referral to community-based care
- 12% were transported to a community-based healthcare or social service location.<sup>165</sup>

### **Pre-charge Diversion (International)**

A 2018 review of 19 studies evaluated the effects of police-initiated diversion programs on re-offending behaviour, compared to traditional system processing. The review summarises evidence from four countries – the United States (11), Canada (four), the United Kingdom (two) and Australia (two). The general pattern of evidence suggests that police-led diversion reduces future offending behaviour of low-risk youth relative to traditional processing. Assuming a 50% reoffending rate for the traditional processing condition, the results suggest a reoffending rate of roughly 44% for the diverted young people. The findings from this systematic review support the use of police-led diversion for low-risk youth with limited or no prior involvement with the juvenile justice system.<sup>166</sup>

## ALTERNATIVES TO MAINSTREAM COURT PROCESSES

The moment that somebody attends court is a critical point in the justice system process. The outcome of a court process, and the process itself, has the capacity to either further entrench someone in the justice system, *or* provide a 'springboard' out. There is a significant evidence base supporting alternative, diversionary, specialist, and restorative processes.

The Justice Reform Initiative suggests that diversionary, specialist and problem-solving court options be expanded throughout Tasmania. Whilst we note that there is a diversion list and a court mandated diversion program, alternatives to mainstream court processes, including restorative and transformative justice, should be available to a much larger cohort of people who come into contact with the court system. Although there are complexities and challenges involved in the *implementation* of alternative models, the principles on which they are based, and the bulk of the evidence evaluating their outcomes tells a compelling story in terms of their utility.

It is critical to point out that Tasmania also lacks a specialist children's court. As stated in the previous section on children's programs, having a separate court that recognises the particular drivers of children's contact with the justice system is critical. We note that multiple advocates and experts in Tasmania, including the Children's Commissioner, have called for a specialist children's court in line with other jurisdictions.<sup>167</sup>

Mainstream court processes often fail to address the drivers of incarceration. There are limitations in terms of the courts to recognise or accommodate the unique needs of people experiencing marginalisation and disadvantage. This is especially the case for people with disabilities, mental health issues, and for First Nations communities.

Mainstream courts are limited in their capacity to divert people from the criminal justice system. They are limited in their abilities to address the underlying, complex, and compounding disadvantages that steer people towards the justice system. They are also often limited because they do not have access to the services, supports and programs in the community that are fundamental when it comes to allowing magistrates to consider alternative options.

## Evidence-based case studies:

### What works in court alternatives?

Because there are many different kinds of court alternatives and a substantial evidence base exists around Australia, this section of the report divides the evidence into eight different sections:

1. In-Court Diversion
2. Neighbourhood and Community Justice Centres
3. Restorative and Transformative Justice
4. Drug Courts
5. Mental Health Courts
6. First Nations Courts
7. Family and Domestic Violent Courts
8. Children's Courts

#### In-Court Diversion

In-court diversionary programs facilitate diversion from the criminal justice system through court-based programs that are available once a case comes before a court. These procedures enable matters to be resolved in various ways outside the traditional court processes and outcomes. Many of these programs allow for diversion *before* the case is heard (pre-plea diversion). In some cases, the outcome of the diversion program influences whether or not someone ends up facing court to have their matter heard, and also in some cases whether or not someone ends up spending time in prison. The key objective of this process is to reduce a person's contact with the criminal justice system at an early stage, including by addressing issues relating to offending, by providing appropriate therapeutic interventions and in some circumstances allowing for the participation of victims.

In-court diversion to practical, alternative programs is intended to provide opportunities to address some of the underlying causes of contact with the justice system (including harmful use of alcohol and other drugs, harmful gambling, mental illness, cognitive impairment, poverty, and disadvantage) and reduce the prospect of continuing contact with the criminal justice system.

Evaluations of these programs have found them to be effective at reducing contact with the justice system, reducing imprisonment, and facilitating access to support and treatment. The Magistrates' Court of Victoria has noted that participants in its In-Court Diversion program have reduced likelihood of re-offending, avoidance of a criminal record, alongside increased access to supports, counselling and treatment.<sup>168</sup> Evaluations of the Magistrates Early Release into Treatment (MERIT) program in New South Wales have found reduced likelihood of reconviction<sup>169</sup> alongside increased health and well-being.<sup>170</sup> Evaluations of the Court Integrated Services Program (CISP) and Bail Support Diversion programs in Victoria have found that the program has reduced the number of defendants remanded, contributed to the successful completion of bail, reduced likelihood of re-offending and likelihood of homelessness.<sup>171</sup> A recent evaluation of the ACT sentencing list also found positive outcomes reporting early indications of reduced offending, as well as positive shifts with regard to alcohol and other drug use and improved outcomes in terms of social reintegration.<sup>172</sup>

### **Community and Neighbourhood Justice Courts**

Community justice courts or centres usually focus on particular neighbourhoods, types of offences and crimes and provide holistic support. The community justice model offers a holistic, wraparound suite of services to support individuals in contact with the criminal justice system to address the causes of offending. These courts triage participants to appropriate social and health services and programs.<sup>173</sup>

The most high-profile and well evaluated example in Australia of a community justice approach is the Neighbourhood Justice Centre in Collingwood, Victoria. A 2015 evaluation conducted by the Australian Institute of Criminology (AIC) found

- The NJC had 25% lower rates of reoffending than other Magistrates' Courts in Victoria.
- Participants who went through the NJC were three-times less likely to breach Community corrections orders;
- Participants who went through the NJC demonstrate lower breach rates for intervention orders.<sup>174</sup>

### **Restorative Justice Conferencing**

Internationally, studies have found restorative justice conferencing is cost effective in terms of reducing repeat reoffending.<sup>175</sup> In Australia, restorative youth justice conferencing has also been shown to reduce reoffending in circumstances where young people are remorseful and their conference outcomes are reached via consensus.<sup>176</sup> According to an internal 12-month program evaluation of restorative youth justice conferencing in Queensland in 2018, 59% of young people who participated in restorative justice conferencing did not reoffend within six months of their conference.<sup>177</sup> Regardless of reoffending outcomes, restorative youth justice conferencing results in positive outcomes for victims and communities through actions that repair the harm caused by the young person's offending.<sup>178</sup> 70% of victims in Queensland reported that conferencing helped them to 'manage the effects of the crime'.<sup>179</sup>

In New Zealand, family-group conferences are used at different stages of interaction with the youth justice system<sup>180</sup> including where there is an intention to charge; as a court-ordered option pre-or-post sentencing; when a young person is remanded (to explore alternative community-based options); and where there is a care a protection consideration (for children aged 10 to 13 years old).<sup>181</sup> Importantly, this model focuses on ensuring young people received community-based supports that address the drivers of offending.

Jesuit Social Services in Australia have run restorative justice conferences in Victoria and the Northern Territory for many years. In a recent evaluation by Swinburne University, it was found that group conferencing was associated with a reduction in recidivism of between 24 and 40% compared to mainstream justice processes. It was also found that it was extraordinarily cost-effective (running one conference cost about the equivalent of keeping a child in custody for four days).<sup>182</sup>

There have been some important critiques in Australia of the way in which restorative conferencing has not always adequately engaged in a meaningful or respectful way with First Nations communities. The research in this space notes the importance of ensuring restorative programs are developed and implemented by First Nations communities with appropriate self-determination and resourcing.<sup>183</sup>

## Drug Courts

Drug courts recognise the impact that alcohol and other drug dependence has when it comes to contact with the justice system and many types of offending, while also acknowledging the importance of addressing the issue of dependency in order to reduce the risk of reoffending and recidivism. Drug courts can operate as pre-adjudicative (where prosecution is deferred) or post adjudicative (where sentencing is deferred or suspended following a guilty plea).<sup>184</sup>

There is now a significant evidence base examining the impact of drug courts in Australia and internationally. Although there are clear challenges to be addressed with regard to the associated need to have access to quality services, supports and treatments outside of the justice system, the overwhelming evidence suggests that drug courts have a positive impact when it comes to reducing the likelihood of reoffending, and improving access to alcohol and other drug treatment and support. Drug courts have been found to be more effective than mainstream courts at addressing the intersection of drug dependency and the criminal justice system.<sup>185</sup>

An independent 2014 evaluation of the effectiveness of the Victorian drug court found that participants reported improvements in a range of social and health well-being measures (including measures like connectedness to community which is associated with reduced risk of harmful alcohol and other drug use), and also had reduced risks in terms of mental health and alcohol and other drug use. It also found that participants had lower rates of reoffending over both 12 months (lower by 31%) and 24 months (lower by 34%) follow up.<sup>186</sup>

Similarly, a New South Wales evaluation of the Drug Court found that participants (compared to a control group) were 17% less likely to be reconvicted for a new offence, 30% to be reconvicted for a violent offence, and 38% less likely to be reconvicted for a drug offence.<sup>187</sup>

A 2006 review of the Perth Drug Court found that it had a lower rate of recidivism compared to prison and community corrections. Nearly 47% of participants did not return to corrections within two years, compared to 36% in Community Justice Services and 29% in imprisonment. This reflects a net reduction in recidivism of 17% over prison and 10.4% over community corrections. Those who did return to correctional services re-offended less frequently and had an altered pattern of offending, with fewer burglary and drug possession offences recorded.<sup>188</sup>

A national study of cannabis diversion programs in Australia showed an overall reduction in self-reported offending, with 23.9% reporting committing a crime before the intervention compared to 17.9% post-intervention. The study also found that diverted participants improved on a number of social domains, including employment, housing, and relationships.<sup>189</sup>

### **Mental Health Courts**

There are a variety of models of courts for people with mental health issues and/or cognitive disability. These tend to adopt a similar approach as Drug Courts, combining intensive judicial monitoring and treatment in order to ensure that people with mental health illness access treatment while being subject to proceedings and supervision. Some are specifically targeted at mentally ill people with co-occurring substance misuse issues and seek to stabilise mental health while targeting drug use in a drug-court-style treatment and testing regime. In some mental health courts, this approach includes being a specific alternative to custody. There is a robust international evidence base that demonstrates the way that mental health courts are likely to reduce reoffending and facilitate access to support and treatment services.<sup>190</sup>

For instance, since March 2013 the Mental Health Court Diversion Program in WA has offered support for individuals whose offending is linked to mental illness with the aim to “enhance participants’ health and wellbeing, improve community safety, reduce repeat offending and, where appropriate, provide an alternative to imprisonment”.<sup>191</sup> An evaluation two years after its establishment showed that 99 people had completed the program. Of those participants, 92% demonstrated clinical improvement; 67% showed lower risk of self-harm or suicide; and 73% experienced overall improvement in wellbeing.<sup>192</sup>

### **First Nations Courts**

For First Nations people, courts have regularly failed to acknowledge or recognise the impact and context of the history of colonisation, and the specific set of circumstances in which contact with the justice system has occurred. Mainstream courts have also often failed to respond to First Nations people in ways that are culturally meaningful. Specialist First Nations alternative courts models differ to the mainstream court system in that they incorporate restorative principles, support First Nations leadership (usually involving First Nations Elders) and adopt a culturally safe model for working with First Nations People.<sup>193</sup> First Nations Courts put culture and healing at the centre of the court process, often through Elders participation, with the ultimate aim of reducing incarceration and ongoing criminal justice system involvement. First Nations specialist courts have been introduced throughout Australia, such as Queensland’s Murri Courts, New South Wales’ Circle Sentencing, Victoria’s Koori Courts, South Australia’s Nunga Courts and Western Australia’s Kalgoorlie Court.<sup>194</sup>

In a recent evaluation of the Queensland Murri Court (operating across 14 jurisdictions in Queensland), participants reported that participation in the court had reduced their contact with the justice system, and that the involvement of Elders encouraged attendance at court and provided a layer of support and accountability that encouraged people before the court to take responsibility.<sup>195</sup>

Overall, evaluations have found First Nations-led courts to be highly effective in several ways. For instance, court attendance is higher for specialist First Nations courts in comparison to mainstream courts<sup>196</sup> and court staff are better equipped to support First Nations people.<sup>197</sup> There are also strong indications that reoffending rates are also reduced when processes are implemented well and when there are resources to support participants. For example, a New South Wales BOCSAR evaluation found First Nations participation in Circle Sentencing led to a 9.3% reduction in people receiving a prison sentence and a 3.9% reduction in reoffending within 12 months.<sup>198</sup> The study also noted that it took an extra 55 days for a reoffence to occur. Similarly, an evaluation of the Youth Koori

Court pilot in Parramatta, New South Wales found fewer children were locked up in youth detention as a result of the Youth Koori Court, and days in custody were reduced.<sup>199</sup>

An evaluation of the original Koori Court Pilot program in Victoria found Koori Courts improved rates of recidivism, with a 16.91% and 13.91% reduction of reoffending in the Shepparton Court and the Broadmeadow Court respectively.<sup>200</sup> The success of the Victorian Koori courts was more recently noted in the recent Parliamentary Inquiry into the Criminal Justice System in Victoria, where the committee recommended expanding the reach, the jurisdiction and scope of the Koori Court.<sup>201</sup>

In South Australia, an earlier study compared outcomes from the South Australian mainstream Magistrates Court and the Nunga Court between 2007 and 2009.<sup>202</sup> This study found Nunga Court defendants were significantly less likely to be sent to prison, receive a monetary penalty, and have their drivers licence disqualified in comparison to similarly position First Nations defendants who had their matter processed through the conventional courts.

Internationally, studies on the impact of the Iwi Justice Panels in New Zealand and the Gladue Court in Canada have also found that people who participated in specialist courts were less likely to reoffend, and where reoffending did occur, it was less severe.<sup>203</sup> Other benefits associated with specialist First Nations courts include their ability to empower First Nations by ensuring they self-determine their own outcomes related to criminal justice, increase access to justice, and foster a better relationship between First Nations communities and criminal justice authorities.<sup>204</sup> Additionally, participants in the Iwi Justice Panels reported positive lifestyle changes such as finding employment and education opportunities.<sup>205</sup>

There have been some examples where specialist sentencing courts have not appeared to have an impact in terms of recidivism. In 2015, the two specialist Aboriginal sentencing courts in Western Australia were abolished following evaluations that found recidivism did not significantly reduce as a consequence of participation. Although subsequently re-established, this also happened in Queensland to Murri Courts in 2012.<sup>206</sup> Evaluation of Nunga courts in South Australia also found unclear results relating to the impact of the court on reoffending.<sup>207</sup> There have however been clearly identified limitations related to data collection, data analysis and methodology in these evaluations.<sup>208</sup>

Other issues have emerged in response to these evaluations, which identify some of the complexities and challenges of successful implementation. For instance, the evaluation of the Murri Courts in Queensland noted the effectiveness and success of specialist courts was also dependent on external factors such as the availability of adequate resources in First Nations communities, particularly services that are culturally appropriate and First Nations-led. This includes the opportunities to improve the availability of culturally meaningful diversionary programs, alongside addressing the structural and economic factors associated with First Nations over-incarceration. This means for instance addressing unemployment, low school attendance, problematic alcohol and other drug use, homelessness, lack of crisis support, and family support.<sup>209</sup>

The Australian Law Reform Commission suggests First Nations courts should ideally:

- Involve active participation by the defendant and the community
- Provide individualised case management for the defendant and wrap-around services
- Be culturally appropriate and competent
- Ensure their design, implementation and evaluation is led by relevant Aboriginal and/or Torres Strait Islander organisations.<sup>210</sup>



### **Specialist Family and Domestic Violence Courts**

There are various models of Specialist Domestic and Family Violence courts that operate across Australia and internationally, which in some cases have shown through evaluations to improve outcomes and experiences for people who use the court.<sup>211</sup> Domestic and Family Violence Courts operate in five locations across Queensland to provide a specialist multidisciplinary and collaborative court response to domestic and family violence cases.<sup>212</sup>

A 2017 mixed-methodology Griffith University evaluation of the Specialist Domestic and Family Violence Court trial in Southport found that compared to traditional court processes the specialist court had many short/medium term outcomes such as strong positive assessments about the process from stakeholders and court users; improved management, coordination, and proactive partnerships; and increased reported understanding of the court processes.<sup>213</sup> The recommendations in this evaluation informed the implementation and operation of Specialist Domestic and Family Violence in the other locations across Queensland.<sup>214</sup>

### **Children's Courts**

There is a need for Tasmania to establish a separate specialist court for children. The needs of children and young people who come into contact with the justice system differ significantly from adults. Specialist Children's courts that are aware of the principles and latest research regarding children's development and its impacts on children and young people's participation in the justice system are therefore a vital component in developing a service-focused justice system that emphasises the best interest of children. Having a children's court division as part of a generalist adult court does not allow the court to develop the necessary level of expertise, understanding and awareness of the developmental needs of children to maximise the potential for children and young people to access the necessary services and supports that will address the underlying causes of criminal offending.

A specialist Children's Court can support children and young people to participate in court processes meaningfully with due regard to their age and maturity. It can implement effective problem solving, collaborative and multidisciplinary practices to deal with youth justice and child protection matters. A specialist Children's Court can ensure the necessary expertise amongst all professionals at the court – judges, magistrates, court staff, lawyers, youth justice and child protection professionals and support service professionals – by ensuring that there is continuous training and professional development in key subject areas and practices relevant to children.<sup>215</sup>

## BAIL SUPPORT AND ALTERNATIVES TO REMAND

Of the 642 people imprisoned in Tasmania in 2022, 33% were imprisoned without a sentence.<sup>216</sup> In 2012 the rate was 18.2% (with 90 people imprisoned on remand).<sup>217</sup> 68% of unsentenced people in Tasmanian prisons have been held on remand for more than one month.<sup>218</sup>

Bail laws should be informed by an evidence-based approach that genuinely centres community safety. Remanding people in custodial settings should only be used as a last resort. There is a particular need for evidence-based alternatives that are community-led and managed outside of custodial settings. This includes looking at appropriate diversion alternatives such as access to alcohol and other drug services, mental health and disability support, holistic wrap-around case management, culturally safe First Nations supports, and safe and secure accommodation.

The overuse of pre-trial detention does not ultimately make the community safer. In fact, it increases the risk of reoffending because of the criminogenic nature of incarceration.<sup>219</sup> People who do not receive bail and are remanded in custody suffer the hardships of incarceration (loss of liberty, disconnection and separation from community, loss of housing, loss of employment, loss of identity, institutionalisation, de-humanisation, the traumatic experience of imprisonment) without having been found guilty of an offence. People on remand are typically housed in high security custodial environments, with limited access to programs and services. There is also strong evidence to suggest that pre-trial detention and remand, even for short-term periods, contributes to future offending.<sup>220</sup>

Reducing remand goes hand in hand with having more people released into the community on bail. This requires complementary increases to bail support

Bail support refers to the provision of services, intervention or support designed to assist an accused person to successfully comply with their bail obligations.<sup>221</sup> The principal aims of bail support are to reduce reoffending while on bail, increase the likelihood of a person facing criminal charges appearing in court and to provide an alternative to detention and remand.

Bail support programs may also be combined with diversionary programs that seek to address problems such as harmful alcohol and other drug use. These combined programs seek to provide an integrated approach to assisting people obtain and remain on bail.<sup>222</sup>

Lack of suitable and stable accommodation poses a barrier for many individuals to meet bail requirements, especially those in rural, regional, or remote areas or those experiencing homelessness.<sup>223</sup> Bail hostels provide a potential solution as they increase access to bail by ensuring adequate housing – which when coupled with effective bail support, can increase bail compliance.<sup>224</sup>

Bail hostels are residential establishments that accommodate people as a condition of bail, generally with some degree of endorsement or regulation by the government. While there are some long-standing examples of bail hostels in some jurisdictions in Australia, they have not been systematically implemented throughout Australian states and territories.<sup>225</sup>

The Law Council of Australia and many others have recommended the introduction of more bail hostel programs in Australia.<sup>226</sup> The Australian Institute of Criminology (AIC) and others have noted that the features that influence the success of bail hostels include: their affordability; the need to be targeted towards people who do not have access to

alternative accommodation so as to avoid net widening; the need to be geographically available in regional and remote areas; and ensuring that they have the capacity to be available for diverse populations including First Nations people, people with mental health or cognitive impairment, people at risk of domestic violence and people who are homeless. Care needs to be taken to ensure the safety of all people residing in bail hostels and allocation of beds needs to happen thoughtfully.<sup>227</sup> Overall, the research and analysis on the effects of bail hostels suggests that it is more cost effective to house a defendant in a bail hostel than a prison,

after taking into consideration the economic and social benefits of individuals maintaining employment and relationships, contributing to rent, and reduced recidivism.<sup>228</sup>

## Evidence-based case studies:

### What works in bail support?

#### **Caxton Legal Centre Men's Bail Support Program (Queensland)**

The Men's Bail Support Program (MBSP) was delivered by Caxton Legal Centre in Brisbane from April 2019 to August 2022 and externally evaluated as being highly successful. Men supported by the program had improved pro-social behaviours and were less likely to re-offend in the short to medium term. In 2021-22: 77% of applications for bail made by the MBSP were granted. 95% MSBP participants were bail compliant. 25% were Aboriginal and/or Torres Strait Islander men – they were supported to access Aboriginal health services, culturally appropriate alcohol and other drug counselling and residential programs, men's yarning groups, culturally appropriate employment, and skills training programs.<sup>229</sup>

#### **Bail Support – Court Integrated Services Program (Victoria) and other Court Diversion Programs**

Evaluations of these programs have found them to be effective at reducing contact with the justice system, reducing imprisonment, and facilitating access to support and treatment. The Magistrates Court of Victoria has noted that participants in its In-Court Diversion program have reduced likelihood of re-offending, avoidance of a criminal record, alongside increased access to supports, counselling and treatment.<sup>230</sup> Evaluations of the Magistrates Early Release into Treatment (MERIT) program in New South Wales have found reduced likelihood of reconviction<sup>231</sup> alongside increased health and well-being.<sup>232</sup> Evaluations of the Court Integrated Services Program (CISP) and Bail Support Diversion programs in Victoria have found that the program has reduced the number of defendants remanded, contributed to the successful completion of bail, reduced likelihood of re-offending and likelihood of homelessness.<sup>233</sup> A recent evaluation of the ACT Drug and Alcohol Sentencing list also found positive outcomes reporting early indications of reduced offending, as well as positive shifts with regard to alcohol and other drug use and improved outcomes in terms of social reintegration.<sup>234</sup> In 2009 CISP was favourably evaluated for its effectiveness and cost benefit. People involved in CISP showed a 33% reduction in reoffending. Where a person did reoffend, the offending was less frequent (30.4% less) and less serious. For every \$1 invested in CISP the economic benefit to the community is \$2.60 after five years and the long-term benefit is \$5.90 after 30 years.<sup>235</sup>

### **Metropolitan Youth Bail Service (Western Australia)**

The Metropolitan Youth Bail Support (MYBS) aims to prevent the excessive detainment of young people in the metropolitan area who are eligible for bail but lack a suitable responsible adult. The Bail Act 1982 permits Youth Bail Coordinators to fill this role as the responsible person.

The MYBS provides education on the court process and court attendance for young people, as well as referrals to community-based services to address the drivers of offending and ensure adequate supervision and monitoring while on bail. Placements may include short and long-term housing options, rehabilitation services, psychiatric facilities or with family members.

The Youth Support Officers Program assigns positive role models to support young people who have committed crimes or are at-risk of offending. A youth support officer is assigned based on a youth justice officer assessment or a request from the court or the Supervised Release Review Board. The youth support officer offers practical assistance with transportation, education, emotional needs, and organises positive leisure activities. Young people in Western Australia who finished the program completed their bail orders at a rate of 70% compared to 50% for young people who were granted bail with an undertaking from a responsible person.<sup>236</sup>

### **Sisters Inside Bail Support (Queensland)**

In 2021, an external evaluation of the Sisters Inside Women's Bail Support Program (WBSP) found the program effectively supports women to access bail, comply with bail conditions, and connect to services in the community. The evaluation, commissioned by Queensland Corrective Services and undertaken by ARTD consultants, found 61% of women who accessed the service and completed their bail order did not return to prison or have another warrant issued. Additionally, the evaluation found the WBSP is cost-effective and much cheaper than incarceration (\$66 compared to \$111 per woman per day), saving the Queensland Government \$45 per woman per day.<sup>237</sup>

## FIRST NATIONS PLACE-BASED APPROACHES

Place-based approaches seek to address complex social problems at the local level rather than through top-down policies. They draw on the unique capabilities, as well as the challenges, faced by First Nations communities and challenge governments to develop genuine partnerships with communities to alleviate complex disadvantage.<sup>238</sup> Place-based initiatives prioritise physical infrastructure, employment, education, community capacity building and cultural connection as ways to address the social drivers of crime.

Evidence-based case studies:

### **What works in First Nations led place-based approaches?**

#### **Olabud Doogethu (Western Australia)**

The Kimberley-based Olabud Doogethu project is Western Australia's first justice reinvestment site. Olabud Doogethu aims to create stronger communities, more resilient families and young people, and reduce youth involvement in the criminal justice system in the Halls Creek Shire. The project's focus is community-driven and Aboriginal-led initiatives that build local community cohesion, capacity, leadership, and infrastructure; tackle disadvantage; and create local justice support opportunities. 90% local Aboriginal employment has been achieved for all Olabud Doogethu service programs.<sup>239</sup>

Data provided by Western Australia Police for the period 2017-20 showed significant reductions in youth crime at the site, including a 63% reduction in burglaries; a 43% reduction in oral cautions, a 69% reduction in arrests; a 64% reduction in Aboriginal persons admitted to police custody (aged 10-plus) and a 59% reduction in stealing of motor vehicles.<sup>240</sup>

#### **The Yiriman Project (Western Australia)**

The Yiriman Project – which is run by the elders of four Kimberley language groups to reconnect their young people to culture while also reducing contact with the criminal justice system, harmful substance use and suicide – has received numerous awards and positive evaluations.<sup>241</sup> Yet it has struggled over the past two decades to secure the funding it needs to continue its services. A three-year evaluation found that it reduced participants' subsequent contact with the criminal justice system, with some concluding that it was better than most other sentencing and diversionary options in this regard.<sup>242</sup>

### **Maranguka Justice Reinvestment Project (New South Wales)**

The independent review of the Maranguka justice reinvestment project at Bourke in 2016–17 found a 23% reduction in domestic violence offending; 38% reduction in youth proceeded against for driving offences, alongside increased rates of school retention and estimated savings of \$3.1 million over the course of a year.<sup>243</sup> The close partnership between the community and police was critical to the success of this work, with regular meetings between police and community members, sharing of data, and working together to identify community members in need.<sup>244</sup>

### **Yuwaya Ngarra-Li (New South Wales)**

Yuwaya Ngarra-Li is community-led partnership between the Dharriwaa Elders Group and the University of New South Wales aims to improve the wellbeing, social, built and physical environment and life pathways of Aboriginal people in Walgett, New South Wales, through collaboration on evidence-based initiatives, research and capacity building. A 2022 report from Yuwaya Ngarra-Li evaluating change in youth justice outcomes since the commencement of the partnership in 2018 showed there were overall increases in diversions in 2019 and 2020 (but decreases again in 2021); overall reductions in charges and court cases; and reductions in youth custody episodes but noted the need for ongoing work to embed systemic change.<sup>245</sup>

### **Community Justice Groups (Queensland)**

Community Justice Groups (CJGs) were first trialled in three Queensland communities in 1993 in response to the Royal Commission into Aboriginal Deaths in Custody. The program has since been expanded state-wide, with Aboriginal and Torres Strait Islander-led CJGs now operating in 41 communities across Queensland. CJGs work with key stakeholders to coordinate place-based responses that support First Nations people interacting with the justice system. A 2010 KPMG-led evaluation found stakeholders involved in Queensland CJGs widely supported the initiative and that it is closely aligned with state and national justice priorities; however, CJGs required greater resourcing and support to improve their capacity to deliver responses that reduce the over-representation of Aboriginal and Torres Strait Islander people in prison.<sup>246</sup> Following this evaluation, Queensland Government released a Framework for Stronger CJGs and allocated an additional \$19.1 million over four years in the 2019–20 state budget to enhance the initiative. Myuma Pty Ltd is currently undertaking a second outcome evaluation of the CJG initiative (due for completion in December 2023). A Phase 1 implementation evaluation report was released in November 2021, which noted the extensive outputs of CJGs and provided recommendations to strengthen program implementation and inputs during the program enhancement phase.<sup>247</sup> This implementation evaluation as well as the Our Community Justice website share early success stories from CJGs across Queensland.<sup>248</sup>

## POST-RELEASE SUPPORT AND THROUGH CARE

Support is critical at the point when people are released from prison back into the community. People coming out of prison face homelessness, joblessness and ongoing health and social issues. While there are valuable services operating in Tasmania, there is a great deal more that needs to be done to invest in community-led interventions for people leaving prison. There is significant research noting that for many people who are 'caught' in the cycle of justice system involvement, it is much easier to return to prison than it is to survive in the community. There are multiple reasons for this. Most people leave prison in Tasmania with no meaningful community-based supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although there are some highly effective specialist services that work to support people with connecting to community, they are chronically under-resourced.

The inadequacy of housing right across the country further marginalises people who may be homeless and are more likely to come to the attention of police, as well as those exiting prison. The insufficiency of post-release programs, especially those incorporating an 'accommodation component' has been acknowledged for many years. Tasmanian governments have had a suboptimal track record in recognising the worth of such programs and providing ongoing support.<sup>249</sup>

There are multiple barriers for people leaving prison to access mainstream welfare and support services. Most mainstream welfare services will not do 'in-reach' into prisons. Many services (including many homeless, alcohol and other drugs and domestic

violence services) will not take people straight from prison. Many services will not take people with a criminal record, and many will not take people who have any history of violence. Across the sector, there is also a lack of specialist knowledge, resources, and structural capacity for already stretched organisations to take on the complexity of working with post-incarceration clients. The absence of First Nations-led culturally safe services acts as another barrier to many accessing the necessary support.

The multiplicity and complexity of need also means many people leaving prison are excluded from support. For instance, many people face barriers accessing alcohol and other drug services if they have a complex mental health condition. Many people are not able to access mental health services if they are currently using alcohol and other drugs. There are very few residential services that will support people who are currently using alcohol and other drugs.

Evidence-based case studies:

## What works in post-release support?

### Community Restorative Centre Evaluation (New South Wales)

This University of New South Wales (UNSW)/Community Restorative Centre (CRC) evaluation, undertaken over two years, explored outcomes for 483 CRC clients who participated in intensive, case-work, post-release and diversionary programs between 2014 and 2017. An interrupted time series analysis examined criminal justice system trajectories over 10 years (including post-participation in programs), and found that for participants:

- The number of new custody episodes fell by 62.6%.
- The number of days in custody fell by 65.8%.
- The number of proven offences fell by 62.1% following CRC support.

The report also undertook a comparison analysis with clients from the MHDCC linked administrative dataset at UNSW, comparing their outcomes to CRC clients. This analysis found engagement in CRC programs dramatically reduced contact with the justice system when compared to a similar group who did not receive support. The research also showed savings to the criminal justice system of up to \$16 million over three years for an intake of 275 new clients (not including institutional and community savings).<sup>250</sup>

### Miranda Project Evaluation (New South Wales)

This CRC program entails intensive case work, diversionary support, and post-release support for women at-risk of both domestic violence and justice system involvement. A recent evaluation found that of the 90 women participating in the program during the evaluation period, 14% returned to prison, 62% reported improved housing stability, and 62% reported improved safety in terms of domestic and family violence.<sup>251</sup>

### Barnados Beyond Barbed Wire Evaluations (New South Wales)

The Beyond Barbed Wire program (based in central-west New South Wales and part of Barnardos) evaluated the outcomes of the intensive case work and support service for women released from prison who were also mothers. Only 6% of the 52 women participating in the program returned to prison.<sup>252</sup>

### Women's Justice Network (New South Wales)

This internal evaluation of the program that provided intensive support to women leaving custody found that of the 59 women supported over the course of a year, only 4 women (6.7%) returned to custody (3 for parole breaches and one for a new offence).<sup>253</sup>



**Outcare Throughcare (Western Australia)**

Outcare's Aboriginal Throughcare program is offered to people in the final three months of their sentence. The program supports people during their transition from custody to the community and continues for 12 months after their release. The program focuses on building stronger relationships with family, culture, and community. Early analysis of the program determined it had delivered sound community outcomes, with only 20% of clients receiving post-release case management returned to prison during that period.<sup>254</sup>

## IN-PRISON PROGRAMS

While the bulk of investment into reducing crime and recidivism should be directed outside of the justice system, there are alternative models for prison settings and in-prison programs that align with the goals of therapeutic, supportive, and community-led approaches. There is significant evidence that these approaches lead to better post-release outcomes.

### Evidence-based case studies: **What works in prison?**

#### **Wandoo Rehabilitation Prison (Western Australia)**

Wandoo Rehabilitation Prison is Western Australia's first dedicated alcohol and other drug rehabilitation prison for women in custody, offering intensive trauma-informed treatment within a therapeutic community.<sup>255</sup> Wandoo operates in partnership with Cyrenian House. Since opening in 2018, more 170 women have graduated from its alcohol and other drug program, and only four having returned to custody, a success rate of nearly 98%.<sup>256</sup>

#### **Borallon Throughcare (Queensland)**

In 2020, the University of Queensland (UQ) evaluated the Borallon Training and Correctional Centre alternative rehabilitation custody model using a mixed-methods approach.<sup>257</sup> This model includes a co-designed centre-based throughcare service that focuses on education and employment pathways.<sup>258</sup> This study was not openly published; however, UQ reports it found strong evidence that elements of the model are working well and that there are many reasons to support the model.<sup>259</sup>

#### **Mallee Rehabilitation Centre (Western Australia)**

Following the success of Wandoo, the Mallee Rehabilitation Centre began operations at Casuarina Prison in 2020 as the state's first residential alcohol and other drug facility for male prisoners. The Centre can house up to 128, with the Palmerston Association and the Wungening Aboriginal Corporation providing program design and delivery. Of the 75 Mallee Solid Steps Program graduates who have been discharged from custody in the first two years of operation, only four have returned to custody with a new offence.<sup>260</sup>

### **Alice Springs Life Skills Camp (Northern Territory)**

A life skills program that provides an alternative to custody for women in Alice Springs has shown solid outcomes in terms of reducing recidivism. The Life Skills Camp was opened in 2020 as a sentencing alternative for Aboriginal women as part of the Aboriginal Justice Agreement. The Life Skills Camp has delivered more than 2000 program sessions to residents and other women on day programs from the Alice Springs Correctional Centre. The NT Government has noted that 90% of the 25 women who have completed the program have not reoffended.<sup>261</sup>

### **The Fairbridge Bindjareb Project (Western Australia)**

The Fairbridge Bindjareb Project provides Aboriginal and Torres Strait Islander people in custody with a 16-week work training program in the mining industry. The program was designed and is run by local Aboriginal men and focuses on reconnection to and respect of Aboriginal culture. An evaluation found that only 18% of participants returned to prison within two years of being released (and only 4% for new offences), compared to 40% recidivism rates among the general prison population.<sup>262</sup> Moreover, three-quarters (73%) of participants had gained and retained full-time employment seven months post conclusion of the program. A cost benefit analysis by Deloitte has found that every dollar invested in the program generates \$2.45 worth of economic benefits.<sup>263</sup> The review has also calculated that the scheme saves the federal government up to \$460,000 in welfare payments for each participant over a decade.<sup>264</sup>

### **Boronia Cultural, Social and Emotional Well Being Project (Western Australia)**

The cultural, social, and emotional well-being project delivered at the Boronia pre-release centre is a strengths-based, holistic program for First Nations people. An independent evaluation of the program conducted in 2022 found that completing the program resulted in significantly reduced levels of psychological distress for the women who participated.<sup>265</sup>

### **Diagrama (Spain)**

Diagrama is an international non-profit organisation and operates over 35 custodial centres across Spain for young people aged 14 to 23 who have been remanded or sentenced to custody. The Diagrama model has demonstrated it reduces rates of recidivism and its operational costs are comparable to or lower than those of other providers. The model has been implemented across France and the United Kingdom. A study of 757 young people who had attended a Diagrama re-education centre in 2011 found that by December 2017, only 13.6% had been placed back in custody.<sup>266</sup>

## ACCESS TO OTHER SERVICES IN THE COMMUNITY

Robust social supports within the community, including general health, education, and welfare programs, as well as specialist programs, work to prevent contact with the justice system and break the cycle. They provide support for early intervention as well as for when people transition back into the community after incarceration. Mental health support, alcohol and other drug treatments and disability support play particularly critical roles.

A 2018 study by the Telethon Kids Institute and the University of Western Australia showed that 9 out of 10 (90%) of incarcerated young people in Western Australia had some form of neuro-disability, ranging from dyslexia or similar learning disability, language disorder, attention deficit hyperactivity disorder, intellectual disability, executive function disorder, memory impairment or motor coordination disorder.<sup>267</sup>

People who have been in prison are more likely to experience homelessness and unemployment as well as suffer from a mental illness, increasing the barriers people face to build lives outside of the justice system on release. Two-thirds (62%) of people leaving prison did not have any employment organised on release<sup>268</sup> and 54% of people leaving prison exit into homelessness.<sup>269</sup>

Health services in prison remain underfunded, a problem exacerbated by the absence of Medicare and the Pharmaceutical Benefits Scheme to people while incarcerated. This is also the case when it comes to access to dental care. The Inspector of Custodial Services in Tasmania has regularly highlighted issues of accessibility for incarcerated people.<sup>270</sup>

Ensuring that disability, mental health, and homelessness services are accessible to those in contact with the justice system, and that the sector has the training and resources to serve them, is essential to reducing incarceration and recidivism in Tasmania.

Evidence-based case studies:

## **Reducing incarceration by improving access to services and supports in the community**

### **Housing Post-Release Evaluation (Australia)**

This evaluation included an interrupted time-series analysis and matched comparison analysis of 623 people who received public housing after leaving prison and 612 people who received rental assistance only. It found that public housing improves criminal justice outcomes when compared to rental assistance only. It found that public housing 'flattens the curve' and sees reductions in predicted police incidents (down 8.9% per year), custody time (down 11.2% per year) and justice system costs (down \$4,996 initially, then a further \$2,040 per year). The evaluation found that there was a net-benefit in dollar terms of housing people on release from prison in public housing (between \$5,200 and \$35,000) relative to homelessness services or private rental assistance.<sup>271</sup>

### **Intellectual Disability Rights Services - Justice Advocacy Evaluation (New South Wales)**

This independent EY evaluation of the support provided by the Intellectual Disability Rights Service's Justice Advocacy Program concluded it improved access to justice, improved understanding of court processes, and improved outcomes for people with cognitive impairments in police and court settings. The evaluation noted that people who received JAS support were more likely to understand and follow court orders, more likely to understand cautions and bail conditions, less likely to be found guilty and more likely to receive a section 32 diversion order.

The evaluation noted that when the JAS program operated at full capacity, the program would deliver \$3.37 in return for every dollar invested. The report also recommended exploring the value of case management for people participating in the JAS program.

### **Intellectual Disability Rights Services - Criminal Justice Support Network Economic Evaluation 272**

An economic evaluation of the Criminal Justice Support Network (CJSN) (run by the Intellectual Disability Rights Service) found the CJSN generates a net benefit of at least \$1.2 million per annum. That represents a return of \$2.5 for every \$1 invested in the service.<sup>273</sup>

### **Institutional Costs Research (Australia)**

Costings research conducted by the University of New South Wales in partnership with PricewaterhouseCoopers looked at linked administrative data to gauge the life-course institutional costs associated with people with mental illness and disabilities in the criminal justice system. It found that more than \$1 million was spent on many individuals each year through prison and crisis responses. It also noted the value of targeted, holistic support, finding that for every dollar spent on early investment, between \$1.40 and \$2.40 is saved in the longer term.<sup>274</sup>

### **Common Ground (Australia)**

Common Ground Queensland provides affordable supported accommodation for people who have experienced chronic homelessness or who require social housing. The Institute of Social Science Research conducted an independent evaluation of the Brisbane Common Ground housing model and found governments can save over \$13,000 per person each year through the provision of secure, long-term housing with relevant support services. This evaluation further found in the first 12 months Brisbane Common Ground residents had a reduction in the number of court appearances (by 47 days), days incarcerated (by 132 days), days on probation and parole (by 88 days), and a reduction of interventions involving police. In comparison to the 12 months prior to residency at Brisbane Common Grounds, this equated to an estimated cost savings of \$122,904 for the criminal justice system.<sup>275</sup>

## A BRIEF NOTE: THE NEED FOR PUBLIC HEALTH APPROACHES TO DRUG USE

The prevalence of illicit drug use and alcohol consumption is a significant health and social issue in Australia and as such, requires a health and social policy response. The research is very clear that reliance on criminal law and criminal justice responses to discourage illicit drug use does not work to reduce demand and fails to address the health and social harms associated with such drug use.<sup>276</sup>

There are numerous researchers, advocates and service delivery providers who have noted the way that the criminalisation of illicit drug use has failed to address the health and social problems associated with alcohol and other drug use and often serves to further exacerbate disadvantage.<sup>277</sup> The Institute of Public Affairs recently released a report noting that people should not be imprisoned for offences such as drug possession.<sup>278</sup> Health responses are required to address the harms and health impacts of drug use and instead there is a need for the adequate resourcing of effective drug assessment, treatment, and support services, with culturally appropriate services for Aboriginal and Torres Strait Islander peoples across Australia, including in regional and remote areas.

This is an issue across Australia.

- 65% of people entering prison around Australia have used illicit drugs in the previous year.<sup>279</sup>
- Half of all people in prison have a history of injecting drug use.<sup>280</sup>
- 85% of people in prison who have a history of injecting drug use, report being under the influence of drugs and/or alcohol at
- 40% of people in prison with a history of injecting drug use, attribute their offending

to their need to get money to support their drug use.<sup>281</sup>

- The justice and law enforcement cost of drug-related harm is at least \$5.8 billion per annum. The justice and law enforcement costs of alcohol related harm is \$6.4 billion per annum.<sup>282</sup>

The policy landscape in Australia prioritises expenditure on law enforcement ahead of treatment and harm reduction. These priorities are reflected in the budgetary allocation of Australia's National Drug Strategy, with 65% of its budget allocated to law enforcement, and 25% to treatment and harm reduction.<sup>283</sup>

At least half a million people each year in Australia cannot access the alcohol and other drug treatment and support they need.<sup>284</sup>

The criminalisation of illicit drug possession and use increases the likelihood of confrontational interaction with police, criminal proceedings in court and incarceration. Decriminalisation will reduce this contact at every stage of the criminal justice system, removing barriers to harm reduction and treatment seeking, and increasing voluntary treatment uptake. There is an urgent need to shift the focus of the policies from criminal law enforcement to initiatives that focus on health, treatment, and harm reduction. Public investment in support services, harm reduction, alcohol and other drug treatment and health responses to alcohol and other drug use will result in significant savings for the criminal justice system and improved outcomes for the whole community.

Although it is beyond the scope of this report to overview in detail all the alcohol and other drug

treatment responses that reduce the likelihood of incarceration, we have already highlighted multiple successful programs that are focused on supporting people with alcohol and other drug dependence or related issues at the point of prison, at the point of release from prison, at the point of interaction with police, and at the point of interaction with the courts.

Shifts towards health-oriented and harm reduction approaches in drug law reform are significant as levers to reduce incarceration and reoffending. Reforms in this space enable people who use drugs to be diverted from the criminal justice system or prevent offending through the provision of harm reduction and effective treatment strategies. Traditional policing approaches to drug use-related crime do not reduce arrests or incarceration and are also associated with increased risk of fatal future overdoses.<sup>285</sup> In Tasmania, the absence of detox facilities and specialist treatment facilities requires urgent attention.<sup>286</sup>



## PART 3

### MAPPING PROGRAMS AND SUPPORTS FOR PEOPLE AT RISK OF INCARCERATION IN TASMANIA

#### **Organisations providing specialist support to people impacted by the justice system in Tasmania.**

There are multiple organisations and services led by the community sector in Tasmania that are working to reduce cycles of incarceration. Evaluations of both federal and state funded programs have extolled the efficacy of these kinds of programs in reducing recidivism. Unfortunately, due to the cyclical nature of community funding in Tasmania, some programs, while receiving positive evaluations, are subject the vagaries of the election cycles and with them, changing government priorities.

This section notes the organisations, coalitions and support services that are working directly with people impacted by the justice system in Tasmania to try and reduce criminal and youth justice system involvement. This overview is not an exhaustive list,

however, gives a good indication of the limited funding and services that are specifically focused on breaking the cycle of disadvantage in Tasmania. Where data is available in terms of funding (or lack of) this is noted. The following programs have been identified through conversations with stakeholders in Tasmania, through desktop research, and, in some instances, via evaluation literature.

The Justice Reform Initiative is progressing ongoing mapping work of programs in Tasmania and welcomes any further information, evaluations and case studies that people would like to share with us.

#### People in prison and families of people in prison (adults)

##### **Onesimus (Tasmania)**

The Onesimus Foundation<sup>287</sup> located at the Christian Family Centre adjacent to the Risdon Prison is an example of an organisation advocating for and responding to the needs of people in prison and their families, primarily using volunteers. Some of the activities include kids visit days, video visits and 'hidden sentence training'. The Foundation is located next to the Risdon Prison Complex which enables the facilitation of a wide range of events for prison staff and practitioners working there. During the Covid-19 pandemic, Onesimus initiated and ran video visits to enable inmates to maintain contact with their families and supporters.<sup>288</sup> Onesimus has reported an income of under \$15,000 to the Australian Charities and Not-for-profits Commission.

### **Bethlehem House (Tasmania)**

From its Hobart location, currently over two sites, Bethlehem House provides accommodation and support to nearly seventy men who are homeless. Up to nine men who are on parole and serving their sentences in the community are housed, along with several people who are currently serving community orders or who have bail conditions, including those on electronic monitoring.<sup>289</sup>

### **Salvation Army – Beyond The Wire (Tasmania)**

Beyond the Wire (BTW) provides support to people leaving prison and helps them to access sustainable housing, community reintegration and social inclusion. By focusing on the criminogenic needs of returning citizens, the program helps to lower recidivism. The service outcomes for the program are difficult to measure, however, recent research suggests that during a 12-month period of the program only 10 per cent of clients returned to prison.<sup>290</sup> Currently, BTW receives \$230K annually from the Tasmanian government. In the year up to August 2021, BTW engaged 80 clients most of whom have been recently released from prison. This number included 67 men (84%) and 13 women (16%). The age profile of those within the system included 20 clients between 20–29; 29 clients between 30–39; 19 clients between 40–49; 7 clients between 50–59; and 4 clients over 60 years of age. 70 of the 80 clients were non-Indigenous, with 10 identifying as Aboriginal and Torres Strait Islander. All of the clients were born in Australia.<sup>291</sup>

### **The Francis Program (Tasmania)**

The Francis Program, self-funded by CatholicCare Tasmania, assists parents and caregivers to strengthen their relationships with their children and build positive connections with their families and communities. It focuses on the family support needs of those who are incarcerated and either on remand or serving less than a six-month sentence within the Tasmanian prison system. This is a population that that is not well catered for in the area of family support or reintegration planning.<sup>292</sup> Commencing in 2021, the Francis Program assists participants to strengthen their parent-child relationships and to build positive connections with their families and communities whilst they are in prison or on release. In 2021/22, the program assisted 136 individuals with one-on-one support and group educational sessions.<sup>293</sup>

### **Connect 42's Just Moving On (Tasmania)**

Just Moving On is a collaborative through-care program to support people exiting prison to reconnect with family and build the literacy and life skills for education and employment. Connect42 works with other services to increase positive opportunities for participants, community safety and productivity.<sup>294</sup> Connect 42 receives \$471,552 to run a number of programs in Tasmania (Just Moving on is one of these).

### **Connect 42's Just Time (Tasmania)**

Just Time is a parenting program being delivered in Tasmanian prisons. It uses the circle of security parent DVD program® as its central tool – and is delivered by communication professionals. Just Time is about supporting secure attachment between parent and child in order to foster mental wellbeing, positive relationships and social communication.<sup>295</sup> Earlier this year Connect42 engaged SGS Economics and Planning to undertake a retrospective Social Return on Investment analysis of Just Time to assess the benefits of the program through an economic lens. SGS concluded that the Just Time program yields significant welfare benefits in Tasmania, generating a benefit to cost ratio of 3.3 and a net present value of \$1.2 million. For every dollar invested in the program, \$3.23 of benefits are returned to the wider community.<sup>296</sup>

### **Holyoake (Tasmania)**

Holyoake has worked with people impacted by the criminal justice system in Tasmania since 2008. It provides a range of specialist services and therapeutic interventions for children as well as adults affected by alcohol and/or other drugs, gambling or other addictive behaviours. Holyoake has noted publicly that it has limited capacity to meet demand and that there is often a significant wait list for programs.<sup>297</sup> Programs include:

- Drug Diversion Initiative: A discretionary police diversion program aimed at eligible adult and young people who are at the early stages of contact with the criminal justice system.
- Prison Program: Designed to support people with a history of alcohol or drug issues who are preparing for release from prison.
- Get Real Program: A program available in the south of Tasmania for 12–25-year-olds who are experiencing difficulties with alcohol or drug misuse, anger, offending and other addictive behaviours.<sup>298</sup>
- The Gottawanna Program: Targeted at adult men and women seeking help for their own substance misuse or addictive behaviour in Risdon Prison.<sup>299</sup>
- The Recovery Program: Providing longer (12 months) and more intensive relapse prevention intervention for criminal justice clients at increased risk of recidivism related to relapse. Clients seeking parole are frequently referred to Holyoake by the parole board as a condition of release. Reports from Holyoake are instrumental in determining parole and associated conditions. Holyoake has repeatedly been requested to expand their specialist services to clients in all areas of the criminal justice system. The ability to meet the growing demands is limited by funding.<sup>300</sup>

### **Brain Injury Association of Tasmania – JustACE Program**

The JustACE program is a pilot program designed to provide support to people with cognitive impairment at multiple points along the justice system trajectory in Tasmania including with the Magistrates' Court diversion list, via in-reach to the prisons and remand centres, and via the provision of throughcare to people leaving custody.<sup>301</sup> Funding at this pilot stage is being provided by the Australian Government's Department of Social Services and the program is being independently evaluated.

### **Red Cross Community Based Health and First Aid Program (Tasmania)**

Now running in four Australian prisons, the program trains people in prisons (including in Tasmania) to become Special Status Red Cross volunteers within their correctional facility. Volunteers learn skills and build confidence and self-worth, which has impact on their lives beyond the prison gate. Prison communities benefit in a range of ways, from improvements in safety and relations between prisoners and officers, to general hygiene and cleanliness and capacity to respond to people experiencing a mental health crisis.<sup>302</sup>

### **Men's Resources Tasmania (Tasmania)**

Men's Resources Tasmania (MRT)<sup>303</sup> is a community-based, not-for-profit organisation that supports and promotes the wellbeing of men and boys in Tasmania primarily through volunteer involvement, with some support from members, member organisations and other supporters. MRT contributes a male voice to community conversations and public sector policy and delivers workshops and presentations on health and wellbeing issues relevant to men and boys in a variety of settings and works to improve health outcomes for men and boys through a range of activities. MRT believes that current approaches to incarceration are not meeting community expectations and that prisons should have a strong focus on rehabilitation. Its Building Pathways Program (BPP) focuses on supporting people exiting prison. The program uses a pragmatic approach grounded in coaching, mentoring and peer support. The philosophy underpinning this approach draws on desistance and restorative justice theories. Men's Resources Tasmania received less than \$22,000 in funding last year.

### **Anglicare Financial Counselling (Tasmania)**

The financial counselling outreach service run by Anglicare at Risdon prison has been running for 10 years and has supported 1400 people in prison during this period. There are typically between 8-10 referrals each week. The program works to assist people in prison (and on release from prison) regain control of their financial situation, something that is almost impossible to achieve without some external support like financial counselling. The families of people in prison are also released from the burden and stress associated with managing the financial affairs of their family member. With this support, people in prison have a better chance of retaining their bank accounts for when they are released. Often, their accounts are depleted by ongoing direct debits and automatic payments and are subsequently closed by the banks. The program also operates to increase financial literacy by assisting people to become aware of their rights and responsibilities with the aim to reduce stress and anxiety about financial matters. The Financial Counselling Service is funded by the Australian Government Department of Social Services and is also supported by the Tasmanian Government through the Department of Premier and Cabinet.<sup>304</sup>

#### **Welcome Back(Pack) Initiative – Dress For Success (Tasmania)**

Dress for Success supports women exiting prison by providing clothing, toiletries, and assistance to write job applications and prepare for job interviews. This program aims to build women's confidence and resilience in looking for employment post-release. The program was developed in 2019 and provided with \$100,000 of funding over three years from the Tasmanian Government in the most recent Budget.<sup>305</sup>

#### **Serenity House – City Mission (Tasmania)**

Serenity House is a 'Sobering Up and Place of Safety' facility located at Burnie for people aged 18 years and over. Counselling is available, along with referrals to other agencies and follow-ups when requested. This service provides support for anyone found by police affected by the consumption of alcohol, drugs (illicit or prescribed) or a combination of both and likely to cause harm to themselves, harm to another person or are incapable of protecting themselves from physical harm. It is an alternative to being taken into custody and referral is directly from police.<sup>306</sup>

#### **Prisoner Legal Service (Tasmania)**

The Prisoner Legal Service (PLS) advocates for prisoners and their families since 2011, emerging from its advocacy predecessor, Prison Action and Reform. It assists prisoners, and ex-prisoners, in relation to parole, community corrections orders, prison discipline issues, and prisoner welfare. The PLS has just commenced running a ground-breaking Preventive Lawyering Program designed to provide prisoners who are to be released within 3 to 6 months, with a legal health check. This program is designed to reduce stress and recidivism on release. The PLS is an incorporated association with deductible gift recipients (DGR) status and receives funding from the Tasmanian Government, the Solicitors Guarantee Fund and private donations. It assists people in prison and people who have experienced prison in relation to parole, community corrections orders, prison discipline issues, and prisoner welfare. The PLS has just commenced running a ground-breaking Preventive Lawyering Program designed to provide a legal health check to people who are to be released within 3 to 6 months. This program is designed to reduce stress and recidivism on release.<sup>307</sup>

#### **Court Mandated Diversion Program (Tasmania)**

The Court Mandated Diversion (CMD) program aims to disrupt the relationship between drug dependency and crime. It provides access to drug, alcohol, or other welfare services. CMD helps people to deal with their drug use and break their contact cycle with the criminal justice system.<sup>308</sup> The DMD program is fully funded by the Department of Justice through Community Corrections. Currently, the program is capped at 120 participants state-wide.

### **The Diversion List (Tasmania)**

The Court Mandated Diversion (CMD) program aims to disrupt the relationship between drug dependency and crime. It provides access to drug, alcohol, or other welfare services. CMD helps people to deal with their drug use and break their contact cycle with the criminal justice system.<sup>309</sup> The DMD program is fully funded by the Department of Justice through Community Corrections. Currently, the program is capped at 120 participants state-wide.

## Children at risk of justice system contact

### **54 Reasons – Supporting young people on bail and after detention (Tasmania)**

Supporting Young People on Bail is a voluntary program that works with young people 12–18 years who are on bail awaiting sentencing. A bail support plan is developed outlining the young person's recreational, educational and vocational/employment goals. Youth workers provide support to young people to achieve their goals during their bail period and beyond.<sup>310</sup> REBOOT aims to divert young people from the youth justice system and engage them in education and work including following release from detention. This is achieved via increasing support networks and providing one-to-one sustainable skill building.<sup>311</sup>

### **Launceston PCYC – Youth development (Tasmania)**

Launceston Police and Community Youth Club (PCYC) is a partnership between police and community to provide early intervention for young people who are at risk of entering or re-entering the youth justice system, along with other disadvantaged young people (including those who are at risk of poor health outcomes) who are facing barriers to engagement in recreational fitness. The programs are designed to be 'early intervention' and include elements of adventure therapy, sport and recreation, and aim to build self-confidence and resilience.<sup>312</sup>

### **JCP Youth (Tasmania)**

John 'Cobbler' Pounds (JCP) Youth works with at-risk and vulnerable young people with the aim to divert them from the criminal justice system. The organisation is primarily self-funded. It delivers youth leadership seminars in schools, leadership camps and community engagement. JCP Youth are committed to creating future leaders for their communities.<sup>313</sup> In a recent development, the organisation was granted funding from the state government of \$73,240<sup>314</sup> and since then, it has secured an additional \$10,000 from the Tasmanian Community Fund. This funding will be used to increase the capacity of the program and reduce the waiting list. JCP Youth is currently working with about 80 at-risk young people.<sup>315</sup>

### **Project Detour – Youth, Family and Community Connections (Tasmania)**

Project Detour works with young people (aged between 16 and 24 years) who identify as being impacted by crime and/or anti-social behaviours and may be at risk of becoming entrenched in the criminal justice system. Full-time project workers work intensively with participants for 6 to 12 months to address health and wellbeing issues, build relationships and social connections, and participate in soft employment skills training. The project aims to support participants to become engaged in youth tailored training, education and employment, as well as to provide coaching to improve psychosocial outcomes. Project Detour is a two-year project funded by the Australian Government through the Safer Communities Fund.<sup>316</sup>

### **Youthbeat Tas – Mission Australia (Tasmania)**

YouthBeat uses a mobile service delivery mechanism to meet young people 'where they are' in non-formal settings. It offers a wide range of services and support, including identifying and addressing anti-social behaviour, drug and alcohol misuse, referral and intervention for young people in crisis and assistance with accessing additional services and social support networks. YouthBeat fosters strong relationships with police, community groups and local support services. The service is funded by Mission Australia and available across southern Tasmania.<sup>317</sup>

### **Targeted Youth Support Service – Mission Australia and Baptcare (Tasmania)**

The service supports children and young people aged 10–18 in Hobart who are facing multiple challenges and are at risk of entering or re-entering statutory services such as youth justice or child safety, or homelessness. The service provides holistic intensive case management support to stabilise the young person's situation and avoid further escalation of their circumstances. The service also aims to re-engage young people in education, training, employment and housing.<sup>318</sup> A robust evaluation over five years found substantially improved outcomes for young people who engaged with the service, reducing future risk and cost to the community.<sup>319</sup>

### **Supported Youth Program – Anglicare Tas (Tasmania)**

The program supports children and young people between the ages of 10 and 18 in the north and north-west of Tasmania who have been identified by community or welfare professionals as having significant and/or multiple risk issues such as: youth justice or child protection intervention, drug and alcohol misuse, an unstable home environment or disengagement from school. The program can provide support, counselling, and mediation with family as well as education, training and community connection. The Supported Youth Program is funded by the Department of Communities Tasmania.<sup>320</sup> Anglicare has noted that the demand for the program is more than what they are able to provide.<sup>321</sup>

### **Multiple Programs – The Link Youth Service (Tasmania)**

The Link provides free and confidential health and wellbeing services for young people aged 12–25 in Hobart including (but not limited to):

- Needle Syringe Program
- Alcohol and Other Drug Services
- Illicit Drug Diversion Initiative (IDDI) (assessment, brief intervention and treatment to young people diverted under the IDDI Police Diversion Program to address illicit drug use behaviours)

The Link can also offer information and support to families, parents, and carers.<sup>322</sup>

### **Malana Youth at Risk Centre – Youth, family community connections (Tasmania)**

The Malana Youth at Risk Centre is managed by Youth, Family & Community Connections (YFCC). It is a specialist homeless service based in Launceston that provides temporary accommodation and support for unaccompanied children and young people aged between 12 and 15.<sup>323</sup>

## First Nations-led Organisations

### **Tasmanian Aboriginal Centre (Tasmania)**

The Tasmanian Aboriginal Centre (TAC) was established 50 years ago to address the injustices experienced by Aboriginal people in Tasmania and continues to deliver a range of advocacy, programs, services and community development activities. Services provided include health and wellbeing, community and cultural connection and legal support services. TAC works at the intersection of the justice system and a range of the social drivers of incarceration including issues that contribute to increased likelihood of individuals coming into contact with the justice system. This includes housing, poverty, low literacy and barriers to education, lack of employment, drug and alcohol issues, experience of abuse and neglect, intergenerational trauma, domestic and family violence issues, and a range of ongoing systemic discrimination issues.<sup>324</sup>

### **Tasmanian Aboriginal Legal Service (Tasmania)**

The Tasmanian Aboriginal Legal Service (TALS) provides culturally safe, holistic, and appropriate services that are inclusive and open to all Aboriginal Tasmanians. TALS also advocates for law reform and for justice, equality, and human rights for all Aboriginal and Torres Strait Islander peoples in Tasmania. TALS is working to halve Aboriginal Tasmanians' rate of negative contact with the justice system in a decade.<sup>325</sup> In a recent media release, TALS made the following recommendations: The Tasmanian Government should increase investment in evidence-based prevention and early intervention services, such as housing and mental health support services, to prevent offending and reoffending; The Tasmanian Government should provide long-term and stable funding to Aboriginal Community Controlled Organisations (ACCOs) to deliver pre- and post-release programs, including transitional housing programs run by ACCOs to support youth, men and Aboriginal women leaving prison; and The Tasmanian Government must work with Aboriginal organisations to develop and provide culturally appropriate transitional housing and support for Aboriginal people exiting prison.<sup>326</sup>



### **Tasmanian Regional Aboriginal Communities Alliance (TRACA) (Tasmania)**

The Tasmanian Regional Aboriginal Communities Alliance (TRACA) is an alliance of Aboriginal community-controlled organisations with different backgrounds and interests that advocates on a range of issues. There are currently seven members including:<sup>327</sup>

- Flinders Island Aboriginal Association Inc on Flinders Island
- Melythina tiakana warrana Aboriginal Corporation in the north-east
- Parrdarrama Pungenna Aboriginal Corporation in the east coast and Tasman Peninsula
- Six Rivers Aboriginal Corporation in the central and northern coast
- South East Tasmania Aboriginal Corporation in the south-east
- Weetapoon Aboriginal Corporation on Bruny Island

### **Justice and Safety Programs and Services – Circular Head Aboriginal Corporation (Tasmania)**

The Circular Head Aboriginal Corporation represents the nine tribes of the north-west region. The programs delivered as part of their Justice and Safety stream include the following: The Alcohol and Other Drugs Program is designed to deliver education, referral pathways and advocacy among the community.

- The Prisoner Rehabilitation & Post Release Support Program supports Aboriginal and Torres Strait Islander people exiting the prison system with person-centred pathways. These pathways include: strengthening social and emotional wellbeing, support with employment and housing, referrals to Tasmanian Aboriginal Legal Service, legal aid, connection to community, mentoring and more.
- The Youth Prevention and Diversion Program provides case management, mentoring and referrals to other service providers for Indigenous Youth (aged 12 to 24) at risk of offending or entering the criminal justice system.<sup>328</sup>

### **The Rullanih Teggana Project – South-East Tasmania Aboriginal Corporation (SETAC) (Tasmania)**

Rullanih Teggana is Melukerdee for 'Strong Heart'. The program is available in south-east Tasmania and offers: Wholistic Wellbeing Service for those affected by their own drug or alcohol use, supported by workers from SETAC, Holyoake, Anglicare, and Cygnet Family Practice. Support for those affected by other's drug or alcohol use, including parents, children, partners, and carers. Strong Hearts for Recovery project collecting stories of Recovery from local Aboriginal people.<sup>329</sup>

## Advocacy and Peak Organisations

### **JusTas (Tasmania)**

JusTas,<sup>330</sup> established in 2015, is a voluntary organisation which brings together stakeholders working at the intersection of justice and social service delivery. It has over 95 members (both government and non-government). JusTas has held regular forums providing government and non-government stakeholders an opportunity to discuss issues such as post-release support and accommodation for people leaving prison. It was particularly active pre-COVID-19 and is currently regrouping to become more active in this space again. JusTas is entirely voluntary.

### **Just Desserts (Tasmania)**

Just Desserts<sup>331</sup> was formed in 2018 to assist and complement the work of the Court Mandated Drug (CMD) treatment program of the Magistrates' Court. It is not part of the formal system of criminal justice and courts in Tasmania and is not involved in the 'penalties' side of the drug use equation. Instead, the group is oriented toward positive outcomes for CMD clients and positive interactions between participants and the rest of the Tasmanian community now and into the future. Just Desserts is entirely voluntary but conducts some small-scale fund-raising activities.

### **TasCOSS (Tasmania)**

The Tasmanian Council of Social Service (TasCOSS) is the peak body for the community services industry in Tasmania. TASCOS aims to challenge and change the systems, behaviours and attitudes that create poverty, inequality, and exclusion, and to ensure all Tasmanians have the same opportunity to live a good life. In their recent submission to the Legislative Inquiry into adult imprisonment and youth detention matters, TasCOSS recommends a range of reforms to increase the number of youth justice matters being dealt with by way of diversion including the following:

- Increasing pre-charge diversionary measures and reducing the rates of arrest of young people including changes to police decision-making processes, such as the model used in New Zealand, where police engage in consultation with a child's family and/or other supports before deciding whether to formally charge a child (which has resulted in significantly lower numbers of charges being laid against children).
- The development of specific caution and charging protocols for children in out-of-home care, to address the high rates of criminalisation of these children and ensure they are being offered opportunities for community-based rehabilitation.
- Removal of prohibited offences for pre-court diversion from the Youth Justice Act 1997 (Tas).
- Measures to promote non-prosecutorial options within Tasmania Police and the development of specialist policing divisions or units to better support young people, such as the New Zealand Police Youth Aid section
- Additional legislative provisions to allow for review of early decisions (such as whether an informal or formal caution may have been appropriate) without the approval of the prosecutor or charging officer, to give magistrates and judges greater opportunities to proactively intervene in cases where they deem it appropriate for diversion to be offered.
- Increased diversionary programs (ideally offered by community organisations);
- Greater support for young people who may struggle to meet attendance requirements or comply with programs<sup>332</sup>

**Community Legal Centres (Tasmania)**

Community Legal Centres (CLS) Tas is the peak body representing the interests of nine community legal centres located throughout Tasmania. They are a member-based, independent, not-for-profit, and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination, and protecting and promoting human rights. The CLC in their joint submission to the Legislative Council Inquiry into adult imprisonment and youth detention matters, makes the following recommendations:

- That the Tasmanian Government commit to a policy of no exits from prison into homelessness
- That alcohol and other drug treatment including therapeutic communities is available for all those with problematic drug use.
- That exit planning is provided by case managers and is available to all persons exiting prison including persons on remand and, that appropriate support is provided to persons applying for parole, to improve the chances of parole being granted.<sup>333</sup>

## Defunded: Tasmanian Projects that made a difference historically

### **Post Release Options Project (Bethlehem House) (Tasmania)**

This project operated between 2008 and 2011 and was focused on the provision of intensive support to people at high risk of reoffending. During the period of this project 82 people participated on the program and only 8 re-offended.<sup>334</sup>

### **Parolee Transitional Accommodation Project (Bethlehem House) (Tasmania)**

The Parolee Transitional Accommodation Project (PTAP) also adopted an intensive case-management model and operated out of Bethlehem house over two years. Evaluation of this program found that of the 35 persons released on parole into the care of PTAP by the TPS and Parole Board over the life of the project to date, only one reoffended and was sent back into custodial care. This is a significant decrease from the 26% published parolee recidivism rate.<sup>335</sup>

### **Re-integration for Ex-Offenders Program (Salvation Army) (Tasmania)**

This successful program lost its funding in 2015. An independent evaluation reported that the success rate of the program was 93.5%, equating to a recidivism rate of 6.5% compared to recidivism rates of the general prison population in Tasmania of about 51%.<sup>336</sup> There was overwhelming support for the program and its continuation, with clients reporting high levels of satisfaction and advocating for its expansion through Tasmania.<sup>337</sup>

## PART 4

# CONCLUSION AND RECOMMENDATIONS

Too many people are unnecessarily trapped in a cycle of incarceration and disadvantage. Too many children and adults are 'managed' in justice system settings, rather than receiving the necessary support in the community. Investment by the Tasmanian Government in evidence-based programs and services run by the community sector (including critically, by First Nations-led community organisations) that address the social drivers of incarceration and youth and criminal justice system contact, would lead to a significant reduction in recidivism and criminal justice system involvement. This shift in approach will also result in significant cost-savings and substantial improvements in health and well-being. Existing community-led justice programs in Tasmania are achieving strong outcomes. Their approaches are based on evidence-informed practice and models of success in other jurisdictions. However, some of the most successful interventions are under-resourced. There is the need for a comprehensive state-wide commitment to drive sustainable and impactful, evidence-based community-led justice solutions.

The Justice Reform Initiative proposes the establishment of a Breaking the Cycle Fund to respond to the current absence of funding targeting those at risk of justice system involvement.

- The Tasmanian Government should commit to funding a Breaking the Cycle Fund with initial funding commitment of \$270 million over four years. This figure is based on the proposed cost of a new prison, and preliminary costings of what would be required in Tasmania to boost existing community sector organisations so that they are able to meet the demand for their services, as well as costing the capacity-

building requirements of new services and supports. This funding should be scaled up from year one. The Fund will support evidence-based, community-led programs that will break the cycle of incarceration and recidivism, such as those identified in this report.

- At least 30% of all funds should be dedicated to First Nations-led organisations in recognition of the challenges and overrepresentation of First Nations people in the justice system. This is in line with the aspirations of the state's Closing the Gap Implementation Plan.<sup>338 339</sup> We recommend that the Breaking the Cycle Fund allocations be focused on the critical touch points of the justice system for both adults and children. This includes diversionary programs (at all justice contact points prior to incarceration) and post-release support for both adults and children leaving custody. There is significant evidence focused on the positive impact of post-release support in terms of reducing recidivism and saving costs.
- Breaking the cycle of justice system involvement is a whole-of-government responsibility and delivers whole-of-government outcomes including in health, housing, and economic engagement. It is recommended that the Breaking the Cycle Fund be administered in the Department of Premier and Cabinet.
- We note, that in addition to the Breaking the Cycle Fund, there is also a need for substantial regional expenditure in areas such as alcohol and other drug rehabilitation

centres and mental health support. While the Fund is intended to enhance the capacity of services to better meet the needs of people at risk of justice system involvement (including people leaving prison), the substantial focus of the Fund is on the provision of outreach support and casework in the community.

- The Breaking the Cycle Fund should support a diverse suite of community-led organisations and groups to deliver programs and support that are based on the evidence-based principles in service delivery (noted in Appendix A). This includes the provision of long-term, relational, flexible, holistic, intensive outreach case-work support.
- Within those principles, the Breaking the Cycle Fund should allow flexibility and the capacity to ensure that programs and projects for people at risk of justice system involvement are genuinely responsive to the specific geographic and demographic needs of the populations for whom they are intended. This includes Aboriginal and Torres Strait Islander-led programs that focus on outcomes for Aboriginal and Torres Strait Islander populations. It also means ensuring that programs for children and young people are developmentally and culturally meaningful.
- It is anticipated that experienced organisations may expand their operations, but also provide support and guidance to other organisations who are less experienced in the delivery of specific 'breaking the cycle' services. This mentoring and capacity building work should be resourced from the Fund.
- We recommend that alongside the funding of programs, supports, and services, the Breaking the Cycle Fund should also fund

independent and transparent evaluation capability so that outcomes and impact are able to be measured.

There is no single 'reform fix' to reduce prison numbers in Tasmania. There are multiple proven, cost-effective alternatives that can both effectively reduce incarceration and improve community-level outcomes. Prison does not work to deter, to rehabilitate, or to make communities safer. We need recognition that our over-reliance on prison for both adults and children has been a policy failure in Tasmania, and a commitment to significant investment in community-led alternatives.

There are several promising programs being delivered in Tasmania, but piecemeal resourcing and service silos are preventing these best-practice approaches from having a wide impact and reach in Tasmania. Both mainstream and specialist services must be accessible and fit-for-purpose in terms of providing effective support to individuals in contact with the justice system. They must be based on the community-led and holistic approaches that we know will work to reduce contact with the system and break the cycle.

Community-led services and place-based responses should be funded in ways that genuinely build sustainable long-term service delivery capacity. This includes the capacity to adequately pay staff and develop a professionalised workforce. Short-term and pilot projects, and inadequate funding for staff, alongside overly onerous reporting requirements, can make the core business of quality service delivery, together with staff retention, more difficult than it needs to be. A Breaking the Cycle Fund for Tasmania will be able to provide a funding environment where community-led approaches can sustainably thrive. Limited resourcing for evaluation makes measurement of success extraordinarily difficult. The lack of transparency in terms of program evaluations in Tasmania compounds this issue, with very little publicly available evaluation data limiting knowledge-sharing between providers and across sectors on what works.

Services also need to be resourced to improve their capacity to be accessible and available to all people at every point in the justice system. Too often, people are not able to access services because there are explicit and implicit exclusion criteria. For instance, many people on remand cannot access services in prison. Programs and services are often not available for people in both remote and regional areas. Additionally, many people are excluded from services because they have multiple and co-existing support needs: for instance, alcohol and other drug dependence and a mental health condition. Services and programs are frequently not supported or resourced to provide the long-term, intensive, holistic, wrap-around support that the research makes clear is extraordinarily effective at reducing justice system involvement.

Multiple specialist services are needed throughout Tasmania that can cross geographic boundaries, given that many people incarcerated in the state's prisons are not imprisoned anywhere near their intended place of residence in the community. Services must be able to incorporate the critical element of pre-release engagement and in-reach into the correctional centres. Workers must be able to visit clients and begin the process of engagement prior to release to sustain connection during the often-chaotic post-release period.

Tasmania has the opportunity to mobilise a state-wide best-practice approach to investment in community-led service-delivery that can get people out of prison and living productively in the community. Tasmania already has innovative and impactful place-based and community-led

initiatives achieving solid outcomes with minimal resourcing. There is an opportunity to build on what works in the state to drive long-term and sustainable change.

Investing in evidence-based services instead of incarceration will break entrenched cycles of engagement with the criminal justice system and recidivism. In addition to creating substantial cost-savings to government, this approach will have enormous benefits for populations who have too often been 'managed' in justice systems, rather than being supported in the community.

'Tough on crime' rhetoric does not make the community safer, nor does our current over-use of imprisonment. If we genuinely want to build a safer, more cohesive community, we need to invest in community-led programs that address the drivers of crime and incarceration.

We need programs that provide opportunities for people that are trapped in the cycle of incarceration to rebuild their lives in the community. We need to embrace a criminal justice model that genuinely relegates prisons to a position of last resort, and instead centres community-led interventions that really work to break cycles of disadvantage, reduce reoffending, and build safer communities.

## APPENDIX A: **GOOD PRACTICE PRINCIPLES IN SERVICE DELIVERY: HOW TO BUILD A SERVICE THAT WORKS TO REDUCE RECIDIVISM**

The successful programs around Australia that have been evaluated and noted above share a remarkably consistent service delivery model. It should be noted that there are multiple other small-scale programs using similar principles around Australia, which are reporting anecdotally similar successes but have not yet undertaken evaluation.

The principles underpinning successful services have been noted across multiple academic research reports into 'what works'<sup>340</sup> as well as in these evaluations. The collective findings acknowledge the importance of responding to the social drivers of over-incarceration, working holistically with people leaving prison, ensuring a flexible and person-centred approach to service delivery, and working with people long-term to address the significant challenges in 'staying out' of prison. The research recognises the centrality of relational casework, the importance of housing, and the necessity of long-term support.

Models that work are very much about 'meeting people where they are at' and recognising the enormous challenges faced by people at risk of or already in contact with the justice system, including people leaving prison. Programs that work do not require people at risk of justice system involvement to fit into models that are appointment-based, require abstinence, or have limited flexibility. The successful programs recognise the referral fatigue experienced by so many people and recognise the importance of non-siloed service provision; that is, services that are able to work with people around a range of factors (housing, mental health, drug, and alcohol use etc.).

The programs and principles for good practice (long term, holistic, housing first, wrap-around, culturally

safe, person centred, flexible) differ significantly in scope and approach to the 'Risk, Needs, Responsivity models' that many Corrections departments around Australia have committed to for the last decade. This distinction is important when designing community-led programs.

Criminogenic approaches are primarily focused on addressing individual offending behaviour (for instance things like anger management and impulsivity) rather than addressing the social drivers of incarceration. The programs that have had success in reducing recidivism, note the importance of looking outside of 'offending behaviour' when working with people at risk of justice system involvement. Successful programs work with people holistically around a multitude of factors, including housing, alcohol and other drug treatment, employment, mental health and disability, and cultural and community connection alongside the formulation of a sense of identity and belonging outside of the justice system.

Too many people at risk of re-incarceration are not able to access the kinds of support that they require at the time that they most need it. This is especially critical for people at the point of release from prison, and for people who are keen to participate in diversionary options at the point of court. There is significant research noting that for many people who are 'caught' in the cycle of justice system involvement, it is in fact much easier to return to prison than it is to survive in the community. There are multiple reasons for this. Most people leave prison with no meaningful community-based supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although, as noted above, there are some highly effective specialist services that work to support



people with connecting to community, they are chronically under-resourced.

In addition to specialist services, there are of course mainstream welfare, homelessness and other support services that should theoretically be available for people leaving prison. However, there are multiple barriers to accessing mainstream welfare services for people leaving prison. There are many reasons for this, including a lack of specialist knowledge, a lack of resources, and a lack of structural capacity for already stretched organisations to take on the complexity and time resources of working with incarcerated populations. Most mainstream welfare services cannot do 'in-reach' into prisons. Some services will not take people straight from prison. Some services will not take people with a criminal record, and many will not take people who have any history of violence.

In addition, multiplicity and complexity of need means many people from prison are excluded from support. For instance, there are barriers accessing mental health services if there are ongoing alcohol and/or other drug problem. There are almost no residential services that will take people who are using alcohol and/or other drugs, and for many the group and literacy requirements of many rehabilitation services means that they are very challenging to access. For Aboriginal and Torres Strait Islander people, the absence of Aboriginal and Torres Strait Islander-led culturally safe services acts as another barrier to accessing the necessary support.

There is a need for multiple specialist services throughout Australia that can cross geographic boundaries, recognising the fact that many people incarcerated are not incarcerated anywhere near their intended place of residence in the community. There is a need for services that are resourced and able to incorporate the critical element of pre-release engagement and in-reach into the correctional centres. There is the need for support services and workers to physically be where the client is at (including police stations, courts, and

prisons). There is a need for services that are long-term – building sustainable pathways outside of the criminal justice system takes time, particularly for people who have survived trauma and have spent their lives being managed in such settings. Services must have the capacity to be intensive, and primarily outreach. This often means picking someone up from prison on the day of release and working intensively over the first high-risk three months, and then slowly and flexibly tapering support down over 12 months or more (while ensuring the person receives support for as long as they require it). Services must also have housing front and centre of their service delivery design.

Principles for good practice are noted below. Please note these principles have been published (by the author of this report) in a number of previous publications.<sup>341</sup>

## **Reintegration framed outside of the lens of rehabilitation**

There is a need to create and facilitate pathways for people leaving prison that focus on addressing systemic barriers to reintegration and creating a strong sense of identity outside of the justice system. This means explicitly addressing barriers to reintegration including discrimination, poverty, and homelessness. For Aboriginal and Torres Strait Islander populations, identity is often related to culture, family, and community. 'Non-prison' identities might also be accessed in the form of employment, volunteering, and educational opportunities. The critical point here is that reintegration should not just be framed in terms of addressing offending, but rather about building a life outside of the prison environment.<sup>342</sup> Service delivery must include a significant advocacy component that addresses structural barriers for individuals (such as access to housing, employment, education, health and social security benefits), and advocates systemically for change when it is required (for instance, in the case of discriminatory employment practices). Systemic advocacy sees

workers walking alongside people leaving custody and challenging the multiple forms of perpetual punishment experienced by people with criminal records and those who have experienced imprisonment.<sup>343</sup>

## **Pre-release engagement for people in custody**

Meeting and working with people prior to release, where possible, is extraordinarily useful when it comes to building the engagement necessary to sustain the casework relationship, building trust between the person in prison and the community organisation on the outside, and practically planning for re-entry into the community with complex needs populations.<sup>344</sup>

## **Holistic, relational, intensive and long term casework models**

People should not be excluded from services on the basis of complexity, criminal records or past offending behaviour. That is, services should be resourced to work with people with multiple and complex support needs. People with long histories of trauma, combined with the 'referral fatigue' often experienced by this group, require long-term support to build engagement and trust. Long-term support also allows people the opportunity to develop the skills required to navigate frequently hostile or unwieldy service systems. Services that can work with people around their various support needs, rather than simply referring on, are also critical in terms of building engagement, trust and providing meaningful support. Although there is the need for specialist services (for instance, specialist mental health support), the role of the case worker is to genuinely support this engagement (not just make a referral). This might mean, for example, assisting people with getting to appointments (at least initially), and where appropriate attending

appointments to support the development of the connection.<sup>345</sup>

## **Community-based and community-led outreach**

Services that work with people with histories of involvement in the criminal justice system need to operate outside of the criminal justice system and within the communities in which people are living. Services should be outreach in focus: that is, workers should travel to where clients are 'at' rather than relying on appointment-based systems (at least initially).<sup>346</sup>

## **First Nations-led**

For First Nations children, the most effective early intervention responses are those that are culturally responsive, designed and delivered by local First Nations communities and organisations, and which foster a genuine sense of community ownership and accountability.<sup>347</sup> Many First Nations People have intergenerational and/or personal experience of mainstream services working against them.<sup>348</sup> Engaging with First Nations communities ensures programs are more effectively targeted to local priorities and needs, and are aligned with local systems and circumstances.<sup>349</sup> Community involvement and local decision-making should occur at each stage of the process, including at the feedback stage to ensure that the feedback methods used align with First Nations communication and knowledge.

## **Centring Housing**

Support must be practical: people need somewhere safe and secure to live. Regardless of the 'focus' of the service provider, the majority of people leaving prison, or at risk of justice system involvement, require assistance with housing, and this should not be something that is 'referred out'. People require a solid base from which they can make the changes required to stay out of prison.<sup>350</sup>

## **Genuine collaboration with people with lived experience of incarceration at all levels of program delivery**

The expertise of people who have themselves been to prison is critical in both the design and delivery of community-based reintegration services.<sup>351</sup> People that have lived expertise and are working in areas of post-release and diversion, are often highly valued by people who are seeking support. The shared experience of imprisonment often enables a fast-track to engagement, as well as at times a form of peer role-modelling. For people leaving prison, for instance, being able to connect with someone who has been through a comparable experience is extremely powerful. In addition, people with lived experience often have a highly sophisticated and nuanced understanding of the way the justice system operates that is enormously important both in terms of case-work but also in terms of building organisational expertise and capacity.

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The Justice Reform Initiative is an alliance of people who share long-standing professional experience, lived experience and/or expert knowledge of the justice system, who are further supported by a movement of Australians of good-will from across the country who all believe jailing is failing, and that there is an urgent need to reduce the number of people in Australian prisons.

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The Initiative respectfully acknowledges and supports the current and longstanding efforts of Aboriginal and Torres Strait Islander people to reduce the numbers of Indigenous people incarcerated in Australia and, importantly, the leadership role which Indigenous-led organisations continue to play on this issue. We also acknowledge the work of many other individuals and organisations seeking change, such as those focused on the rate of imprisonment for women, people with mental health issues, people with disability and others.

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