

17th March, 2023

The Secretary,
Legislative Council Sessional Committee Government Administration B,
Parliament of Tasmania,
Parliament House,
HOBART, Tasmania 7000

Re: Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters

Dear Committee Members,

Having been engaged in the working group design and construction of *'Breaking the Cycle' Tasmania Corrections Plan 2010-2020* while representing The Salvation Army at the time, I retained interest in outcomes of rehabilitative or restorative initiatives in justice and corrections across our state. Now a retiree, this interest has been further heightened with ongoing engagement as a foundation member of JusTas.

The submission attached for your consideration is offered by me as an individual, though some case study material and other commentary will parallel a June 2021 JusTas submission *'Scaling up Justice'* intended to inform the Department of Justice development of a new corrections strategy. My notes avoid duplicating the well-known primary economic burdens imposed by a very cost-ineffective prison system mentioned therein and elsewhere and indicate the significant economic benefits inherent in a restorative approach.

While not offering any sort of soft landing for those who break our laws or condoning wrongdoing in any way, better outcomes can be made from justice delivery. The 'justice' culture we live in today is very much 'old school'. It does not reflect the values of human rights or societal balance. The focus on punishment costs us all dearly in many ways; economically, emotionally and socially. 'Justice' can be defined as 'fairness, impartiality, righteousness, reasonableness, honesty, integrity, uprightness, rightness or justness' (google). Justice can be and should be a reflection of community wishes for these things; a mix of acknowledgement, recompense for victims with fair punishment (and fair rewards). Social justice, equity and inclusion are inherent.

Establishment of a restorative style of justice delivery can, alternatively build community confidence and certainly, build capacity both through skills development and capital cost savings. The social capital generated from a model of this nature has significant potential to modify offending behavior, building on strengths and creating advantage rather than concentrating on deficits.

Yours sincerely,

Grant Herring



I acknowledge the ancient and enduring owners of the lands and waters about us and offer respect to the custodians of their ongoing living culture.

Tasmanian Imprisonment and Youth Detention

Legislative Council Inquiry:

Notes supporting positive change in relation to the Committee *Terms of Reference #5*.

History

In 1912, Winston Churchill said; *“The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country.”*

History shows that locking people up is not a great measure of civilisation or humanity.

The Anglo-saxon colonial corrections system we have perpetuated since European settlement of this country makes our corrections systems purveyors of punishment, when it is *recovery* which should be the objective. Recovery for perpetrators certainly, but recovery for victims and others effected can be delivered by an effective justice and corrections system.

A focus on recovery does not imply a ‘soft on crime’ approach in the slightest. It does however, clearly indicate that ‘make the punishment fit the crime’ is fairer for all and can clearly benefit whole communities.

Should **‘Breaking the Cycle’ Tasmania Corrections Plan 2010-2020** have been delivered as was intended by its designers, the Ministers from across all Government flag colours; Lisa Singh, Nick McKim and the visionary Vanessa Goodwin, the economic, social and emotional burdens to our community of imprisonment would be much reduced. It would have been a stronger foundation from which to make the policy and operational changes supported by national, international and local research.

Common sense also tells us all that employment, housing and health are keys to a safer, well-balanced community.

Punishment alone has never resolved crime. Not now; not ever.

Throughout Tasmania’s history, if health and wellbeing for perpetrators of crime had been the focus rather than their punishment, our community would be undoubtedly more prosperous in many ways. Equally, for most victims of crime, concentration on their wellbeing rather than perpetrator retribution could have achieved much more. Communities are not safer just because Governments get ‘tough on crime.’

Today, Tasmania has nothing to lose by making that shift in thought and action. To be a leader in delivery of corrections services through reinvesting in real justice delivery; through provision of restorative practices, is achievable.

We have not yet shown that we have learned the lessons of history.

The ultimate objective

“The ultimate objective must surely be reintegration within one’s community as a healthy, contributing member of a healthy, cohesive community.

What is needed is an integrated system of support that brings together employment, housing, disability services, drug and alcohol treatment, mental and general health care, education, vocational training, and generic social services in a unified effort to support the lifestyle change that is necessary for desistance (from crime) and successful reintegration.

This really is a ‘whole of government’ issue, not only a Corrections or Criminal Justice issue.”

Prof Joe Graffam:

Pro Vice Chancellor (Research and Development) Deakin University, at ‘Reintegration Puzzle’ 2017 International Conference

This Legislative Council review presents a significant opportunity to reshape the Tasmanian corrections landscape using contemporary, evidence-based methodologies in order that we may improve community safety and build social capital.

This is much more likely to earn the social licence of our community than would the building of a new prison. The ‘not in my backyard’ resistance the Westbury prison locations proposals have faced, supports the belief that a different and more productive approach is necessary.

There is no common sense at all in incarceration or detention for minor crimes. The social and emotional costs are enormous for the families of convicted persons and the economic burden on the whole of community is well known.

Should corrections and youth detention practices be refreshed and revitalised with a restorative justice focus; given opportunity to work for now and in the future, there would without doubt be strong returns on government and community investment through reduced crime rates and lower recidivism while making our homes and businesses safer.

Delivering justice with the real value of international experience, local knowledge and the will to deliver reform using the huge amount of relevant and validated research, takes us from the penal practices of the colonial era to a local justice system which can provide huge social, emotional and economic benefits across our community.

It is acknowledged that the Department of Justice strategic plan for 2022-2027 is in place. The success markers indicated for each of the plan’s goals would be successfully and sustainably achieved with sincere philosophical and economic investment in restorative practices.

Let us look forward to strategy, policy and budget development that reflects these objectives.

A **Reintegration Guarantee** is a process that joins corrective services to the community and shares the State responsibility with local government, external service providers, non-government agencies and community members.

A reintegration guarantee creates a path from prison into community where critical re-entry inclusions; employment, health, housing and person-specific needs are addressed holistically in order to facilitate effective assimilation back into our society. This is a juxtaposition of the judicial sentence and responsibility of the corrective services in the community and the welfare and civic responsibility of the community in the prison.

The results of an effective reintegration guarantee are in a safer society with less crime. Ex-prisoners become taxpayers, carers, volunteers, employees and entrepreneurs integrating and contributing to their community as 'returning citizens'.

What is required is a set of social processes and partners to connect them back into their (and our) community, thus minimising risk and increasing social and bridging capital while reducing social exclusion and consequent reoffending.

A successful and sustained reintegration guarantee model is in the Norwegian justice system.

Justice Reinvestment

The *WA Youth Justice Think Tank* in 2013 strongly suggested a change of approach in order to get the investment right.

Justice reinvestment is an approach where some of the funding which would traditionally have been spent on prisons and incarceration is redirected to **community based initiatives which seek to address the underlying causes of crime**. Progressive implementation of this approach in youth justice reduces crime rates and makes our communities safer, while building capacity for desistance in young people.

"JR involves advancing 'fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer'. The key strategy is the quantification of savings and subsequent reinvestment in high-stakes neighbourhoods to which 'the majority of people released from prisons and jails return', by, for example, redeveloping 'abandoned housing and better coordinating such services as substance abuse and mental health treatment, job training, and education.'"

Brown, D., Schwartz, M., & Bosley, L. 2012, 'The Promise of Justice Reinvestment'

Justice reinvestment can and should comprise 'place based' initiatives. Disadvantaged communities identified as contributing disproportionately to rates of criminal behaviour can in this model be effectively allocated funding in order to target and reduce offending. Much evidence exists in this country around the concept, which can be applied to new local level initiatives. Tasmania is of an appropriate size to be considered a 'place' in the context described, allowing for subsets of communities within the State's population with high needs.

Justice reinvestment begins with data

Where is crime occurring? Research tells us that a large proportion of offenders come from a small number of disadvantaged communities. Justice reinvestment uses data to identify communities with a high concentration of offenders.

Why crime is occurring? The underlying causes of crime are varied and complex. Research demonstrates that individuals who come into contact with the criminal justice system are highly likely to experience multiple and severe social and economic disadvantage including poverty and inter-generational trauma. Justice reinvestment provides communities with the power and resources to support people tackling challenging circumstances through long-term measures tailored to local needs that address the underlying drivers of crime.

What data needs to be collected? Justice reinvestment maps entire communities where crime is occurring to understand the local cost of incarceration, how much money is being spent across sectors in service provision, and what outcomes are being achieved. Data is collected and assessed to identify the particular problems facing those communities.

Justice reinvestment is place based

Place-based initiatives involve all levels of government and the local community in genuine partnerships characterised by networks, collaboration, community engagement and flexibility. Local community partnerships devise, implement and evaluate justice reinvestment initiatives, supported by community engagement and participation mechanisms, and local community capacity is enhanced to identify and tackle their own challenges with sufficient time and resources being allocated over the long term.

In Australia, justice reinvestment to date is being driven at a grassroots level by local communities, and centralised governments are being challenged to better coordinate their responses to local community needs and priorities, and to take advantage of community strengths and capacity.

Justice reinvestment is supported by a centralised strategic body

An independent centralised bipartisan not-for-profit body is critical to the success of justice reinvestment. A centralised body with a clear mandate works across departments and monitors and quantifies social and economic outcomes of justice reinvestment initiatives. The centralised body also supports local governing structures by collecting data, assisting in strategy development and building community capacity.

Justice reinvestment is fiscally sound

Justice reinvestment initiatives must offer long-term cost efficiency. A fiscally sound approach quantifies the current costs at different stages in the criminal justice system, particularly incarceration costs but also the costs of human services that support the system. Cost benefit ratios and economic modelling is then conducted for alternative service and program models to ensure the lowest risk and highest benefit programs are identified. Community consultation builds trust and ensures the right programs are implemented. Spending is tracked and there is a commitment to long term funding. The fiscal framework incentivises communities to make a commitment to divert people from the criminal justice system and attract government reinvestment.

- Justice reinvestment is targeted to reducing offending and imprisonment
- Justice reinvestment is targeted to increasing community safety

Justice reinvestment diverts a portion of the funds which would be spent on incarceration to communities where there is a high concentration of young offenders. The money that would have been spent on custodial services is diverted into early intervention, crime prevention and diversionary programs that address the causes of crime in these communities, creating savings in the criminal justice system which can be tracked and reinvested appropriately. Justice reinvestment realigns taxpayers' dollars from incarceration to investment in community, benefiting entire populations, not just individuals.

Justice Reinvestment benefits

Just Reinvest NSW identifies ten areas of particular benefit, each of which would apply in Tasmania.

- Safer communities
- Increased cost effectiveness and benefits to the economy
- Reduced levels of crime (severity and occurrence)
- Reduced number of victims
- Reduced number of people in prison
- Reduced pattern of child prisoners progressing to become adult prisoners*
- Reduction in the negative impacts of imprisonment in the lives of young people, families and communities
- Strengthened community governing and decision making
- Increased community capacity to solve social challenges
- Increased focus on evidence-based practice

Building blocks

*Significantly, the identified ‘reduced pattern’ of young people progressing to become adult people with convictions is a reflection of positive action to resolve intergenerational crime. By addressing disadvantage, social dysfunction and antisocial behaviour in young people, communities become progressively safer for everyone. This is truly ‘getting smart on crime.’

The Salvation Army’s *Victorian Youth Justice Centres Inquiry* response noted that Justice Reinvestment has been recommended at the Federal Government level. The paper notes also: “The Salvation Army’s experience helping hundreds of thousands of Victorians across a wide range of areas strongly supports the value of these kinds of approaches towards building healthier and stronger communities.”

It is notable that the Tasmanian Commissioner for Children’s ‘Alternatives to Secure Detention in Tasmania’ report (2013) recommended a series of actions wherein a Justice Reinvestment Framework for youth justice involving “fiscally sound, data driven criminal justice policies operates to break the cycle of recidivism, avert prison expenditure and make communities safer.” The Commissioner also proposed investigating the feasibility of “introducing a transitional housing and support option for young people released from detention. This option would include support to identify and pursue educational, vocational and other goals to facilitate young people’s reintegration into the community.”

A genuine ‘whole of government’ approach to address the fundamental pathways to ‘jobs, homes and friends;’ the building blocks of engaged, connected and productive communities is necessary.

Victims of crime

When communities consider the effect of crime, almost without exception, the victim is at the centre of thinking, loading the justice system with huge responsibility to 'do something' about retribution. This is where Governments seem to focus. The 'tough on crime' thinking appears to be based at least as much upon a populist media view of public opinion as on a desire for safer communities.

By not considering more thoroughly the impacts of 'someone else's problem,' we incur significant social, emotional and economic debt. By not considering and applying early interventions where justice is threatened, we proliferate that debt.

Programs that appropriately address the causes of offending and also ensure that people who have committed crime are held accountable for their actions would and should give victims of crime assurance that restorative justice approaches address their concerns and losses.

For the most part, people offended against want restoration of harms done and sincere apology; to have perpetrators understand clearer the impacts of their behaviour, with genuine remorse. In a sentencing arrangement with this at front of mind, victims can better see a result of justice delivery, through restorative practice and 'giving back'. This is heaps 'tougher on crime' certainly than having someone doing nothing productive in prison; paid for with the victim's own tax dollars.

Restoring damage and resolving victim concerns; putting value back into community, is a great deal tougher for people with convictions than sitting in a closed environment at public expense. It is a great deal cheaper for taxpayers as well.

Efficiently managed sentencing alternatives to gaol time will significantly reduce the load on the prison, the public purse and the enormous social cost of imprisonment.

Often, in baying for the blood of an offender, we neglect the 'hidden sentence' that person's family suffers. The cost of relationship breakdown, children in out of home care, lost tenancies and more, are seldom considered as one of the costs of crime which we as a community ultimately bear.

Restorative justice practices support recovery of both offender and victim.

The best thing about restorative community-based justice delivery is that not only is 'damage or loss' restored (one way or another) but there is 'apology' inherent in restorative practice; an understanding built of the negative impact of each crime.

Victims too, with more community-based justice strategies can see clearly that punishment is administered with positive effect and the added bonus of much lower cost. Most victims would not want to pay additional premiums through taxes for the dubious privilege of locking up the individuals who stole their best silverware.

Invest in people

There is a need for our community to understand that when people go to prison, we all pay a price, be it our tax dollar share of about \$320 a day (and potentially ten times that for youth detention) for every inmate or social housing for families displaced by incarceration of a breadwinner, the health costs of their changed living requirements or loss of education opportunities for young people.

We complain loudly about the NBN; its lack of effectiveness and high cost to community, yet we are silent about prison costs. Nobel Prize winning economist Joseph Stiglitz has said: *“Economic investment in prisons is not only inhuman, but economic folly.”*

Locking people up as punishment for wrongdoing fails to address the causes. Without a philosophy of remedial and restorative justice, our prisons will always be filled to capacity, no matter how many more we build. Building our schools, hospitals and therapeutic facilities costs less and returns a dividend in better education and health. Good health, education, employment and sustainable housing keep our community safe.

Recommendation

Non-government service providers and community organisations should be empowered and appropriately resourced alongside **interconnected** government agencies to support the effective delivery of a reintegration guarantee.

While these notes are particularly intended to highlight the potential of such innovations and improvements sought in the Committee’s TOR #5, the impacts of a justice reinvestment in restorative practices are likely evident in at least, TOR#1, TOR #2, TOR#3 with other consequent impacts on TOR#4.

“Justice Reinvestment provides opportunities for communities to take back local control...to not only take some ownership of the problem but also to own the solutions.”

Mick Gooda

Former Aboriginal and Torres Strait Islander Social Justice Commissioner