
ALTERNATIVES TO INCARCERATION IN TASMANIA

The Justice Reform Initiative submission to the Inquiry into
Adult Imprisonment and Youth Detention Matters

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EXECUTIVE SUMMARY

Too many Tasmanians are trapped in a cycle of incarceration, repeatedly encountering a justice system that both fails to address the causes of crime and entrenches ongoing justice system involvement.

There is a need for expanded investment by the Tasmanian Government in 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 populations who are already involved in the justice system;
- successfully divert populations who are at risk of criminal justice system involvement;
- strengthen families and communities who too often are 'managed' in justice system settings rather than receiving the support, care and opportunities that would make a difference in the community; and
- result in significant cost-savings, and substantial improvements in health and well-being across the community.

In Tasmania, the total net operating expenditure on adult prisons is more than \$101,348 million¹ with a further \$16,158 million spent on children's incarceration.² The proposed new Northern Prison is estimated to cost more than \$270 million.³

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. 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 submission 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 at reducing cycles of incarceration, ineffective at 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're doing simply isn't working. We need to take

¹ Productivity Commission (2023). *Report on government services 2022*, table 8A.1. <https://www.pc.gov.au/research/ongoing/report-on-government-services/2022/justice/corrective-services>

² Productivity Commission (2023). *Report on government services 2023: Youth justice services*, table 17A.10

³ Tasmanian government (2022). *Corrections and Rehabilitation, budget estimates brief Tasmania prison service – performance*. https://www.justice.tas.gov.au/data/assets/pdf_file/0003/669630/Budget-Estimates-Briefings-2022.PDF

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 in this submission 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 this submission primarily draws on independent evaluations, many of which use matched administrative data as points of comparison, and some of which use time-series analysis to explore criminal justice trajectories over time. The research includes the following findings:

- Early intervention and prevention programs that reduce crime at a population level by between 5% and 31%,⁴ reduce offending amongst at risk populations by 50%,⁵ significantly improve other health and well-being outcomes in children’s lives,⁶ and result in significant cost savings include the cost savings of reduced criminal justice system contact over time.⁷

⁴ Toumborou, J., Rowland, B., Williams, J., & Smith, R. (2019). ‘Community intervention to prevent adolescent health behaviour problems: Evaluation of Communities That Care in Australia’. *Health Psychology*, 38(6), 536–544; Hawkins, J. D., Oesterle, S., Brown, E., Abbott, R., & Catalano, R. (2014). ‘Youth problem behaviours 8 years after implementing the Communities That Care Prevention System: A community-randomized trial’. *JAMA Paediatrics*, 168(2), 122-129; Rowland, B., Kelly, A. B., Mohebbi, M., Kremer, P., Abrahams, C., Abimanyi-Ochom, J., Carter, R., Williams, J., Smith R, Osborn, A., Hall, J., Hosseini, T., Renner, H., & Toumbourou, J. W. (2022). evaluation of Communities That Care-effects on municipal youth crime rates in Victoria, Australia: 2010-2019. *Prev Sci*, 23(1): 24-35.

⁵ Youth Partnership Project (2021). *Youth justice model: 2021 practice framework & evaluation summary*. https://www.youthpartnershipproject.org.au/files/ugd/d180ab_64766464fe62447c9d3c536354e18b4b.pdf

⁶ The Front Project (2019). *A smart investment for a smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*, p. 30. https://www.thefrontproject.org.au/images/downloads/ECO_ANALYSIS_Full_Report.pdf; Youth Advocate Programs Inc. (2020). *Evidence supporting YAP’s model*. <https://www.yapinc.org/Portals/0/Docs/YAP%20Evidence%20Base%20-%20booklet.pdf>; Toumborou et al. (2019). Hawkins et al. (2014).

⁷ NSW Government (2019). *Forecasting future outcomes: Stronger communities investment unit – 2018 insights report*. <https://apo.org.au/sites/default/files/resource-files/2019-07/apo-nid246396.pdf>; The Front Project (2019). *A smart investment for a smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*; Teager, W., Fox, S., & Stafford, N. (2019). *How Australia can invest early and return more: A new look at the \$15b cost and opportunity*. Early Intervention Foundation, The Front Project and CoLab at the Telethon Kids Institute, Australia, p. 5. <https://colab.telethonkids.org.au/siteassets/media-docs---colab/coli/how-australia-can-invest-in-children-and-return-more---final-bn-not-embargoed.pdf>

- First Nations place-based approaches which have seen 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 well-being measures.⁸
- Bail support programs which significantly reduce reoffending (33%) and increase compliance with bail conditions (95%)⁹ as well as improve a range of other social and health well-being measures relevant to the drivers of criminal justice system contact¹⁰ as well as achieving cost-savings when compared to an absence of bail support.¹¹
- Post release and diversionary community led programs that have found dramatic decreases in recidivism, including:
 - Intensive post-release support programs focusing on people with alcohol and other drug dependency and other complex needs (measuring outcomes of 483 participants) which found reductions in days in custody (65.8%), reductions in new custody episodes (62.6%), and reductions in proven offences (62.1%) measured two years post-referral.¹²
 - First Nations led post-release service achieving recidivism rates of 4.1% (compared to 57.3% for a comparable cohort).¹³
 - Place-based and intensive support for children at risk of criminal justice system involvement which dramatically increase the number of children engaging with education and/or employment (85%) and lead to significant reductions in crime (35%) in the surrounding community.¹⁴
- Alternative policing and alternative first responder models that reduce criminal justice involvement and lessen likelihood of arrest by 58%,¹⁵ that halve the rate of crime and

⁸ Olabud Doogethu Aboriginal Corporation (n.d.). The impact [webpage]. <https://olabuddoogethu.org.au/about-us/the-impact/>; Thorburn, K. & Marshall, M. (2017). The Yiriman Project in West Kimberley: An example of justice reinvestment. *Current Initiatives Paper*. Indigenous Justice Clearinghouse. <https://apo.org.au/sites/default/files/resource-files/2017-07/apo-nid116631.pdf>; Palmer, D. (2013). *Yiriman youth justice diversion program business plan 2016* [evaluation report]. <http://kalacc.org/wp-content/uploads/2018/06/yiriman-youth-justice-diversion-business-plan-2016.pdf>; The Centre of Best Practice in Aboriginal & Torres Strait Islander Suicide Prevention (n.d.). Best practice – Prevention – Yiriman Project – Evaluation. <https://cbpatsisp.com.au/clearing-house/best-practice-programs-and-services/programs-for-preventing-youth-suicide/>; Just Reinvest NSW (2018). Maranguka Justice Reinvestment Project Impact Assessment. KPMG. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/resources/files/maranguka-justice-reinvestment-project-kpmg-impact-assessment-final-report.pdf>; Reeve, D. R., McCausland, D. R., & MacGillivray, P. (2022). Has criminal justice contact for young people in Walgett changed over time? Analysis of diversions, charges, court, and custody outcomes 2016-

2021. https://www.igd.unsw.edu.au/sites/default/files/documents/YN%20Research%20Report%20Has%20criminal%20justice%20contact%20for%20young%20people%20in%20Walgett%20changed%20over%20time_1.pdf

⁹ Marchetti, E. (2021). *Evaluation of the Caxton Legal Centre Bail Support Program*, Griffith University; Lulham, R. (2009) 'The magistrates' early referral into treatment', *Contemporary Issues in Crime and Justice*, No. 131, Bureau of Crime Statistics and Research; Klauzner, I. (2021). An evaluation of the youth bail assistance line. *Crime and Justice Bulletin*, 237, <https://www.bocsar.nsw.gov.au/Publications/CJB/2021-Report-Evaluation-of-Bail-Assistance-Line-CJB237.pdf>

¹⁰ Spratley, S., Donnelly, N., & Trimboli, L. (2014). Health and wellbeing outcomes for defendants entering the Alcohol-MERIT program, Crime and Justice Statistics, Bureau Brief, NSW Bureau of Crime and Statistics Research; Rossner, M., Bartels, L., Gelb, K., Payne, J., Scott-Palmer, S. & Wong, G. Centre for Social Research and Methods. (2022). *ACT drug and alcohol sentencing list: process and outcome evaluation final report*. Australian National University, Centre for Social Research and Methods.

¹¹ Ross, S. (2009). *Evaluation of the Court Integrated Services Program: Final Report*. <https://silo.tips/download/evaluation-of-the-court-integrated-services-program-final-report>; Price Waterhouse Coopers (2009). *Economic evaluation of the Court Integrated Services Program (CISP): Final Report on economic impacts of CISP*. <https://www.mcv.vic.gov.au/sites/default/files/2018-10/CISP%20economic%20evaluation.pdf>

¹² Sotiri, McCausland, Reeve, Phelan and Byrnes (2021), 'They're there to support you and help you, they're not there to judge you' Breaking the cycle of incarceration, drug use and release: Evaluation of the Community Restorative Centres AOD and Reintegration Programs; NSW Health Report. <https://www.crcnsw.org.au/wp-content/uploads/2021/11/CRC-AOD-Evaluation-final-report-1Dec21.pdf>

¹³ Schwartz, M., & Terare, M. (2020) Creating Futures: Weave's intensive support services for young people leaving custody or involved in the criminal justice system, Evaluation report, Sydney. <https://www.cclj.unsw.edu.au/sites/cclj.unsw.edu.au/files/Creating%20Futures%20Evaluation%20Report%202020%20%20with%20images.pdf>

¹⁴ BackTrack (2020). *Annual report 2020*. https://backtrack.org.au/wp-content/uploads/2021/06/Backtrack_AnnualReport_2020.pdf

¹⁵ National Support Bureau (n.d.). Background [webpage]. <https://www.leadbureau.org/about-the-bureau>

justice system involvement,¹⁶ that significantly reduce levels of specific crime,¹⁷ that improve health and well-being (especially for people with mental health conditions),¹⁸ that address the social drivers of incarceration while avoiding the criminogenic impact of contact with police.¹⁹

- Alternative and specialist court processes that reduce contact with the criminal justice system including:
 - In court diversionary programs that reduce reoffending, increase health and well-being and address the drivers of incarceration.²⁰
 - Community and Neighbourhood Justice Courts with reoffending rates 25% lower than mainstream courts.²¹
 - Restorative Justice Processes which significantly reduce the likelihood of reoffending,²² also work to support people to connect with services and programs in the community²³ (as well as providing support to victims of crime)²⁴ and are extraordinarily cost-effective.²⁵
 - Drug Courts that reduce the likelihood of reoffending and improve access to alcohol and other drug treatment.²⁶

¹⁶ New Zealand Justice & Courts Minister (2015). 'Lowest number of youth in court in 20 years' [Media Release], 24 March 2015 http://beehive.govt.nz/release/lowest-number-youth-court-20-years?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+beehive-govt-nz%2Fportfolio%2Fcourts+%28Courts+--+beehive.govt.nz%29

¹⁷ Roberts, K. (2016). Review of Two Community Engagement Programs in Redfern Local Area Command New South Wales Police, 4–5.

¹⁸ Henry, P. & Rajakaruna, N. (2018). *WA police force mental health co-response evaluation report*. The Sellenger Centre for Research in Law, Justice and Social Change, Edith Cowan University. [https://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/4011830c6f17958a776124a04825830d0003e135/\\$file/p-1830.pdf](https://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/4011830c6f17958a776124a04825830d0003e135/$file/p-1830.pdf); Blagg, H. (2015). Models of best practice: Aboriginal community patrols in Western Australia. https://www.researchgate.net/publication/282866234_Models_of_Best_Practice_Aboriginal_Community_Patrols_in_Western_Australia

¹⁹ Porter, A. (2016). 'Decolonising Policing, Indigenous patrols, counter-policing and safety'. *Theoretical Criminology*, 20(4), 550; Blagg, H. (2015).

²⁰ Magistrates Court of Victoria, 'Criminal Justice Diversion Program', <<https://www.mcv.vic.gov.au/sites/default/files/2018-10/Criminal%20Justice%20Diversion%20Program%20brochure.pdf>>; Lulham, R. (2009) 'The magistrates' early referral into treatment', *Contemporary Issues in Crime and Justice*, No. 131, Bureau of Crime Statistics and Research; Spratley, S., Donnelly, N., & Trimboli, L. (2014). Health and well being outcomes for defendants entering the Alcohol-MERIT program, Crime and Justice Statistics, Bureau Brief, NSW Bureau of Crime and Statistics Research.; Henderson and Associates (2008) Bail Support Program Evaluation, Report to Corrections, Victoria at https://files.corrections.vic.gov.au/2021-06/bsp_evaluation_final_report.pdf; Rossner, M., Bartels, L., Gelb, K., Wong, G., Payne, J., & Scott-Palmer, S. (2022). *ACT drug and alcohol sentencing list: Process and outcome evaluation final report*. Australian National University, Centre for Social Research and Methods. <https://nla.gov.au/nla.obj-3111100148/view>

²¹ Ross, S. (2015). *Evaluating neighbourhood justice : Measuring and attributing outcomes for a Community justice program*. Australian Institute of Criminology. No. 499.

²² Restorative Justice (2018). Twelve month program evaluation: Restorative Justice Project. <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>; Jesuit Social Services (2022). New youth justice spending data highlights effectiveness of restorative justice programs [webpage]. <https://jss.org.au/articles/new-youth-justice-spending-data-highlights-effectiveness-of-restorative-justice-programs/>

²³ Becroft, A. (2017). Family Group Conferences: Still New Zealand's gift to the world? <https://www.occ.org.nz/documents/98/OCC-SOC-Dec-2017-Companion-Piece.pdf>

²⁴ Restorative Justice (2018). Twelve month program evaluation: Restorative Justice Project. <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

²⁵ Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. (2015). Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review. *J Quant Criminol* 31, 1–24;

²⁶ Stojcevski, V. (2007). 'The establishment of a drug court pilot in Tasmania', Research Paper No. 2, Tasmanian Law Reform Institute, https://www.utas.edu.au/data/assets/pdf_file/0003/283818/Drug_Court_17nov06_A4_Final.pdf; KPMG (2014) Evaluation of the Victorian drug court final report for the Magistrates Court of Victoria, <https://www.mcv.vic.gov.au/sites/default/files/2018-10/Evaluation%20of%20the%20Drug%20Court%20of%20Victoria.pdf>; Department of the Attorney General, WA (2006). *A review of the Perth drug court*, [https://www.parliament.wa.gov.au/publications/tables/papers.nsf/c41d5695f20b386348256b0200183f75/199175e34b12c3b3482581e8001854d7/\\$FILE/TP-924.pdf](https://www.parliament.wa.gov.au/publications/tables/papers.nsf/c41d5695f20b386348256b0200183f75/199175e34b12c3b3482581e8001854d7/$FILE/TP-924.pdf)

- Mental health courts that reduce reoffending and facilitate access to mental health treatment and improve other health and well-being measures.²⁷
- First Nations Courts that reduce reoffending, empower First Nations communities, increase likelihood of court attendance, and improve access to other supports and services.²⁸
- Alternative Detention models with extraordinarily low rates of recidivism including:
 - International therapeutic models of detainment for children (outside of detention centre settings) for children that result in recidivism rates as low as 13.6%.²⁹
 - Rehabilitation and therapeutic incarceration models with a focus on alcohol and other drug treatment with recidivism rates as low as 2%.³⁰

The Justice Reform Initiative proposes in the conclusion of this submission that the Tasmanian Government establish a 'Breaking the Cycle' fund. We note that there is 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 note 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 the reduction of recidivism and the reduction of criminal justice system contact. We argue that there is an opportunity in Tasmania to turn around the current over-reliance on incarceration, and genuinely invest in the evidence-based alternatives that we know will make a difference.

²⁷ Winstone, J. & Pakes, F. (2010). *Process evaluation of the Mental Health Court pilot*. London: Ministry of Justice; Rossman, S.B. et al. (2012). *Criminal justice interventions for offenders with mental illness: evaluation of mental health courts in Bronx and Brooklyn, New York – Final report*. 32-33; Mental Health Commission (2015). Summary of the 2015 evaluation mental health court diversion program, <https://www.mhc.wa.gov.au/media/1557/summary-of-court-diversion-evaluation-2015-for-mhc-website.pdf>

²⁸ Ipsos Aboriginal and Torres Strait Islander Research Unit (2019). Evaluation of Murri Court, Prepared for the Queensland Department of Justice and Attorney General, https://www.courts.qld.gov.au/_data/assets/pdf_file/0009/674685/Murri-court-evaluation-report.pdf; Walton, D., Martin, S., & Li, J. (2020). Iwi community justice panels reduce harm from re-offending. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 15(1): 75-92; Clark, S. (2016). Evaluation of the Gladue Court Old City Hall, Toronto. *Aboriginal Legal Services*, <https://www.aboriginallegal.ca/uploads/1/4/1/7/141757576/gladue-court-old-city-hall-toronto.pdf>; Harris, M. (2006). "A sentencing conversation": evaluation of the Koori Courts Pilot Program: October 2002-October 2004. Department of Justice; Australian Law Reform Commission (2018). *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133) Social Determinants of Incarceration*, <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>

²⁹ Centre for Innovative Justice (CIJ) (2018). 'A European alternative approach to juvenile detention' RMIT University; Diagrama Foundation, (2019) 'A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory' (Report of Diagrama visit, October 2019) 14-15, 25.

³⁰ Department of Justice (2022). *Annual report 2021/22*, <https://www.wa.gov.au/system/files/2022-09/Department-of-Justice-Annual-Report-2021-2022.pdf>; Government of Western Australia (2022). 'Mallee addiction treatment unit marks two years of success' [press release], <https://www.wa.gov.au/government/announcements/mallee-addiction-treatment-unit-marks-two-years-of-success>

OVERVIEW OF SUBMISSION: PROCESS AND METHODOLOGY

The Justice Reform Initiative welcomes the opportunity to provide a submission to the Inquiry into Adult Imprisonment and Youth Detention Matters and is encouraged by the opportunity for cross-party engagement and review of the current justice system in Tasmania.

This submission explores what works to keep people out of prison, and what Tasmania needs to do to drive prison numbers down 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.

It is important to note also that 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 submission. An overview of the principles underpinning best practice is included at **Appendix A**.

There are four key parts to this submission.

1. The first part of the submission 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 justice and criminal justice models. 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 Commissions Report on Government Services.
2. The second part (and the most substantial section of this submission) looks at the research into evidence-based alternatives to incarceration at multiple touch-points 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 submission identifies Tasmanian services, programs and responses to people in the justice system that have promising outcomes but have not yet had the opportunity to formally evaluate. 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.

In this section of the submission, we draw on significant local expertise in the community sector. As part of the process of putting this submission together, we conducted multiple informal conversations with service providers. We also, with the support of the Men's Resource Centre conducted a focus group with 14 representatives from services, and an online survey to encourage services with limited resources to easily contribute to this submission. This survey received 12 responses. The survey and focus group results are included in full in Appendix B of this submission.

Once notice of the Inquiry was posted on the Parliament website, and published in newspapers, information about the Inquiry was circulated through three networks: JusTas, Men's Resources Tasmania and Just Desserts. The Justice Reform Initiative spoke with and was informed by multiple stakeholders including (but not limited to): The Brain Injury Association of Tasmania, Prisoner's Legal Service, The Salvation Army, Bethlehem House, The Australian Lawyers Alliance, Onesimus Foundation, Just Desserts, JusTas, a retired member of the judiciary, academics, people with lived experience and practitioners working with people impacted by the justice system.

4. The final part of this submission focuses on the Justice Reform Initiatives recommendation for a 'Breaking the Cycle' fund in Tasmania and notes the enormous possibility for reducing the numbers of adults and children in the justice system if the community sector were to be adequately resourced.

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 120 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 people who have been impacted by the justice system.

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 good-will 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 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 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

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 there are 642 adults locked up in Tasmania's five prisons.³¹ The prisoner population in Tasmania increased dramatically between 2011 and 2021, with the Productivity commission noting an increase of more than 36% over the last decade (up from 473).³² 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, 32.9% of people imprisoned in Tasmania were imprisoned on remand.³³ This is important in the context of this submission 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. 1183 people were received into full-time custody in Tasmania in 2021,³⁴ and 1354 people were released.³⁵ 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 times more likely to be in prison than the non-Aboriginal adult population³⁶ and account for 22.7% of Tasmania's prison population³⁷ despite just making up 5.4% of the general population.³⁸

The incarceration rate for Aboriginal and Torres Strait Islander Tasmanians is 769 per 100,000 adults, compared to 116.4 per 100,000 adults for non-Indigenous Tasmanians.³⁹ The number of Aboriginal and Torres Strait Islander people incarcerated has increased by 110% in Tasmania over the last decade (from 73 people to 154 people).⁴⁰ Over that same period the rate of Non-Indigenous people in custody has increased by 20%.⁴¹

³¹ Productivity Commission (2023). *Report on government services 2023*, table 8A.4.

³² Productivity Commission (2023). *Report on government services 2023*, table 8A.4.

³³ Australian Bureau of Statistics (2022). *Prisoners in Australia 2021*, table 15.

³⁴ Australian Bureau of Statistics (2022). *Corrective services, Australia: Prisoner receptions and prisoner releases, September Quarter 2022*, table 19.

³⁵ Australian Bureau of Statistics (2022). *Corrective services, Australia: Prisoner receptions and prisoner releases, September Quarter 2022*, table 24.

³⁶ Australian Bureau of Statistics (2022). *Prisoners in Australia 2021*, table 17.

³⁷ Australian Bureau of Statistics (2022). *Prisoners in Australia 2021*, table 17.

³⁸ Australian Bureau of Statistics (2022). *Tasmania: Aboriginal and Torres Strait Islander population summary*. Census, 2021.

<https://www.abs.gov.au/articles/tasmania-aboriginal-and-torres-strait-islander-population-summary>

³⁹ Productivity Commission (2023). *Report on government services 2023*, table 8A.5.

⁴⁰ Productivity Commission (2023). *Report on government services 2023*, table 8A.6.

⁴¹ Productivity Commission (2023). *Report on government services 2023*, table 8A.6.

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% of all prisoners in 2012 to 67.3% in 2022.⁴²

The annual operating cost of imprisonment in Tasmania is over \$101 million. When capital costs are included, this increases to more than \$131 million.⁴³ The real direct cost per adult prisoner per day is \$432.70 or \$157,935 per year.⁴⁴

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 2021/2022 was \$16,158,000.⁴⁵ Every incarcerated child in Tasmania costs \$4861.32 per day (or more than 1.7 million per year per child).⁴⁶

On an average day there were 8 children in detention in Tasmania in 2021-22.⁴⁷ Half of these children were Aboriginal and Torres Strait Islander.⁴⁸

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 2021-2022. 5 of those children were aged between 10 and 13.⁴⁹ AIHW data notes that across Australia children have on average two receptions into custody. 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 disadvantage. The over-representation of First Nations people in our justice system both reflects and reproduces a raft of First Nations disadvantage. 30% of adults⁵⁰ and 56% of children⁵¹ incarcerated are First Nations. People with mental health conditions are significantly over-represented (at least 40% of people in prison)⁵² as are people with cognitive impairment.⁵³ Around 60% of people in prison have a drug and/or alcohol problem⁵⁴. Half of all people in prison were homeless before entering custody⁵⁵ and a disproportionate number come from a small number of 'postcodes of disadvantage' where access to education, healthcare, support, and employment are all comparatively lacking.⁵⁶

⁴² Australian Bureau of Statistics (2023). *Prisoners in Australia 2022*, table 15.

⁴³ Productivity Commission (2023). *Report on government services 2023*, table 8A.1

⁴⁴ Productivity Commission (2023). *Report on government services 2023*, table 8A.20.

⁴⁵ Productivity Commission (2023). *Report on government services 2023*, table 17A.10.

⁴⁶ Productivity Commission (2023). *Report on government services 2023*, table 17A.21

⁴⁷ Productivity Commission (2023). *Report on government services 2023*, table 17A.1

⁴⁸ Productivity Commission (2023). *Report on government services 2023*, table 17A.5.

⁴⁹ Productivity Commission (2023). *Report on Government Services 2023* table 17A.9.

⁵⁰ <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>

⁵¹ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/about>

⁵² https://www.aihw.gov.au/reports/australias-health/health-of-prisoners#_Toc30748009

⁵³ McCausland R, Baldry E, Johnson S & Cohen A. (2013). People with Mental Health Disorders and Cognitive Impairment in the Criminal Justice System: Cost-benefit Analysis of Early Support and Diversion, PwC & UNSW

⁵⁴ <https://adf.org.au/insights/prison-aod-use/>

⁵⁵ <https://www.aihw.gov.au/reports-data/population-groups/prisoners/overview>

⁵⁶ <https://dote.org.au/findings/state-chapters/>

The fact of disadvantage⁵⁷ cannot be used to discount the consequences of crime. However, it is crucial to understand the context in which most crime is committed⁵⁸ 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 2 geographic areas in Tasmania that account for 23% of all positions of disadvantage, including criminal justice system involvement.⁵⁹ The successful programs overviewed in this submission 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 re-offending. 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.⁶⁰

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 submission 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

There is no need to build a new prison in Tasmania. The Justice Reform Initiative would encourage the Tasmanian Government to re-orient the way it responds to any issues of prison over-crowding 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. It is useful to look at the recent case-study of Victoria. Victoria embarked on a prison expansion program in 2018 when there were significant increases in the prison population. However there have since been significant decreases, and there are currently two empty brand new prisons (both an adult prison and a children's prison). The overview below outlines why the proposal for a new Northern Prison in Tasmania requires re-thinking. It is suggested here that whenever a business case for a new prison is submitted, a corresponding alternative business case (which looks at the costs of imprisonment over the life-time of the prison and the costs of investing in

⁵⁷ <https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/summary>; For example see literature reviewed in <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release#prisoner-characteristics-australia>; <https://www.aihw.gov.au/reports-data/population-groups/prisoners/overview>; <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>

⁵⁸ For example, see analysis in Cunneen, Baldry, Brown, Schwartz, Steel and Brown (2013) *Penal Culture and Hyperincarceration: The Revival of the Prison*, Routledge.

⁵⁹ Dropping off the edge report, (2021), <https://www.dote.org.au/full-report>

⁶⁰ Schulz, P. D., & Cannon, A. J. (2011). Public opinion, media, judges and the discourse of time. *Journal of Judicial Administration*, 21(1), 8–18.

alternatives) should also be developed. We are proposing here, that the \$270 million ear-marked for the building of a new prison in Tasmania, instead by 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.
- This money would be better spent in building and improving housing, education, community supports and services (including drug and alcohol 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 North West of Tasmania is to better meet the needs of people in the region, so that people from the North and their families who have loved ones inside don't 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 should happen with the local community, alongside criminal justice system experts.
- There may be the need for a new *small* new remand centre in the North with some longer-term beds for people serving longer sentences. It is highly unlikely that building an enormous prison with 270 beds will meet the needs of the community.

WILL IT FIX OVERCROWDING?

- The answer to over-crowding 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 6th 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%. As has been demonstrated around the world, new prison beds 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.⁶¹
- There is a need for the mapping and analysis of the drivers of over-crowding and over-incarceration alongside the development of a justice service delivery map which identifies where there are genuine needs.

⁶¹ Productivity Commission (2023). *Report on Government Services 2023* table 8A.3

PART 2: WHAT WORKS TO REDUCE INCARCERATION?

There is no single 'reform fix' to reduce prison numbers, 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 an abundance of government and non-government reports and reviews.⁶² 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.⁶³ There is also a growing body of more formal research exploring the impact of various models of support.⁶⁴ In Tasmania, there are multiple experts in both the community sector and the academic and research sectors who have been leading the work in outlining reform strategies in this space.⁶⁵

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, 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 submission). These include:

⁶² For example, as detailed in Australian Law Reform Commission (2018). *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133) Social Determinants of Incarceration* <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>

⁶³ See: Schwartz, M., & Terare, M., (2020). *Creating Futures: Weave's intensive support service for young people leaving custody or involved in the criminal justice system* [Evaluation report]. <http://www.weave.org.au/wp-content/uploads/2018/01/Creating-Futures-Evaluation--Executive-Summary.pdf>; Keating, C. (2012). *Evaluation of the women and mentoring program*. Effective Change. <https://static1.squarespace.com/static/62b7ab77c0185857ace28264/t/62d2b4dae968ed48000c10b6/1657976032505/Women-and-Mentoring-Evaluation-Report.pdf>; Sotiri et al. (2021). *They're there to support you and help you, they're not there to judge you*: *Breaking the cycle of incarceration, drug use and release*. Evaluation of the Community Restorative Centre's AOD and reintegration programs. <https://www.health.nsw.gov.au/aod/programs/Documents/crc-final-report.pdf>; Sotiri, M. (2016). An exploration of best practice in community based reintegration programs for people leaving custody in the US and the UK. https://www.crcnsw.org.au/wp-content/uploads/2016/11/Sotiri_M_2015_Prisoner_reintegration_services_and_community_sector_organisations_2015-optimised.pdf; Sotiri, M., & Russell, S. (2018). 'Pathways home: How can we deliver better outcomes for people who have been in prison?'. *Housing Works*, 15 (3), 41. Borzycki, M., & Baldry, E. (2003). 'Promoting integration: The provision of prisoner post-release services', *Trends and Issues in Crime and Criminal Justice*, 2.; Gilbert, J. & Elley, B. (2015). 'Reducing recidivism: An evaluation of the pathway total reintegration programme', *New Zealand Sociology*, 30 (4), 15–37.; Angell, B., Matthews, E., Barranger, S., Watson, A., & Draine, J., (2014). 'Engagement processes in model programs for community re-entry from prison for people with serious mental illness'. *International Journal of Law and Psychiatry*, 37, 490–500.; Hunter, B., Lanza, M., Lawlor, A., Dyson, W., & Gordon, D. (2016). 'A strengths-based approach to prisoner re-entry: The fresh start prisoner re-entry program', *International Journal of Offender Therapy and Comparative Criminology*, 60 (11), 1298–314.; Padgett, D., Gulcur, L., & Tsemberis, S. (2006). 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, 16 (1), 74–83.; Kendall, S., Redshaw, S., Ward, S., Wayland, S., & Sullivan, E. (2018). 'Systematic review of qualitative evaluations of re-entry programs addressing problematic drug and alcohol use and mental health disorders amongst people transitioning from prison to communities', *Health and Justice*, 6 (4).; Sotiri, M. (2020). Building pathways out of the justice system: supporting women and reducing recidivism. *Precedent Issue*, 161.

⁶⁴ McNeill, F., Farrall, S., Lightowler, C., & Maruna, S. (2012) Re-examining evidence-based practice in community corrections: beyond 'a confined view' of what works. *Justice Research and Policy*, 14 (1) UNSW Sydney.

⁶⁵ For instance; JustTas; TASCOS; Anglicare's Social Action Research Centre; the University of Tasmania's Tasmanian Institute of Law Enforcement Studies and the Law Faculty.

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, on a significant scale, resource genuine alternatives to 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 in a thoughtful and evidence based way.

Over its ten-year life-span the Blueprint’s key objectives are to create a contemporary, integrated and therapeutic youth justice system that:

1. Keeps children and young people in youth justice facilities safe;
2. Reduces offending behaviour by children and young people;
3. Reduces the overrepresentation of Aboriginal children and young people;
4. Supports children and young people to re-enter the community through prosocial pathways; and
5. Improves community and staff safety.⁶⁶

There is no doubt that the success of this important initiative will over time, put downward pressure on the adult prison system and is a welcome step away from a punitive youth justice model.

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.

Like adult programs, community-led services and strategies for children and young people in contact with the justice system encompass early intervention, diversion and sentencing alternatives, in-prison programs and post-release support. Youth focused options consider the specific needs of young people and their families.

EVIDENCE-BASED CASE STUDIES: REDUCING THE NUMBER OF CHILDREN IN PRISON

WEAVE (CREATING FUTURES) EVALUATION (NSW)

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 4.11% of the 93 young people engaged in the program over the period of the

⁶⁶ Tasmanian Government, Department of Education, Children and Young People (2022) Final Draft Youth Justice Blueprint <https://www.decyp.tas.gov.au/children/youth-justice-services/youth-justice-reform/youth-justice-blueprint/>

evaluation re-offended. This was compared to BOCSAR re-offending rates for young Aboriginal people which are 57.3% for a comparable cohort.⁶⁷

BACKTRACK YOUTH SERVICES IMPACT REPORT (NSW)

Over the last ten 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 entrenched in the justice system. An impressive 87% of the young people who leave Backtrack transition into employment or education. A UNSW report of 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.⁶⁸

TED NOFFS FOUNDATION (QLD, NSW)

The Ted Noffs Foundation runs a residential alcohol and other drug treatment service for adolescents with problematic drug and crime-related behaviours called Program for Adolescent Life Management (PALM). 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 over five years (post-referral) with participants who had high rates of conviction, recording 4.36 fewer convictions than a comparable group who did not receive treatment.⁶⁹

TARGET 120 (WA)

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. In 2022/23. 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.⁷⁰ 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.⁷¹

YIRIMAN PROJECT (WA)

The Yiriman project is an exemplar of a First Nations led project that works holistically with First Nations children and young people. Children and young people aged 15 to 25 years are taken out on country to visit Elders where they are involved in deep learning and transmission of culture and language, workshops, making of artefacts and taking care of the land. A three-year review of the Yiriman project found that Yiriman had helped reduce children's involvement in the criminal justice system. International research supports the correlation between the practice of culture, language

⁶⁷ Schwartz, M., & Terare, M., (2020). Creating Futures: Weave's intensive support service for young people leaving custody or involved in the criminal justice system [Evaluation report]. <https://apo.org.au/node/306819>

⁶⁸ Backtrack (2021). *Annual report 2020*. https://backtrack.org.au/wpcontent/uploads/2021/06/Backtrack_AnnualReport_2020.pdf

⁶⁹ Whitten, T., Cale, J., Nathan, S., Williams, M., Baldry, E., Ferry, M., & Hayen, A. (2023). Influence of a residential drug and alcohol program on young people's criminal conviction trajectories. *Journal of Criminal Justice*, 84, 102026.

⁷⁰ Government of Western Australia (2022). \$11.1 million boost to Target 120 program to address drivers of youth crime [press release]. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2022/05/11-1-million-dollar-boost-to-Target-120-program-to-address-drivers-of-youth-crime.aspx>

⁷¹ Government of Western Australia (2022). \$11.1 million boost to Target 120 program to address drivers of youth crime [press release]. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2022/05/11-1-million-dollar-boost-to-Target-120-program-to-address-drivers-of-youth-crime.aspx>

and 'on-country' activities and decreases in crime. A magistrate concluded that Yiriman was more capable of reducing recidivism than most other diversionary and sentencing options.⁷²

WHITELION: DEADLY DIVERSIONS YOUTH SUPPORT SERVICE (WA)

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 2021/2022.⁷³

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.⁷⁴ 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.⁷⁵

DIAGRAMA MODEL (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 UK. 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.⁷⁶

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

⁷² Palmer, D. (2016). "We know they healthy cos they are on country with old people": demonstrating the value of the Yiriman Project'. Community Development Programme. Murdoch University. May 2016. 9-10; Marshall, M. & Thorburn, K. (2017). 'The Yiriman Project in the West Kimberley: An example of Justice Reinvestment?'. *Indigenous Justice Clearinghouse*. Current Initiatives Paper 5. July 2017. 2-3, 5.

⁷³ Productivity Commission (2023). *Report into government services 2023*, table 17A.10.

⁷⁴ Government of Western Australia (2018). Deadly Diversions kicking goals in the northern suburbs [media statement]. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2018/05/Deadly-Diversions-kicking-goals-in-the-northern-suburbs.aspx>

⁷⁵ Social Reinvestment Western Australia (n.d.). Programs that work: Existing alternatives to the justice system for young people. <https://static1.squarespace.com/static/59c61e6dbefafb0293c04a54/t/615bf3ac17e47d7acf388f44/1633416111307/RTA+Case+Studies+Programs+that+Work.pdf>

⁷⁶ Centre for Innovative Justice (CIJ) (2018). A European alternative approach to juvenile detention. RMIT University. <https://cij.org.au/news-and-views/a-european-alternative-approach-to-juvenile-detention/>; Diagrama Foundation (2019). A blueprint for change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory', 14-15, 25. <https://ddhs.org.au/sites/default/files/media-library/documents/Blueprint%20for%20Change%20-%20Diagrama%20Foundation%20Report%20FINAL.pdf>

alternative and filled an important gap to help keep the young people diverted from the formal justice system.⁷⁷

A PLACE TO GO (NSW)

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 10–17-year-olds in contact with the justice system, with a focus on young people on remand. It draws on services from across NSW Government and non-government service providers to deliver a coordinated and multiagency service solution that can support a young person 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 by linking 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.⁷⁸

EVIDENCE BASED EARLY INTERVENTION AND EARLY 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.⁷⁹ Children who are engaged with the child protection system are particularly at risk.⁸⁰

The compounding criminogenic nature of any criminal justice system involvement is well established.⁸¹ Providing support and programs prior to this contact is critical. While there have been strong advocates for early prevention and intervention in Tasmania including most recently in the Tasmanian Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings⁸² 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 WA outlined so

⁷⁷ Thomas, S., Liddell, M. & Johns, D. (2016). *Evaluation of the youth diversion pilot program*. https://www.childrenscourt.vic.gov.au/sites/default/files/2020-11/YDPP%20Stage%203%20Final%20Report%20Dec%202016%20-%20Executive%20Summary_%28final%29.pdf

⁷⁸ NSW Government (2022). *A Place to Go – Overview and referral pathway*. June 2022. 2-3. https://www.nsw.gov.au/sites/default/files/2022-05/A_Place_to_Go_overview_and_referrals.pdf

⁷⁹ Vinson, T., Rawsthorne, M., Beavis, A., & Ericson, M. (2015). *Dropping off the edge 2015: Persistent communal disadvantage in Australia*. http://k46cs13u1432b9asz49wnhcx-wpengine.netdnassl.com/wp-content/uploads/0001_dote_2015.pdf; Drum, M., & Buchanan, R. (2020). 'Western Australia's prison population 2020: Challenges and reforms. The University of Notre Dame Australia and the Catholic Archdiocese of Perth. <https://doi.org/10.32613/csos/2020.2>; Odgers, C. (2015). 'Income inequality and the developing child: Is it all relative?'. *Am Psychol*, 70(8):722-31.; Australian Institute of Health and Welfare (2015). *Vulnerable young people: interactions across homelessness, youth justice and child protection—1 July 2011 to 30 June 2015*. Cat. no. HOU 279., Canberra.; Australian Institute of Health and Welfare (2018). *National data on the health of justice-involved young people: a feasibility study*. Cat. no. JUV 125. <https://www.aihw.gov.au/reports/youth-justice/health-justice-involved-young-people-2016-17/summary>

⁸⁰ Australian Law Reform Commission (2018). Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133) Social Determinants of Incarceration, <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>

⁸¹ Richards, K. (2011). 'What makes juvenile offenders different from adult offenders?'. *Trends and issues in crime and criminal justice*, 409, Australian Institute of Criminology, p.7. <https://www.aic.gov.au/sites/default/files/2020-05/tandi409.pdf>

⁸² Moore, T., & McArthur, M., (2022). Take notice, believe us and act! Exploring the safety of children and young people in government run organisations. Hobart: Tasmanian Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings. https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0006/702186/Take-notice,-believe-us-and-act!_UPD.pdf

clearly the way children in prison had rarely received the support and care they required in the community.^{83 84}

While there are clear limitations in studies that focus primarily on cost, they are important in framing the significance of the impact of early intervention, not just financially, but in terms of a range of social and health well-being measures. A study of children who are at risk of criminalisation for the NSW government's report *Their Future Matters* found that 7% of individuals under the age of 25 will account for half the estimated costs of the state's social services by the time they are 40 years old. 1% of this cohort will be responsible for 32% of NSW justice service costs, highlighting that early intervention targeted at a small percentage can reduce future costs significantly.⁸⁵

Primary prevention focuses on modifying 'criminogenic' factors within physical and social environments to prevent children at risk from entering the justice system. There is significant research indicating the extent to which early intervention strategies are not just cost-effective in the long-term but produce outcomes consistent with improved health and well-being. Early childhood education has been associated with a number of flow-on effects including higher levels of workforce participation, improved literacy and numeracy as well as reduction in crime and health care needs.⁸⁶

A recent economic analysis of resourcing early intervention in Australia found that one dollar invested in early childhood education yields a return of two dollars.⁸⁷ 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.⁸⁸ Research findings also 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.⁸⁹

EVIDENCE-BASED CASE STUDIES: WHAT WORKS IN EARLY PREVENTION?

COMMUNITIES THAT CARE (AUSTRALIA)

⁸³ Commissioner for Children and Young People Western Australia (2018). Vulnerable young people need better support before they reach the justice system. <https://ccyp.wa.gov.au/news/vulnerable-young-people-need-better-support-before-they-reach-the-justice-system/>

⁸⁴ The Western Australian government has state-wide initiatives on early intervention. The Commissioner for Children and Young People annually releases a report *Profile of Children and Young People in WA*, which provides data on 40 measures of children and young people's wellbeing. More than a decade ago, the department has released an overview of 126 evidence-based, best-practice programs that improve the wellbeing of children and young people in Australia and Western Australia. This still is an excellent overview of the principles that could or should guide early intervention work in WA: Commissioner for Children and Young People (2012). Building Blocks: Best practice programs that improve the wellbeing of children and young people – Edition One. <https://www.ccyp.wa.gov.au/media/1141/report-building-blocks-edition-one-february-2012.pdf>; Commissioner for Children and Young People (2014). Building Blocks – Best practice programs that improve the wellbeing of children and young people [Edition Two]. <https://www.ccyp.wa.gov.au/media/1142/report-building-blocks-edition-two-july-2014.pdf>

⁸⁵ NSW Government (2019). *Forecasting future outcomes: Stronger communities investment unit – 2018 insights report*. <https://apo.org.au/sites/default/files/resource-files/2019-07/apo-nid246396.pdf>

⁸⁶ The Front Project (2019). *A smart investment for a smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*, p. 30. https://www.thefrontproject.org.au/images/downloads/ECO_ANALYSIS_Full_Report.pdf

⁸⁷ The Front Project (2019). *A smart investment for a smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*.

⁸⁸ Teager, W., Fox, S., & Stafford, N. (2019). *How Australia can invest early and return more: A new look at the \$15b cost and opportunity*. Early Intervention Foundation, The Front Project and CoLab at the Telethon Kids Institute, Australia, p. 5. <https://colab.telethonkids.org.au/siteassets/media-docs---colab/coli/how-australia-can-invest-in-children-and-return-more---final-bn-not-embargoed.pdf>

⁸⁹ Homel, R., Freiberg, K., & Branch, S. (2015). 'CREATE-ing capacity to take developmental crime prevention to scale: A community-based approach within a national framework'. *Australian & New Zealand Journal of Criminology*, 48(3), 367–385.

There is a strong evidence base in Australia and overseas for primary prevention models such as the Communities That Care (CTC) model.⁹⁰ These models mobilise communities to address risk factors that increase the risk of justice system involvement, including 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 between 2010 and 2019. This study supports the existing evidence-base that shows CTC is effective at preventing youth crime at a population level, with findings showing 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.⁹¹

FAST TRACK (US)

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 5 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. Fast Track cost \$58,000 per child over the 10-year investment period,⁹² which is much more cost-effective than incarcerating a child for just one year.⁹³

YOUTH PARTNERSHIP PROJECT (WA)

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

The Armadale Youth Intervention Partnership (AYIP) as part of the YPP achieved a 50% reduction in reoffending for those who completed the program.⁹⁴ 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. Therefore, 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.⁹⁵

YOUTH ADVOCATE PROGRAM (US)

⁹⁰ Toumborou, J., Rowland, B., Williams, J., & Smith, R. (2019). 'Community intervention to prevent adolescent health behavior problems: Evaluation of Communities That Care in Australia'. *Health Psychology*, 38(6), 536–544; Hawkins, J. D., Oesterle, S., Brown, E., Abbott, R., & Catalano, R. (2014). 'Youth problem behaviors 8 years after implementing the Communities That Care Prevention System: A community-randomized trial'. *JAMA Pediatrics*, 168(2), 122-129.

⁹¹ Rowland, B., Kelly, A. B., Mohebbi, M., Kremer, P., Abrahams, C., Abimanyi-Ochom, J., Carter, R., Williams, J., Smith, R., Osborn, A., Hall, J., Hosseini, T., Renner, H., & Toumbourou, J. W. (2022). 'Evaluation of Communities That Care-Effects on municipal youth crime rates in Victoria, Australia: 2010-2019'. *Prev Sci*, 23(1):24-35.

⁹² Dodge, K. A., Bierman, K. L., Coie, J. D., Greenberg, M. T., Lochman, J. E., McMahon, R. J., & Pinderhughes, E. E. (2015). 'Impact of early intervention on psychopathology, crime, and well-being at age 25'. *American Journal of Psychiatry*, 172(1), 59-70.

⁹³ Dodge, K. A., Bierman, K. L., Coie, J. D., Greenberg, M. T., Lochman, J. E., McMahon, R. J., & Pinderhughes, E. E. (2015). 'Impact of early intervention on psychopathology, crime, and well-being at age 25'. *American Journal of Psychiatry*, 172(1), 59-70.; Centre for Child & Family Policy (n.d.). Fast track overview [webpage]. <https://fasttrackproject.org/overview/>

⁹⁴ Stewart, S. (2020). *The Case for smart justice alternatives: Responding to Justice issues in WA through a justice reinvestment approach*. Social Investment WA.

<https://static1.squarespace.com/static/59c61e6dbefafb0293c04a54/t/5ef5632af22174273c5d18d5/1593140018902/SRWA+Discussion+Paper+on+Justice+Reinvestment+in+WA+March2020+%281%29.pdf>

⁹⁵ Youth Partnership Project (2021). *Youth justice model: 2021 practice framework & evaluation summary*. https://www.youthpartnershipproject.org.au/files/ugd/d180ab_64766464fe62447c9d3c536354e18b4b.pdf

The Youth Advocate Program (YAP) 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, and that it reduces justice system involvement and improves other factors in children's lives.⁹⁶ The Justice Reform Initiative understands the Queensland Government has funded a 12-month trial of the Youth Advocate Program on the Gold Coast.⁹⁷

⁹⁶ Youth Advocate Program (2020). Evidence supporting YAP's model.

<https://www.yapinc.org/Portals/0/Docs/YAP%20Evidence%20Base%20-%20booklet.pdf?ver=2020-11-22-003401-663>

⁹⁷ The Queensland Cabinet and Ministerial Directory (2022). Queensland trials program to curb youth reoffending.

<https://statements.qld.gov.au/statements/95951>; Youth Advocate Program (2020). Evidence supporting YAP's model.

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.

It is suggested here that diversionary, specialist and problem-solving court options should be expanded throughout Tasmania. Although we note 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.

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 is also the case 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 so many different kinds of court alternatives and a substantial evidence base exists around Australia, this section of the report divides the evidence into five 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

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.⁹⁸ Evaluations of the Magistrates Early Release into Treatment (MERIT) program in NSW have found reduced likelihood of reconviction⁹⁹ alongside increased health and well-being.¹⁰⁰ Evaluations of the 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.¹⁰¹ 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.¹⁰²

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.¹⁰³

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;
- participants who went through the NJC were 3-times less likely to breach Community Corrections orders; and
- participants who went through the NJC demonstrate lower breach rates for intervention orders.¹⁰⁴

RESTORATIVE JUSTICE CONFERENCING

⁹⁸ Magistrates Court of Victoria (2018). Criminal justice diversion program. <https://www.mcv.vic.gov.au/sites/default/files/2018-10/Criminal%20Justice%20Diversion%20Program%20brochure.pdf>

⁹⁹ Lulham, R. (2009). 'The magistrates early referral into treatment'. *Contemporary Issues in Crime and Justice*, 131, Bureau of Crime Statistics and Research.

¹⁰⁰ Spratley, S., Donnelly, N., & Trimboli, L. (2014). Health and wellbeing outcomes for defendants entering the Alcohol-MERIT program, Crime and Justice Statistics, Bureau Brief, NSW Bureau of Crime and Statistics Research.

¹⁰¹ Henderson and Associates (2008). Bail Support Program Evaluation, Report to Corrections, Victoria at https://files.corrections.vic.gov.au/2021-06/bsp_evaluation_final_report.pdf

¹⁰² Rossner, M., Bartels, L., Geb, K., Wong, G., Payne, J., & Scott-Palmer, S. (2022). *ACT drug and alcohol sentencing list: Process and outcome evaluation final report*. Australian National University, Centre for Social Research and Methods. <https://nla.gov.au/nla.obj-3111100148/view>

¹⁰³ Ross, S. (2015). Evaluating neighbourhood justice: Measuring and attributing outcomes for a community justice program. Australian Institute of Criminology. No. 499.

¹⁰⁴ Ross, S. (2015). Evaluating neighbourhood justice: Measuring and attributing outcomes for a community justice program. Australian Institute of Criminology. No. 499, 3-6.

Internationally, studies have found restorative justice conferencing is cost effective in terms of reducing repeat reoffending.¹⁰⁵ 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.¹⁰⁶ According to an internal 2018 12-month program evaluation of restorative youth justice conferencing in Queensland, 59% of young people who participated in restorative justice conferencing did not reoffend within six months of their conference.¹⁰⁷ 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.¹⁰⁸ 70% of victims in Queensland reported that conferencing helped them to 'manage the effects of the crime'.¹⁰⁹

In New Zealand, family-group conferences are used at different stages of interaction with the youth justice system¹¹⁰ 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).¹¹¹ 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).¹¹²

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).¹¹³

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

¹⁰⁵ Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. (2015). 'Are Restorative Justice Conferences effective in reducing repeat offending? Findings from a Campbell Systematic Review'. *J Quant Criminol* 31, 1–24.

¹⁰⁶ Hayes, H. & Daly, K. (2003). Youth Justice Conferencing and reoffending. *Justice Quarterly*. 20(10) https://www.researchgate.net/publication/29457142_Youth_Justice_Conferencing_and_Reoffending

¹⁰⁷ Restorative Justice (2018). Twelve month program evaluation: Restorative Justice Project.

<https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

¹⁰⁸ Restorative Justice (2018). Twelve month program evaluation: Restorative Justice Project.

<https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>; Hayes, H. & Daly, K. (2003). Youth Justice Conferencing and Reoffending. *Justice Quarterly*. 20(10).

https://www.researchgate.net/publication/29457142_Youth_Justice_Conferencing_and_Reoffending

¹⁰⁹ Restorative Justice (2018). Twelve month program evaluation: Restorative Justice Project.

<https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

¹¹⁰ McElrea, J.F. (1998). The New Zealand model of family group conferencing. *European Journal on Criminal Policy and Research*, 6, 527–543.

¹¹¹ Becroft, A. (2017). Family Group Conferences: Still New Zealand's gift to the world? <https://www.occ.org.nz/documents/98/OCC-SOC-Dec-2017-Companion-Piece.pdf>

¹¹² Jesuit Social Services (2022). New youth justice spending data highlights effectiveness of restorative justice programs [webpage]. <https://jss.org.au/articles/new-youth-justice-spending-data-highlights-effectiveness-of-restorative-justice-programs/>

¹¹³ Stojcevski, V. (2007). 'The establishment of a drug court pilot in Tasmania', Research Paper No. 2, Tasmanian Law Reform Institute, Tasmania. https://www.utas.edu.au/data/assets/pdf_file/0003/283818/Drug_Court_17nov06_A4_Final.pdf

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.¹¹⁴

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.¹¹⁵

Similarly, an NSW 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.¹¹⁶

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.¹¹⁷

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.¹¹⁸

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

¹¹⁴ Stojcevski, V. (2007). 'The establishment of a drug court pilot in Tasmania', Research Paper No. 2, Tasmanian Law Reform Institute, Tasmania. https://www.utas.edu.au/_data/assets/pdf_file/0003/283818/Drug_Court_17nov06_A4_Final.pdf

¹¹⁵ KPMG (2014). Evaluation of the Victorian Drug Court: Final report for the Magistrates Court of Victoria. <https://www.mcv.vic.gov.au/sites/default/files/2018-10/Evaluation%20of%20the%20Drug%20Court%20of%20Victoria.pdf>

¹¹⁶ Weatherburn, J., Snowball, H. (2008). 'The New South Wales Drug Court: A re-evaluation of its effectiveness'. *Contemporary Issues in Crime and Justice*. <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb121.pdf>

¹¹⁷ Department of the Attorney General, WA (2006). *A review of the Perth drug court*. [https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/c41d5695f20b386348256b0200183f75/199175e34b12c3b3482581e8001854d7/\\$FILE/TP-924.pdf](https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/c41d5695f20b386348256b0200183f75/199175e34b12c3b3482581e8001854d7/$FILE/TP-924.pdf)

¹¹⁸ Shanahan, M., Hughes, C. & McSweeney, T. (2016). *Australian police diversion for cannabis offences: Assessing program outcomes and cost-effectiveness*. National Drug Law Enforcement Research Fund. <https://www.aic.gov.au/publications/ndlerfmonograph/ndlerfmonograph66>

international evidence base that demonstrates the way that mental health courts are likely to reduce reoffending and facilitate access to support and treatment services.¹¹⁹

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”.¹²⁰ 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.¹²¹

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 courts provide alternatives to the mainstream court system for First Nations people. They incorporate restorative principles, First Nations leadership (usually involving First Nations Elders) and adopt a culturally-safe option for working with First Nations People.¹²² First Nations Courts put culture and healing at the centre of the court process, often through the inclusion of Aboriginal Elders participation and ultimately aim to reduce incarceration and the likelihood of ongoing criminal justice system involvement.

First Nations specialist courts have been introduced throughout Australia, such as NSW's Circle Sentencing, Victoria's Koori Courts, South Australia's Nunga Courts, Queensland's Murri Courts and Western Australia's Kalgoorlie Court.¹²³ In 2022, the Walama List was established in NSW. Evaluation of First Nations-led initiatives have found them to be highly effective in a number of ways. Overall, court attendance is higher for specialist First Nations courts than for mainstream courts and ¹²⁴ court officers and staff are better equipped to support First Nations People.¹²⁵ There are also strong indications that when the processes are implemented well, and there are resources to support participants, re-offending rates are also reduced. For instance, in a NSW BOCSAR evaluation, it was found that 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

¹¹⁹ Winstone, J. & Pakes, F. (2010). *Process evaluation of the Mental Health Court Pilot*. London: Ministry of Justice; Rossman, S., Buck Willison, J., Mallik-Kane, K., Kim, K., Debus- Sherrill, S., & Mitchell Downey, P. (2012). *Criminal justice interventions for offenders with mental illness: Evaluation of mental health courts in Bronx and Brooklyn, New York – Final Report*. 32-33, 37, 42, 55.

¹²⁰ Mental Health Commission (n.d.). Mental health court diversion program [website]. <https://www.mhc.wa.gov.au/getting-help/diversion-support-programs/mental-health-court-diversion-program/>

¹²¹ Mental Health Commission (n.d.). Summary of the 2015 evaluation mental health court diversion program. <https://www.mhc.wa.gov.au/media/1557/summary-of-court-diversion-evaluation-2015-for-mhc-website.pdf>

¹²² Australian Law Reform Commission (2018). Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133) Social Determinants of Incarceration, <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>; Indigenous Justice Clearinghouse (2009). Indigenous Sentencing Courts. Brief 5, 3. <<https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/brief005.v1.pdf>>

¹²³ Australian Law Reform Commission (2017). Specialist courts and diversion programs [website]. <https://www.alrc.gov.au/publication/incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples-dp-84/11-access-to-justice-issues/specialist-courts-and-diversion-programs/> 11.24 – 11.34.

¹²⁴ Australian Law Reform Commission (2018). Specialist Aboriginal and Torres Strait Islander sentencing courts. <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/10-access-to-justice/specialist-aboriginal-and-torres-strait-islander-sentencing-courts/> 10.37

¹²⁵ Australian Law Reform Commission (2017). Specialist courts and diversion program, 11.46 <https://www.alrc.gov.au/publication/incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples-dp-84/11-access-to-justice-issues/specialist-courts-and-diversion-programs/> 11.24 – 11.34.

12 months. The study also noted that it took an extra 55 days for a reoffence to occur.¹²⁶ The evaluation of the Youth Koori Court pilot in Parramatta in NSW found that fewer people were locked up in youth detention as a result of the Youth Koori Court, and days in custody were reduced.¹²⁷

An evaluation of the original Koori Court Pilot program in Victoria found that Koori Courts improve rates of recidivism. There was a 16.91% and 13.91% reduction of reoffending in the Shepparton Court and the Broadmeadow Court respectively.¹²⁸ The success of the Koori courts in Victoria more recently was 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.¹²⁹

A study of data from the South Australian conventional Magistrates Court and Nunga Court between 2007 and 2009 showed that compared with similarly positioned Indigenous defendants in the conventional courts, Nunga Court defendants were significantly less likely to be sent to prison, receive a monetary penalty and have their drivers licences disqualified (versus a community-based order).¹³⁰

In a recent evaluation of the Queensland Murri Court (operating across 14 jurisdictions in Queensland), it was found that 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 both support and accountability encouraging people before the court to take responsibility.¹³¹

Studies on the impact of the Iwi Justice Panels in New Zealand and *Gladue* Court in Canada have also found that people who participated in specialist courts were less likely to reoffend, and where re-offending did occur it was less severe.¹³²

There are additional benefits to specialist Indigenous courts, including empowering First Nations communities by ensuring they self-determine their own crime outcomes, increasing access to justice and fostering a better relationship between the First Nations community and criminal justice

¹²⁶ NSW Bureau of Crime Statistics and Research (2020). New Circle Sentencing Evaluation finds positive results.

https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2020/mr-circle-sentencing-cjb226.aspx

¹²⁷ Australian Law Reform Commission (2017). Specialist courts and diversion program.

<https://www.alrc.gov.au/publication/incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples-dp-84/11-access-to-justice-issues/specialist-courts-and-diversion-programs/11.24-11.34>.

¹²⁸ Harris, M. (2006). "A sentencing conversation": Evaluation of the Koori Pilot Program: October 2002-October 2004. Victoria Department of Justice.

¹²⁹ Parliament of Victoria Legislative Council Legal and Social Issues Committee (2002). *Inquiry into Victoria's criminal justice system*. Volume 1. March 2022. 522-523.

¹³⁰ Jeffries, S. & Bond, C. (2012). Indigenous Sentencing Outcomes: A Comparative Analysis of the Nunga and Magistrates Courts in South Australia. *Flinders Law Journal*, 14: 381.

¹³¹ Ipsos Aboriginal and Torres Strait Islander Research Unit (2019). Evaluation of Murri Court, Prepared for the Queensland Department of Justice and Attorney General, https://www.courts.qld.gov.au/_data/assets/pdf_file/0009/674685/Murri-court-evaluation-report.pdf

¹³² Walton, D., Martin, S., & Li, J. (2020). Iwi community justice panels reduce harm from re-offending. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 15(1): 75-92.; Clark, S. (2016). Evaluation of the Gladue Court, Old City Hall, Toronto. Report prepared for Aboriginal Legal Services. Scott Clark Consulting Inc. 1.

https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_deposes_a_la_Commission/P-382.pdf

authorities.¹³³ Participants in the Iwi Justice Panels have reported positive lifestyle changes, such as finding employment and education opportunities.¹³⁴

There have however 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 2012.¹³⁵ Evaluation of Nunga courts in South Australia also found unclear results in terms of the impact of the court on reoffending.¹³⁶ There are a number of issues that have emerged in response to these evaluations that identify some of the complexities and challenges of successful implementation.

For instance, the evaluation of the Murri Courts in Queensland noted that the effectiveness and success of the specialist courts was also dependent on factors such as the need for adequate resources to be available in First Nations community locations, particularly services that are culturally-appropriate and First Nations-specific. The need to improve the availability of culturally meaningful diversionary programs, alongside the need to address the structural and economic factors that are associated with First Nations over-incarceration have been identified. This means for instance addressing unemployment, school attendance, alcohol and other drug problems, homelessness, crisis support, and family support.¹³⁷

The Australian Law Reform Commission has suggested that First Nations courts should ideally:

- involve active participation by the defendant and the community;
- individualised case management for the defendant and wraparound services;
- be culturally appropriate and competent; and
- have their design, implementation and evaluation led by relevant Aboriginal and Torres Strait Islander organisations.¹³⁸

¹³³ Day, A., Geia, L. & Tamatea, A. (2019). Towards effective throughcare approaches for Indigenous people leaving prisons in Australia and New Zealand. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/jc-effective-throughcare-approaches-research-brief-25.pdf>

¹³⁴ Walton, D., Martin, S., & Li, J. (2020). Iwi community justice panels reduce harm from re-offending. Kōtuitui: New Zealand Journal of Social Sciences Online, 15(1): 75-92; Clark, S. (2016). Evaluation of the Gladue Court, Old City Hall, Toronto. Report prepared for Aboriginal Legal Services. Scott Clark Consulting Inc. 1.

https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_depotes_a_la_Commission/P-382.pdf

¹³⁵ Australian Law Reform Commission (2017). Specialist courts and diversion programs, para. 10.36.

¹³⁶ Attorney-General's Department (2013). Evaluation of Indigenous Justice Programs Project A: Aboriginal and Torres Strait Islander sentencing courts and conferences. Final Report. <https://www.circaresearch.com.au/wp-content/uploads/CIRCA-Project-A-Final-report.pdf>

¹³⁷ Morgan, A. & Louis, E. (2010). Evaluation of the Queensland Murri Court: Final report.

<https://www.aic.gov.au/publications/tbp/tbp39>

¹³⁸ Australian Law Reform Commission (2017). Specialist courts and diversion programs, para. 10.39

BAIL SUPPORT AND ALTERNATIVES TO REMAND

Of the 630 people imprisoned in Tasmania in 2021/2022, 207 (33%) were imprisoned without a sentence.¹³⁹ In 2012 the rate was 18.2%. (with 89 people imprisoned on remand).¹⁴⁰ The latest data shows 75% of unsentenced people in Tasmanian prisons have been held on remand for more than a month.¹⁴¹

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 over-use 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.¹⁴² 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.¹⁴³

There is also a significant annual financial public cost of remanding people in custody. Based on the total daily net operating cost (excluding capital costs) of detaining an adult in prison (\$295 per day)¹⁴⁴ it is estimated that nationally the total annual net operating cost of detaining adults on remand is in excess of \$1.6 billion per year.¹⁴⁵

For children on remand,¹⁴⁶ the estimated annual national cost is \$542 million (based on the average total daily cost per young person subject to detention of \$2,720 per day).¹⁴⁷ Reducing the numbers of people in prison on remand will result in significant savings.¹⁴⁸

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

¹³⁹ ABS (2023) *Prisoners in Australia, 2022*, table 14

¹⁴⁰ ABS (2023). *Prisoners in Australia 2022*, table 15.

¹⁴¹ ABS (2023). *Prisoners in Australia 2022*, table 32.

¹⁴² Heard, C., & Fair, H. (2019). 'Pre-trial detention and its over-use: Evidence from ten countries'. *Institute for Crime & Justice Policy Research*, 8.

¹⁴³ McMahon, M. (2019). No bail, more jail? Breaking the nexus between community protection and escalating pre-trial detention, 22-23. <https://apo.org.au/sites/default/files/resource-files/2019-08/apo-nid253906.pdf>

¹⁴⁴ Productivity Commission (2023). *Report on government services 2023*, table 8 A.20.

¹⁴⁵ Australian Bureau of Statistics (2021). *Prisoners in Australia 2021*, table 15.

¹⁴⁶ Australian Institute for Health and Welfare (2021). *Youth detention population in Australia 2021*, table S. 18.

<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2021/data>

¹⁴⁷ Productivity Commission (2023). *Report on government services 2023*, table 17A.21. <https://www.pc.gov.au/ongoing/report-on-government-services/2022/community-services/youth-justice>

¹⁴⁸ Ball, J. (2019). *Australia pays the price for increasing rates of imprisonment* [opinion article]. Committee for Economic Development of Australia. <https://www.ceda.com.au/NewsAndResources/Opinion/Economy/Australia-pays-the-price-for-increasing-rates-of-i>

with their bail obligations.¹⁴⁹ 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.¹⁵⁰

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.¹⁵¹ 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.¹⁵²

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.¹⁵³

The Law Council of Australia and many others have recommended the introduction of more bail hostel programs in Australia.¹⁵⁴ 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 to ensure 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.¹⁵⁵

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.¹⁵⁶

EVIDENCE-BASED CASE STUDIES: WHAT WORKS IN BAIL SUPPORT

¹⁴⁹ Denning-Cotter, G. (2008). Bail support in Australia. Indigenous Clearinghouse, Research Brief 2.

https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/brief002_v1.pdf

¹⁵⁰ Willis, M. (2017). *Bail support: A review of the literature* [Research Report no. 4]. Canberra: Australian Institute of Criminology.

<https://www.aic.gov.au/publications/rr/rr45-6>.

¹⁵¹ Australian Law Reform Commission (2017). *Pathways to justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*.

¹⁵² Bartels, L. (2019). 'The growth in remand and its impact on Indigenous over-representation in the criminal justice system'.

Indigenous Justice Clearinghouse, Research Brief No. 24 5. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/the-growth-in-remand-13-08-2.pdf>

¹⁵³ Willis, M. (2017). *Bail support: A review of the literature* [Research Report no. 4]. Canberra: Australian Institute of Criminology, p. 27. https://www.ics.act.gov.au/_data/assets/pdf_file/0014/1310531/4.pdf; Presneill, A. (2018). *Bail hostels: Report prepared for the ACT Office of the Inspector of Custodial Services*. Canberra: Australian National University, 16-21.

¹⁵⁴ Bartels, L. (2019). 'The growth in remand and its impact on Indigenous over-representation in the criminal justice system'.

Indigenous Justice Clearinghouse, Research Brief No. 24 5, p. 5. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/the-growth-in-remand-13-08-2.pdf>.

¹⁵⁵ Willis, M. (2017). *Bail support: A review of the literature* [Research Report no. 4]. Canberra: Australian Institute of Criminology, p. 27. https://www.ics.act.gov.au/_data/assets/pdf_file/0014/1310531/4.pdf.

¹⁵⁶ Presneill, A. (2018). *Bail hostels: Report prepared for the ACT Office of the Inspector of Custodial Services*. Canberra: Australian National University, 16-21.

CAXTON LEGAL CENTRE MEN'S BAIL SUPPORT PROGRAM (QLD)

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.¹⁵⁷

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.¹⁵⁸ Evaluations of the Magistrates Early Release into Treatment (MERIT) program in NSW have found reduced likelihood of reconviction¹⁵⁹ alongside increased health and well-being.¹⁶⁰ Evaluations of the 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.¹⁶¹ 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.¹⁶² 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 thirty years.¹⁶³

METROPOLITAN YOUTH BAIL SERVICE (WA)

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 of 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

¹⁵⁷ Marchetti, E. (2021). Evaluation of the Caxton Legal Centre Bail Support Program, Griffith University.

¹⁵⁸ Magistrates Court of Victoria (2018). Criminal Justice Diversion Program. <https://www.mcv.vic.gov.au/sites/default/files/2018-10/Criminal%20Justice%20Diversion%20Program%20brochure.pdf>

¹⁵⁹ Lulham, R. (2009) 'The magistrates' early referral into treatment', Contemporary Issues in Crime and Justice, No. 131, Bureau of Crime Statistics and Research.

¹⁶⁰ Spratley, S., Donnelly, N., & Trimboli, L. (2014). Health and wellbeing outcomes for defendants entering the Alcohol-MERIT program, Crime and Justice Statistics, Bureau Brief, NSW Bureau of Crime and Statistics Research.

¹⁶¹ Henderson and Associates (2008) Bail Support Program Evaluation, Report to Corrections, Victoria at https://files.corrections.vic.gov.au/2021-06/bsp_evaluation_final_report.pdf

¹⁶² Rossner, M., Bartels, L., Ge b, K., Wong, G., Payne, J., & Scott-Palmer, S. (2022). ACT drug and alcohol sentencing list: Process and outcome evaluation final report. Australian National University, Centre for Social Research and Methods. <https://nla.gov.au/nla.obj-3111100148/view>

¹⁶³ Ross, S. (2009). *Evaluation of the Court Integrated Services Program: Final Report*. <https://silo.tips/download/evaluation-of-the-court-integrated-services-program-final-report>; Price Waterhouse Coopers (2009). *Economic evaluation of the Court Integrated Services Program (CISP): Final Report on economic impacts of CISP*. <https://www.mcv.vic.gov.au/sites/default/files/2018-10/CISP%20economic%20evaluation.pdf>

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.¹⁶⁴

¹⁶⁴ Klauzner, I. (2021). An evaluation of the youth Bail Assistance Line. *Crime and Justice Bulletin*, 237. <https://www.bocsar.nsw.gov.au/Publications/CJB/2021-Report-Evaluation-of-Bail-Assistance-Line-CJB237.pdf>

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.¹⁶⁵ 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 DOOGHETU (WA)

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.¹⁶⁶

Data provided by WA 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+) and a 59% reduction in stealing of motor vehicles.¹⁶⁷

THE YIRIMAN PROJECT (WA)

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.¹⁶⁸ 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.¹⁶⁹

MARANGUKA JUSTICE REINVESTMENT PROJECT (NSW)

¹⁶⁵ Gilbert, R. (2012). Place-based initiatives and Indigenous justice. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/brief013.v1.pdf>

¹⁶⁶ Olabud Doogethu Aboriginal Corporation (n.d.). The impact [webpage]. <https://olabuddoogethu.org.au/about-us/the-impact/>

¹⁶⁷ Olabud Doogethu Aboriginal Corporation (n.d.). The impact [webpage]. <https://olabuddoogethu.org.au/about-us/the-impact/>

¹⁶⁸ Thorburn, K. & Marshall, M. (2017). The Yiriman Project in West Kimberley: An example of justice reinvestment. *Current Initiatives Paper*. Indigenous Justice Clearinghouse. <https://apo.org.au/sites/default/files/resource-files/2017-07/apo-nid116631.pdf>; Palmer, D. (2013). *Yiriman youth justice diversion program business plan 2016* [evaluation report]. <http://kalacc.org/wp-content/uploads/2018/06/yiriman-youth-justice-diversion-business-plan-2016.pdf>; The Centre of Best Practice in Aboriginal & Torres Strait Islander Suicide Prevention (n.d.). Best practice – Prevention – Yiriman Project – Evaluation. <https://cbpatsisp.com.au/clearing-house/best-practice-programs-and-services/programs-for-preventing-youth-suicide/>

¹⁶⁹ Palmer, D. (2016). "We know they healthy cos they on country with old people": Demonstrating the value of the Yiriman Project Maranguka Justice Reinvestment Project, Bourke, NSW [evaluation report]. <https://researchrepository.murdoch.edu.au/id/eprint/42383/1/Yiriman%20Project.pdf>

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.¹⁷⁰ 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.¹⁷¹

YUWAYA NGARRA-LI (NSW)

Yuwaya Ngarri-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, NSW, 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.¹⁷²

¹⁷⁰ Just Reinvest NSW (2018). Maranguka Justice Reinvestment Project Impact Assessment. KPMG. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/resources/files/maranguka-justice-reinvestment-project-kpmg-impact-assessment-final-report.pdf>

¹⁷¹ Allison, F. & Cunneen, C. (2022). Justice Reinvestment in Australia – A Review of Progress and Key Issues. Justice Reinvestment Network Australia. https://jrna228913579.files.wordpress.com/2022/07/national-report_jr.pdf

¹⁷² Reeve, D. R., McCausland, D. R., & MacGillivray, P. (2022). Has criminal justice contact for young people in Walgett changed over time? Analysis of diversions, charges, court, and custody outcomes 2016-2021. https://www.igd.unsw.edu.au/sites/default/files/documents/YN%20Research%20Report%20Has%20criminal%20justice%20contact%20for%20young%20people%20in%20Walgett%20changed%20over%20time_1.pdf

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 more likely to come to the attention of police, and those exiting prison. The inadequacy of post release programs, especially those incorporating an 'accommodation component' has been acknowledged for many years. Tasmanian governments have had a less than impressive track record in recognising the worth of such programs and providing ongoing support.^{173 174}

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 (NSW)

This UNSW/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 ten years (including post-participation in programs), and found that for participants:

¹⁷³ Herrlander Birgeron, E., Dwyer, A. 'A Real Gap': Consequences of Removing Reintegration Support in Tasmania, Australia. *Crit Crim* (2022). <https://doi.org/10.1007/s10612-022-09631-2>
<https://link.springer.com/article/10.1007/s10612-022-09631-2>

¹⁷⁴ Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. & Thomas, S. (2021) Exiting prison with complex support needs: the role of housing assistance, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/361>, doi: 10.18408/ahuri7124801.

- 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 MHDCD 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).¹⁷⁵

MIRANDA PROJECT EVALUATION (NSW)

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.¹⁷⁶

BARNARDOS BEYOND BARBED WIRE EVALUATION (NSW)

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.¹⁷⁷

ALICE SPRINGS LIFE SKILLS CAMP (NT)

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.¹⁷⁸

WOMEN'S JUSTICE NETWORK EVALUATION (NSW)

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).¹⁷⁹

¹⁷⁵ Sotiri M., McCausland, R. Reeve, R. Phelan, L. & Byrnes, T. (2021). 'They're there to support you and help you, they're not there to judge you' Breaking the cycle of incarceration, drug use and release: Evaluation of the Community Restorative Centres AOD and Reintegration Programs; NSW Health Report, <https://www.crcnsw.org.au/wp-content/uploads/2021/11/CRC-AOD-Evaluation-final-report-1Dec21.pdf>

¹⁷⁶ Sotiri, M., Moliterno, M., Parker, K., & Gray G. (2020). *CRC Submission to the House Standing Committee on Social Policy and Legal Affairs: Family, domestic and sexual violence*. Community Restorative Centre. https://www.crcnsw.org.au/wp-content/uploads/2020/09/2020_CRC_FD_V SUBMISSION_24_JULY.pdf

¹⁷⁷ Baldry et al. (2018). A future beyond the wall: Improving post-release employment outcomes for people leaving prison.

https://unsw-primo.hosted.exl.brisgroup.com/primo-explore/fulldisplay?vid=UNSWORKS&docid=unsworks_modsunsworks_51556&context=L

¹⁷⁸ Northern Territory Government (2021). Alternative to custody for women shows promising signs. <https://justice.nt.gov.au/attorney-general-and-justice/northern-territory-aboriginal-justice-agreement/aja-news/alternative-to-custody-for-women-shows-promising-signs>

¹⁷⁹ Women's Justice Network (2016). Adult Mentoring Program [evaluation report]. https://www.shineforkids.org.au/documents/2015-11_ls_j_women_in_prison.pdf

OUTCARE THROUGH CARE (WA)

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.¹⁸⁰

¹⁸⁰ The Department of Corrective Services (n.d.). Bunuru: Youth justice services in WA today. <https://pushconsult.com.au/files/insights/outcare/outcare-bunuru-ex-sum.pdf>

IN-PRISON PROGRAMS

While reduction in incarceration is the overarching theme of this submission, there are alternative models for prison settings and in-prison programs that can align with the goals of therapeutic, supportive and community-led approaches. There is significant evidence that these approaches lead to better post-release outcomes. Western Australia has seen success in recent years with in-prison alcohol and other drug rehabilitation facilities run by service partners with experience in developing and delivering trauma-informed and culturally safe treatment programs. Please note the examples below are WA based (as there has been a significant emphasis on evaluation of these rehabilitative approaches). However there are promising examples around Australia (including for instance, the Alice Springs Life Skills Camp in the NT¹⁸¹).

EVIDENCE-BASED CASE STUDIES: WHAT WORKS IN PRISON?

WANDOO REHABILITATION PRISON (WA)

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.¹⁸² 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%.¹⁸³

MALLEE REHABILITATION CENTRE (WA)

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 4 have returned to custody with a new offence.¹⁸⁴

THE FAIRBRIDGE BINDJAREB PROJECT (WA)

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.¹⁸⁵ 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

¹⁸¹ <https://justice.nt.gov.au/attorney-general-and-justice/northern-territory-aboriginal-justice-agreement/aja-news/alternative-to-custody-for-women-shows-promising-signs>

¹⁸² Government of Western Australia (2022). Wandoo rehabilitation prison [webpage]. <https://www.wa.gov.au/organisation/departments-of-justice/corrective-services/wandoo-rehabilitation-prison>

¹⁸³ Department of Justice (2022). *Annual report 2021/22*. <https://www.wa.gov.au/system/files/2022-09/Department-of-Justice-Annual-Report-2021-2022.pdf>

¹⁸⁴ Government of Western Australia (2022). Mallee addiction treatment unit marks two years of success [press release]. <https://www.wa.gov.au/government/announcements/mallee-addiction-treatment-unit-marks-two-years-of-success>

¹⁸⁵ Stewart, S. (2020). The Case for Smart Justice Alternatives: Responding to justice issues in WA through a Justice Reinvestment approach. Social Reinvestment WA.

benefits.¹⁸⁶ 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.¹⁸⁷

BORONIA CULTURAL, SOCIAL AND EMOTIONAL WELL BEING PROJECT (WA)

The cultural, social, and emotional well-being project delivered at 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.¹⁸⁸

¹⁸⁶ Deloitte (2016). *Cost benefit analysis of the Fairbridge Bindjareb Project: Benefits of offender rehabilitation and training*. <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-fairbridge-bindjareb-project-cost-benefit-analysis-pp-150216.pdf>

¹⁸⁷ Stewart, A. (2016). Indigenous-run program training prisoners to work in the mining industry saves WA Government millions. *ABC News*. <https://www.abc.net.au/news/2016-02-18/prisoners-trained-to-work-in-mining-industry/7181288>

¹⁸⁸ Dudgeon, Chang, Chan, Mascal, King, Collova, & Ryder (2022). 'Speak up and be strong' The cultural, social and emotional well being program with Boronia pre-release centre for women', *The Centre of Best Practice in Aboriginal and Torres Strait Islander Suicide Prevention*.

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 WA 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.¹⁸⁹

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. 62% of people leaving prison did not have any employment organised on release¹⁹⁰ and 54% of people leaving prison exit into homelessness.¹⁹¹

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.¹⁹²

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.¹⁹³

¹⁸⁹ Drum, M., & Buchanan, R. (2020). *Western Australia's prison population 2020: Challenges and reforms*. The University of Notre Dame Australia and the Catholic Archdiocese of Perth. http://csswa.perthcatholic.org.au/wp-content/uploads/2022/05/FINAL-WA-Prison-Population-Report-2020_WEB.pdf

¹⁹⁰ Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*, pp. 18-19.

¹⁹¹ Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*, p. 24.

¹⁹² https://www.custodialinspector.tas.gov.au/__data/assets/pdf_file/0004/682096/2021-22-Custodial-Inspector-Annual-Report.PDF

¹⁹³ Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. & Thomas, S. (2021) Exiting prison with complex support needs: the role of housing assistance, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/361>, doi: 10.18408/ahuri7124801.

INTELLECTUAL DISABILITY RIGHTS SERVICE – JUSTICE ADVOCACY EVALUATION (NSW)

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.

An economic evaluation of the Criminal Justice Support Network (CJSN) (run by the Intellectual Disability Rights Service) found CJSN generates a net benefit of at least \$1.2 million per annum.¹⁹⁴ That represents a return of \$2.5 for every \$1 invested in the service.¹⁹⁵

INTELLECTUAL DISABILITY RIGHTS SERVICE – CRIMINAL JUSTICE SUPPORT NETWORK ECONOMIC EVALUATION (RELEASED 2018)¹⁹⁶

An economic evaluation of the Criminal Justice Support Network (run by the Intellectual Disability Rights Service) found 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.¹⁹⁷

INSTITUTIONAL COSTS RESEARCH (AUSTRALIA)

Costings research conducted by UNSW in partnership with PwC 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.¹⁹⁸

¹⁹⁴ Reeve, R., McCausland, R., Dowse, L., & Trofimovs, J. (2017). Economic evaluation of Criminal Justice Support Network, Sydney: Intellectual disability behaviour support program, UNSW Sydney. https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf

¹⁹⁵ Reeve, R., McCausland, R., Dowse, L., & Trofimovs, J. (2017). Economic evaluation of Criminal Justice Support Network, Sydney: Intellectual disability behaviour support program, UNSW Sydney. https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf; EY (2021). Evaluation of the Justice Advocacy Service Department of Communities and Justice, Final Report. <https://www.justice.nsw.gov.au/diversityservices/Documents/evaluation-of-the-justice-advocacy-service-report.PDF>

¹⁹⁶ Reeve, R., McCausland, R., Dowse, L., & Trofimovs, J. (2017). Economic Evaluation of Criminal Justice Support Network. Sydney: Intellectual Disability Behaviour Support Program, UNSW Sydney. https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf

¹⁹⁷ Reeve, R., McCausland, R., Dowse, L., & Trofimovs, J. (2017). Economic Evaluation of Criminal Justice Support Network. Sydney: Intellectual Disability Behaviour Support Program, UNSW Sydney. https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf

¹⁹⁸ McCausland R, Baldry E, Johnson S & Cohen A. (2013). People with Mental Health Disorders and Cognitive Impairment in the Criminal Justice System: Cost-benefit Analysis of Early Support and Diversion, PwC & UNSW

ALTERNATIVES TO POLICING

The way in which 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. In order to stem the flow of people into the prison system unnecessarily, 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%) is devoted to street policing.¹⁹⁹ The overwhelming majority of contact with the criminal justice system occurs through interactions with police on the street.²⁰⁰ 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.²⁰¹

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 or receiving the supports, care, and connection they require in the community. This is especially the case for First Nations communities, other racialised people,²⁰² and people with disabilities, mental health conditions, or living with other forms of disadvantage.²⁰³

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 the 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.²⁰⁴ The following are examples of policing activities that can cause particular problems for marginalised people:

- Preventative and race-based policing that can target particular groups of people, especially Aboriginal and Torres Strait Islander communities and other racialised groups;²⁰⁵
- 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

¹⁹⁹ Blagg, H., & Wilkie, M. (1997). 'Young people and policing in Australia: The relevance of the UN Convention on the rights of the child'. *Australian Journal of Human Rights*, 3(2), 134.; Potas, I., Vining, A. & Wilson, P. (1990). *Young people and crime: Costs of prevention*. Australian Institute of Criminology, Canberra.

²⁰⁰ Blagg, H., & Wilkie, M. (1995). *Young People and Police Powers*. The Australian Youth Foundation, 35.

²⁰¹ Ward, J., Krohn, M., & Gibson, C. (2014). 'The effects of police contact on trajectories of violence'. *Journal of Interpersonal Violence*, 29(3), 440.; Cunneen, C. (2001). *Conflict, politics, and crime: Aboriginal communities and the police*. Allen & Unwin.; Blagg, H. (2016). *Crime, Aboriginality and the decolonisation of justice* [2nd edit.]. The Federation Press.

²⁰² Hopkins, T. (2022). *Understanding racial profiling in Australia* [PhD Thesis]. UNSW.

²⁰³ Dowse, L., Rowe, S., Baldry, E., & Baker, M. (2021). *Police Responses to People with disability* [Research Report]. The Disability Royal Commission. <https://disability.royalcommission.gov.au/system/files/2021-10/Research%20Report%20-%20Police%20responses%20to%20people%20with%20disability.pdf>

²⁰⁴ Feerick, C. (2004). 'Policing Indigenous Australians: Arrest as a method of oppression' (2004) *Alternative Law Journal*, 29 (4), 188.

²⁰⁵ Hopkins, T. (2022). *Understanding racial profiling in Australia* [PhD Thesis]. UNSW.

'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?

YOUTH CRIME ACTION PLAN (NEW ZEALAND)

The New Zealand 10-year Youth Crime Action Plan²⁰⁶ provides an interesting and relevant approach to reducing youth offending rates, with a focus on the overrepresentation of Maori people in the justice system. The program has sought to have a 'genuine partnership with communities' by involving Maori communities, frontline practitioners, and schools, to allow 20 communities across New Zealand to develop their own solutions to youth offending problems.²⁰⁷ 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 2007.²⁰⁸

LEAD BUREAU (UNITED STATES, MULTIPLE JURISDICTIONS)

Law enforcement assisted diversion is a community-based diversion approach which uses a harm-reduction lens that aims to reduce involvement in the criminal justice system, and improve community safety. Case managers work closely with police, prosecutors, and communities to provide alternative diversionary pathways that address 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).²⁰⁹

COOPERATIVE INITIATIVES (REDFERN POLICE AND TRIBAL WARRIOR), (NSW)

A number of 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.²¹⁰ The principles underlying the success of the programs were:

1. 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.
2. Enhancing trust between police and community.

²⁰⁶ New Zealand Ministry of Justice (2013). *Youth crime action plan 2013-2023*.

<https://www.justice.govt.nz/assets/Documents/Publications/YCAP-full-report.pdf>

²⁰⁷ New Zealand Associate Justice Minister (2013). 'Action Plan the next step forward for youth justice' [Media release], 31 October 2013. <http://www.beehive.govt.nz/release/action-plan-next-step-forward-youth-justice>

²⁰⁸ New Zealand Justice and Courts Minister (2015). 'Lowest number of youth in court in 20 years' [Media release], 24 March 2015.

http://beehive.govt.nz/release/lowest-number-youth-court-20-years?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+beehive.govt.nz%2Fportfolio%2Fcourts+%28Courts+-+beehive.govt.nz%29

²⁰⁹ National Support Bureau (n.d.). Background [webpage]. <https://www.leadbureau.org/about-the-bureau>

²¹⁰ Roberts, K. (2016). Review of two community engagement programs in Redfern local area command New South Wales Police, 4–5.

3. Police familiarity with key leaders and community collaborators to assist with the design of programs that will have the greatest influence communities.

POLICE FORCE MENTAL HEALTH CO-RESPONSE COMMISSIONING TRIAL (WA)

In January 2016, the Western Australia (WA) Police Force implemented the WA 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.²¹¹

ABORIGINAL COMMUNITY PATROLS (AUSTRALIA)

There are over 130 Aboriginal community patrols in operation across Australia in metropolitan and rural locations founded by the Department of Indigenous Affairs.²¹² 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.²¹³ 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.²¹⁴ 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.²¹⁵

ABORIGINAL COMMUNITY LIAISON OFFICERS (ACLOS) (AUSTRALIA)

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) recommended that jurisdictions improve relations between police and Aboriginal people by appointing police aides

²¹¹ Henry, P. & Rajakaruna, N. (2018). *WA police force mental health co-response evaluation report*. The Sellenger Centre for Research in Law, Justice and Social Change, Edith Cowan University.

[https://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4011830c6f17958a776124a04825830d0003e135/\\$file/t-p-1830.pdf](https://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4011830c6f17958a776124a04825830d0003e135/$file/t-p-1830.pdf); Blagg, H. (2015). *Models of best practice: Aboriginal community patrols in Western Australia*.

https://www.researchgate.net/publication/282866234_Models_of_Best_Practice_Aboriginal_Community_Patrols_in_Western_Australia

²¹² Porter, A. (2016). 'Decolonising Policing, Indigenous patrols, counter-policing and safety'. *Theoretical Criminology*, 20(4), 550.

²¹³ Blagg, H. (2015). *Models of best practice: Aboriginal community patrols in Western Australia*.

https://www.researchgate.net/publication/282866234_Models_of_Best_Practice_Aboriginal_Community_Patrols_in_Western_Australia

²¹⁴ Porter, A. (2016). 'Decolonising Policing, Indigenous patrols, counter-policing and safety'. *Theoretical Criminology*, 20(4), 550.; Blagg, H. (2016). *Crime, Aboriginality and the decolonisation of justice* [2nd edit.]. The Federation Press.

²¹⁵ Blagg, H. (2015). *Models of best practice: Aboriginal community patrols in Western Australia*, pp. 23-26.

https://www.researchgate.net/publication/282866234_Models_of_Best_Practice_Aboriginal_Community_Patrols_in_Western_Australia

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.²¹⁶

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.²¹⁷

CAHOOTS (CRISIS ASSISTANCE HELPING OUT ON THE STREETS), (EUGENE, OREGON USA)

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 that are 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 services²¹⁸ as well as saving an estimated \$8.5 million annually in public safety spending.²¹⁹

PORTLAND STREET RESPONSE, (PORTLAND OREGON)

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.²²⁰

THE BEHAVIOURAL HEALTH EMERGENCY ASSISTANCE RESPONSE DIVISION - B-HEARD, (NEW YORK CITY, USA)

²¹⁶ Victoria Police (2022). Aboriginal liaison officers. <https://www.police.vic.gov.au/aboriginal-community-liaison-officer-program>; NSW Police Force (n.d.). Aboriginal community liaison officers [Brochure].

https://www.police.nsw.gov.au/data/assets/pdf_file/0003/307029/ACLO_Brochure.pdf.

²¹⁷ Australian Law Reform Commission (2017). *Pathways to justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*. No 133. https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf

²¹⁸ Waters, R. (2021). 'Enlisting mental health workers, not cops, in mobile crisis response'. *Health Affairs*, 40(6).

<https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.00678>

²¹⁹ What Works Cities (2021). Alternative Emergency Response: Exploring Innovative Local Approaches to Public Safety.

<https://whatworkscities.medium.com/exploring-innovative-emergency-responses-with-cahoots-499c5b8920c8>

²²⁰ Townley, G., & Leickly, E. (2022). Portland Street Response: Year two mid-point Evaluation. Portland State University Homelessness Research & Action Collaborative.

https://www.pdx.edu/homelessness/sites/g/files/znlchr1791/files/2022-12/PSR%20Year%20Two%20Mid-Point%20Evaluation%20Report_For%20Public%20Release.pdf

The B-HEARD Team is an alternative first responder model in NYC. 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.²²¹

PRE-CHARGE DIVERSION (GENERAL OUTCOMES INTERNATIONALLY BASED ON METANALYSIS)

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 USA (11 studies), Canada (4), the UK (2) and Australia (2). 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.²²²

²²¹ New York City Mayor's Office of Community Mental Health (n.d.). Re-imagining New York City's mental health emergency response: A new health-centered approach to mental health emergencies. <https://mentalhealth.cityofnewyork.us/b-heard>

²²² Wilson, D., Brennan, I. & Olaghere, A. (2018). 'Police-initiated diversion for youth to prevent future delinquent behavior: a systematic review'. *Campbell Systematic Reviews*, 14, 1-88.

A BRIEF NOTE: THE CRIMINALISATION OF DRUG USE- AND THE NEED FOR PUBLIC HEALTH APPROACHES

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.²²³

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. Criminal law should not be used to regulate personal drug use. Health responses are required to address the harms and health impacts of drug use. There is a need for both:

- the decriminalisation of the use and possession of prohibited drugs by removing all criminal sanctions and to remove the offence from the law and
- 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.²²⁴
- Half of all people in prison have a history of injecting drug use.²²⁵
- 85% of people in prison who have a history of injecting drug use, report being under the influence of drugs and/or alcohol at the time they committed the offence which resulted in their imprisonment.²²⁶
- 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.²²⁷
- 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.²²⁸
- 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.²²⁹
- At least half a million people each year in Australia cannot access the alcohol and other drug treatment and support they need.²³⁰

The criminalisation of illicit drug possession and use increases the likelihood of confrontational interaction with police, criminal proceedings in court and incarceration. Decriminalisation will

²²³ Rethink Addiction and KPMG, Understanding the Cost of Addiction in Australia (2022) Rethink Addiction, Richmond, Victoria.

²²⁴ Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*, 92.

²²⁵ Australian Institute of Health and Welfare (2015). *The health of Australia's prisoners 2015*. Canberra: ACT.

²²⁶ Kirwan, A., Curtis M., Dietze P, Aitken C., Woods E., Wa ker S., Kinner S., Ogloff J., Butler T., & Stoové M. (2019). 'The Prison and Transition Health (PATH) Cohort Study: Study protocol and baseline characteristics of a cohort of men with a history of injecting drug use leaving prison in Australia'. *J Urban Health*, 96(3):400-410.

²²⁷ Kirwan, A., Curtis M., Dietze P, Aitken C., Woods E., Wa ker S., Kinner S., Ogloff J., Butler T., & Stoové M. (2019). 'The Prison and Transition Health (PATH) Cohort Study: Study protocol and baseline characteristics of a cohort of men with a history of injecting drug use leaving prison in Australia'. *J Urban Health*, 96(3): 400-410.

²²⁸ Rethink Addiction & KPMG (2022). Understanding the cost of addiction in Australia. Rethink Addiction, Richmond, Victoria.

²²⁹ Ritter, A., McLeod, R., & Shanahan, M. (2013). *Monograph No. 24: Government Drug Policy Expenditure in Australia - 2009/10, DPMP Monograph Series*. Sydney: National Drug and Alcohol Research Centre.

²³⁰ Rethink Addiction & KPMG (2022). Understanding the cost of addiction in Australia. Rethink Addiction, Richmond, Victoria.

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 submission to overview in detail all the alcohol and other drug treatment responses that reduce the likelihood of incarceration, we note that in this report 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.²³¹

²³¹ Zhang, A., Bales, J. A., Nyland, J. E., Nguyen, T. H., White, V. M., & Zgierska, A. E. (2022). 'The relationship between police contacts for drug use-related crime and future arrests, incarceration, and overdoses: A retrospective observational study highlighting the need to break the vicious cycle'. *Harm Reduction Journal*, 19(1), 67.

PART 3: PROGRAMS AND SUPPORTS FOR PEOPLE AT RISK OF INCARCERATION IN TASMANIA

ORGANISATIONS PROVIDING SPECIALIST SUPPORT TO PEOPLE IMPACTED BY THE JUSTICE SYSTEM IN TASMANIA

It is clear that there are multiple organisation and services led by the community sector in Tasmania that are working to reduce cycles of incarceration. Evaluations of both federal and state funded 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. We also note that a number of services that we spoke to expressed some concerns about putting a submission forward to the inquiry independently, because there was some anxiety that a critical submission might negatively impact on either their existing or future government funding.

We note in this section the organisations, coalitions and support services that are working directly with people impacted by the justice system in Tasmania and are working in some way to try and reduce criminal and youth justice system involvement. This overview is not an exhaustive list, but even so, it gives an indication of the limited funding and services that are specifically focused on breaking the cycle of disadvantage in Tasmania.

JUSTAS (TAS)

JusTas²³² 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 and is currently regrouping to become more active in this space.

ONESIMUS (TAS)

The Onesimus Foundation²³³ is located at the Christian Family Centre adjacent 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. Activities include 'kid's visit days, video visits and 'hidden sentence training'.

JUST DESSERTS (TAS)

Just Desserts²³⁴ 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.

²³² <https://justas.org/>

²³³ <https://www.onesimus.org.au/>

²³⁴ <https://www.onesimus.org.au/jd-justdesserts>

SALVATION ARMY- BEYOND THE BARBED WIRE (TAS)

This program 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 the program only 10 per cent of clients return to prison.²³⁵

54 REASONS - SAVE THE CHILDREN SUPPORTING YOUNG PEOPLE ON BAIL (TAS)

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.²³⁶

THE FRANCIS PROGRAM (TAS)

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.²³⁷

LAUNCESTON PCYC – YOUTH DEVELOPMENT (TAS)

Launceston 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.²³⁸

YCP YOUTH (TAS)

JCP Youth is a Tasmanian based organisation, working with at risk and vulnerable young people on a national scale. 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 our communities.²³⁹

MEN'S RESOURCES TASMANIA (TAS)

Men's Resources Tasmania (MRT)²⁴⁰ 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

²³⁵ McCrae, D. and Donohue, J., (2022) Beyond the wire, reintegration for returning citizens: a collaborative initiative between the Tasmanian Department of Justice and the Salvation Army, in Parity, in Parity. v. 35 n. 3 p. 48-50 2022 <https://library.aic.gov.au/cgi-bin/koha/opac-detail.pl?biblionumber=130928216>

²³⁶ Tasmanian Government, Strong Families Safe Kids Directory, <https://www.strongfamiliesafekids.tas.gov.au/service-directory/supporting-young-people-on-bail> accessed 25th March 2023

²³⁷ <https://hobart.catholic.org.au/2022/11/08/program-provides-relationship-support-to-prisoners-and-families/>

²³⁸ Launceston PCYC, <http://www.pcyclaunceston.org.au/youth-development/> accessed 25th March 2023

²³⁹ JCP website, <https://jcpyouth.com.au/> accessed 23rd March 2023

²⁴⁰ <https://www.mrtasmania.org/>

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 various activities. MRT believes that current approaches to incarceration are not meeting community expectations, and that prison should have a strong focus on rehabilitation.

ANGLICARE FINANCIAL COUNSELLING (TAS)

The financial counselling outreach service run by Anglicare at the 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 problems of their family member. With this support, people in prison have a better chance of retaining their bank accounts for when they are released, so 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 rights and responsibilities and reduce stress and anxiety about financial matters.

CONNECT 42'S JUST MOVING ON (TAS)

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.²⁴¹

CONNECT 42 JUST TIME (TAS)

Just Time (TAS) is a parenting program being delivered in Tasmanian prisons. It uses the well-respected and well-researched circle of security parent DVD program® as its central tool – and is delivered by communication professionals. Just time is about how the bonds of love and positive emotion form the basis of secure attachment between parent and child. How they gift that child's life with mental wellbeing, relationship which grows language and supports positive social communication, which leads to literacy.²⁴²

RED CROSS COMMUNITY BASED HEALTH AND FIRST AID PROGRAM (TAS)

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.²⁴³

²⁴¹ Connect 42 website, <https://connect42.org/just-moving-on> accessed 23rd March 2023

²⁴² Connect 42 website, <https://connect42.org/just-time> accessed 23rd March 2023

²⁴³ Australian Red Cross website <https://www.redcross.org.au/justice/prisoners-as-change-makers/> accessed 23rd March 2023

COURT MANDATED DIVERSION PROGRAM (TAS)

Many people appearing before court have complex social issues. Alcohol and other drug dependency can have significant impacts on individuals, their families and the community. The Court Mandated Diversion (CMD) program aims to break the drug-crime cycle. 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.²⁴⁴

THE DIVERSION LIST (TAS)

The Diversion List is a court just for defendants with a mental illness and/or impaired intellectual functioning. Dedicated Magistrates work with health and legal professionals to help eligible people treat their mental health needs related to their offending behaviour. The usual court system may not consider the reasons behind their behaviour (which is usually minor offences or disorderly conduct, and can be repeat offences). Sentencing can be a problem, as they generally have little income or funds to pay a fine, and their offences are not serious enough for imprisonment.

By focussing on treatment and support, the Diversion List aims to:

1. assist people to address the mental health or cognitive disability needs related to their breaking of the law
2. improve community safety and reduce re-offending by people on the List
3. improve the psychological and general well being of people on the List
4. reduce the use of criminal justice punishments for health-related behaviours.²⁴⁵

DE-FUNDED: TASMANIAN PROJECTS THAT MADE A DIFFERENCE HISTORICALLY

When discussing the service delivery landscape in Tasmania it is useful to also look at projects that were evaluated that are no longer funded.

POST RELEASE OPTIONS PROJECT (BETHLEHEM HOUSE)

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.²⁴⁶

PAROLEE TRANSITIONAL ACCOMMODATION PROJECT (BETHLEHEM HOUSE)

This project 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 people released on parole into the care of PTAP by the TPS and Parole Board over the life of the project to date, only 1 reoffended and was sent back into custodial care. This is a significant decrease from the 26% published parolee recidivism rate.²⁴⁷

²⁴⁴ Department of Justice Tasmania, Community Corrections, <https://www.justice.tas.gov.au/communitycorrections/orders/court-mandated-diversion/intent-of-court-mandated-diversion-program> accessed 26th March 2023

²⁴⁵ Magistrate's Court of Tasmania https://www.magistratescourt.tas.gov.au/about_us/criminal_division/diversion_list accessed 26th March 2023

²⁴⁶ Bethlehem House experience of operating a Post-Release Options Project (PROP) Senate Legal and Constitutional inquiry: Value of a justice reinvestment approach to criminal justice in Australia. 2013, <https://www.aph.gov.au/DocumentStore.ashx?id=6c96918f-9e90-469f-9142-cbacc514dccc>

²⁴⁷ Van Aarken (2010) Final Report on the Evaluation of Parolee Transitional Accommodation Project (PTAP)

RE-INTEGRATION FOR EX-OFFENDERS PROGRAM (SALVATIONS ARMY)

This successful program lost its funding in 2015. An independent evaluation reported that the success rate of the program was 93.5 per cent, equating to a recidivism rate of 6.5 per cent compared to recidivism rates of the general prison population of about 46 per cent. There was overwhelming support for the program and its continuation, with clients reporting high levels of satisfaction and advocating for its expansion through Tasmania.²⁴⁸

²⁴⁸ Lloyd, B., Stafford, J., & Gabriel, M. (2013). Evaluation of New Homelessness Services in Tasmania Report Two: Evaluation of Re-Integration for Ex-Offenders Program. Housing and Community Research Unit (HACRU), University of Tasmania.

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, 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. But 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 evidenced-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.²⁴⁹ ²⁵⁰ 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 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 in terms of cost savings.
- 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 this fund is intended to enhance the capacity of

²⁴⁹ For instance: Target 10: By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent., Target 11: By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by 30 per cent.

²⁵⁰ Tasmanian Government, Department of Premier and Cabinet, Closing the Gap Tasmanian Implementation Plan 2021 – 2023 https://www.dpac.tas.gov.au/__data/assets/pdf_file/0027/228852/Closing-the-Gap-Tasmanian-Implementation-Plan-August-2021.pdf

services to better meet the needs of people at risk of justice system involvement (including people leaving prison), the substantial focus of this 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 doesn't 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, alongside staff retention, much 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. A lack of resourcing for evaluation also makes measurement of success extraordinarily difficult. A lack of transparency in terms of evaluation in Tasmania also 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 can't 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 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'²⁵¹ 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.

²⁵¹ Schwartz, M., Russell, S., Baldry, E., Brown, D., Cunneen, C. & Stubbs, J. (2020). Obstacles to effective support of people released from prison: Wisdom from the field (Rethinking Community Sanctions Project, UNSW, 2020). <https://apo.org.au/sites/default/files/resource-files/2020-02/apo-nid274951.pdf>; Kendall, S., Redshaw, S., Ward, S., Wayland, S., & Sullivan, E. (2018). 'Systematic review of qualitative evaluations of re-entry programs addressing problematic drug and alcohol use and mental health disorders amongst people transitioning from prison to communities'. *Health and Justice*, 6(4).

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 can not 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 (whilst 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.

In summary, we outline the key principles for good practice below. Please note these principles have been published (by the author of this report) in a number of previous publications, including most recently Precedent (issue 161, Nov/December 2020).

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.²⁵²

²⁵² See: Schwartz, M., & Terare, M., (2020). Creating Futures: Weave's intensive support service for young people leaving custody or involved in the criminal justice system [Evaluation report]. <http://www.weave.org.au/wpcontent/uploads/2018/01/Creating-Futures->

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.²⁵³

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.²⁵⁴

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.²⁵⁵

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).²⁵⁶

[Evaluation- -Executive-Summary.pdf](#); Sotiri et al. (2021). They're there to support you and help you, they're not there to judge you": Breaking the cycle of incarceration, drug use and release. Evaluation of the Community Restorative Centre's AOD and reintegration programs. <https://www.health.nsw.gov.au/aod/programs/Documents/crc-final-report.pdf>; Sotiri, M. (2016). An exploration of best practice in community based reintegration programs for people leaving custody in the US and the UK. <https://www.crcnsw.org.au/wp-content/uploads/2016/11/>

²⁵³ Sotiri, M. & Russell, S. (2018). 'Pathways home: How can we deliver better outcomes for people who have been in prison?', *Housing Works*, 15(3), 41.; Sotiri, M. (2016). An exploration of best practice in community based reintegration programs for people leaving custody in the US and the UK. <https://www.crcnsw.org.au/wp-content/uploads/2016/11/>

²⁵⁴ Borzycki, M. & Baldry, E. (2003). 'Promoting integration: The provision of prisoner post-release services', *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology: Canberra, No. 2.; Gilbert, J. & Elley, B. (2015). 'Reducing recidivism: An evaluation of the pathway total reintegration programme', *New Zealand Sociology*, 30(4), 15–37.; Angell, B. Matthews, E. Barrenger, S., Watson A. & Draine, J. (2017). 'Engagement processes in model programs for community re-entry from prison for people with serious mental illness', *International Journal of Law and Psychiatry*, 37, 490–500.

²⁵⁵ Gilbert, J. & Elley, B. (2015). 'Reducing recidivism: An evaluation of the pathway total reintegration programme', *New Zealand Sociology*, 30 (4), 15–37.; Angell, B., Matthews, E., Barrenger, S., Watson, A., & Draine, J., (2014). 'Engagement processes in model programs for community re-entry from prison for people with serious mental illness'. *International Journal of Law and Psychiatry*, 37, 490–500.; Hunter, B., Lanza, M., Lawlor, A., Dyson, W., & Gordon, D. (2016). 'A strengths-based approach to prisoner re-entry: The fresh start prisoner re-entry program', *International Journal of Offender Therapy and Comparative Criminology*, 60 (11), 1298–314.

²⁵⁶ Padgett, D. Gulcur, L. & Tsemberis, S. (2006). 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, 16(1), 74–83; Kendall, S., Redshaw, S., Ward, Wayland, S. & Sullivan, E. (2018). 'Systematic review of qualitative evaluations of re-entry programs addressing problematic drug and alcohol use and mental health disorders amongst people transitioning from prison to communities', *Health and Justice*, 6(4).

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.²⁵⁷ Many First Nations People have intergenerational and/or personal experience of mainstream services working against them.²⁵⁸ Engaging with First Nations communities ensures programs are more effectively targeted to local priorities and needs, and are aligned with local systems and circumstances.²⁵⁹ 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, and 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.²⁶⁰

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.²⁶¹ While many people may see their prison experience as a chapter in their lives they wish to close, others are prepared to make themselves available to advocate and to contribute to the design and sometimes the delivery of mentor programs, post release programs or support groups for prisoners and their families. We have encouraged ex-prisoners to contribute to this Inquiry and value their unique insights and contributions.

²⁵⁷ Padgett, D. Gulcur, L., & Tsemberis, S. (2006). 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, 16(1), 74–83.; Kendall, S., Redshaw, S., Ward, Wayland, S. & Sullivan, E. (2018). 'Systematic review of qualitative evaluations of re-entry programs addressing problematic drug and alcohol use and mental health disorders amongst people transitioning from prison to communities', *Health and Justice*, 6(4).; Law and Safety Committee (2018). The adequacy of youth diversionary programs in New South Wales, Report 2/56, 9.

<https://www.parliament.nsw.gov.au/ladocs/inquiries/2464/Report%20Adequacy%20of%20Youth%20Diversionary%20Programs%20in%20NSW.PDF>; Davis, K. & Higgins, D. (2014). 'Law and justice: prevention and early intervention programs for Indigenous youth'. Australian Institute of Health and Welfare and Australian Institute of Family Studies. Resource Sheet No 34. July 2014. 10. <https://www.aihw.gov.au/getmedia/85dd676d-62ab-47cf-8a01-a1847a05a17a/ctg-rs34.pdf.aspx>

²⁵⁸ Law Council of Australia. (2019). 'Minimum age of criminal responsibility'. Policy Statement, 17 December 2019. 5.

²⁵⁹ Davis, K. & Higgins, D. (2014). 'Law and justice: prevention and early intervention programs for Indigenous youth'. Australian Institute of Health and Welfare and Australian Institute of Family Studies. Resource Sheet No 34. July 2014. 10, p. 62. <https://www.aihw.gov.au/getmedia/85dd676d-62ab-47cf-8a01-a1847a05a17a/ctg-rs34.pdf.aspx>

²⁶⁰ Padgett, D. Gulcur, L., & Tsemberis, S. (2006). 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, 16(1), 74–83.; Sotiri M. & Russell S. (2018). 'Pathways home: How can we deliver better outcomes for people who have been in prison?', *Housing Works*, Vol. 15, No. 3, 2018, 41; Johnson, G., Parkinson, S. & Parsell, C. (2012) Policy shift or program drift? Implementing Housing First in Australia, AHURI Final Report No. 184, Australian Housing and Urban Research Institute Limited, Melbourne.

²⁶¹ Doyle, C, Gardner K, & Wells, K (2021). The importance of incorporating lived experience in efforts to reduce Australia's incarceration rates, *International Journal for Crime, Justice and Social Democracy*, 10(2); Sotiri, M (2020) Building pathways out of the justice system: Supporting women and reducing recidivism, *Precedent*, 161, November/December.

APPENDIX B (FOCUS GROUP AND SURVEY RESULTS)

The following comments were sourced from a community focus group and an online survey that the Men's Networking Group alongside the Justice Reform Initiative conducted. 14 representatives from service delivery organisations participated in the focus group. 12 representatives from service delivery organisations completed the online survey. Comments from the focus group were summarised and those from the survey are verbatim. The summary and comments are grouped under the Inquiry Terms of Reference's six headings. All individuals who contributed remain anonymous.

Unfortunately, there was a technical glitch regarding TOR 4 in the online survey, so no comments were captured.

TOR 1: (FOCUS GROUP) FACTORS INFLUENCING INCREASES IN TASMANIA'S PRISONER POPULATION AND ASSOCIATED COSTS - FOCUS GROUP

- Effective throughcare is lacking in Tasmania Prison Service (TPS)
- Lack of diversion options for people with disabilities in the Criminal Justice System (CJS). Cited were mental health, addiction, and neurological disorders such as acquired brain injury
- Limited employment options for ex-prisoners often leads to re-offending
- Inadequate access to healthcare due to understaffed, overworked health practitioners and an underfunded health service
- health services in prison and post release
- There is a need for more sentencing options – such as the legislation of the Mental Health List
- The 'pipeline' from juvenile to adult incarceration is well known and must be considered within a correctional strategy and policy discussions
- Stigmatisation of returning citizens limits resocialisation and options for people who have been to prison
- There is a shortage of psychologists in the prison to deal with mental health problems
- Reforms must include input from people with lived experience (PWLE)
- Defunding of the REO project (Salvation Army) or similar long-term support for people leaving prison to keep them on track, especially for those who may not be eligible for NDIS report or require more frequent support and general guidance in the community
- Lack of mental health supports (forensic psychologists) both inside the justice system and in the community and the oversaturation of 'counsellors' who are not properly skilled and qualified to be working with people with high-level, complex histories with co-occurring mental health issues, emotional dysregulation, complex trauma histories
- The lack of housing to afford clients stability for them to focus on rebuilding their lives and to equip them with the foundation essential to their success, as opposed to housing being unstable and a constant worry. This directly contributes to the 'revolving door' of people in and out of prison, and the commission of crime in the community to obtain their basic needs (e.g., stealing and burglaries for money for food and substances, motor vehicle stealing for shelter)
- Association and social issues (given that Tasmania is a small state)
- Lack of recreational options for people to develop pro-social connections in the community

TOR 1: (SURVEY) FACTORS INFLUENCING INCREASES IN TASMANIA'S PRISONER POPULATION AND ASSOCIATED COSTS

- The housing crisis -Loss of disability services (for those that aren't eligible for NDIS this is a huge loss of support) -High rates of brain injury and cognitive impairment undiagnosed and unsupported -Unemployment and financial hardship. -Lack of accessible alcohol and drug treatment services e.g., services in regional and remote areas.
- Tough on crime policies that produced changes in court outcomes and policing policies. In Tasmania, the drivers are increased likelihood of receiving a prison sentence upon a guilty verdict and increases in average sentence length. Nationally, the expansion of the remand population has accounted for two-thirds of the prison growth. In addition, we know that incarceration is much more expensive than community-based sentences. This goes for both monetary and societal costs. When a person is incarcerated they lose many of their resources, such as employment and housing, and they accumulate debt. Community-based sentences are more effective at reducing recidivism risks and allows the person to remain in the community and with their family/friends, which has benefits for both the person and their networks. Reference for prison growth: Productivity Commission. (2021). Australia's Prison Dilemma. URL: <https://www.pc.gov.au/research/completed/prison-dilemma>
- Access to healthcare including mental health
- increase in young offenders who have less respect than the older ones, contributing to more crimes involving drugs, general assaults and family violence and lacking rehabilitative activities and programs when they do make their way to prison
- My key message here for all questions is this. It has been said before and it's difficult to move towards. We have a crime, e.g., low level violence, theft, robbery all repeated. Lots of victims. We have an individual, with anger, pain, distrust, drugs, mental health issues etc. Our focus is the downstream one of protecting victims. The question of what services at what point of time in that person's life created the choice to be a criminal. What was the upstream factors that could have changed that. It may not be cost effective to change (him) now. But let's use the research we have (it is sizeable) to provide evidence based upstream funding. Many have volunteer input, are low cost. Examples are many: look to raise.org.au a very research-based program. In summary Person not problem strategic planning. We need to know for every person, where did we let them down. Then plug it.
- Poor rehabilitation, re-education strategies. Effective programs that are tailored to recidivism are not necessarily valued by the justice system and are by chance. # Poorly designed education system that does not do enough to teach young people sufficient communication skills to successfully navigate their lives
- Poor management I think more of house arrest and ankle bracelet I know if my child had that she would be still here
- We have a police force legal system and legislator that is highly corrupted .
- Lack of community services and no services within the prison system
- The media and conservative politicians say we've got to get tough on crime. One is to sell news and the other is to buy votes
- Poor culture of punishment. Lack of rehabilitation and human rights.

TOR 2: (FOCUS GROUP) THE USE OF EVIDENCE-BASED STRATEGIES TO REDUCE CONTACT WITH THE JUSTICE SYSTEM AND RECIDIVISM

- There is a need to examine the introduction of a Therapeutic Jurisprudence approach to the CJS
- Ensure data is systematically collected from existing criminogenic programs to inform policy
- A need to foster effective stakeholder collaboration

- Look at interjurisdictional models e.g., Yellow Ribbon Initiative in Singapore, Scandinavian models, Neighbourhood Justice Centre Victoria, Youth Justice Initiatives in New Zealand.
- Do we need a peak body to represent stakeholders?
- Introduce an office within justice (which will be accountable to the minister) to support and help co-ordinate the delivery of non-government services in the prison and post release.
- Questions were asked about the status of the Corrections Strategic Plan
- Mental health support (appropriate, accessible, available) especially that delivered by professionals who are qualified and equipped to work with an offending population
- Reduction in sentences resulting in terms of incarceration for people who commit lower-level offences (e.g., growing and consumption of cannabis). Incarceration in Tasmania does not provide an effective rehabilitation option, as opposed to other states due to the lack of intervention options available within Tasmanian prisons
- More options for people to develop pro-social supports (friends, companions) in order to change their social circle from pro-criminal to pro-social. (e.g., Kickstart Arts project recently defunded)
- Diversion courts that are more equipped to include as eligible higher-risk offenders, as opposed to the current drug diversion court in Tasmania, for example, that accepts only lower-risk offenders
- Bountiful access for people in prison to adequate support in relation to reintegration on a long-term basis upon their release from custody

TOR 2: (SURVEY) THE USE OF EVIDENCE-BASED STRATEGIES TO REDUCE CONTACT WITH THE JUSTICE SYSTEM AND RECIDIVISM

- Providing safe and stable housing; removing barriers to accessing support for people with disabilities that are not eligible for NDIS; support to build community connections through employment, study and meaningful social activities. Early childhood community support- free childcare, parenting support programs, and programs to reconnect fathers with children.
- Diversion and in particular police-led deflection. Diversion, such as Tasmania's Court Mandated Diversion Drug program and mental health courts, is great, but occurs after someone has already been in contact with the justice system. In addition, they can hinge on a guilty plea, and the expungement of a criminal record is conditional as it hinges on program completion. This can of course be problematic as it may create coercion. Police-led deflection on the other hand (such as Seattle's Law Enforcement Assisted Diversion program) is a collaborative process that connects persons to services without entry to the justice system. Police can offer referrals to support services, such as substance use, mental health, and housing, without arrest. Police stations can also be set up so that persons can come in and ask for a referral when in need. A proactive, supportive policing method would likely increase police contact but reduce criminal justice contact. Referral to support services would address some of the underlying reasons persons offend, which would thereby contribute to lower recidivism figures. As a side-note: criminal behaviour is a function of inequalities in housing, education, health (both physical and mental), among others. These are systemic issues that require whole-of-government solutions that break down these inequalities. This should be the long-term goal of our government, but in the interim, we need an overhaul of policing and court procedures to more holistic and supportive practices. This also requires additional funding to support services to ensure that referral to these services is possible.
- Adequate primary health with release to freedom pathways to health

- intensive programs whilst in prison and good pro-social modelling skills of prison staff who come in contact with prisoners
- One on one focused tailored programs that include principles of coaching (not directing)
- More house arrests
- Normally you can work on removing persons from situations or environments, but it is a lot more difficult here in Tasmania. We need to work closer with families and communities.
- Scandinavian models of social justice, rehabilitation and reintegration. Causes of crime are addressed.
- Therapeutic jurisprudence to address the causes of crime. Housing, throughcare, employment, AOD support, mental health etc.

TOR 3 (FOCUS GROUP) THE PROVISION OF, AND PARTICIPATION IN, SERVICES FOR PEOPLE IN PRISON AND LEAVING PRISON (HEALTH HOUSING AND LEGAL SERVICES)

- There was general agreement that there was a cultural problem which impacted negatively on the rehabilitative and throughcare aspirations of TPS
- There is no doubt that inadequate staffing – and resulting lockdowns – impacts negatively on service provision
- Post release program have been operating, albeit spasmodically, since the early 2000's and all have been found to be cost effective and have achieved decreased recidivism. These programs need to be scaled up
- Linking people into health care post release is fraught and often contributes to reoffending
- Housing is and has been one of the biggest challenges for people exiting prison. There were three specialists in the group able to speak to this issue

(pre-release)

- Accessible alcohol and drug counselling
- Proper trade opportunities in all prison facilities
- More trade opportunities, programs, support services, recreational activities in all maximum facilities of Tasmanian prisons, given the complete lack of servicing that currently exists in these areas

(post-release)

- (For ex-prisoners now in the community who are stable with regard to rehabilitation) – a peer education support program whereby people who have experienced imprisonment are paid to be in these positions, sit on particular boards and advise the Minister on best practice for rehabilitation based on their experience with incarceration, rehabilitation and reintegration

TOR 3 (SURVEY) THE PROVISION OF, AND PARTICIPATION IN, SERVICES FOR PEOPLE IN PRISON AND LEAVING PRISON (HEALTH HOUSING AND LEGAL SERVICES)

- -People with shorter sentences (less than 6 months) do not routinely access psychosocial groups within the prison, and often are not accessible for rehabilitation/reintegration support. This is especially problematic for people with psychosocial-related conditions and disabilities- or may require more support. - Navigating NDIS, Disability Pension, and other disability-related services is fraught, and often times the person with the disability (especially if experiencing cognitive impairment and/or literacy challenges) will simply disengage due to challenges,

lengthy time and cost of evidencing their disability. -Many community programs do not provide a true throughcare option- e.g., Alcohol and Drug treatment residential programs will often not transfer direct from prison despite the first days/week of returning to the community being the greatest time of risk for people overdosing. - Stable housing is essential for reintegration, and is very hard to come by, and largely unaffordable.

- I am a criminologist at the University of Tasmania with a research focus on reintegration and, in particular, housing. In this capacity I have interviewed NGOs, police officers, prison staff, Community Corrections staff, politicians, and persons with lived experience. My Masters' thesis looked at the consequences of defunding a transitional support and accommodation service for persons exiting prison, as well as service providers. This found that transitional support and housing is imperative for those leaving prison, but that it is very difficult to come by. The current wait for priority housing in Tasmania is over 2 years (105 weeks in October 2022), and it does not prioritise those leaving prison. Without housing, one is not eligible for parole, which means that people remain in the system for longer than necessary. There are some great NGOs out there who work with persons leaving prison, but they are hamstrung by limited resources and funding. Housing and support services for people leaving prison should be a government priority and should therefore be provided by the government.
- Minimal healthcare, 3 day's worth of medication on release and 28 days to make contact with a GP. This is unattainable.
- there is just not enough - of anything :(
- I'm not well informed. Although there is a lack of a Funded networking service for service providers to share knowledge and resources
- Bloody poor they are release nowhere to go then they go back doing crimes even some petty and end up back in there
- You will receive daily torture and demoralise you will not receive help all you learn is people who wear costumes can commit crimes so is they can do it why can't you
- There is just not enough services or opportunities for people leaving prison, but there is not enough for all Tasmanians.
- No health support, no AOD support, no mental health support, no housing, no employment, no hope!
- These areas are sadly lacking and under resourced

TOR 4 (FOCUS GROUP) TRAINING AND SUPPORT INITIATIVES FOR CORRECTIVE SERVICE STAFF RELATED TO INCREASING INDIVIDUAL WELL-BEING, PROFESSIONALISM, RESILIENCE AND REDUCED ABSENTEEISM

- It was acknowledged that many staff were absent due to stress related issues
- Lockdowns and commissioning of new facilities is impacting on staffing levels at the prison
- There were questions about the appropriateness of current training program for correctional officers.
- Free, comprehensive, ongoing and wide-spread trauma-informed practice training for correctional service staff and all other frontline workers in Tasmania (Tasmania Police, even possibly the general public) who may directly or indirectly come into contact with the offending population. This will increase staff understanding of the trauma histories and associated behaviours present in people who have been to prison and equip practitioners to continually upskill in order to be able to effectively communicate with people with experience of incarceration and deescalate particular behaviours and situations. This will all contribute to better functioning of the prison system as it will directly reduce the majority of assaults upon staff and difficult

behavioural issues that correctional staff deal with on a daily basis in their roles. Such difficulties contribute to absenteeism and negatively impact staff wellbeing and resilience and in turn, staff professionalism.

- Mandatory training for Correctional Officers in criminology, psychology, mental health and self-care.
- Mandatory training for Correctional Officers that intentionally works to change the negative and harmful culture of correctional work in Tasmania

TOR 5 (FOCUS GROUP) INNOVATIONS AND IMPROVEMENTS TO THE MANAGEMENT AND DELIVERY OF CORRECTIVE SERVICES THAT MAY BE APPLIED IN TASMANIA, INCLUDING TO FUTURE PRISON/DETENTION CENTRE DESIGN

- Discussions focussed on the need to look at innovative and evidence base correctional approaches in other jurisdictions. Members within the group had firsthand and research knowledge from within Australia and overseas. (This was also discussed above in TOR 2)
- Regarding prison/detention centre design, it was agreed that Nordic models are world leading and should be examined
- Also, it was pointed out that corrective services include Community Corrections, which supervises the majority of sentenced individuals
- Diverting people (especially youth) from the CJS is paramount so models, such as in New Zealand could be considered
- Making all services that are available in the community available in Tasmanian prisons, to reduce the difficulties associated with accessing particular services while incarcerated. This will also help people access services to access while incarcerated which will decrease idleness associated with intervention and education not being available in prisons
- Current services that are offered in Tasmanian prisons by external service providers being offered by the prison itself – Increased funding to offer such services. E.g., AoD counselling a perfect example of this with the majority of mental health intervention being conducted by an external provider as opposed to justice workers

TOR 5 (SURVEY) INNOVATIONS AND IMPROVEMENTS TO THE MANAGEMENT AND DELIVERY OF CORRECTIVE SERVICES THAT MAY BE APPLIED IN TASMANIA, INCLUDING TO FUTURE PRISON/DETENTION CENTRE DESIGN - SURVEY

- Funding for housing. Greater identification of people with disabilities, including those with cognitive impairment and brain injury. State-funded support and services for people who are not eligible for NDIS; and funded Throughcare programs that provide greater support for people reintegrating- particularly for people experiencing psycho-social conditions and financial hardship.
- I think police-lead deflection and referral to support services is the future. In the absence of this, and where persons are arrested, sentences should be served in the community for most offences, except for very serious crimes. If persons are to be incarcerated, these should be in open-housed prisons with day leave for work and family commitments. Electronic monitoring can be a part of this to ensure that individuals do not abscond. One good example is Finland's Suomenlinna prison. This also requires support services and a stronger rehabilitation focus than what is currently being offered at Risdon and Ashley. Education and employment opportunities are imperative if persons are expected improve in prison.

- Access to appropriate healthcare on release
- punitive punishment just doesn't work - once in prison there needs to be reasons for prisoners to want to work their way through the system - there needs to be incentives, we need to move through the system based on their current attitude and behaviour not the crime they committed
- An effective case management system for inmates that involves sufficient individual planning to assist in rebuilding a person's life. A well-being programme supported by external organisations who have a focus and skills for working with men. (such as MRT Building Pathways program, currently running as pro-bono service)
- I recommend fully training for staff towards trans and gender diverse people they lack badly in that era I no
- I think that the office who run it get kicks out of torturing inmate or that's how the system was designed which I think that the system has been designed by legislation to allow office to harm people, so they are broken and the cycle of crime continues
- The management does not put any support into staff or the ongoing training.
- Stop lying to the public by saying they treat mental health and that they run the Apsley AOD unit when it's been closed for years. Think about investing in restorative justice and justice reinvestment. Stop building new prisons.
- Officers should be trained in trauma informed processes and be held accountable for unreasonable behaviour. The prison should be held accountable for continual breaches of human rights.

TOR 6 (FOCUS GROUP) ANY OTHER INCIDENTAL MATTERS

- A whole of government approach to justice in Tasmania
- The Tasmanian community's perspective on people in prison and specifically, their thoughts regarding what works for rehabilitation is mostly uninformed, uneducated and unhelpful. The majority of the community expresses opinions in line with 'tough on crime' perspectives, and a 'lock them up and throw away the key' approach.
- A peak body that pulls together all service providers and stakeholders in the justice arena, with a Secretariat, and can speak out on issues regarding the sector from a multi-organisational experience and approach
- The lengthy time associated with court processes contributes to a cycle of an someone not being able to access all interventions especially criminogenic programs while incarcerated due to being sentenced on their court matters but once sentenced many months or years later, have essentially served their sentence of imprisonment and are due for release
- A lack of housing including safe crisis accommodation options. E.g., Safe Space is deemed unsafe by its users due to association issues with other offending individuals and inadequate security to protect against physical and sexual assaults on one user against another user. Regardless, Safe Space is often at capacity
- The high cost of living and associated inabilities to sustain basic needs with the reliance on only the Centrelink Job Seeker Payment or Disability Support Pension. The 'Dole bludger' adverse approach to the amount available under JSP and DSP does not promote training and education and in turn, employment. It contributes to the poverty cycle by keeping people poor and unable to 'get ahead' financially, with directly negatively impacts their chances of successfully rehabilitating and reintegrating into the community

TOR 6 (SURVEY) ANY OTHER INCIDENTAL MATTERS

- Incarceration does not work for the majority of persons. Some persons should be incarcerated due to the nature of their offending and the risk they pose to society, but

most should serve their sentences in the community. This is particularly so for youth; they should be offered rehabilitative and supportive practices rather than detention. They are still children and should be cared for as such. In addition, youth detention often leads to incarceration as an adult. As many of the men I have spoken with say: Ashley is a gateway to Risdon.

- Hep c testing on release
- we need to do things better - there needs to be more input from people working at the prison in the day-to-day running - not just those in upper management - there needs to be a better voice for the prisoners also
- Total redesign of the entire system That is mapped around successful international services that have a proven track record, including an effective restorative justice system.
- Some people are in there and they are supposed to be kept safe from bullying assaults rapes but they are not this is where respect comes into it if staff treats them with respect that will be returned
- The Tasmanian Community would get a better perspective of the situation if there were some figures released outlining the number of people and the reasons for Imprisonment or detention. E.g., drunk driving, arson, family violence. Recent figures released stated that 43% of offenders were indigenous people while they comprised just over 3% of the population. What are the underlining issues?
- Yes when you file complaints about the torture and abuse by officers to ombudsman or integrity commission, they cover these war crimes up. This only leads to a lack of respect for the people in costumes. If the laws don't apply to them, why should they apply to anyone else
- The management do not have accountability.
- Stop using law and order for piss poor election opportunities. Stop the abuse of our young kids and stop the abuse of our adult prison population.
- Sentences of 12 months or less should not have a custodial sentence.
- Adequate primary health with release to freedom pathways to health

APPENDIX C: THE IMPORTANCE OF HOUSING FOR PEOPLE LEAVING PRISON IN TASMANIA

In Tasmania, as part of the 2021 University of New South Wales led research into 'People exiting Housing with Complex Needs', a Tasmanian specific report was produced.²⁶² The report concludes with recommendations which came from people working within justice and government funded programs who are tasked with the day-to-day challenges of accommodation issues for people exiting prison – as well as providing the specialised support for their complex needs. These recommendations came from practitioners who 'said it as they saw it' and number and variation speak to the critical status of post release accommodation. So essentially, these are sector-based recommendations.

On the basis of the interviews and the background research, a number of recommendations pertaining to service provision, housing and prison issues are suggested. All respondents were given the opportunity to sum up and provide some 'key messages' at the conclusion of the interviews. *It is principally from this data* that the following recommendations have been drawn.

COMMUNICATION AND INTERAGENCY COLLABORATION

- Incorporate a flag in the Corrections' shared information system which will notify key stakeholders of significant dates (e.g., parole application dates). Incorporate throughcare into these data bases and streamline housing application processes.
- Maintain the current communication and information sharing practices which foster good collaborative practices (it may be useful to have a cross sector review of these practices so as to inform innovative work going forward).
- Provide living skills for people who will be living independently post-release.
- Consider ways of reducing the barriers to housing which a criminal record attracts.
- Highlight the benefits of being released on parole with supervision and support.
- Explore an option for people to be able to refer to a post release program after they have been released if they are experiencing difficulties.
- Clarify the process for securing housing support workers for clients deemed in need of such support.
- Incorporate perspective on the positive outcomes in the system as well as the deficits.
- Reward NGO service providers with extensions of funding based on performance rather than putting programs out to tender and re-evaluate the competitive tendering environment to bring some flexibility into funding guidelines.
- Ensure there is a strong focus on cross-sector collaboration and support, especially where agencies are working under stressful conditions.

CRIMINOGENIC NEED

- Understand the special needs of the clients.
- Emphasise trauma-informed practice.
- Consider employment opportunities.
- Address criminogenic need through adequate provision of prison programs.
- Ensure equitable access to programs, especially literacy, across the prison.
- Improve access across the prison to programs and education.

²⁶² Burton P., & White, R. (2021), *Exiting Prison with Complex Support Needs – The Role of Housing Assistance*, University of Tasmania, Australia.

- Revisit the concept of the prison farms to enhance employment opportunities.
- Examine the prevalence of the view expressed by many inmates that it is inevitable they will return to prison because of being unable to find housing.
- Assess peoples' basic living skills to assess the need for independent living support.
- Consider the implications of institutionalisation on housing pathways post release and how they could be mitigated via pre-release programs.
- Identify and cater to the special support needs of clients.

FINANCIAL RESOURCES

- Ensure people exiting prison have sufficient financial resources to transition into the community.
- Ensure ex-prisoners have the financial means to cover housing and other needs upon release.
- Tackle the issues surrounding "housing debt" both pre- and post-release.

HOUSING SPECIFIC

- Adopt a housing first approach - crisis shelters are not the answer for people exiting prison.
- Build low-cost housing that is integrated across the community.
- Evaluate the efficacy of a public housing system which effectively does little else but maintains applications and advises people they will be put on the public housing wait list which has been variously estimated to comprise between three and four thousand people and the wait up to 18 months.
- Create a 'housing planning officer' position within the prison.
- Provide more accessible housing.
- Streamline the housing process, as it can be complicated and confusing and hard to navigate.
- Provide more access to housing support workers and provide clarity around the process of engaging one.
- Provide transitional housing to ensure people are not released into crisis shelters or homelessness.
- Ensure housing needs are assessed early in someone's sentence and that HC referral is lodged.
- Increase the number of affordable houses across a variety of suburbs.

MAXIMISE UTILITY OF CURRENT RESOURCES

- Fully utilise the O'Hara units (on-site transnational housing units at Risdon Prison) as they were intended incorporating a programed throughcare component.
- Ensure that corrections policy is informed by input from, and take into account, the experiences of front-line workers.
- Ensure that corrections policy is informed by input from, and take into account, the experiences of people with lived experiences, both from those who succeed in their rehabilitation as well as the recidivists.
- Ensure that corrections policy is informed by world's best practice.
- Ensure the front-line workers are carefully selected for their ability to relate to ex-prisoners and their needs.

PAROLE SPECIFIC

- Examine the process around the parole compliance, release dates, approval of suitable accommodation options and the availability of housing and why it comes up constantly as a barrier to post release housing.
- Recognise the importance of having a parole address, as this pertains to the practicalities post release but also to create some peace of mind pre-release, to assist with other issues and dealing with prison life.
- Scale up post release services (including housing) to encourage successful parole applications and reduce recidivism.
- Acknowledge the benefits of supervision and support on parole.

POLICY INPUT

- Ensure people who are working at the coal face are consulted when policy decisions and funding allocation decisions are made. Funding needs to be targeted where it is most effective.
- Ensure there are adequate financial resources post release. The Centrelink payment is inadequate and sets people up to fail.
- Ensure that adequate financial resources are available to cover housing expenses on release (crisis shelters who do not have the capacity to cover the costs themselves).
- Revisit the process around parole decisions and actual release dates to ensure that crisis beds are not held which could otherwise be utilised for other clients.
- Acknowledge the successful completion, and foster the use of education/training programs, especially where they might enhance employability post-release.
- Scale up evidence-based responses.
- Make available transitional supported housing (i.e., scale up programs such as BTW).
- Recognise the sector wide resource deficits in housing and related services.
- Consider an option to facilitate referrals to a program following release, where peoples' plans go awry - this may overcome the need to breach parolees resulting in reimprisonment.
- Advocate for policy to be informed by front line workers and service users.
- Ensure the consultation process involves service users and specialist workers (e.g., a specialist Indigenous worker).
- Ensure resource allocation is evidence based and outcome driven.
- Emphasise the central role that stable housing takes in relation to other needs.
- Employ a community led approach to corrections and community safety.

REDUCE PRISON DEMAND.

- Utilise court mandated diversionary alternatives (for example, in areas such as domestic violence, mental health and substance abuse).
- Exercise caution in moving toward or use of mandatory sentencing.
- Advocate for bail accommodation options.

RESEARCH AND EDUCATION

- Further investigate the phenomenon of people committing crime to return to prison to escape homelessness, where they can receive three meals a day and a roof over their head.

- Educate the public on the cost implications of carceral sanctions versus community-based alternatives.
- Highlight the many factors driving recidivism including institutionalisation and the many barriers facing ex-prisoners post release.
- Examine the prevalence of post release substance abuse and recidivism brought on through inadequate housing and support (especially financial) and implement strategies to mitigate.
- Investigate the reasons behind illicit drug use in prison such as boredom due to lack of programs.

STIGMA

- Highlight how stigma plays a part in employment opportunities post release.
- Work toward cultural change in the community where ex-prisoners are accepted and not stigmatised.
- Acknowledge the despair and lack of hope in securing housing after prison.
- Accept the norm that the rules imposed by Housing Tasmania for re-entry to the wait list are essentially a lifetime ban from inmates ever accessing one of those properties again.
- Recognise the reality of criminal record discrimination for people applying for housing.

THROUGH-CARE

- Ensure adequate post release supports are in place.
- Ensure that participants in the Apsley unit (prison-based A&OD treatment program) are not exposed to illicit drug use as they reenter the prison's general population on competition.
- Ensure adequate funding of post release programs.
- Establish in the early stages of release planning, whether or not an ex-prisoner is welcome to return to family or into former arrangements.
- Address the frustration felt by sector workers that throughcare has been much talked about, but not much is happening on the ground.
- Emphasise the importance of ensuring people with complex needs have integrated intensive support (e.g., which might mean physically taking them to post release appointments - not merely expecting them to turn up).
- Consider working with families wherever possible to encourage familial post-release support.
- Ensure adequate support is in place to assist with access to and custody of children.
- Encourage, as much as possible, the fostering of pro-social interaction and relationships post release.
- Ensure ex-prisoners have the required practical skills to access services including medical, transport, banking and Internet.
- Consider the creation of support groups where ex-prisoners who are susceptible to relapse and have thoughts of returning to prison could support each other.
- Enquire whether the Reunification Action Plan is being utilised and is useful.
- Mandate throughcare planning to include post release housing and support.
- Provide a structured and supported tenancy option.