

JUSTICE REFORM INITIATIVE: SUBMISSION TO THE QLD GOVERNMENT STRENGTHENING COMMUNITY SAFETY BILL 2023

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ABOUT THE JUSTICE REFORM INITIATIVE

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

The Justice Reform Initiative is committed to reducing Australia's harmful and costly reliance on incarceration. Our patrons include more than 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 end the cycle of incarceration in Australia. We seek 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 drivers of contact with the criminal justice system including responses to housing needs, mental health and social and emotional wellbeing issues, neurodevelopmental and cognitive impairment, employment needs, access to education, the misuse of drugs and alcohol, and problematic gambling. We are also committed to elevating approaches that see Aboriginal and Torres Strait Islander-led organisations adequately resourced and supported to provide appropriate support to Aboriginal and/or Torres Strait Islander people who are impacted by the justice system.

Queensland patrons of the Justice Reform Initiative include:

- **The Honourable Mike Ahern AO**, former Premier of Queensland, businessman and founder of the Queensland Community Foundation.
- **Sallyanne Atkinson AO**, Co-Chair of the Queensland Interim Body for Treaty and a member of the Queensland University Senate
- **Professor Kerry Carrington**, Adjunct Professor, University of Sunshine Coast
- **Mick Gooda**, former Aboriginal and Torres Strait Islander Social Justice Commissioner and former Royal Commissioner into the Detention of Children in the Northern Territory
- **Keith Hamburger AM**, former Director-General, Queensland Corrective Services Commission
- **Professor Emeritus Ross Homel, AO**, Foundation Professor of Criminology and Criminal Justice, Griffith University
- **Professor Elena Marchetti**, Griffith Law School, Griffith University
- **The Honourable Margaret McMurdo AC**, former President Court of Appeal Supreme Court of Queensland, Commissioner of the Victorian Royal Commission into the Management of Police Informants and Chair of the Women's Safety and Justice Taskforce
- **Dr Mark Rallings**, former Commissioner, Queensland Corrective Services
- **Greg Vickery AO**, Former President Queensland Law Society and former Chair of the Standing Commission of the International Red Cross and Red Crescent Movement
- **The Honourable Dean Wells**, former Attorney General of Queensland
- **The Honourable Margaret White AO**, former Judge of the Queensland Supreme Court and Queensland Court of Appeal, former Royal Commissioner into the Detention of Children in the Northern Territory, and Adjunct Professor TC Berne School of Law UQ.

WHAT WORKS IN BUILDING SAFER COMMUNITIES?

The Justice Reform Initiative welcomes the opportunity to put forward a submission in response to the introduction of the Strengthening Community Safety Bill 2023. We are however concerned about the short time frame (2.5 days) available for community consultation on such significant legislation. We note that the Queensland Government has recognised the proposed Bill contravenes the *Human Rights Act 2019*. Given the gravity and significance of introducing legislation that breaches the human rights of children, we encourage a more thoughtful approach to legislative reform and community consultation. From the outset we urge the Queensland Parliament to stay focused on **evidence-based youth justice policies**, and best-practice in youth justice policy development. There is no place in any Australian community for legislative or policy changes that contravene human rights.

The Justice Reform Initiative supports the submissions of policy and legislative Queensland experts including Caxton Legal Centre, Youth Advocacy Centre, and Queensland Law Society.

This submission provides several suggestions for practical measures that will enhance community safety in Queensland and points to the overweighing evidence highlighting the failure of imprisonment and harsher penalties when it comes to building safer communities. We recognise the politically charged environment in which justice policy has often been developed in Queensland as well as the challenges faced by governments on all sides of politics when there is pressure to respond to public outrage about offending.

Although **building new prisons and threatening harsher penalties** has become the default political response of governments in the face of community outrage about crime, **there is no evidence either in Australia, or internationally that such measures improve community safety**.

The Justice Reform Initiative is focused on advocating for community safety responses that address the drivers of crime, the drivers of incarceration and the drivers of re-offending. While there is no single 'reform fix' to reduce youth crime and build safer communities, there are multiple proven, cost-effective reforms that can work together to make progress. Many of these reforms are already catalogued in an abundance of government and non-government reports, research, evaluation, and reviews.¹ In addition, there are clear examples and case studies both in Australia 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 trajectories². There is also a growing

¹ For example, as detailed in <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/>

² See: WEAVE, *Creating Futures* (Evaluation report, April 2020); Women's Justice Network, *Adult Mentoring Program* (Evaluation report, 2016); Community Restorative Centre, *Alcohol and Other Drugs Transition Program* (Evaluation report, 2016); Sotiri, M (2016) *Churchill Fellowship report*; M Sotiri and S Russell, 'Pathways home: How can we deliver better outcomes for people who have been in prison?', *Housing Works*, Vol. 15, No. 3, 2018, 41; M Borzycki and E Baldry, 'Promoting integration: The provision of prisoner post-release services', *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology: Canberra, No. 2, 2003; J Gilbert and B Elley, 'Reducing recidivism: An evaluation of the pathway total reintegration programme', *New Zealand Sociology*, Vol. 30, No. 4, 2015, 15–37; B Angell, E Matthews, S Barrenger, A Watson and J Draine, 'Engagement processes in model programs for community re-entry from prison for people with serious mental illness', *International Journal of Law and Psychiatry*, Vol. 37, 2014, 490–500; B Hunter, A Lanza, M Lawlor, W Dyson and D Gordon, 'A strengths-based approach to prisoner re-entry: The fresh start prisoner re-entry program', *International Journal of Offender Therapy and Comparative Criminology*, Vol. 60, No. 11, 2016, 1298–314; D Padgett, L Gulcur and S Tsemberis, 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, Vol. 16, No. 1, 2006, 74–83; S Kendall, S Redshaw, S Ward, S Wayland and E Sullivan,

body of more formal research exploring the impact of various models of support³. **Appendix A** of this submission overviews some of this work in some more detail.

Decades of evidence shows us that for the vast majority of people, imprisonment doesn't work. It doesn't work to deter, rehabilitate, or make the community safer. Prison is in fact 'criminogenic'. The experience of going to prison makes it more likely that children (and adults) will go on to re-offend and return to prison. Across the country, governments on both sides of politics have regularly adopted a 'tough on crime' approach to justice (and particularly youth justice) policy, which has resulted in increasing numbers of children and adults 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 youth imprisonment rate in Queensland has grown significantly since 2020 and recidivism rates (discussed below in this submission) show us that we're doing simply isn't working. We need to take a clear-eyed and evidence-based approach to criminal justice, forming youth justice 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, some of which are outlined in this submission. However, the scope and capacity of these programs currently means that only a fraction of people who are at risk of imprisonment or released from prison can access them.

The Bill breaches the human rights of Queensland children who primarily come from circumstances where they have experienced multiple and intersecting disadvantage. The over-representation of First Nations children (and adults) in our justice system both reflects and reproduces a raft of First Nations disadvantage. Around 64% of children incarcerated are First Nations⁴, and 83.6% of children placed in 'separation' in Queensland prisons are First Nations.⁵ According to the most recent government data, just under half of all children in Queensland youth prisons have a mental health condition and/or a behavioural disorder.⁶ At least 8 in 10 children in Queensland youth prisons have used a substance (of which at least 3 in 10 have used methylamphetamines). Many children in Queensland youth prisons have unstable home lives - at least 30% have one parent (at a minimum) in prison; at least 60% have experienced or been impacted by domestic and family violence; and at least 29% have unstable and/or unsuitable accommodation. In addition, over half of all children in Queensland youth prisons are disengaged from education, training, and employment. As pointed out in the first Bob Atkinson review, there are multiple factors that contribute to repeat offending and entrenched youth justice system involvement including non-attendance, truancy, suspension or expulsion from school; exposure to domestic violence, or physical, sexual, and emotional abuse; Foetal Alcohol Spectrum Disorder (FASD) and other neurological impairments; behavioural and mental health conditions; problematic substance use (alcohol, drugs and volatile substances); inadequate sleep and nutrition; homelessness; and negative family and peer relationships.⁷

'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, Vol. 6, No. 4, 2018; Sotiri, M (2020) Building Pathways Out of the Justice System: Supporting Women and Reducing Recidivism, in Precedent Issue 161, November/December 2020

³ McNeill, F., Farrall, S., Lightowler, C., and 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.

⁴ Productivity Commission, Report on Government Services 2022, table 17A.5.

⁵ <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/774-2022.pdf>

⁶ <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/resources/yj-pocket-stats-2019-20.pdf>

⁷ <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/reform/youth-justice-report.pdf>

While of course the fact of disadvantage⁸ cannot be used to discount the consequences of crime, it is crucial to understand the context in which most crime is committed⁹ to build and implement effective policy that addresses the drivers of offending and reduces the numbers of children in custody.

IMPRISONMENT OF CHILDREN IN QUEENSLAND: A SNAPSHOT

The over-incarceration of children in Queensland, especially First Nations children, requires immediate action. The proposed changes in the Bill will instead result in more children being remanded in overflowing youth detention centres and adult watch houses. We currently have a situation where we are unnecessarily incarcerating the highest number of children in the country¹⁰ – primarily on remand, and mostly for short disruptive periods of time. Children are being ‘managed’ in prisons and adult police watch houses, 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 (as is suggested in this submission) we need to resource, on a significant scale, genuine community-led alternatives to incarceration.

There are 288 permanently funded beds in Queensland youth detention centres, which are currently operating at around 95.5% capacity.¹¹ This is the worst capacity rate in the nation, followed by the Northern Territory where two youth detention centres (88 beds) are operating at 57.8% capacity. The national average is 57.7% centre utilisation. In contrast to Queensland’s 36% growth in the youth prisoner population between 2017 and 2021, NSW decreased its population by 28.3% during the same period.¹² Victoria, with a larger population than Queensland, imprisoned 4,000 fewer children.¹³

The average daily number of children in prison in Queensland is 279.¹⁴ On an average day, 38 (24%) of these children are actually sentenced to a period of custody in detention, with the remaining 238 (86%) children on remand. However, the total number of children who cycle in and out of prison over the course of the year is significantly higher. In 2020-21, there were 993 children who were imprisoned over the course of the year in Queensland.¹⁵ More than 60% (605) of these children were First Nations. In the same year (2020-21), there were 206 occasions¹⁶ where children were sentenced to a period of detention in Queensland.¹⁷ This includes 121 appearances where children were sentenced to a period of detention in the magistrates court, 83 appearances where children were sentenced to detention in the children’s court, and two appearances where children were sentenced to a period of detention in the supreme court. According to the November 2022

⁸ <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/>

⁹ For example, see analysis in Cunneen, Baldry, Brown, Schwartz, Steel and Brown (2013) *Penal Culture and Hyperincarceration: The Revival of the Prison*, Routledge.

¹⁰ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/summary>

¹¹ Report on Government Services 2023. Youth Justice Services. Table 17A2.

¹² AIHW (2022). Youth detention population in Australia 2021. Table S7

¹³ AIHW, Young people returning to sentenced youth justice supervision 2019–20 (2021), Table S6.

¹⁴ <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

¹⁵ Productivity Commission, Report on Government Services 2022, table 17A.9.

¹⁶ Childrens Court Annual Report data reports on appearances rather than the number of distinct children sentenced to detention.

¹⁷ <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

Bob Atkinson Report, there were 133 distinct children sentenced to custody in the six-month period between 1 May to 31 October 2021.¹⁸ This is a 9% decrease in the number of children sentenced to custody in comparison to the same six-month period in 2019. Comparatively, the number of children on remand increased by 6% in the same time period in 2021 compared to 2019.

When we look at release, reception, and length of time in custody data, we also get a clearer sense of what is actually happening for these children. Queensland does not appear to publicly release state-based data on receptions and releases for youth detention. However, national data tells us children on average have two receptions and two releases from custody over the course of the year.¹⁹ Australia-wide, 97% of children received into custody in 2020-2021 were unsentenced and 90% of children released from custody were also released from unsentenced detention.²⁰ National data also suggests the majority of these children will not go on to be given a custodial sentence. In Queensland, almost half (45%) of all instances where a child is sentenced to a detention order result in the child being released from detention immediately following sentencing, with no time remaining to serve in custody.²¹ In addition, one quarter (25%) of appearances where a child is sentenced to a detention order result in the child not being required to serve a supervised release order. This shows many children serve their sentence in pre-sentence custody.

The average length of time children who are unsentenced spend in custody in Queensland is 46 days.²² This has increased significantly from 36 nights in 2020-21 and is higher than the national average of 43 days. The average length of time in custody for children who are sentenced is not provided in the Queensland Childrens Court Annual Report. However, the 2021 Queensland Sentencing Advisory Council baseline report on sentencing in Queensland suggests the median head sentence for children sentenced to detention was 5.6 months between 2005-06 and 2018-19 (with an average of 7.6 months).²³ The longest detention sentence over this period was 14 years. According to AIHW, the median duration for completed periods of sentenced detention in 2020-21 was 50 days in Queensland.²⁴ In addition, the November 2022 Bob Atkinson report suggests the median sentence duration for children in Queensland was 32 days (with an average of 40 days) for the 6 month period between 1 May to 31 October 2021.²⁵ Compared to the same six month period in the 2019, the median sentence has increased by 4 days and the average sentence has increased by 3 days. Collectively, these data show the vast majority of children who are incarcerated in youth detention in Queensland have not had their day in court, and the majority will not be required to spend time in custody following sentencing.²⁶

Further to the above, the state government has assessed that **over half of all children (51%) remanded in custody in Queensland youth detention centres have not committed serious repeat offences.**²⁷ The Justice Reform Initiative believes that it is time for us as a community to

¹⁸ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

¹⁹ AIHW (2022) Youth Justice in Australia 2020-2021, Australian Institute of Health and Welfare

<https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf.aspx?inline=true>

²⁰ AIHW (2022) Youth Justice in Australia 2020-2021, Australian Institute of Health and Welfare

<https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf.aspx?inline=true>

²¹ <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

²² <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

²³ https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0005/684464/sentencing-profile-series-baseline-report.pdf

²⁴ <https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf.aspx?inline=true>

²⁵ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

²⁶ <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

²⁷ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

start asking *why* it is that we are incarcerating in this way. Why are we incarcerating so many children who are unsentenced and have not even had the courts determine either their culpability or their penalty? Why are we using prison for children so regularly, when we know without a doubt that the experience of imprisonment, *increases* the likelihood of future offending. Prison is criminogenic. **85.08% of children released from sentenced detention in Queensland return within 12 months.**²⁸ Almost all (approximately 90%) children released from detention are alleged to reoffend within 12 months of their release.²⁹

WHY THE THREAT OF HARSHER PENALTIES DOESN'T WORK: THE FAILURE OF DETERRENCE

Although it is tempting to invoke the threat of harsher penalties when tragic events occur, we need to be very realistic about the likely impacts of these policies. It is very clear that prison is ineffective when it comes to controlling crime or protecting the community.³⁰ Evidence shows that sending people to prison does not reduce offending behaviours and increasing the length of a sentence does not reduce the likelihood of occurrence either. In summary, **imprisonment often leads to more crime – not less.**

The current policy approach to keep more children in detention for longer **will not** result in reduced recidivism or community safety outcomes. Studies have shown recidivism and re-incarceration rates are higher when children spend longer-periods incarcerated.³¹ Pre-sentence detention has also been associated with a 33% increase in recidivism for children.³²

It is also very clear that 'toughening' laws often has unintended consequences. For example, when the Victorian Government restricted access to bail, following the Bourke St rampage that killed six people,³³ lawmakers presumably didn't intend to lock away more women, especially First Nations women, many of whom are domestic and family violence victims, homeless, and otherwise vulnerable, in relation to offences for which they have not yet been convicted. Yet, this is precisely what has happened.³⁴ Similarly, in the Northern Territory, tougher youth bail laws were introduced in 2021.³⁵ This policy decision led to more children being unnecessarily held in prison, widening of the criminal justice system net, and had absolutely no impact on community safety.³⁶

²⁸ <https://www.aihw.gov.au/reports/youth-justice/young-people-returning-youth-justice-2019-20/summary>

²⁹ <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/1270-2022.pdf>

³⁰ Productivity Commission, *Australia's Prison Dilemma* (2021).

³¹ See <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/> for more evidence.

³² Walker, S. C., & Herting, J. R. (2020). The impact of pretrial juvenile detention on 12-month recidivism: A matched comparison study. *Crime & Delinquency*, 66(13-14), 1865-1887.

³³ Gareth Boreham, 'How Victoria's bail laws are changing following the Bourke St deaths', *SBS News*, 23 January 2017 <https://www.sbs.com.au/news/article/how-victorias-bail-laws-are-changing-following-the-bourke-st-deaths/x551pua8k>.

³⁴ Emma Russell, Bree Carlton and Danielle Tyson, "'It's a gendered issue, 100 per cent': How tough bail laws entrench gender and racial inequality and social disadvantage' (2022) 11 *International Journal for Crime, Justice and Social Democracy* 107.

³⁵ <https://newsroom.nt.gov.au/article?id=34423>

³⁶ <https://tfhc.nt.gov.au/youth-justice/youth-detention-centres/youth-detention-census>

We need to be very clear that the threat of harsher penalties (including longer prison sentences and mandatory sentencing) does not reduce crime.^{37 38 39} Even in the United States, which is the only Western democracy to retain the use of Capital Punishment, there is absolutely no evidence that the threat of the death penalty has any impact on homicide rates.⁴⁰

There are a number of reasons why 'deterrence' in the form of the threat of harsher penalties is unsuccessful when it comes to improving community safety. Research has consistently shown that individuals who commit crime are rarely thinking of the consequences of their actions. This is because the context in which most crime is committed often does not lend itself to someone rationally weighing up the consequences of their actions. This is further exacerbated for children and adolescents given the pre-frontal cortex, which controls the brains executive functions, is still developing.⁴¹ This means that children and adolescents are still developing the cognitive processes required in planning, controlling impulses, and weighing up the consequences of decisions before acting. Much crime is conducted in chaotic or desperate circumstances and is often impacted by alcohol and other drug use. The threat of harsher penalties or longer sentences is not something that most people who engage in offending are considering at the moment they are committing crime.^{42 43}

It is easy to have populist appeal, especially with those agitating loudly, by making promises about 'getting tough on crime', tightening bail laws and bringing in harsher penalties. However, denial of bail imposes a denial of liberty to people not convicted, some of whom will never be convicted, or will be convicted of a crime that does not require imprisonment. There is strong evidence to suggest that pre-trial detention and remand, even for short-term periods, contributes to future offending.⁴⁴ Policy and legislative responses that emphasise harsher penalties run counter to the evidence on what works to address crime; what works to reduce the use of incarceration, and what works to target the underlying drivers of criminal justice system involvement and the entrenched disadvantage within large parts of our society. This means properly resourcing the community to deliver supports that genuinely allow and support people to build their lives in the community instead of being 'managed' in justice system settings.

IF NOT REMAND, THEN WHAT?

Bail legislation should be informed by an evidence-based approach that genuinely centres community safety. Remanding children (and adults) 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

³⁷ <https://newsroom.unsw.edu.au/news/business-law/do-harsher-punishments-deter-crime>

³⁸ <https://www.crimsl.utoronto.ca/research-publications/faculty-publications/issues-related-harsh-sentences-and-mandatory-minimum>

³⁹ <https://www.smh.com.au/national/nsw/when-it-comes-to-crime-harsher-punishment-doesnt-pay-20120313-1uykb.html>

⁴⁰ <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb84.pdf>

⁴¹ <https://journals.sagepub.com/doi/pdf/10.1177/0963721412471678>

⁴² Anderson, A (2002) The Deterrence Hypothesis and Picking Pockets at the Pickpockets Hanging, in *American Law and Economics Review*, Vol. 4. No. 2

⁴³ Ritchie, D (2011) Does Imprisonment Deter, Sentencing Advisory Council of Victoria

⁴⁴ Marilyn McMahon. 2019. '[No bail, more jail?: Breaking the nexus between community protection and escalating pre-trial detention](#)' (Research Paper No 3, Parliamentary Library & Information Service, Parliament of Victoria, August 2019) 3; Rick Sarre, '[How to reverse Australia's remand explosion](#)', *Inside Story* (Web Page, 29 April 2018).

accommodation. Children 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.

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.⁴⁵ Children on remand are typically housed in high security custodial environments, with limited access to programs and services. There is strong evidence to suggest that pre-trial detention and remand, even for short-term periods, contributes to future offending.⁴⁶

Rather than introducing tougher bail laws that breach human rights, as set out in the Strengthening Community Safety Bill 2023, we urge the government to consider existing evidence that suggests **investing in bail support services and programs will have greater success at keeping the community safe**. There is significant research noting the success of bail support programs (some of which are overviewed in more detail in Appendix A of this submission). There is clear evidence demonstrating that bail support programs reduce reoffending and increase compliance with bail conditions (95%).^{47 48 49} Bail support programs have also been found to improve a range of other social and health well-being measures relevant to the drivers of criminal justice system contact^{50 51} as well as achieve cost-savings when compared to an absence of bail support.⁵² Bail support programs may 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 assist children (and adults) to obtain and remain on bail.⁵³

Lack of suitable and stable accommodation poses a barrier for many children (and adults) to meet bail requirements, especially those in rural, regional, or remote areas or those experiencing homelessness.⁵⁴ Bail hostels/bail supported accommodation provides a potential solution as it increases access to bail by ensuring adequate housing. When coupled with effective bail support, this can increase bail compliance.⁵⁵ Bail hostels/supported accommodation facilitates are

⁴⁵ Heard, C., & Fair, H. (2019). 'Pre-trial detention and its over-use: Evidence from ten countries'. *Institute for Crime & Justice Policy Research*, 8.

⁴⁶ 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>

⁴⁷ Elena Marchetti. 2021. *Evaluation of the Caxton Legal Centre Bail Support Program*. Griffith University. June 2021.

⁴⁸ Lulham, R (2009) The Magistrates Early Referral into Treatment, *Contemporary Issues in Crime and Justice* 2009, No. 131, Bureau of Crime Statistics and Research

⁴⁹ 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>

⁵⁰ Spratley, Donnelly, Trimboli (2013) Health and wellbeing outcomes for defendants entering the Alcohol-MERIT program, *Crime and Justice Statistics, Bureau Brief, No. 92*, Bureau of Crime Statistics and Research

⁵¹ Rossner, Bartels, Gelb, Wong, Payne, Scott-Palmer (2022) 'ACT Drug and Alcohol Sentencing List: Process and Outcome Evaluation Final Report', Australian National University, Centre for Social Research and Methods

⁵² Ross, S., *Evaluation of the Court Integrated Services Program: Final Report* (December 2009); Price Waterhouse Coopers, *Economic Evaluation of the Court Integrated Services Program (CISP): Final Report on economic impacts of CISP* (November 2009).

⁵³ 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>.

⁵⁴ Australian Law Reform Commission (2017). *Pathways to justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*.

⁵⁵ 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>

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.⁵⁶

The Law Council of Australia and many others have recommended the introduction of more bail hostel programs in Australia.⁵⁷ 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.⁵⁸

In 2019, Griffith University conducted an evaluation of the Supported Community Accommodation (SCA) program for young people in Queensland.⁵⁹ This evaluation found SCA provided young people with a high-level of service delivery that addressed the drivers of offending and provided long-term safe and stable accommodation in a home like environment. This evaluation highlighted the relatively strong integration of case management partnerships between youth justice staff and non-government service providers operating the facilities. There is an opportunity to adopt lessons learnt from this supported bail accommodation model in Queensland and evidence-based models in other jurisdictions to establish alternative community-based accommodation options that support children to comply with their bail.

IF NOT NEW PRISONS, THEN WHAT?

The Queensland Government has publicly stated that any new youth detention centres will be modelled on the 32 bed West Moreton Youth Detention Centre. Although this centre is smaller than Brisbane Youth Detention Centre and Cleveland Youth Detention Centre, it has not achieved the therapeutic and rehabilitative aims intended - **84% of young people who completed a custody stay at West Moreton Youth Detention Centre were alleged to have reoffended within 12 months of release from this prison.**⁶⁰ This tells us that our current approach is not working. Therapeutic and rehabilitative facilities have been found to work when they are much smaller scale (around 6-8 beds) and run by community-based services. It is clear that the answer to Queensland youth detention centres operating at capacity is not building new youth detention centres, sending more children to prison, or holding children in police watch houses for extended periods, it is reducing the number of children going to custody in the first place.

This submission proposes building on the substantial evidence base about ‘what works’ to reduce incarceration and re-orienting our approach to one that prioritises community-led diversionary and support options. What might happen for instance, if police, magistrates, and judges around Australia were able to refer children who come into contact with the justice system easily into community-led alternatives; pre-charge diversion programs; bail support and accommodation; First Nations place based alternatives; and intensive family support - in other words, into programs,

⁵⁶ Willis (2017), 27.; Presneill, A. (2018). Bail hostels: Report prepared for the ACT Office of the Inspector of Custodial Services. Canberra: Australian National University, 16-21.

⁵⁷ Bartels (2019), 5.

⁵⁸ Willis (2017), 27.

⁵⁹ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/gu-sca-evaluation.pdf>

⁶⁰ <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/1270-2022.pdf>

services and supports that we *know* can disrupt cycles of incarceration. This pivot towards community-led alternatives would reduce the number of children on remand **and** reduce the number of children being unnecessarily held in adult police watch houses for extended periods.

In Queensland and across Australia, there are currently extremely limited community-led alternatives for children that are available for courts and police to use as diversionary and bail support options. There is also extraordinarily limited access to specialist support for people who are at risk. For instance, as pointed out in the Children’s Court Annual Report 2021-22, the Queensland Forensic Child Youth Mental Health Service is chronically understaffed. As noted below, for children who *are* able to access such supports, the outcomes are extraordinarily effective. There are currently services on the ground doing amazing work in Queensland, but they are chronically under-resourced, are often unable to meet demand, they are regularly inaccessible to children living in remote and regional areas, and as a consequence are not able to make a systemic impact on rates of incarceration.

Building two new youth detention centres is also not cost-effective. The cost of incarcerating one child in custody for one day in Queensland is \$1,879.80.⁶¹ The cost of incarcerating a child in custody for a year in Queensland is \$686,127. In Queensland, we spend over \$218 million each year locking up children, and Queensland spends more than any other state and territory on youth justice services. This does not take into account the cost of new capital works. And doesn’t even begin to take into account the cost of crime, disconnection from family and communication, the absence of education, disability and mental health, and the life-long costs in terms of risks of entrenched justice system involvement. The failure of children’s prisons to achieve any of their intended crime-control and rehabilitative goals in Queensland has been made abundantly clear.⁶² For the 933 children who are cycling in and out of prison each year, there is a need for a genuine circuit breaker.

A SMART ON CRIME APPROACH

The Justice Reform Initiative suggests that the most recent changes announced do not appropriately reflect and respond to community concerns regarding “serious repeat youth offending”. The Queensland Government has adopted a policy position that youth justice reforms must meet the fundamental principles of achieving community safety and building community confidence. As is highlighted in this submission, decades of evidence tells us that building two new youth detention centres and invoking harsher penalties (including tougher bail laws), and in turn sending more children to prison, will not make the community safer - if anything, it will have the opposite effect and lead to further crime. What we all rightly want as members of the Queensland community is to feel safe in our own home and to not become a victim of crime. Whilst ‘tough on crime’ responses may appear to be politically popular in the short-term, there is a very real risk to government that the community will lose significant confidence in the government’s response over the next year when the proposed legislative changes and increased incarceration fails to reduce youth property and motor vehicle youth offending in Queensland. The Justice Reform Initiative agrees in principle with the recommendations outlined in the November 2022 Bob Atkinson Review (p.154).⁶³ We agree that the government’s approach could be strengthened by:

⁶¹ Report on Government Services 2023. Youth Justice Services. Table 17A10.

⁶² <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/1270-2022.pdf>

⁶³ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

- enhancing partnerships with, and delegating authority to, First Nations communities to lead community-based solutions.
- improving identification, assessment, and treatment of neurodevelopmental impairments.
- resourcing capability development within the sector in support of community-led alternatives that work to reduce reoffending.
- increasing early intervention (as well as primary prevention) and improving whole-of-service-system coordination with regards to early intervention (as well as primary prevention) responses.
- working with communities to implement local-decision making and place-based responses that address the drivers behind youth offending.
- improving data collection (as well as undertaking and publishing outcomes from independent evaluations).
- improving and sustaining an integrated whole-of-government response in partnership with the sector.
- **engaging with the Queensland community to build balanced public awareness of the drivers behind youth offending and evidence-based prevention and response actions.**

In addition, the Justice Reform Initiative supports the intention of the Queensland Local Thriving Communities (LTC) model and recommends its adoption state-wide with adequate funding and recourses.⁶⁴ This model provides a framework for government and First Nations communities to work together and implement recommendations from the Queensland Productivity Commission's inquiry into service delivery in remote and discrete Indigenous Communities.⁶⁵ The LTC model focuses on handing back self-determination and decision-making authority to First Nations communities so that service design and delivery⁶⁶, including justice responses, better meets the needs of each community.

Any decision to legislate multi-agency collaborative panels must ensure that community-based services have a permanent and equal seat at the table. This will support improving whole-of-service-system coordination and empowering communities with decision making authority. Part 8A Section 282K of the Strengthening Community Safety Bill 2023 notes that members of the multi-agency collaborative panel system will include chief executives from Government departments, the Commissioner of Police, and 'from time-to-time prescribed entities or service providers contributing to the operation of the system by invitation of core members'. As the legislation is currently written, there are no safeguards or guarantees that community-services and First Nations community representatives will be included in coordinated responses. If this section is to remain in the legislation, it is recommended that it is updated to guarantee community-based services and First Nations representatives are included in multi-agency collaborative responses. The definition of service provider in subsection (b) should also be updated to include Aboriginal and Torres Strait Islander Community-Controlled organisations.

The Justice Reform Initiative encourages the government to return to the focus and intention of the four pillars within the Youth Justice Strategy⁶⁷: intervene early, keep kids out of court, keep kids out of custody; and reduce reoffending. We acknowledge the good work the government has

⁶⁴ <https://www.dsdsatsip.qld.gov.au/our-work/aboriginal-torres-strait-islander-partnerships/reconciliation-tracks-treaty/tracks-treaty/local-thriving-communities>

⁶⁵ <https://s3.treasury.qld.gov.au/files/Service-delivery-Final-Report.pdf>

⁶⁶ <https://www.dsdsatsip.qld.gov.au/our-work/aboriginal-torres-strait-islander-partnerships/reconciliation-tracks-treaty/tracks-treaty/local-thriving-communities/about-local-thriving-communities>

⁶⁷ <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/reform/strategy.pdf>

undertaken to date to expand community-led programs, with expenditure on community-based youth justice services increasing by 82.6% (from \$70.1 million in 2014-15 to \$128 million in 2020-21) and an additional \$100 million allocated towards programs that break the cycle of offending announced on 21 February 2023. It is also acknowledged that the government increased funding for Community Partnership Innovation Grants from \$1.4 million in 2021-22 to \$3 million in 2022-23. However, Queensland currently spends \$33.79 million more per year on detention-based services⁶⁸, which we know does not work to reduce reoffending. This amount will **increase substantially** if the government proceeds with plans to build two new youth detention centres.

A key limitation of Community Partnership Innovation Grant scheme is that it only provides up to \$300,000 for one-off or short term (12 month) community-led alternatives to youth detention. Furthermore, a significant proportion of investments announced on 21 February 2023 are dedicated towards government-run programs and services. **There remains a substantial need for a significant increase in funding to establish and expand community-led alternatives to youth detention state-wide.** This funding must be distributed in a way that generates system change and allows Queensland to move towards non-siloed, flexible, and long-term service delivery to break the cycle of offending and keep communities safe.

THE NEED FOR A 'BREAKING THE CYCLE/SAFER COMMUNITIES' FUND

Instead of building two new youth detention centres and implementing harsher penalties that will result in more children being unnecessarily held in ineffective prisons, the Justice Reform Initiative recommends that the Queensland Government expands on the commitment of \$100 million for programs that break the cycle of crime. We recommend that an additional commitment of \$500 million over four years, to be scaled up from year one, is initially made for a Breaking the Cycle and Safer Communities fund. In Queensland, a Breaking the Cycle and Safer Communities fund could include two streams in alignment with the establishment of the Criminal Justice Innovation Office (CJIO) and the First Nations Justice Office. We recommend at least 40% of all funds are dedicated to the First Nations Justice stream to support community-led alternatives that reduce the over-representation of First Nations children and adults in the justice system. The remaining funds (60%) should be allocated to a Criminal Justice Innovation stream for evidence-based community-led solutions that reduce over-incarceration and recidivism in Queensland as well as deliver on the recommendations from the Queensland Productivity Commission Inquiry into Imprisonment and Recidivism.

We recommend that the Breaking the Cycle and Safer Communities Fund allocations are focused on the critical touch points both of the criminal justice system for children and adults. This includes prioritisation of early intervention, primary prevention, diversion, alternative sentencing options that allow children and adults to receive therapeutic support in the community, and post-release support for children and adults leaving custody. Breaking the cycle of justice system involvement and keeping the community safe 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 and Safer Communities fund is administered either in the Queensland Department of Premier and Cabinet or Queensland Treasury.

The Breaking the Cycle and Safer Communities fund should be differentiated (in scope, approach, and framework) from the suite of 'Risk Needs Responsivity' programs that have been run by

⁶⁸ Report on Government Services 2023. Youth Justice Services. Table 17A10

Corrections departments around Australia, with minimal impact on recidivism.⁶⁹ It is also recommended that the Breaking the Cycle and Safer Communities fund allows 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. The Breaking the Cycle and Safer Communities Fund must be set up in a way that enables provision of long-term, relational, flexible, holistic, intensive, and therapeutic support for children and adults at risk of or currently experience involvement with the criminal justice system.

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. Evaluation and continuous monitoring/improvement work should also be resourced through the Fund to measure success. Community-based service providers should receive resourcing support to fund independent evaluations that generate additional efficacy data of high quality, that is, randomised controlled-trial designs, or matched-groups designs equivalent at 'baseline' (in terms of level of risk) before intervention to determine whether programs work to reduce offending.

Instead of committing to additional expensive prison beds, there is an opportunity for the Queensland government to focus attention and resources on evidence-based programs that work to reduce incarceration and decrease recidivism. There is a strong evidence-base about the efficacy of community-led early intervention, primary prevention, diversion, post-release, and place-based programs across Australia. **Appendix A and B** provide more detail about this evidence base and the best practice principles of programs that break cycles of incarceration and disadvantage. Anecdotal reports suggest there are also existing community-based programs in Queensland that are having positive impacts in terms of reducing reoffending and breaking the cycles of justice system involvement. Increased efforts should be made towards undertaking and publishing independent evaluations of these programs and expanding programs state-wide that are shown to be working.

We believe a Queensland 'Breaking the Cycle and Safer Communities' fund has the potential to make a concrete difference across the state in preventing offending, diverting people from the justice system, and ensuring the provision of systemic support for people who are leaving custody *outside* of the justice system. Such a whole-of-government state-wide fund would have value in itself and change things dramatically on the ground in terms of improving access to programs. The establishment of the Fund would support the expansion of evidence-based responses (in line with the work of the CJIO) and reduce the over-representation of First Nations people in the justice system (in line with the work of the FNJO).

The Justice Reform Initiative would welcome the opportunity to discuss this submission in greater detail with you.

Appendix A of this submission overviews recent evaluations of successful evidence-based programs that are reducing recidivism and contact with the justice system.

⁶⁹ For further detail about the critique of the Risk Needs Responsivity model, please see: https://www.crcnsw.org.au/wp-content/uploads/2020/09/2019_CRC_Supplementary_Briefing_RNR_Criminogenic_Needs.pdf

Appendix B of this submission overviews the good practice principles that guide the delivery of successful diversionary and post-release support programs.

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APPENDIX A: SUMMARY OF RECENT RESEARCH INTO 'WHAT WORKS' IN AUSTRALIA

There are excellent examples of successful evidence-based practice in the community. Many of the robust evaluations involve post-release and diversionary programs. There is a smaller body of evaluative research focusing on early intervention, primary prevention, and place-based responses. These programs have demonstrated ability to achieve significant reductions in recidivism as well as other improvements in health and wellbeing. There is a need to look at evidence-based, cost-effective alternatives to prison in terms of 'what works' to improve community safety and to reduce recidivism.

This overview provides brief summaries of recent compelling community-led research and evaluation in programs that have a proven track record when it comes to reducing the cycle of incarceration for both adults and children. This is not by any means a comprehensive list. The Justice Reform Initiative is in the process of mapping evidence-based alternatives around Australia. This serves as a starting point for guidance about the *kinds* of programs that are making a difference in terms of breaking the cycle of incarceration and disadvantage.

COMMUNITIES THAT CARE

There is a strong evidence base in Australia and overseas for primary prevention models such as the Communities That Care (CTC) model.⁷⁰ 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, Australia 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.⁷¹

TED NOFFS FOUNDATION

The Ted Noffs Foundation runs a residential drug and alcohol 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 for the high incline convictions trajectory, with 4.36 fewer convictions on average over five years post referral. The Justice Reform Initiative understands the state government is progressing plans for a Ted Noffs residential facility in Queensland.⁷²

⁷⁰ Toumborou, J., Rowland, B., Williams, J., Smith, R., 'Community Intervention to Prevent Adolescent Health Behavior Problems: Evaluation of Communities That Care in Australia', *Health Psychology*, 2019, Vol. 38, No. 6, 536–544; J. Hawkins, D., Oesterle, S., Brown, E., Abbott, R., Catalano, R., Youth Problem Behaviors 8 Years After Implementing the Communities That Care Prevention System A Community-Randomized Trial, *JAMA Pediatrics*, 2014;168(2):122-129. doi:10.1001/jamapediatrics.2013.4009. Further reading: <https://www.communitiesthatcare.org.au/research/publications>

⁷¹ 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.

⁷² 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. <https://doi.org/10.1016/j.jcrimjus.2022.102026>

WEAVE (CREATING FUTURES) EVALUATION (RELEASED 2020)⁷³

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

BACKTRACK YOUTH SERVICES IMPACT REPORT (RELEASED 2020)⁷⁴

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.

MARANGUKA EVALUATION (RELEASED 2018)⁷⁵

The KPMG report into the work undertaken in the Aboriginal led Maranguka Project at Bourke in 2016/17 found reductions in domestic violence offending and justice system involvement, alongside increased rates of school retention and estimated savings of \$3.1 million over the course of a year⁷⁶. There are also promising outcomes and case studies in terms of reduction of justice system involvement in the Yuwaya Ngarra-li partnership between the Dharriwaa elders group in Walgett and the University of New South Wales.

YIRIMAN PROJECT, WA^{77 78}

The Yiriman project is regarded as an exemplar of national best practice for working with First Nations youths at risk of involvement in the criminal justice system. Youth 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 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.

⁷³ 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%20with%20images.pdf>

⁷⁴ Backtrack Annual Report 2020, Backtrack_AnnualReport_2020.pdf

⁷⁵ KPMG, Maranguka Justice Reinvestment Project (2018), Impact Assessment, <https://www.justreinvest.org.au/wp-content/uploads/2018/11/Maranguka-Justice-Reinvestment-Project-KPMG-Impact-Assessment-FINAL-REPORT.pdf>

⁷⁶ <https://www.justreinvest.org.au/wp-content/uploads/2018/11/Maranguka-Justice-Reinvestment-Project-KPMG-Impact-Assessment-FINAL-REPORT.pdf>;

⁷⁷ Dr Dave Palmer. 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.

⁷⁸ Melissa Marshall and Dr Kathryn Thorburn. 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.

DIAGRAMA MODEL SPAIN^{79 80}

Diagrama is an international non-profit organization 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.

FOCUSSED DETERRENCE, UK

Internationally, focused deterrence strategies have been shown to reduce crime in circumstances where a small cohort of people are responsible for a disproportionate amount of crime.⁸¹ Focused deterrence works by gaining an understanding of the drivers behind offending and implementing appropriate intervention that combines law enforcement, community mobilisation, and social service responses. It involves directly communicating the consequences of continued offending, whilst also ensuring required social services are available to the target groups or individuals. Exploration of focused deterrence strategies in Queensland should consider how appropriate community members (such as Elders) or community-based social services can deliver deterrence messaging as well as provide relevant supports.

FAST TRACK, US⁸²⁸³

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 drug and alcohol use. Fast Track cost \$58,000 per child over the 10-year investment period⁸⁴, which is much more cost-effective than incarcerating a child for just one-year.

YOUTH ADVOCATE PROGRAM, US⁸⁵

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

⁷⁹ Centre for Innovative Justice (CIJ), RMIT University, '[A European alternative approach to juvenile detention](#)' (13 December 2018).

⁸⁰ Diagrama Foundation, '[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.

⁸¹ Braga, AA, Weisburd, D, Turchan, B. Focused deterrence strategies effects on crime: A systematic review. Campbell Systematic Reviews. e1051. <https://doi.org/10.1002/cl2.1051>

⁸² <https://fasttrackproject.org/overview/>

⁸³ Dodge, K. A., Bierman, K. L., Coie, J. D., Greenberg, M. T., Lochman, J. E., McMahon, R. J., & Pinderhughes, E. E. for the Conduct Problems Prevention Research Group. (2015). Impact of early intervention on psychopathology, crime, and well-being at age 25. *American Journal of Psychiatry*, 172(1), 59-70.

⁸⁴ Dodge, K. A., Bierman, K. L., Coie, J. D., Greenberg, M. T., Lochman, J. E., McMahon, R. J., & Pinderhughes, E. E. for the Conduct Problems Prevention Research Group. (2015). Impact of early intervention on psychopathology, crime, and well-being at age 25. *American Journal of Psychiatry*, 172(1), 59-70.

⁸⁵ <https://www.yapinc.org/Portals/0/Docs/YAP%20Evidence%20Base%20-%20booklet.pdf?ver=2020-11-22-003401-663>

reduces justice system involvement and improves other factors in children's lives.⁸⁶ The Justice Reform Initiative understands the Queensland Government has funded a 12-month trial of the Youth Advocate Program on the Gold Coast.⁸⁷ It is recommended that this program is extended for an additional 12 months to allow for a robust outcomes evaluation to be completed to developed localised evidence on whether this program works to reduce reoffending in Queensland.

RESTORATIVE JUSTICE CONFERENCING

Internationally, studies have found restorative justice conferencing is cost effective in terms of reducing repeat reoffending.⁸⁸ 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.⁸⁹ 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.⁹⁰ 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.⁹¹ 70% of victims in Queensland reported that conferencing helped them to 'manage the effects of the crime'.⁹² Yet, restorative youth justice conferencing remains underutilised in Queensland⁹⁴ and the number of children referred to a restorative justice conference decreased substantially from 3,169 referrals in 2020-21⁹⁵ to 2,249 referrals in 2021-22.⁹⁶ Reasons cited for the underutilisation of restorative justice conferencing in Queensland include discretionary gatekeeping by police, lack of a systematic and comprehensive consultation process with victims and children who are referred, and lack of evidence-based implementation of restorative youth justice conferencing. There is an opportunity to expand restorative youth justice conferencing use in Queensland to improve victims' experiences and repair the harms caused by youth offending. In New Zealand, family-group conferences are used at different stages of interaction with the youth justice system⁹⁷ 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).⁹⁸ Importantly, this model focuses on ensuring young people received community-based supports that address the drivers of offending.

COMMUNITY RESTORATIVE CENTRE EVALUATION (RELEASED 2021)⁹⁹

⁸⁶ <https://www.yapinc.org/Portals/0/Docs/YAP%20Evidence%20Base%20-%20booklet.pdf?ver=2020-11-22-003401-663>

⁸⁷ <https://statements.qld.gov.au/statements/95951>

⁸⁸ <https://link.springer.com/article/10.1007/s10940-014-9222-9>

⁸⁹ https://www.researchgate.net/publication/29457142_Youth_Justice_Conferencing_and_Reoffending

⁹⁰ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

⁹¹ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

⁹² https://www.researchgate.net/publication/29457142_Youth_Justice_Conferencing_and_Reoffending

⁹³ <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/performance-evaluation/program-eval/restorative-justice-evaluation-report.pdf>

⁹⁴ Price, S., Prenzler, T., McKillop, N., & Rayment-McHugh, S. (2022). The evolution of youth justice conferencing in Queensland, 1990–2021. *Current Issues in Criminal Justice*, 34(1), 77-94.

⁹⁵ https://www.courts.qld.gov.au/__data/assets/pdf_file/0003/714873/cc-ar-2020-2021.pdf

⁹⁶ <https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

⁹⁷ McElrea, J.F. (1998). The New Zealand Model of Family Group Conferencing. *European Journal on Criminal Policy and Research* 6, 527–543.

⁹⁸ <https://www.occ.org.nz/documents/98/OCC-SOC-Dec-2017-Companion-Piece.pdf>

⁹⁹ 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

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:

- The number of new custody episodes fell by 62.6% following CRC support
- the number of days in custody fell by 65.8% following CRC support
- 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).

HOUSING POST-RELEASE EVALUATION – UNSW (RELEASED 2021)¹⁰⁰

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.

INTELLECTUAL DISABILITY RIGHTS SERVICE – JUSTICE ADVOCACY EVALUATION (RELEASED 2021)¹⁰¹

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.

MIRANDA PROJECT EVALUATION (RELEASED 2020)¹⁰²

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>

¹⁰⁰ Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. and 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.

¹⁰¹ EY, Evaluation of the Justice Advocacy Service Department of Communities and Justice Final Report 4 February 2021, <https://www.justice.nsw.gov.au/diversityservices/Documents/evaluation-of-the-justice-advocacy-service-report.PDF>

¹⁰² https://www.crcnsw.org.au/wp-content/uploads/2020/09/2020_CRC_FD_V_SUBMISSION_24_JULY.pdf

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.

BARNARDOS BEYOND BARBED WIRE EVALUATION (RELEASED 2019)¹⁰³

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.

INTELLECTUAL DISABILITY RIGHTS SERVICE – CRIMINAL JUSTICE SUPPORT NETWORK ECONOMIC EVALUATION (RELEASED 2018)¹⁰⁴

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 service¹⁰⁵.

WOMEN'S JUSTICE NETWORK EVALUATION (RELEASED 2016)¹⁰⁶

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).

INSTITUTIONAL COSTS RESEARCH (RELEASED 2013)¹⁰⁷

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 term¹⁰⁸.

CAXTON LEGAL CENTRE MEN'S BAIL SUPPORT PROGRAM¹⁰⁹

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

¹⁰³ Baldry, E. et al., A Future Beyond the Wall: Improving Post-release Employment Outcomes for People Leaving Prison, 2018, <http://unsworks.unsw.edu.au/fapi/datastream/unsworks:51556/bin0ae90f8c-51ca-48a6-87bc-c78f5e32cb3b?view=true>

¹⁰⁴ 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

¹⁰⁵ https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf

¹⁰⁶ Women's Justice Network, Adult Mentoring Program (Evaluation report, 2016) https://www.shineforkids.org.au/documents/2015-11_lsj_women_in_prison.pdf

¹⁰⁷ 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 30
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 31
<https://www.nswmentalhealthcommission.com.au/content/justice-system>

¹⁰⁸ 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

¹⁰⁹ Elena Marchetti. 2021. *Evaluation of the Caxton Legal Centre Bail Support Program*. Griffith University. June 2021.

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 AOD counselling and residential programs, men’s yarning groups, culturally appropriate employment and skills training programs.

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.¹¹⁰ Evaluations of the Magistrates Early Release into Treatment (MERIT) program in NSW have found reduced likelihood of reconviction¹¹¹ alongside increased health and well-being.¹¹² 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.¹¹³ 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 drug and alcohol use and improved outcomes in terms of social reintegration.¹¹⁴ 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.¹¹⁵

COMMUNITY AND NEIGHBOURHOOD JUSTICE CENTRES

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

¹¹⁰ '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>> (accessed 26 July 2022).

¹¹¹ Lulham, R (2009) The Magistrates Early Referral into Treatment, Contemporary Issues in Crime and Justice 2009, No. 131, Bureau of Crime Statistics and Research

¹¹² Spratley, Donnelly, Trimboli (2013) Health and wellbeing outcomes for defendants entering the Alcohol-MERIT program, Crime and Justice Statistics, Bureau Brief, No. 92, Bureau of Crime Statistics and Research

¹¹³ 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

¹¹⁴ Rossner, Bartels, Gelb, Wong, Payne, Scott-Palmer (2022) 'ACT Drug and Alcohol Sentencing List: Process and Outcome Evaluation Final Report', Australian National University, Centre for Social Research and Methods

¹¹⁵ Ross, S., *Evaluation of the Court Integrated Services Program: Final Report* (December 2009); Price Waterhouse Coopers, *Economic Evaluation of the Court Integrated Services Program (CISP): Final Report on economic impacts of CISP* (November 2009).

- participants who went through the NJC demonstrate lower breach rates for intervention orders.¹¹⁶

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 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.¹¹⁷

¹¹⁶ Ross, S., *Evaluation of the Court Integrated Services Program: Final Report* (December 2009); Price Waterhouse Coopers, *Economic Evaluation of the Court Integrated Services Program (CISP): Final Report on economic impacts of CISP* (November 2009).

¹¹⁷ 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>

APPENDIX B: 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'¹¹⁸ 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, drug and alcohol 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

¹¹⁸ Melanie Schwartz, Sophie Russell, Eileen Baldry, David Brown, Chris Cunneen, Julie Stubbs, *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 and E Sullivan, '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*, Vol. 6, No. 4, 2018

supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although, as noted above, there are some highly effective specialist services that work to support people with connecting to community, they are chronically under-resourced.

In addition to specialist services, there are of course mainstream welfare, homelessness and other support services that should theoretically be available for people leaving prison. However, there are multiple barriers to accessing mainstream welfare services for people leaving prison. There are many reasons for this, including a lack of specialist knowledge, a lack of resources, and a lack of structural capacity for already stretched organisations to take on the complexity and time resources of working with incarcerated populations. Most mainstream welfare services will not do 'in-reach' into prisons. Many services (including many homeless, alcohol and other drugs and domestic, family and sexual 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.

In addition, multiplicity and complexity of need means many people from prison are excluded from support. For instance, many people are not able to access drug and alcohol services if they have a complex mental health condition. Many people are not able to access mental health services if they have an ongoing drug and alcohol problem. There are almost no residential services that will take people who are in active addiction, and for many the group and literacy requirements of many 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. Workers must be able to visit clients and begin the process of engagement prior to release in order to sustain connection during the extremely chaotic post-release period. 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 submission) 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 environment¹¹⁹.

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 imprisonment¹²⁰.

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 populations¹²¹.

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 connection¹²².

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.

¹¹⁹ See Sotiri, McCausland, Reeve, Phelan and Byrnes (forthcoming) '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 ee Sotiri et al (2021), 'They're there to suWEAVE, Creating Futures (Evaluation report, April 2020); Women's Justice Network, Adult Mentoring Program (Evaluation report, 2016); Community Restorative Centre, Alcohol and Other Drugs Transition Program (Evaluation report, 2016); Sotiri, M (2016) Churchill Fellowship Report;

¹²⁰ M Sotiri and S Russell, 'Pathways home: How can we deliver better outcomes for people who have been in prison?', *Housing Works*, Vol. 15, No. 3, 2018, 41; Sotiri (2016) Churchill Fellowship Report

¹²¹ M Borzycki and E Baldry, 'Promoting integration: The provision of prisoner post-release services', *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology: Canberra, No. 2, 2003; J Gilbert and B Elley, 'Reducing recidivism: An evaluation of the pathway total reintegration programme', *New Zealand Sociology*, Vol. 30, No. 4, 2015, 15–37; B Angell, E Matthews, S Barrenger, A Watson and J Draine, 'Engagement processes in model programs for community re-entry from prison for people with serious mental illness', *International Journal of Law and Psychiatry*, Vol. 37, 2014, 490–500.

¹²² Gilbert and Elley, 15–37; Angell et al, 490–500; B Hunter, A Lanza, M Lawlor, W Dyson and D Gordon, 'A strengths-based approach to prisoner re-entry: The fresh start prisoner re-entry program', *International Journal of Offender Therapy and Comparative Criminology*, Vol. 60, No. 11, 2016, 1298–314.

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).¹²³

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.⁶² Many First Nations People have intergenerational and/or personal experience of mainstream services working against them.⁶³ Engaging with First Nations communities ensures programs are more effectively targeted to local priorities and needs, and are aligned with local systems and circumstances.⁶⁴ 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.

HOUSING FIRST APPROACHES

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.¹²⁴

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.¹²⁵

¹²³ D Padgett, L Gulcur and S Tsemberis, 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, Vol. 16, No. 1, 2006, 74–83; S Kendall, S Redshaw, S Ward, S Wayland and E Sullivan, '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*, Vol. 6, No. 4, 2018.

⁶² D Padgett, L Gulcur and S Tsemberis. 2006, n 61; S Kendall et al, 2018, n 56; [Programs in NSW](#), Report 2/56. September 2018. 9; Kristen Davis and Daryl Higgins. 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.

⁶³ Law Council of Australia. 2019. '[Minimum Age of Criminal Responsibility](#)'. Policy Statement, 17 December 2019. 5.

⁶⁴ Kristen Davis and Daryl Higgins 2014, n 62.

¹²⁴ Padgett, L Gulcur and S Tsemberis, 'Housing first services for people who are homeless with co-occurring serious mental illness and substance abuse', *Research on Social Work Practice*, Vol. 16, No. 1, 2006, 74–83; Sotiri and S Russell, '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. and 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.

¹²⁵ Doyle, C, Gardner K, Wells, K (2021) The Importance of Incorporating Lived Experience in Efforts to Reduce Australia's Incarceration Rates, in *International Journal for Crime, Justice and Social Democracy*, Vol. 10, No. 2; Sotiri, M (2020) Building Pathways Out of the Justice System: Supporting Women and Reducing Recidivism, in *Precedent* Issue 161, November/December 2020.

