

JUSTICE REFORM INITIATIVE PRE-BUDGET SUBMISSION: THE CASE FOR A FEDERAL 'BREAKING THE CYCLE AND SAFER COMMUNITIES' FUND

ABOUT THE JUSTICE REFORM INITIATIVE

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

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

The Justice Reform Initiative seeks to work with parliamentarians from all sides of politics, policy makers, people with experience of the justice system, and people of good-will across the country to embrace evidence based criminal justice policy in order to reduce crime, reduce recidivism, and build safer communities.

We are working to shift the public conversation and public policy away from building more prisons as the primary response of the criminal justice system and move instead to proven alternative evidence-based approaches that break the cycle of incarceration. We are committed to elevating approaches that seek to address the causes of contact with the criminal justice system including responses to housing needs, mental health issues, 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 being resourced and supported to provide appropriate support to Aboriginal and Torres Strait Islander people who are impacted by the justice system.

WHAT WORKS IN KEEPING PEOPLE OUT OF PRISON?

While there is no single 'reform fix' to reduce prison numbers, 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 and reviews¹. In addition, there are clear examples and case studies both Australian and internationally that point to approaches led by the community and health sectors which can make a profound difference in disrupting entrenched criminal justice system trajectories². There is also a growing body of more formal research exploring the impact of various models of support³.

While there is clearly the need for early intervention, and community-based support and services that work to prevent people at risk from entering the justice system, this submission is focused on the need for diversionary and post-release services focused on supporting people who have already experienced justice system involvement and are at risk of ongoing justice system involvement. **Appendix A** of this submission overviews recent evaluations of successful evidence based programs that are reducing recidivism and contact with the justice system. **Appendix B** of this submission overviews the good practice principles that guide the delivery of these successful programs.

THE ROLE OF THE FEDERAL GOVERNMENT IN JUSTICE REFORM

We believe the Federal Government has a critical role to play in policy leadership, legislative reform, and resourcing when it comes to breaking cycles of disadvantage and creating evidence based justice policy. Although criminal justice and prison policy areas have historically been the domain of the states and territories, it is our view that there is a strong case for Federal leadership in this area (as has happened historically in the areas of the environment, corporate regulation, and disability). We recognise the leadership role of the Federal Government both in terms of influencing states and territories, but also in terms of advancing concrete policy initiatives which will make a measurable difference in reducing the numbers of people trapped in a cycle of incarceration and disadvantage. There are multiple commonwealth policy areas that intersect

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, '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.

with justice system involvement (including mental health, disability, drug and alcohol misuse, and homelessness). In addition, we see the work of the Federal Government in elevating the policy commitment of Closing the Gap in relation to First Nations incarceration to be deeply connected to the project of reducing cycles of justice system involvement and disadvantage.

The Justice Reform Initiative recognises the leadership and work of Aboriginal led organisations and leaders over many decades in progressing reform when it comes to the over-representation of First Nations people in the criminal justice system and also recognises the importance of First Nations led place-based community approaches in reducing incarceration. We strongly support the Federal government's commitment to Justice Reinvestment. Our view is that place based Justice Reinvestment projects must also be supported by substantial investment in the systemic drivers of incarceration. We are keen to progress conversations at a national level about the resourcing and structural shifts that are required to occur *alongside* place based approaches in order that the promise of justice reinvestment be realised.

We were encouraged by the resolution passed unanimously at the 2021 ALP National Conference which expressed a commitment to work for bipartisanship in criminal justice reform which provided as follows:

Australia has a higher incarceration rate than all the countries of Western Europe and Canada imposing increasing costs on the nation, and which fails to reduce recidivism, provide effective outcomes for victims of crime or to make our communities safer. Learning from the experience of comparable countries Labor will seek cross party cooperation to lead and encourage all jurisdictions to collaborate in supporting evidence based criminal justice policies to address these issues and which rely less on high cost and harmful prisons.

In our recent conversations with parliamentarians from all around Australia, we have heard a genuine wish from the majority of people we have spoken to from all parties to try and find some common ground to break the cycle of criminal justice system and disadvantage. We believe the time is now right for the Federal government to lead a strategic shift in public policy in justice reform.

SUBMISSION SUMMARY: THE FORMATION OF A BREAKING THE CYCLE AND SAFER COMMUNITIES FUND

Vision: A community in which disadvantage is not met with a default criminal justice system response.

Aim: A Federal fund dedicated to breaking the cycle of incarceration and justice system involvement (for adults and children) by ensuring effective, holistic, community-led and evidence-based diversion and post-release (reintegration/re-entry) programs are resourced and available to all people who need this support to build lives in the community and reduce their contact with the justice system.

Premise: Too many people are unnecessarily trapped in a cycle of incarceration and disadvantage. Too many children and adults are 'managed' in justice system settings, rather than receiving the necessary support in the community. Investment by the Australian Government in evidence-based programs and services run by the community sector (including critically, First Nations led community organisations) that address the social drivers of incarceration and youth and criminal justice system contact, would lead to a significant reduction in recidivism and criminal justice system involvement. This shift in approach will also result in significant cost-savings, and substantial improvements in health and well-being.

Key Recommendations:

- We recommend that the Australia Government make an initial commitment over four years of \$500 million, to be scaled up from year one, to support evidenced-based, community-led programs that will break the cycle of incarceration and recidivism.
- We recommend at least 40% of all funds be dedicated to Aboriginal-led organisations and communities in recognition of the challenges and overrepresentation of Aboriginal people in the justice system and in line with the aspirations of the Closing the Gap plan.
- We recommend that the Breaking the Cycle Fund allocations be focused on the critical touch points of the justice system for both adults and children. This includes diversionary programs (at all justice contact points prior to incarceration) and post-release for both adults and children leaving custody. There is significant evidence focused on the positive impact of post-release support in terms of reducing recidivism and in terms of cost savings.
- Breaking the cycle of justice system involvement is a whole of government responsibility and delivers whole of government outcomes including in health, housing and economic engagement. It is recommended that the Breaking the Cycle fund be administered either in the Department of Prime-Minister and Cabinet, Treasury or the Department of the Federal Attorney General.

- The Breaking the Cycle fund should be differentiated (in scope, approach and framework) from the suite of 'Risk Needs Responsivity' programs that have been run by Corrections departments around Australia, with minimal impact on recidivism.⁴
- The Breaking the Cycle fund should be viewed as separate but complementary to Aboriginal-led place-based approaches, including justice reinvestment. It is recommended that the work Aboriginal-led place-based approaches are expanded and supported in addition to this submission. Similarly, this submission should be viewed as complementary and additional to existing services working with people leaving prison or working to divert people from prison.
- We note, that in addition to the Breaking the Cycle fund, there is also a need for substantial regional expenditure in areas such as drug and alcohol rehabilitation centres and mental health support. While this fund is intended to enhance the capacity of services (including residential rehab and mental health services) to better meet the needs of people at risk of justice system involvement (including people leaving prison), the substantial focus of this fund (as noted below) is on the provision of outreach support and casework in the community.
- The Breaking the Cycle fund should be support a diverse suite of community led organisations and groups to deliver programs and support that are based on the evidence based principles in service delivery (noted below in this submission). This includes the provision of long-term, relational, flexible, holistic, intensive outreach case-work support.
- Within those principles, the Breaking the Cycle fund should allow flexibility and the capacity to ensure that programs and projects for people at risk of justice system involvement are genuinely responsive to the specific geographic and demographic needs of the populations for whom they are intended. This includes Aboriginal and Torres Strait Islander led programs that focus on outcomes for Aboriginal and Torres Strait Islander populations. It also means ensuring that programs for children and young people are developmentally and culturally meaningful.
- It is anticipated that experienced organisations may expand their operations, but also provide support and guidance to other organisations who are less experienced in the delivery of specific 'breaking the cycle' services. This mentoring and capacity building work should be resourced from the Fund.

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 someone 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 policy which have resulted in increasing numbers of people in prison. Although these kinds of approaches can be politically popular, they have been monumentally ineffective at reducing cycles of incarceration, ineffective at building safer communities and extraordinarily expensive. The imprisonment rate in Australia has grown

⁴ 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

significantly in the last decade 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 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 being released from prison are able to access them. For instance, in NSW (where we have had the opportunity to do substantial service sector mapping and costings) we can see that of the 20,000 adults leaving custody each year, only 5% of people actually have access to the kinds of community led programs that are proven to reduce recidivism. Our developing work in other jurisdictions shows a similarly limited picture around Australia.

This submission proposes a funding shift so that a significant number of those 'caught' in the justice system instead receive effective support and assistance in the community. There is a particular need for this support to be available (for children and adults) as a diversionary option (including at the point of court) and at the point of release from custody.

The majority of people incarcerated in Australia come from circumstances where they have experienced multiple and intersecting disadvantage. The over-representation of First Nations people in our justice system both reflects and reproduces a raft of First Nations disadvantage. 30% of adults⁵ and 56% of children⁶ incarcerated are First Nations. People with mental health conditions are significantly over-represented (at least 40% of people in prison)⁷ as are people with cognitive impairment.⁸ Around 60% of people in prison have a drug and/or alcohol problem⁹. Half of all people in prison were homeless before entering custody¹⁰ and a disproportionate number come from a small number of 'postcodes of disadvantage' where access to education, healthcare, support, and employment are all comparatively lacking.¹¹

The fact of disadvantage¹² cannot be used to discount the consequences of crime. However, it is crucial to understand the context in which most crime is committed¹³ to build and implement effective policy to reduce the numbers of people in custody and strengthen genuine alternatives to prison.

⁵ <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>

⁶ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/about>

⁷ https://www.aihw.gov.au/reports/australias-health/health-of-prisoners#_Toc30748009

⁸ 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

⁹ <https://adf.org.au/insights/prison-aod-use/>

¹⁰ <https://www.aihw.gov.au/reports-data/population-groups/prisoners/overview>

¹¹ <https://dote.org.au/findings/state-chapters/>

¹² <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/>

¹³ For example, see analysis in Cunneen, Baldry, Brown, Schwartz, Steel and Brown (2013) Penal Culture and Hyperincarceration: The Revival of the Prison, Routledge.

We believe the Federal government has the opportunity to lead the nation in turning around our reliance on incarceration as a default response to disadvantage. We can invest in accessible, evidence-based systems of supports in the community, where people at risk of imprisonment are given genuine opportunities to build productive, hopeful and meaningful lives in the community.

IMPRISONED CHILDREN IN AUSTRALIA: A NATIONAL SNAPSHOT (AND THE CASE FOR A FEDERAL BREAKING THE CYCLE FUND)

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

The most recent ROGS data shows that there are **1,385 permanently funded beds in Australian youth detention centres**. The average daily number of young people in prison around Australia is 822.¹⁴ Children’s court data shows us that in 2020/2021, that 982 children were actually sentenced to a period of custody in a Correctional Institution – (with an additional 293 sentenced to custody in the community, and a further 517 receiving a fully suspended sentence).¹⁵

However the total number of children who cycle in and out of prison over the course of the year is significantly higher. ROGS data shows us that in 2021/2022 there were **4350 children** who were imprisoned over the course of the year. More than 50% (2310) of these children were First Nations. When we look at release, reception and length of time in custody, we begin to get a much clearer sense of what it is that is actually happening for these 4350 children. The AIHW data shows us that each year there are **8240 receptions** into custody and **8227 releases**. Children have on average 2 releases from custody over the course of a year.

AIHW data from 2022 shows us that on an average day in children’s prisons 589 (72%) unsentenced and 230 (28%) sentenced.¹⁶ However, again, the flow through data shows us a much more comprehensive picture of the over-use of imprisonment for unsentenced children. **97% of children received into custody in 2020/2021 were unsentenced. And 90% of children released from custody were also released from unsentenced detention.**¹⁷ For those children who were released from unsentenced detention 63% ended up being released on bail (into the community). 36% of unsentenced children completed their remand period and received some form of sentence. But of this cohort, only 20% went on to be sentenced to detention.

AIHW (in their justice and safety research) also gives us a breakdown of **length of time children are spending in custody**. The average length of time children who are unsentenced are

¹⁴ <https://www.pc.gov.au/ongoing/report-on-government-services/2022/community-services/youth-justice>

¹⁵ <https://www.abs.gov.au/statistics/people/crime-and-justice/criminal-courts-australia/latest-release>

¹⁶ <https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf.aspx?inline=true>

¹⁷ 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>

spending in custody in Australia is **49 days**. The average length of time in custody for children who are sentenced is 105 days.¹⁸ The vast majority of children who are incarcerated in youth detention in Australia have not had their day in court, and the majority of these children will not go on to be given a custodial sentence.

The Justice Reform Initiative believes that it is time for us as a community to 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. **80% of children released from sentenced detention in Australia return within 12 months.**¹⁹

Although it is more complex to collect recidivism data for children who were not sentenced, it is clear from the sheer churn of numbers of children through the system that there are incredibly high rates of return to custody for children who have spent time in unsentenced detention as well.

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 came into contact with the justice system easily into community led alternatives; pre-charge diversion programs; bail support and accommodation; First Nations place based alternatives; intensive family support; programs and services and supports that we *know* can disrupt cycles of incarceration.

There are currently around Australia extremely limited community led alternatives for children that are available to courts to be able to use as diversionary and bail support options. There are also extraordinarily limited access to specialist support for children who are at risk. However, 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 all around Australia, 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.

The ACT has undertaken a substantial review of the existing level of diversionary funding, and the availability of wrap around support services as a precursor to that government honouring its commitment to raise the age of criminal responsibility to 14.²⁰ The review found significant gaps in services and a lack of coordination of the work of various Government agencies. Although they haven't (as yet) been as comprehensively documented, it is very clear that the same gaps exist around Australia. Lack of services and alternative options was the principal reason given by the national meeting of Attorneys General for failure to progress raising the age of criminal responsibility in most jurisdictions.

The cost of incarcerating one child in custody for one day is \$2,720. The cost of incarcerating a child in custody for a year is \$992,800. Across Australia we spend **\$816,245,000** each year on locking up children. 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,

¹⁸ <https://www.aihw.gov.au/reports/children-youth/australias-children/data>

¹⁹ <https://www.aihw.gov.au/reports/youth-justice/young-people-returning-youth-justice-2019-20/summary>

²⁰ <https://justice.act.gov.au/sites/default/files/2021-10/Raising%20the%20Age%20-%20Final%20Report.PDF>

the absence of education, disability and mental health, and the life-long costs in terms of risks of entrenched justice system involvement.

There are currently 18 children's prisons in Australia. At the time of writing there are plans in Queensland to build two more in addition to the existing prisons. In Darwin, construction of the 'new' Don Dale which will have 44 beds continues. In Tasmania, the Government has committed to shutting down Ashley Detention centre and constructing two new therapeutic centres. The failure of children's prisons to achieve any of their intended crime-control and rehabilitative goals has been made abundantly clear. For the 4,350 children who are cycling in and out of prison each year, there is a need for a genuine circuit breaker. The Breaking the Cycle fund is proposed as something that can assist with this by resourcing community led programs and alternatives to genuinely provide meaningful programs, supports and pathways for children out of the justice system.

IMPRISONED ADULTS IN AUSTRALIA: A NATIONAL SNAPSHOT (AND THE CASE FOR A FEDERAL BREAKING THE CYCLE FUND)

On the eve of the COVID-19 pandemic, Australia's imprisonment rate had soared to its highest level in over a century. Rising imprisonment rates are almost a uniquely Australian story – only two countries in the world, Turkey and Colombia, saw a greater growth in adult imprisonment between 2003 and 2018.²¹ The number of people in prison nationally has risen by **over 44 per cent** in the past decade, from 29,213 to 42,090 people.²² Although there is at any one point more than 42,000 people in custody, the flow through data shows that there are 62,024 receptions over the course of a year, and 62,797 people discharged from custody each year.²³ This is critical information when we are thinking about the kinds of services that might be required to genuinely disrupt the cycle of incarceration.

There are currently 115 adult prisons in Australia.²⁴ There are plans in almost all jurisdictions to build new prisons, or to expand existing infrastructure. This is happening at a time when crime rates in most of the major categories are at an all time low. There is no causal relationship between imprisonment rates and crime. That is, crime reduction is not able to be explained by higher rates of incarceration but rather by a series of interrelated shifts in economic, cultural and social and justice policy²⁵. A recent in-depth analysis of crime in Australia, shows that imprisonment has no significant impact on crime rates²⁶.

The cost of adult incarceration in Australia is more than \$5.2 billion per annum.²⁷ The cost of keeping someone in prison each year is around \$120,450. Estimates of the cost of providing

²¹ Melanie, J., et al, 2021, Australia's prison dilemma, Productivity Commission, <https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf>

²² Productivity Commission, Report on Government Services, Corrective Services Data (2022), Corrective Services Data Tables, Table 8A.4

²³ <https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release#prisoner-releases>

²⁴ <https://www.aihw.gov.au/reports/australias-welfare/adult-prisoners>

²⁵ Weatherburn, D & Rahman, S (2021) *The Vanishing Criminal*, Melbourne University Press, Australia

²⁶ Weatherburn, D, (2021) Imprisonment, reoffending and Australia's crime decline, *Judicial Officers Bulletin*, September 2021, Vol. 33, No. 8

²⁷ Melanie, J., et al, 2021, Australia's prison dilemma, Productivity Commission,

intensive, specialist community-based services (of the sort outlined in Appendix A) with proven ability to keep people out of prison range from \$8,000 to \$15,000 per year.²⁸ Residential treatment is more expensive, but still far cheaper and more effective in reducing recidivism than incarceration. We are proposing in this submission, that increased investment in evidence based programs that address the social drivers of incarceration will have a significant impact in terms of reducing the high rates of incarceration in Australia and reducing recidivism.

The Productivity Commission has noted that correctional services costs have risen by 59.6% since 2011-12.²⁹ The imprisonment rate in Australia has climbed in recent years with **201.0 people per 100,000 adults now** incarcerated.³⁰ Since 2012, we have recorded a **62 per cent increase** in the number of Aboriginal and Torres Strait Islander people in prison, rising from 7,757 to 12,599.³¹ Aboriginal people are **15.8 times more likely** to be in prison than non-Aboriginal people in Australia.³²

It is incredibly clear, that imprisonment for adults in Australia is not working. It is not working to deter, rehabilitate or keep the community safer. **More than half (59.9%)** of the people in prison in Australia have been in prison before – an increasing trend.³³ In 2020-21, **45.2% of people released from prison in Australia returned to prison** within two years.³⁴

Our over-reliance on incarceration as a default response to both disadvantage and offending has resulted in a situation where too many people in the justice system are unnecessarily trapped in a cycle of harmful and costly incarceration.

CONCLUSION

The responsibility for the persistent overuse of imprisonment cannot be attributed to one side of politics or the other. This trend has been replicated across Australia. We have followed the politicised approach of the USA: building more and more prisons, at enormous cost, and ultimately failing to reduce reoffending. This situation is compounded through the often relentless 'tough on crime' rhetoric perpetuated in the media which has the capacity to undermine evidence-based reform efforts.³⁵

There are opportunities to build pathways *out* of the justice system and improve our service delivery response at every contact point in the criminal justice system. There is the need to significantly scale up programs in the community and expand the capacity of the community sector to enable people who are caught in the justice system with a range of opportunities to genuinely rebuild their lives.

²⁸ 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

²⁹ Productivity Commission, Report on Government Services 2022, Table 8A.2

³⁰ ABS, Corrective Services, Australia, (March Quarter 2021), Table 3

³¹ Productivity Commission, Report on Government Services 2022, Table 8A.6

³² ABS, Prisoners in Australia 2021, Table 20

³³ ABS, Prisoners in Australia 2021, Table 15

³⁴ Productivity Commission, Report on Government Services (2022), Table CA.4

³⁵ Schulz and Cannon (2011), *Public opinion, media, judges and the discourse of time*, 21(1) *JJA*, 1-11

Instead of committing to additional expensive prison beds, there is an opportunity for the Australian 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 diversionary, 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. We believe that a Federal 'Breaking the Cycle' fund has the potential to make a concrete difference across Australia in both 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 Commonwealth program would have value in itself and change things dramatically on the ground in terms of improving access to programs. It could also amount to a "sweetener" to State and Territory Government to stimulate their further investment in these initiatives.

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

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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 in both post-release and diversionary programs. 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.

COMMUNITY RESTORATIVE CENTRE EVALUATION (RELEASED 2021)³⁶

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)³⁷

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

³⁶ Sotiri, McCausland, Reeve, Phelan and Byrnes (2021), 'They're there to support you and help you, they're not there to judge you' Breaking the cycle of incarceration, drug use and release: Evaluation of the Community Restorative Centres AOD and Reintegration Programs; NSW Health Report, <https://www.crcnsw.org.au/wp-content/uploads/2021/11/CRC-AOD-Evaluation-final-report-1Dec21.pdf>

³⁷ 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.

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)³⁸

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.

WEAVE (CREATING FUTURES) EVALUATION (RELEASED 2020)³⁹

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)⁴⁰

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.

MIRANDA PROJECT EVALUATION (RELEASED 2020)⁴¹

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)⁴²

³⁸ 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>

³⁹ 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>

⁴⁰ Backtrack Annual Report 2020, [Backtrack_AnnualReport_2020.pdf](https://www.backtrack.org.au/files/Backtrack_AnnualReport_2020.pdf)

⁴¹ https://www.crcnsw.org.au/wp-content/uploads/2020/09/2020_CRC_FD_V_SUBMISSION_24_JULY.pdf

⁴² 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>

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)⁴³

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 service⁴⁴.

MARANGUKA EVALUATION (RELEASED 2018)⁴⁵

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 year⁴⁶. 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.

WOMEN'S JUSTICE NETWORK EVALUATION (RELEASED 2016)⁴⁷

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)⁴⁸

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 term⁴⁹.

⁴³ 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

⁴⁴ https://idrs.org.au/site18/wp-content/uploads/2018/10/Economic-Evaluation-of-Criminal-Justice-Support-Network_2017.pdf

⁴⁵ 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>

⁴⁶ <https://www.justreinvest.org.au/wp-content/uploads/2018/11/Maranguka-Justice-Reinvestment-Project-KPMG-Impact-Assessment-FINAL-REPORT.pdf>

⁴⁷ Women's Justice Network, Adult Mentoring Program (Evaluation report, 2016) https://www.shineforkids.org.au/documents/2015-11_lsj_women_in_prison.pdf

⁴⁸ 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>

⁴⁹ 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

YIRIMAN PROJECT, WA^{50 51}

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.

DIAGRAMA MODEL SPAIN^{52 53}

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.

CAXTON LEGAL CENTRE MEN'S BAIL SUPPORT PROGRAM⁵⁴

The Men's Bail Support Program (MBSP) was delivered by Caxton Legal Centre in Brisbane from April 2019 to August 2022 and externally evaluated as being highly successful. Men supported by the program had improved pro-social behaviours and were less likely to re-offend in the short to medium term. In 2021-22:

- 77% of applications for bail made by the MBSP were granted;
- 95% MSBP participants were bail compliant;
- 25% were Aboriginal and/or Torres Strait Islander men – they were supported to access Aboriginal health services, culturally appropriate 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

⁵⁰ 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.

⁵¹ 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.

⁵² Centre for Innovative Justice (CIJ), RMIT University, '[A European alternative approach to juvenile detention](#)' (13 December 2018).

⁵³ 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.

⁵⁴ Elena Marchetti. 2021. *Evaluation of the Caxton Legal Centre Bail Support Program*. Griffith University. June 2021.

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.⁵⁵ Evaluations of the Magistrates Early Release into Treatment (MERIT) program in NSW have found reduced likelihood of reconviction⁵⁶ alongside increased health and well-being.⁵⁷ 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.⁵⁸ 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.⁵⁹ 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.⁶⁰

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
- participants who went through the NJC demonstrate lower breach rates for intervention orders.⁶¹

⁵⁵ '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).

⁵⁶ Lulham, R (2009) The Magistrates Early Referral into Treatment, Contemporary Issues in Crime and Justice 2009, No. 131, Bureau of Crime Statistics and Research

⁵⁷ 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

⁵⁸ 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

⁵⁹ 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

⁶⁰ 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).

⁶¹ 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).

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'⁶² as well as in these evaluations. All of them acknowledge the importance of acknowledging 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 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 also recognise the referral fatigue experienced by so many people leaving prison and recognise the importance of non-siloed service provision; that is, services that are able to work with people around a range of issues (housing, mental health, drug and alcohol use etc.).

The programs and principles for good practice in post-release and diversion (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 noted 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 whole range of issues, 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

⁶² 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

justice system involvement, it is in fact much easier to return to prison than it is to survive in the community. There are multiple reasons for this. Most people leave prison with no meaningful community-based supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although, as noted above, there are some highly effective specialist services that work to support people with connecting to community, they are chronically under-resourced.

In addition to specialist services, there are of course mainstream welfare, homelessness and other support services that should theoretically be available for people leaving prison. However, there are multiple barriers to accessing mainstream welfare services for people leaving prison. There are many reasons for this, including a lack of specialist knowledge, a lack of resources, and a lack of structural capacity for already stretched organisations to take on the complexity and time resources of working with incarcerated populations. Most mainstream welfare services will not do 'in-reach' into prisons. Many services (including many homeless, AOD and DV 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 rehabilitation services means that they are very challenging to access. For Aboriginal people, the absence of Aboriginal-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. 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 environment⁶³.

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 imprisonment⁶⁴.

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 populations⁶⁵.

HOLISTIC, RELATIONAL, INTENSIVE AND LONG-TERM CASEWORK MODELS.

People should not be excluded from services on the basis of complexity or on the basis of 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 support with getting to appointments (at least initially), and where appropriate attending appointments to support the development of the connection⁶⁶.

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

⁶³ 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;\

⁶⁴ 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

⁶⁵ 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.

⁶⁶ 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.

living. Services should be outreach in focus - that is, workers should travel to where clients are 'at' rather than relying on appointment-based systems (at least initially).⁶⁷

FIRST NATIONS LED

For First Nations children, the most effective early intervention responses are those which are culturally appropriate, 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 that programs are more effectively targeted to local priorities and needs, and are aligned with local systems and circumstances.⁶⁴ Community involvement 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.⁶⁸

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 services⁶⁹

⁶⁷ 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.

⁶⁸ 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,

⁶⁹ 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.

