



13<sup>th</sup> April 2023

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JUSTICE REFORM INITIATIVE

SUBMISSION TO SENATE INQUIRY INTO THE EXTENT  
AND NATURE OF POVERTY IN AUSTRALIA

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Senate Standing Committee on Community Affairs

Via email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

The Justice Reform Initiative appreciates the opportunity to lodge a late stage submission to the Senate Standing Committee on Community Affairs' inquiry into the extent and nature of poverty in Australia. Given the late stage of this inquiry, we are keeping this submission brief. However, we would welcome the opportunity to further expand on the issues raised in this submission as the inquiry progresses should this be of use. We are particularly interested in discussing the intersection between poverty, disadvantage and the criminal justice system and the criminalisation of disadvantage

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## ABOUT THE JUSTICE REFORM INITIATIVE

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

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

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 also seek to elevate approaches that see First Nations-led organisations resourced and supported to provide culturally safe and autonomous support to First Nations people who are 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. For more information about the work and approach of the Justice Reform Initiative, please visit our website [here](#).

## A SNAP-SHOT OF THE INTERSECTION BETWEEN POVERTY AND INCARCERATION IN AUSTRALIA

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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 adults<sup>1</sup> and 56% of children<sup>2</sup> incarcerated are First Nations.

People with mental health conditions are significantly over-represented in prisons (at least 40% of people in prison)<sup>3</sup> as are people with cognitive impairment.<sup>4</sup> Around 60% of people in prison have alcohol and other drug dependency.<sup>5</sup> Half of all people in prison were homeless before entering custody<sup>6</sup> and more than half of all people leaving prison exit into homelessness.<sup>7</sup> A disproportionate number come from a small number of 'postcodes of disadvantage' where access to education, healthcare, support, and employment are all comparatively lacking.<sup>8</sup> 62% of people leaving prison in Australia do not have any employment organised on release.<sup>9</sup> Health services in prison remain underfunded, a problem exacerbated by the absence of Medicare and the Pharmaceutical Benefits Scheme to people while incarcerated.

The fact of disadvantage<sup>10</sup> cannot of course be used to discount the consequences of crime. However, it is crucial to understand the context in which most crime is committed<sup>11</sup> to build and implement effective policy to reduce the numbers of people in custody and strengthen genuine alternatives to prison.

A 2018 study by the Telethon Kids Institute and the University of Western Australia showed that 9 out of 10 (90%) of incarcerated young people in WA had some form of neuro-disability, ranging from dyslexia or similar learning disability, language disorder, attention deficit hyperactivity disorder, intellectual disability, executive function disorder, memory impairment or motor coordination disorder.<sup>12</sup> There is no reason to suggest that this is any different in other jurisdictions.

Many children who enter the youth justice system come from backgrounds where they have already experienced disadvantage and trauma, with a significant number also having experienced out of home care. Prison increases disadvantage and disconnection. Children in

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<sup>1</sup> <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>

<sup>2</sup> <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/about>

<sup>3</sup> [https://www.aihw.gov.au/reports/australias-health/health-of-prisoners#\\_Toc30748009](https://www.aihw.gov.au/reports/australias-health/health-of-prisoners#_Toc30748009)

<sup>4</sup> 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

<sup>5</sup> <https://adf.org.au/insights/prison-aod-use/>

<sup>6</sup> <https://www.aihw.gov.au/reports-data/population-groups/prisoners/overview>

<sup>7</sup> Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*, p. 24.

<sup>8</sup> <https://dote.org.au/findings/state-chapters/>

<sup>9</sup> Australian Institute of Health and Welfare (2019). *The health of Australia's prisoners 2018*, pp. 18-19.

<sup>10</sup> <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/>

<sup>11</sup> For example, see analysis in Cunneen, Baldry, Brown, Schwartz, Steel and Brown (2013) *Penal Culture and Hyperincarceration: The Revival of the Prison*, Routledge.

<sup>12</sup> Drum, M., & Buchanan, R. (2020). *Western Australia's prison population 2020: Challenges and reforms*. The University of Notre Dame Australia and the Catholic Archdiocese of Perth. [http://csswa.perthcatholic.org.au/wp-content/uploads/2022/05/FINAL-WA-Prison-Population-Report-2020\\_WEB.pdf](http://csswa.perthcatholic.org.au/wp-content/uploads/2022/05/FINAL-WA-Prison-Population-Report-2020_WEB.pdf)

the youth justice system need family and community support, education, and life opportunities, not punishment that compounds disconnection and disadvantage.

A recent report from the Victorian Parole board noted that incarcerated children also experienced a significant level of disadvantage.

- 55% had experienced being subject to a child protection order
- 72% had experienced abuse, trauma or neglect as a child
- 50% had experienced family violence
- 62% had accessed mental health support in relation to their diagnosed mental illness
- 28% had a history of self-harm, suicidal ideation or suicide attempts
- 29% had an active cognitive difficulty diagnosed or documented by a professional
- 66% had a history of use or misuse of alcohol
- 87% had a history of use or misuse of other drugs<sup>13</sup>

These forms of disadvantage exacerbate the barriers people face to build lives outside of the justice system on release. Ensuring that disability, mental health, and homelessness services are accessible to those in contact with the justice system, and that the welfare and community sector has the training and resources to serve them, is essential to reducing incarceration and recidivism, and addressing disadvantage.

It is clear that disadvantaged groups including First Nations people, newly arrived migrants and refugees, children in out of home care, people with mental health conditions, people with disability and people experiencing multiple and complex disadvantage and discrimination, are imprisoned at disproportionate rates. The failure to provide the kind of community support and opportunities that genuinely address the underlying drivers of incarceration underpins a costly system that does not make the community safer. Prison entrenches disadvantage and does little to support people to turn their lives around. The over-reliance on incarceration as a default response to both disadvantage and to 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.

One of our Justice Reform Initiative's ACT patrons, Professor Lorana Bartels, has written extensively on this topic, and I have attached a copy of her paper "The intersection of disadvantage and the criminal justice system – and six ways to address this" as an appendix to our submission. This paper explores the intersection of "trauma, lower socio-economic circumstances and educational attainment, marginalisation, drug and/or alcohol misuse, homelessness, family violence and racism", and shows the pathways to the criminal justice system from there.<sup>14</sup>

This issue around the importance of secure housing is also well covered in a number of places including a recent publication authored by Australian authors in the International Journal for

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<sup>13</sup> [https://www.parliament.vic.gov.au/file\\_uploads/Youth\\_Parole\\_Board\\_Annual\\_Report\\_2021-22\\_vp7sJptg.pdf](https://www.parliament.vic.gov.au/file_uploads/Youth_Parole_Board_Annual_Report_2021-22_vp7sJptg.pdf)

<sup>14</sup> Bartels, Lorana, (2020) The Intersection of Disadvantage and the Criminal Justice System in Australia – And Six Ways to Address This (June 10, 2020). Available at SSRN: <https://ssrn.com/abstract=3492805> or <http://dx.doi.org/10.2139/ssrn.3492805>

Crime, Justice and Social Democracy linked [here](#) that explores the intersection between homelessness and the justice system.<sup>15</sup>

Robust social supports within the community, including general health, housing, education, and welfare programs, as well as specialist programs are required to prevent contact with the justice system. Mental health support, alcohol and other drug treatments and disability support play particularly critical roles.

The Justice Reform Initiative has engaged in a series of research projects exploring evidence based alternatives to incarceration, with a focus on those approaches that address the social and economic drivers of imprisonment. I would welcome the opportunity to share any of this research with the Senate Committee on Community Affairs to further outline the intersection between poverty and imprisonment, and overview some of the evidence about breaking cycles of disadvantage if this would be of use.

Thanks so much for your time.

Warm wishes

Dr Mindy Sotiri  
Executive Director  
Justice Reform Initiative

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<sup>15</sup> McNamara, Luke, Quilter, Julia, Walsh, Tamara and Anthony, Thalia (2021) *International Journal for Crime, Justice and Social Democracy, Homelessness and Contact with the Criminal Justice System: Insights from Specialist Lawyers and Allied Professionals in Australia*