



rethinking justice

VULNERABILITY
REPORT 2016

the
power of
humanity





Red Cross volunteers support family members visiting prison. When visits go well family connections are maintained and can then provide important support when the prisoner is eventually released.

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Cover: Kids who take part in the Red Cross youth diversion service, get to take part in fun and positive activities rather than letting their boredom and problems turn into trouble with the police.

Australian Red Cross/ Lesley Desmond.

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Foreword The Hon. Michael Kirby AC CMG

This Vulnerability Report, presented by Australian Red Cross, is a timely appeal to Australia's rationality and compassion.

Recent analysis of full time imprisonment rates in Australia by the Judicial Commission of New South Wales¹ show that, over the past year, Australia's prison numbers had reached a 10-year high. With almost 34,000 prisoners, sentenced and unsentenced, the aggregate shows an increase of 10% in 2013. The incarceration in Indigenous offenders is a special source of shame for observers of the Australian prison system. The Australian Bureau of Statistics recorded that nearly 9,500 prisoners identified as Aboriginal or Torres Strait Islanders – more than a third of the total, even though Indigenous Australians are fewer than 2% of our population.

These figures constitute a rebuke to our society. But the problem is more complex than the bare statistics suggest. The rise in the number of prisoners has outpaced the number of available prison places in Australia. There is a severe shortage of beds. This has resulted in overcrowding and exposure of prisoners to unacceptable dangers².

The Public Interest Advocacy Centre, which has worked with disadvantaged and marginalised groups in the criminal justice system for more than 30 years, has said³:

“Legislative changes, coupled with policing practices, are leading... vulnerable clients towards a revolving prison door. The lack of operational capacity has led to inmates being double-or-triple-bunked in cells originally designed for one. But it has also led to the expenditure of increasing amounts on the building of prisons. Given knowledge we now have concerning the high levels of mental disability amongst prisoners, together with welfare, drug and alcohol problems, a question is posed as to whether the Australian approach to responding to anti-social conduct is (in part at least) ineffective, overpriced, ill-targeted and inhumane.”

In Sweden, in the 10 years to 2014, the national prison numbers dropped from 5,722 to 4,500 in a population of 9.5 million. There was no crime wave from the reduced reliance on incarceration. Sweden appears to be doing something correctly. Australia and New Zealand needs to study the economic and human costs of copying the American model of incarceration as a penalty of *common* resort, rather than the model applicable in other jurisdictions, where incarceration is truly a punishment of last resort, as the common law and statutory provisions assert it should be⁴.

No serious observer is suggesting a complete abolition of incarceration as a punishment. Sadly, a hard core of violent, repeat and dangerous prisoners need to be punished this way. However, the rates and other features of our current policies present well-known deficiencies that need to be addressed by lawmakers (and where possible within the law, our judges). We cannot afford to continue unquestioningly going down the same, unreformed path. There are better objects for huge and rising public expenditures than building new prisons. In the past, there have been occasions when politicians have agreed to suspend the ‘law and order’ option, which they are otherwise encouraged to pursue by ‘shockjocks’ and other similarly uninformed pundits. Yet sadly these interruptions, which should be encouraged, barely last long. Hostilities are renewed. The victims often include disadvantaged, marginalised, mentally disabled persons, and their families and the communities in which they live.

With its longstanding experience in providing humanitarian support to vulnerable people worldwide, including in the justice system, Australian Red Cross is well placed to give voice to the way the current laws, policies and practices on imprisonment impact our society. Australian Red Cross is also well positioned to provide credible alternatives to the approach we are currently pursuing. I endorse the way in which this *Vulnerability Report* has tackled the problem in our midst.

In a climate of fiscal restraint, where scarce governmental resources must deliver to the community the best value and outcomes in services, the time is right for a more rational, economic and humane approach to our national ways and our trend of incarceration. Our federal system is constitutionally designed to permit, and encourage, experimentation and comparative projects of innovation. Australia needs to rediscover its earlier embrace of constructive law reform. This *Vulnerability Report* urges us to rethink our criminal justice and penal methods. Too often the only direction taken has been to increase imprisonment. It is time to shift gears and to consider new directions and goals.



The Hon. Michael Kirby AC CMG*

* Justice of the High Court of Australia (1996-2009); Chairman of the Australian Law Reform Commission (1975-84); Patron of the Community Restorative Centre (2011-).

Introduction Judy Slatyer, CEO

Australian Red Cross is proud to present the second *Vulnerability Report: Rethinking Justice*.

Australia needs a prison system for those who break serious laws and need to do time in prison. But ours is costing billions more than is necessary because we are overusing our prison system when there are more effective alternatives.

We need reform and there are better ways to achieve improved outcomes for society, for taxpayers and for offenders.

The *Vulnerability Report* is a periodic research contribution by Australian Red Cross on critical public policy matters. The 2016 report draws on current international and Australian evidence regarding justice system redesign as well as the experiences of our clients, the communities that we work with, volunteers and sector partners. It sets out a case for change with an emphasis on supporting broader sector calls for “justice reinvestment”, as an alternative to existing criminal justice approaches in Australia. The report highlights the actual costs of current approaches to criminal justice and proposes systemic reform. We make five key recommendations and call on governments and the community to work towards implementing these.

This issue is not one that we can afford to ignore: there is both an economic and a humanitarian imperative for change.

The increasing incidence of incarceration rates continues to take a significant toll economically, with a \$3.4 billion annual cost of building and operating prisons across Australia.

With nearly 34,000 people held in Australian prisons, the impact on the lives of prisoners, their families, and communities is detrimental, inhumane and unacceptable. The continuing over-representation of Aboriginal and Torres Strait Islander peoples, and other people who experience social exclusion and disadvantage, cannot continue unchallenged.

Australian Red Cross is a leading humanitarian agency and part of the wider International Red Cross and Red Crescent Movement. Red Cross and Red Crescent National Societies around the world have a long history of working in prisons and in the area of criminal justice. In Australia, we seek to contribute to safer and more socially cohesive communities through getting better outcomes from more effective criminal justice systems.

This 2016 *Vulnerability Report* advocates for all of us to rethink our approach and to tackle the causes of crime in those communities where crime is most prevalent.



Judy Slatyer
CEO Australian Red Cross



Executive Summary

This second *Vulnerability Report* from Australian Red Cross focuses on Australia's current criminal justice systems. It highlights the inhumane effects of growing adult imprisonment rates and the failure of current approaches to reduce crime, target government expenditure effectively and produce safer communities.

Growing adult imprisonment rates and costs: inhumane, inefficient and ineffective

Prisons are a necessary part of society. People who break the law deserve appropriate punishment, including appropriate custodial sentences. However, the aim of any prison system must be also to prevent people from re-offending. Where we have people captive we should use this time to maximise the return on the cost to society. But Australia has not used its expenditure on prisons as an investment in the future, only as a cost of the past. We have over-invested in prisons with current expenditure of \$3.4 billion which is failing to deliver effective justice, social or economic outcomes.

Rethink and reinvest: from prisons to prevention and diversion

With the prison population doubling in the last 20 years, and the occupancy rate of Australian prisons at 104.4%, something needs to change. Australian Red Cross calls on Australian governments to change our justice systems. More effective expenditure could deliver safer, more cohesive communities, support more productive lives for people involved in the criminal justice system and save governments millions of dollars.

Australian Red Cross believes that prisons should focus on people involved in serious crime and who pose a high risk to the community. Evidence shows that many people going into prison come from highly disadvantaged communities and often have multiple and complex problems that are not addressed in prison. These people leave prison having not received adequate treatment or support and with little ability to successfully re-enter society – hence the cycle of crime continues for them and their communities.

This unproductive expenditure on prisons should be invested in programs that both reduce crime and prevent people entering the criminal justice system. More effective support needs to also be provided for people to reintegrate into the community after their release. This redirection of spending from prisons to early intervention and support programs is being adopted overseas under the banner of 'justice reinvestment' - and there are some early trials being conducted in Australia.

Doing justice better: through justice reinvestment

The analysis of justice reinvestment both in Australia and overseas suggests this approach is more effective than the current approaches to justice. Justice reinvestment invests in people and communities to provide support, treatment and services that address the underlying issues confronting people who commit less serious offences. These issues include homelessness, mental health, deep social exclusion, and poor education and employment histories. Evidence suggests that it is more efficient and effective to address the causes and thus reduce the need for (and greater cost of) incarceration.

Across Australia, researchers have identified those communities where social exclusion and disadvantage are driving crime and other social issues. Australian Red Cross believes there are great opportunities to work with community leaders to address the specific causes of crime. Early indications from trials in Australia suggest that adopting a local justice reinvestment approach will pay bigger long-term dividends than a "tough on crime" approach.

Closing the Gap on Aboriginal and Torres Strait Islander incarceration rates

Aboriginal and Torres Strait Islander peoples and communities are particularly impacted by our criminal justice system, with Aboriginal and Torres Strait Islander peoples being incarcerated at rates 13 times greater than non-Indigenous people. There has been an extraordinary recent growth in prisoner numbers among Aboriginal and Torres Strait Islander peoples with an 88% growth in Indigenous prisoners since 2004. The Closing the Gap Strategy should have a focus on Aboriginal and Torres Strait Islander incarceration and justice issues and should incorporate targets for reducing rates of adult imprisonment for Aboriginal and Torres Strait Islander peoples.

Save on prisons and reinvest in crime reduction

Australian Red Cross has estimated that over a five-year period substantial funds could be freed up from expenditure on prisons and redirected to expenditure targeted on reducing crime.

- If the rate of incarceration was simply held at current levels through justice reinvestment and other justice reforms, then savings of almost \$1.1 billion would be generated over five years in correctional costs alone.
- If the rate of incarceration was reduced by 2% per annum, then savings of almost \$2.3 billion could be realised over five years. Part of these savings could be invested in the social support and health services that would, over time, address the underlying causes of crime.

Sustainable decreases in incarceration rates are possible. This has been done in Tasmania, as well as in a number of jurisdictions overseas.

This is not about being soft on crime. The public debate needs to change from being "harder" or "softer" to rethinking what are the most effective responses to crime and applying the available resources to them. Evidence suggests that relatively minimal decreases in the number of people in prisons can be used to fund the community programs and other justice reforms that are likely to have a substantial impact on reducing crime.

The report recommends that governments set targets for reduced incarceration rates and a Closing the Gap justice target for Aboriginal and Torres Strait Islander peoples. Adoption of these targets would allow communities to hold governments to account for taking action on these important reforms.

Australian Red Cross recognises that this is not just governments' business. It requires a whole of community response and will only be achieved through working together. Red Cross stands ready to play its part in building a safer, more humane and socially cohesive society.

Recommendations

1. That all governments in Australia rethink and change their approaches to justice to achieve lower crime rates, lower incarceration rates, reduced prison costs and stronger, safer communities.
2. That all governments in Australia introduce a justice reinvestment approach and jointly support its implementation through the Law, Crime and Community Safety Council of the Council of Australian Governments.
3. That all governments in Australia establish, fund and evaluate justice reinvestment trials across Australia in specific geographic communities with high rates of crime to determine how justice reinvestment can be applied in Australian contexts.
4. That state and territory governments adopt the justice reform proposals outlined in this report to:
 - prevent crime and recidivism
 - increase non-custodial sentencing
 - improve parole and reintegration to the community.
5. That, as a first step, all governments in Australia commit to:
 - a 10% reduction in adult imprisonment rates over the next five years
 - a Closing the Gap justice target to reduce the unacceptably high adult imprisonment rates of Aboriginal and Torres Strait Islander peoples by 50% over the next five years.

About Australian Red Cross

Australian Red Cross is a member of the International Red Cross Red Crescent Movement which operates in 190 countries.

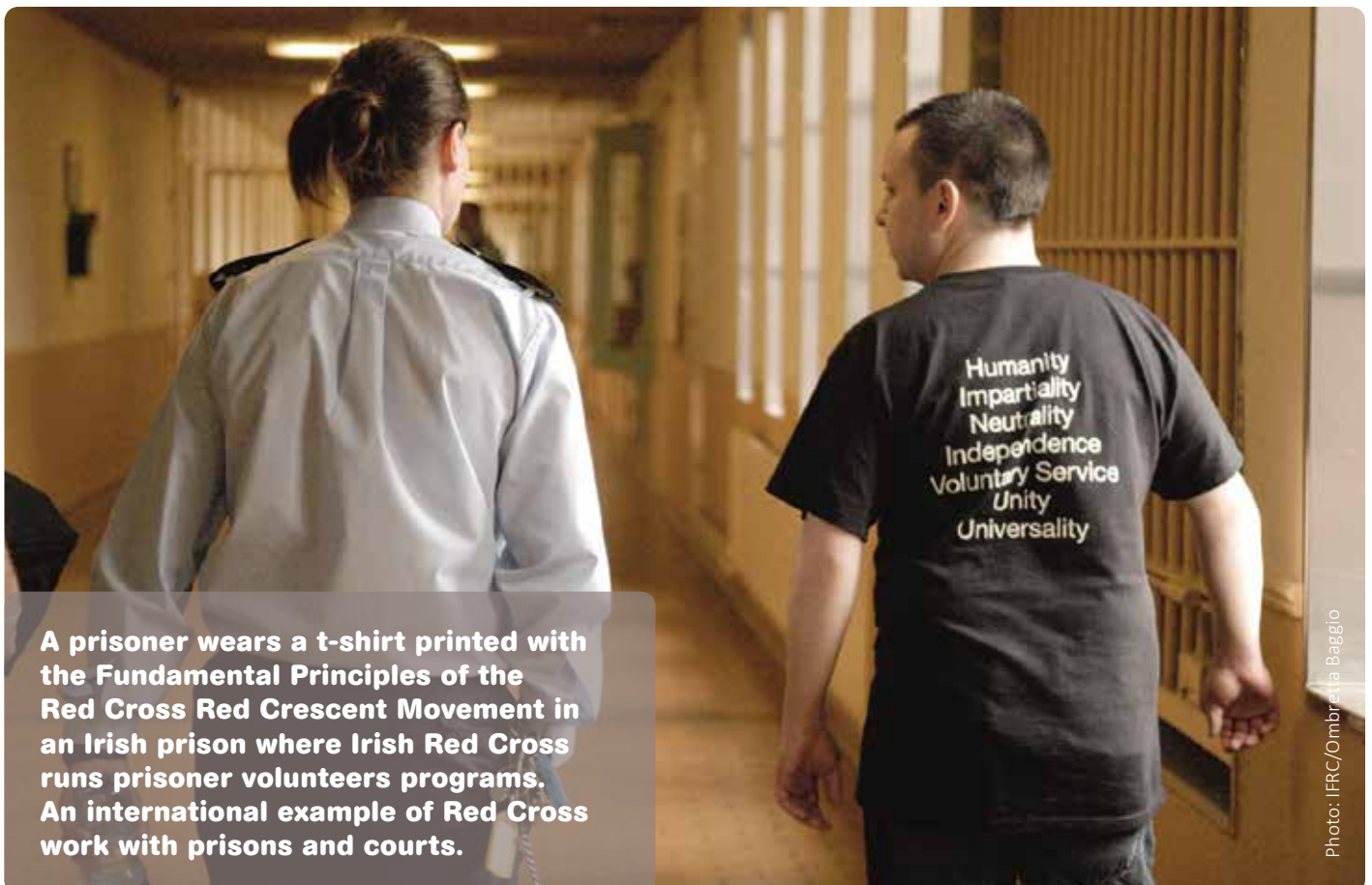
In all our work, we are guided by the Fundamental Principles of humanity, impartiality, neutrality, independence, voluntary service, unity and universality.

The principle of humanity drives our purpose to support and empower people and communities in times of vulnerability, and prevent and alleviate suffering wherever it may be found. We provide assistance to those who need it without taking sides. This approach gives us the independence to work through complex situations and to remain focused on building relationships aimed at delivering humanitarian solutions.

Voluntary service is at the heart of the Movement's ability to mobilise the power of humanity. In Australia, Red Cross has been a vital part of the community since 1914. Today, we work with people and communities providing a range of programs in emergency services, migration support, social services, community development, overseas aid, and International Humanitarian Law.

Our diverse and committed volunteers and staff support Australian Red Cross' efforts to achieve the five strategic goals of Strategy 2020:

- Build a diverse and active humanitarian Movement based on voluntary service
- Save lives, build resilient communities and strengthen disaster response and recovery
- Prevent and alleviate human suffering in times of war and conflict and promote non-violence and peace
- Advance health, well-being and resilience of individuals, families and communities made vulnerable by dispossession, migration, displacement, illness or disadvantage
- Maintain a strong, innovative, sustainable and accountable organisation capable of achieving our humanitarian goals.



A prisoner wears a t-shirt printed with the Fundamental Principles of the Red Cross Red Crescent Movement in an Irish prison where Irish Red Cross runs prisoner volunteers programs. An international example of Red Cross work with prisons and courts.



In Woorabinda Red Cross is helping to build young leaders who are proud of where they're from - with positive results for the whole community.

Analysis of the Prison Population and Underlying Issues

1. Australia has increasing rates of adult imprisonment despite crime rates being constant or decreasing

Over the last 20 years, Australia's prison population has doubled. At 30 June 2014, there were 33,791 people in Australian prisons compared with 16,944 people in Australian prisons in June 1994.



The prison population has doubled in the last 20 years.



The rate at which we imprison people has increased by 48%.

Australia is increasingly imprisoning people, with the incarceration rate growing by 48% over the two decades to 2014. Over the last three decades, between 1984 and 2014, there has been an increase from 85.6 to 185.6 people per 100,000 of the adult population in prison.

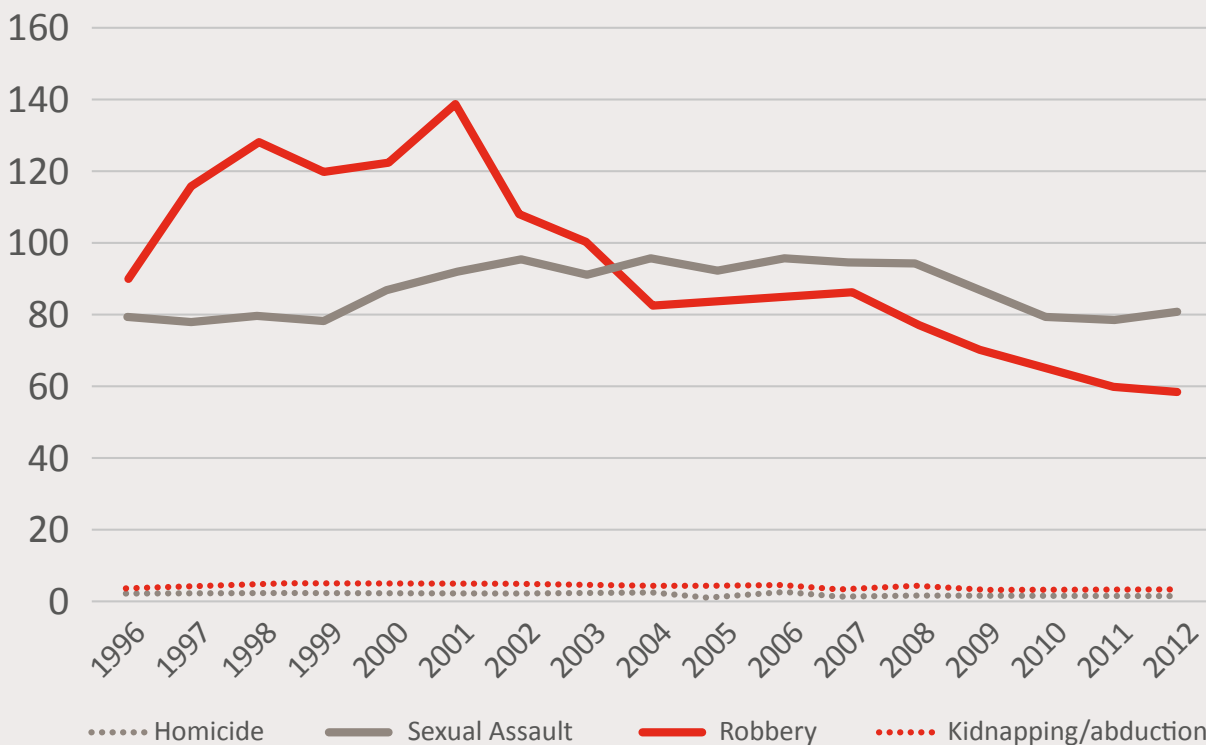
At the same time, our incarceration rates have been increasing while violent crime rates have either declined (robbery and sexual assault) or held steady (homicide and kidnapping/abduction) in recent decades⁵.

This data is further reinforced by 2014 data from the Australian Bureau of Statistics which shows that:

- between 2013 and 2014, the number of recorded victims decreased for the majority of offence categories. Robbery had the largest proportional decrease of 16% (1,825 victims)
- homicide, kidnapping/abduction, robbery, unlawful entry with intent and motor vehicle theft victims all fell to five year lows⁶.

Victims of violent crimes, 1996-2012 (rate per 100,000 population)

Note: Homicide and kidnapping each occur at rates of fewer than 5 per 100,000 population per year and are difficult to distinguish on this graph



Despite crime rates being steady or falling there continues to be reports about us feeling less safe. This can create a cycle of driving decision makers to be tougher on crime.

The United Kingdom House of Commons Justice Committee reported in 2010:

‘Wider factors, such as the media, public opinion and political rhetoric, contribute to risk-averse court, probation and parole decisions and hence play a role in unnecessary system expansion. If Ministers wish the (correctional) system to become sustainable within existing resources, they must recognise the distorting effect which these pressures have on the pursuit of a rational strategy⁷.

International comparison rates

Australia’s incarceration rates are relatively high when compared with a number of other similar Western countries.

For example, Sweden’s imprisonment rate is 60% lower, Ireland’s is 46% lower and Canada’s is 30% lower. However, New Zealand’s is 25% higher than Australia and the United States of America stands out with an incarceration rate that is 360% greater than Australia.

Bucking the trend in Tasmania

Within Australia, Tasmania stands out as running counter to the trend of constantly increasing numbers of prisoners.

- Over the decade June 2005 to June 2014, Tasmania’s adult prison population fell by 6% from 551 to 448 adult prisoners⁸, despite an increase of 6% in the population of Tasmania⁹.
- Over the same decade, the rate of adult imprisonment fell by 25% from 149.6 per 100,000 of the adult population to 112 per 100,000 of adult population in Tasmania. For the other jurisdictions the overall increase was 33%¹⁰.

Rob White, Professor of Criminology at University of Tasmania, has identified the reasons for this success as expansion of better support services within the corrections system, establishment of innovative projects that engage offenders and the use of systematic measures that encourage rehabilitation¹¹.

Australia is jailing people at high rates, even though crime rates are steady or falling.



2. Prisons are costly to build and operate

Across Australia, the cost of providing correctional services in 2013/14 was \$3.9 billion, mostly to operate the 111 prisons in use across Australia (\$3.48 billion). Less than half a billion dollars (\$0.48 billion) was spent on community corrections.

The costs of providing prisons vary considerably by jurisdiction as shown in the diagram. The average cost of incarcerating a person in an Australian prison is \$292 per day¹².

Even with governments spending more on building new prisons or expanding existing facilities, many prisons are full or overcrowded. In 2013/14, prisons had an occupancy rate of 104.4% across all Australian jurisdictions. This high utilisation rate means that there were more prisoners in prisons than they were designed to hold.

In some jurisdictions, solutions to overcrowding have included accommodating prisoners in fitted out shipping containers¹⁴. Another common approach is to use police holding cells to accommodate prisoners when prison beds are not available¹⁵.



It costs \$292 per day to keep someone in jail.



The daily cost of keeping a person jailed

Net recurrent expenditure, per prisoner and offender, per day 2013-14¹³

3. Our prisons are not being used efficiently

While data is limited, there is some evidence that too many people are being held in prison for relatively minor crimes or because they are waiting for sentencing or court hearings. This is not an efficient use of our prison system, particularly given the relatively high costs of holding people in prison.

Australian Bureau of Statistics data¹⁶ suggests that short term prison sentences are particularly common for traffic and vehicle regulatory offences, as well as offences against justice procedures, government security and operations. Approximately 14% of all prisoners are in jail for these charges. Re-directing these people to non-custodial sentences for these offences would reduce costs and avoid prison for these people.

At the same time, almost one quarter (24%) of people in prison are not sentenced (on remand). People on remand are made up of unconvicted people who are held in custody while waiting for a trial or court hearing and convicted people who are awaiting sentencing.

At 30 June 2014, there were over 8,200 people remanded in custody in Australian prisons and this number has doubled over the last 30 years. In 1984, only 12% of prisoners were on remand. By 2000 this had increased to 17% of all prisoners being on remand¹⁷ and by 2014 it was 24%.

There are good reasons why people are remanded in custody, including the likelihood of failing to attend trial, preventing people interfering with witnesses and where there are reasonable grounds to believe that the person would commit further offences before their trial. However, the growing rate of people held on remand is of concern.

While there is limited Australian research regarding people on remand, research from the UK indicates that they are more likely than sentenced prisoners to be homeless, unemployed or have some form of mental illness¹⁸.

Other data shows that Aboriginal and Torres Strait Islander peoples are more likely to be remanded than non-Indigenous people, with 29% of Aboriginal and Torres Strait Islander prisoners being on remand compared with 24% of non-Indigenous prisoners.

This data suggests that highly disadvantaged people are often put in prison even before they are found guilty and convicted. Therefore, there may be opportunities to reduce prison costs by reducing the number of people in prison on remand through more efficient and timely court hearings and sentencing processes.



The number of people in jail awaiting sentencing has doubled in 30 years.



These are often highly disadvantaged people who are defaulting to prison before they are found guilty or convicted.

4. People in prison are likely to come from disadvantaged and socially excluded backgrounds

Available data indicates that people in prison tend to be disadvantaged and excluded, often with complex, long term issues. Prisoner backgrounds typically include low education, unemployment, mental health issues, cognitive impairment, drug and alcohol use, sexual abuse and family related issues. In addition, incarceration rates are far higher for people who come from geographic communities characterised by disadvantage and for Aboriginal and Torres Strait Islander peoples.

People with mental health issues are significantly overrepresented in the prison population. Professor Ogloff, Professor of Forensic Behavioural Science, Director of the Centre for Forensic Behavioural Science at Swinburne University of Technology, recently commented, 'Prisoners are two to three times as likely as those in the community to have a mental illness and are 10-15 times more likely to have a psychotic disorder. Our research suggests that one in three people taken into police custody are likely to be receiving psychiatric treatment at the time. If you include those with a substance misuse disorder, the numbers increase even further'¹⁹.

The Australian Institute of Health and Welfare 2012 survey of prisoners' health underlined the level of mental health issues that prisoners experience, noting that on entry to prison:

- 26% of people are referred to mental health services for observation or assessment
- 7% of people are at risk of suicide or self harm
- 21% of people are taking medications for a mental health disorder²⁰.

People with an acquired brain injury also seem to be substantially overrepresented in the prison population. A Victorian study found that 42% of male prisoners and 33% of female prisoners had an acquired brain injury compared to 2% of the general population of Australia²¹.

At 30 June 2014, Australian-born prisoners accounted for four in every five prisoners in Australia (81% or 27,397 prisoners), while overseas-born prisoners accounted for 18% of all prisoners (6,035 prisoners)²².

People from culturally and linguistically diverse backgrounds face a range of issues when they come into contact with the Australian criminal justice system.

They are less likely to understand the way the criminal justice system works than those with proficient English skills. Issues include lack of awareness of their rights in police questioning, accessing bail, navigating the court system and how to navigate the prison system and rules²³.

The following barriers are cited as common to culturally and linguistically diverse communities within the justice system:

- cultural barriers (language and cultural norms, as well as traditional gender roles and fear of authority figures, such as police)
- structural barriers (lack of knowledge of available services and difficulties accessing them)
- service-related barriers (e.g. service models are culturally inappropriate or are perceived to be so)²⁴.

5. High rates of crime are concentrated in a few communities that experience high levels of disadvantage

Vinson and Rawsthorne in their recent study of locational disadvantage in Australia pointed to a small proportion of offenders committing a large proportion of crime²⁵. In measuring locational disadvantage in Australia, Vinson and Rawsthorne used data on criminal convictions and prison admissions as part of the data set.

The evidence that location matters in understanding the incidence of crime is also shown in a report by Allard et al.

"There is a large body of research indicating that high crime rates are typically concentrated in small geographical areas characterised by structural disadvantage, including low economic status, poverty, segregation, a high proportion of single parent families, residential instability and a large proportion of racial/ethnic minority groups"²⁶.

Allard et al's study focused on targeting crime prevention through identifying Queensland communities that generate chronic and costly offenders. It found that 15.8% of offenders accounted for 67% of offences committed. The study also identified that chronic offenders are not randomly distributed geographically but rather that chronic offenders are likely to live in specific postcodes.

6. Prisons are not effective in rehabilitating people or deterring crime

Although some prisons provide a range of training and work ready skill development, generally the evidence suggests prisons are not effective in achieving two of the primary goals that are outlined for custodial sentences in the Sentencing Acts of governments around Australia: rehabilitating offenders and deterring offenders from committing offences. At 30 June 2014:

- 59% of prisoners in custody had been sentenced previously to an adult prison
- 77% of Aboriginal and Torres Strait Islander prisoners had been sentenced previously to an adult prison.

Further, data on recidivism indicates that about 38% of prisoners are reimprisoned within two years of their release²⁷, either because they have reoffended or because they have breached their release conditions. Many prisoners re-offend within the first 3 weeks of being released.

Rather than deterring crime, prisons may have the opposite impact of increasing the likelihood of a person reoffending. In a research study of people convicted for either non-aggravated assault or burglary, Professor Weatherburn, Director of the NSW Bureau of Crime Statistics and Research, found “There is no evidence that prison deters offenders convicted of burglary or non-aggravated assault. There is some evidence that prison increases the risk of offending amongst offenders convicted of non-aggravated assault but further research with larger samples is needed to confirm the results”²⁸.

Prisoners often cycle in and out of prison, with relatively short episodes of incarceration followed by release to the community. This churn factor means that the median length of time in jail for sentenced prisoners is 1.8 years²⁹.

Professor Stuart Kinner, School of Criminology and Criminal Justice, Griffith University, has recently estimated there were 42,239 people released from Australian prisons in 2013/14³⁰. Almost 60% of those people will have previously been released from prison and returned. This underlines the importance of reform to reduce the negative impact of repeated prison stays on people’s lives.

Prison is also not the solution for people with complex needs who are generally overrepresented in prison.

Baldry states that prison can “make a person a target for re-arrest and re-imprisonment; it disrupts social connections and locks people into serial institutionalisation, does not guarantee good or appropriate treatment and often any treatment started is not continued in the community upon release; it makes homelessness more likely, creates connections with criminal culture, ensures the learning of prison culture to survive and often causes self-harm and depression”³¹.

Imprisonment also impacts families of prisoners, as children lose parents and spouses lose partners while they are incarcerated, with the impacts often becoming intergenerational. UK data shows that the children of prisoners are six times more likely than their peers to become prisoners. In Australia, Goodwin and Davis found that the children of parents with a criminal record have a much greater likelihood of becoming involved in crime than the children of parents who do not have a criminal record³².

7. Incarceration rates for Aboriginal and Torres Strait Islander peoples are unacceptably high

Aboriginal and Torres Strait Islander peoples continue to be over represented within the justice system. Between June 2013 and June 2014, the adult imprisonment rate of Indigenous adults increased by 6.5% to 2,175 prisoners per 100,000 of adult Aboriginal and Torres Strait Islander peoples³³.

The Indigenous imprisonment rate is 13 times higher than it is for non-Indigenous people in Australia³⁴.

This high incarceration rate is reflected in an 88% growth in prisoner numbers among Aboriginal and Torres Strait Islander peoples since 2004. Over the same period the non-Indigenous prisoner numbers grew by 28%³⁵.

Aboriginal and Torres Strait Islander peoples tend to be imprisoned for relatively minor matters that are less likely to result in prison sentences for non-Indigenous people. This is reflected in shorter prison sentences for Aboriginal and Torres Strait Islander prisoners (1.2 years) compared with two years for non-Indigenous prisoners in 2014³⁶.

Previous reviews and reports have highlighted the over representation of Aboriginal and Torres Strait Islander peoples in prison including the recent Amnesty International report, which shows that Aboriginal and Torres Strait Islander men are twice as likely to be in prison as they are in university³⁷.

The Amnesty International Report has again highlighted the extraordinary over representation of Aboriginal and Torres Strait Islander young people in the youth justice system. On an average night in 2013–14, there were 430 Indigenous young people in detention in Australia. Despite making up only 5.5% of the population of 10 to 17 year olds, Indigenous young people made up over half of all young people in detention (430 out of 724)³⁸.

The 2011 inquiry by the Standing Committee on Aboriginal and Torres Strait Islander Affairs shows that high levels of contact with the criminal justice system by Indigenous young people is “a symptom of the broader social and economic disadvantage faced by many Indigenous people in Australia”³⁹. Similar conclusions were reached during the Royal Commission into Aboriginal Deaths in Custody⁴⁰.

A broad range of Aboriginal and Torres Strait Islander and non-Indigenous organisations under the Change the Record Coalition have launched a ‘Blueprint for Change’ including a set of recommendations, (at Appendix B) that align with the recommendations in this report. The Change the Record Blueprint is based on a whole of government strategy, the setting of justice targets, and a commitment to work in partnership with Aboriginal and Torres Strait Islander communities to drive solutions. The Blueprint also highlights the need to work with Aboriginal and Torres Strait Islander communities to invest in holistic early intervention, prevention and diversion strategies.⁴¹

We also know from past studies and reviews of Indigenous programs, that Aboriginal controlled organisations must continue to be supported and funded to deliver quality and culturally sensitive services to meet the high levels of unmet need, and to address the underlying causes of high incarceration rates in many communities.



INSIGHT

Working the Woori Way

Woorabinda is an Aboriginal community of 970 people in Central Queensland, about 180 kilometres south-west of Rockhampton. Thirty-six per cent of the population is under 15 and the median age is 22 years - significantly below the median age for Australia of 37 years.

Australian Red Cross started working with the Woorabinda community in 2008 as part of a place-based program approach. The team uses the Saltwater - Freshwater governance model to ensure the integrity and strength of Woorabinda culture is respected and maintained while providing expertise from outside of the community.

A Governance Group consisting of Woorabinda community members and Red Cross management ensure that services and initiatives enacted in the community support the community's vision and goals and adopt a place-based approach. There are 17 full time and part time local people employed, making Red Cross the town's third largest employer.

Overall, the investment in the community of Woorabinda and its young people has supported a more positive outlook, helped build pride in their community and led to behaviour changes resulting in fewer young people in the justice system. The number of young people subject to youth justice orders in Woorabinda has decreased from 31 in 2009 to 14 in 2013, a 55% decrease. The community is clear that the initiatives that have been put in place as part of a place-based approach have contributed to a solid community effort to reduce youth justice orders.

Along with the community, the Youth Support team has designed and implemented an approach to supporting young people in the community to build self-esteem and confidence. Leadership training and skills development are emphasised together with young people being role models for younger children. Multimedia and music are used extensively to help young people to tell their story and the history of Woorabinda.

Jobe Adams, 15, found a passion for film making and made *Buloo*, a film about Darren, a boy who wanted to be like his grandfather. *Buloo* (meaning "grandfather") depicts how Darren's grandfather taught him to respect his Elders, help his community and protect his language. Jobe was awarded second prize in the 2014 Trop Junior, part of the Trop Fest Film Festival.

Another area of concern the Woorabinda community identified was the lack of support for adults to complete Community Service Orders (CSOs) meaning that people were being incarcerated. By focusing on the opportunities that could be generated through CSOs, 18 people not only completed their orders in six months but also obtained a Certificate III in Pest Control. Two other people completed Certificate III in Fitness and went on to gain employment with the Woorabinda Shire Council. In addition, anger management workshops were provided with the feedback being that these have been valuable for people in making changes to their behaviour.

Rethinking Justice and Policy Reforms

1. What is justice reinvestment?

Australian Red Cross supports the broader sector views regarding justice reinvestment as offering a strong approach for rethinking and transforming Australia's justice systems.

While there is international debate and discussion regarding the term justice reinvestment, Australian Red Cross understands justice reinvestment as a mechanism that redirects money away from incarcerating people in prisons and towards community based initiatives aimed at addressing the underlying causes of crime. Justice reinvestment is underpinned by the following starting points:

- the evidence shows that imprisoning people fails to achieve intended outcomes in terms of rehabilitation, deterrence, or improvements in community safety
- a large proportion of offenders come from a relatively small number of disadvantaged communities. Therefore, locally driven approaches will be essential to justice reinvestment
- alongside community-led implementation of solutions the use of data, mapping and economic modelling to drive evidence based initiatives will lead to more effective outcomes.

2. How does justice reinvestment work?

Justice reinvestment involves local stakeholders collaborating across their community to identify the drivers of criminal justice costs. They then develop and implement new ways of reinvesting scarce resources—both in the community and within the justice system. This is done in a way that yields a more cost beneficial impact on public safety.⁴²

The essential steps in the justice reinvestment approach are:

- justice mapping - analysis of the prison population and public spending in the communities which have high rates of crime and imprisonment of their citizens
- options for change - provision of options to policymakers for the generation of savings and increases in public safety
- actions - implementation of options, quantification of savings and reinvestment in targeted high-risk communities
- evaluation - measurement of impacts, evaluation and assurance of effective implementation.⁴³



Father and son take part in a Red Cross run parenting session. Community support programs like this target towns and suburbs where poverty, disadvantage and crime are common.

In the US, where incarceration rates are comparatively high, justice reinvestment has particularly directed funds to key points in the criminal justice system: arrest, pre-trial, supporting non-custodial sentences, better support on release and community supervision.⁴⁴

Justice Reinvestment has been strongly taken up in the United States since the first Justice Reinvestment legislation was passed in Connecticut in 2004. A formal Justice Reinvestment Initiative (JRI) sponsored by the U.S. Department of Justice Bureau of Justice Assistance was launched in 2010.

At least seventeen American states are now participating in formal partnerships with the Bureau to implement justice reinvestment strategies.

The Justice Reinvestment Initiative was the formal implementation strategy by the Council of State Governments (CSG) and its now principal funders, Pew Charitable Trusts (Pew) and Bureau of Justice Assistance (BJA). The original intent was to reduce corrections populations and budgets to generate savings to be reinvested in communities with high incarceration rates to make them safer, stronger, more prosperous and equitable.

However, there has been some commentary that the formalised JRI has moved away from these goals, seeking to reduce the rate of prison growth rather than also focusing on reinvesting the savings in communities.⁴⁵

Any justice reinvestment projects developed within Australia should learn from overseas experience and have a strong focus on using savings in prison expenditure for reinvestment into communities.

Implementation at the local level

At the local level justice reinvestment works best when community representatives work side-by-side with criminal justice and policy experts.

The kinds of activities that would happen in a local community to prevent crime and address its causes are likely to include⁴⁶:

- a focus on preschool for young children building on the strong evidence that quality early childhood education significantly improves children's life chances, including lower rates of offending behaviour
- education programs that help keep at-risk young people engaged in school or further training along with intensive therapy programs, mentoring and the creation of recreational and employment opportunities for young people
- enhanced support for evidence-based community based mental health, drug and alcohol treatment and other social support programs
- crisis stabilisation beds to hold people experiencing substance induced or mental health episodes
- cognitive behavioural therapies such as anger management and counselling along with better support for women in abusive relationships
- family support services such as parenting programs, enhanced maternal and child health care and other early intervention programs
- targeted supervision of offenders on parole backed by sophisticated screening to ensure the focus is on those who present the most risk
- intermediate sanction facilities and graduated penalties for technical breaches of parole along with local problem solving courts particularly where the offending behaviour is related to substance abuse or mental health issues
- effective assistance to ensure stable accommodation, manage finances, find and keep employment and to reunite with family to ensure successful reintegration into the community following release from prison.

3. Current justice reinvestment trials occurring or being investigated in Australia

The following are a sample of some of the locations where justice reinvestment is being explored. The learnings from these sites could be captured and shared across the country to inform future work. While each location is unique and the solutions will differ, the concept of justice reinvestment as community-led and owned should be common in all locations.

Bourke, New South Wales: The Bourke Aboriginal Community Working Party (BACWP) has been working with Just Reinvest NSW since 2012 to establish this trial. The BACWP is the peak representative organisation for the local Aboriginal community with members from 18 different organisations.

They are using a justice reinvestment approach to break the intergenerational cycle of offending and incarceration through a locally developed agenda for change called Maranguka (meaning 'to give to the people', 'caring' and 'offering help' in the language of the Ngemba Nation).

The first priority of Maranguka is to reduce Aboriginal contact with the criminal justice system. The NSW Government is supporting the trial through in-kind resourcing. There are also pro-bono services provided by philanthropic and corporate sources. The first phase has focused on relationship building, with specific initiatives being implemented over time.

Cowra, New South Wales: A research project titled 'Reducing incarceration using Justice Reinvestment: an exploratory case study' is being led by Dr Jill Guthrie from the National Centre for Indigenous Studies (NCIS) at The Australian National University (ANU). The case study site is Cowra, NSW. The research is being guided by a Research Reference Group that includes the Cowra Shire Council, Cowra Aboriginal Land Council Chair, and the President of the NSW Children's Court, Judge Peter Johnstone.

The research tests the theory and methodology of Justice Reinvestment in the case study site. This project is an exploratory study involving a conversation with Cowra people to identify what enables young people to lead meaningful lives in Cowra. It's a hypothetical study, not an intervention study - so for young people who may have become involved with the criminal justice system, the research also explores the conditions, the understandings and the agreements that would need to be in place so that those young people who are incarcerated could confidently return to the town and lead meaningful lives.

The research could potentially result in findings and recommendations for addressing the levels of young people (both Indigenous or non-Indigenous) coming into contact with the criminal justice system. Also, the research contributes to broader understandings of Justice Reinvestment locally and nationally.

For more information on the research project please see: <http://ncis.anu.edu.au/cowra>

Ceduna, South Australia: Australian Red Cross is facilitating engagement with Aboriginal communities in and around Ceduna on justice issues for Aboriginal people living in the area.

The next phase involves developing a community-owned justice action plan to address the causes of crime in Ceduna. The initiative is linked to the South Australian Justice Reinvestment Working Party which is working with the SA Government on justice reinvestment. The engagement commenced in February 2015 and is funded by the Ian Potter Foundation and Collier Charitable Fund.

Katherine, Northern Territory: Since April 2015, the North Australian Aboriginal Justice Agency and the Northern Territory Council of Social Service have been consulting with a broad range of community members and other stakeholders to inform the introduction of a justice reinvestment framework in Katherine.

This process is being supported by funding from the Northern Territory Law Society. A Steering Committee is comprised of the Katherine Aboriginal and Torres Strait Islander community, Katherine community organisations working with young people, police and courts as well as from Territory-wide NGOs based in Darwin.

4. Recommendations for rethinking justice – safer communities, reduced crime, more productive government expenditure

This section of the report details recommendations for rethinking criminal justice policy across Australia. These recommendations include a justice reinvestment approach and other policy reforms to achieve safer communities, reduced crime and more effective spending by governments.

Australian governments change their approaches to justice and introduce justice re-investment

Justice policies should aim to reduce the number of people entering the criminal justice system and the likelihood of people re-offending after serving prison sentences. To achieve these outcomes, Australian Red Cross recommends and lends its support to the broader sector that justice reinvestment should be a central element of justice policy.

The introduction of justice reinvestment will require resources to be freed up to reinvest in initiatives that deal with the underlying causes of crime including issues of substance use, mental health issues, domestic violence, lack of education and training. Investment will need to focus on strengthening disadvantaged communities to address the conditions that give rise to crime in these communities.

While justice reinvestment is already being explored in Australia, a better resourced and more coordinated approach is required across all jurisdictions that have primary responsibility for criminal justice systems. Australian Red Cross recommends that the Law, Crime and Community Safety Council (LCCSC) within the Council of Australian Governments (COAG) should take responsibility for government coordination and support for justice reinvestment. Justice reinvestment appears to sit neatly within existing responsibilities of the Council which include ‘... developing a national and Trans-Tasman focus on fighting crime and promoting best practice in law, criminal justice and community safety, including in policy, operations and service provision’.⁴⁷

The LCCSC should give priority to further supporting justice reinvestment in Australia. We suggest the following activities be adopted by Australian governments and supported through the LCCSC:

- establish systems to provide a more robust understanding of the financial costs of crime, justice and imprisonment and make this information available to inform planning for justice reinvestment
- support and resource geographic analysis and mapping of data to inform the development and appropriate targeting of justice reinvestment. This work would include data collection and access to aggregated data on the postcodes people live in immediately prior to incarceration and the postcodes they live in immediately following release from prison
- establish a national research framework and strategic agenda to increase the knowledge base for implementing justice reinvestment, including longitudinal evaluation of the justice reinvestment trials recommended in this report
- establish and maintain a national clearinghouse of information regarding justice reinvestment
- undertake public education campaigns to support balanced information and perceptions of crime and justice issues within the community.

There will also need to be an increased capacity for rigorous data analysis and sharing of information across jurisdictions to support investment decisions and to help build the evidence base of what works. A number of existing agencies could support this work including the Australian Institute of Criminology, the Australian Bureau of Statistics, the Australian Institute of Health and Welfare, the Productivity Commission (through the Government Services Report) and state and territory agencies that currently collect data and undertake research.

Australian Red Cross understands there will be challenges in moving to a justice reinvestment approach including:

- the politicised nature and public perceptions of crime, imprisonment and community safety
- the complexity of developing effective long term solutions to deep and persistent disadvantage
- the challenges of coordination between and within relevant government departments, as well as the differing circumstances in each state and territory.

The Australian Justice Reinvestment Project⁴⁸ has considered the lessons arising from the US experience of justice reinvestment, as well as the broader literature and identified the following key preconditions for successfully implementing justice reinvestment reform. These include:

- bipartisanism
- strong leadership
- early identification of the right people to engage as stakeholders
- substantial buy in from all sectors
- ongoing commitment to implementation at the reinvestment phase
- effective community engagement.⁴⁹

In establishing justice reinvestment in Australia, governments and other stakeholders should ensure that these success factors are included in their approaches.

Recommendations

1. That all governments in Australia rethink and change their approaches to justice to achieve lower crime rates, lower incarceration rates, reduced prison costs and stronger, safer communities.
2. That all governments in Australia introduce a justice reinvestment approach and jointly support its implementation through the Law, Crime and Community Safety of the Council of Australian Governments.

Justice reinvestment trials are supported by Australian governments and expanded to every state and territory

Australian Red Cross recommends that Australian governments establish, fund and evaluate trials of justice reinvestment in a coordinated and deliberate way, beyond the few trials currently underway.

The selection of specific communities to trial justice reinvestment should be informed by analysis of relevant data and based on engagement with local communities about their justice issues.⁵⁰ The selected trial sites must have strong community governance structures in place, either by drawing on existing structures where they exist or establishing new ones.⁵¹

In addition to the four local trial sites outlined earlier in the report, a number of state governments are supporting initiatives that reflect a justice reinvestment approach. These include:

- the ACT Government funded a justice reinvestment initiative in the 2014/15 budget. The ACT Justice and Community Safety Directorate is working closely with a range of government and non-government stakeholders to identify the drivers of crime and criminal justice costs and develop and implement new ways of reinvesting funds
- the South Australian Government has committed to implementing justice reinvestment trials in two locations. Port Adelaide has been selected as a potential trial site and the Attorney-General's Department is consulting with community members, service providers, government, non-government organisations and others about a possible justice reinvestment trial for Port Adelaide
- the NSW Government is supporting the Bourke justice reinvestment trial through data provision and analysis, Ministerial input and the secondment of personnel to the trial.

Australian Red Cross looks forward to the learnings that will arise from these initiatives. We note that most initiatives are in their early stages and are relatively fragile with limited resourcing. They are each responding to their unique situations and there is no coordinated national approach to drive data analysis, sharing of lessons and consistent evaluations to build an evidence base of what works.

Australian Red Cross calls on Australian governments to commit to the existing and emerging trials of justice reinvestment. Further, those jurisdictions that do not have existing justice reinvestment trials should invest in initiatives in their state or territory.

Australian governments could support justice reinvestment trials through providing:

- analysis and interpretation of administrative data held in government departments and agencies
- funding for robust evaluations of the trial sites and sharing of lessons learned
- support for the implementation of community-developed justice action plans that redirect existing government funding to initiatives and programs that address the underlying causes of crime in their communities.

In advocating for trials, Australian Red Cross emphasises that justice reinvestment must be locally driven and reflect what is often referred to as a place-based approach. A place-based justice reinvestment approach would:

- identify the reasons why crime occurs in the specific community
- use community governance structures to mobilise the community to identify real and effective solutions to the causes of crime
- use local community groups to implement the solutions
- give the community greater control over spending on new initiatives
- measure the effectiveness of new programs
- make further investments based on refining of what works to better address the causes of crime in the specific community.

In addition, there should be a strong focus on Aboriginal and Torres Strait Islander communities in any justice reinvestment trials.

The trials should be implemented over at least a five year period to allow robust findings to be determined, including the use of pre and post studies of outcomes achieved. Within that period there will be opportunities to share early findings and lessons learned to refine the design and approaches of the trials. The evaluations should also include rigorous cost/benefit analyses to determine if the justice reinvestment approach is achieving more effective government expenditure.

Governments will need to provide initial funding to seed justice reinvestment trials. Savings from reductions in correctional and other criminal justice costs will not occur immediately and will depend on the scale of the trial sites. The ACT and South Australian Governments have committed funds in their forward budgets to seed trials in their jurisdictions and the NSW Government has provided in-kind support to the Bourke trial.

Australian Red Cross calls on other governments to provide initial funding for their local justice reinvestment trial sites.

Recommendations

3. That all governments in Australia establish, fund and evaluate justice reinvestment trials across Australia in specific geographic communities with high rates of crime to determine how justice reinvestment can be applied in Australian contexts.



Photo: Louise Cooper



Photo: Australian Red Cross/Kenae Droop

INSIGHT

“Stepping Out” from prison back into the community

The Red Cross Step Out program supports young people aged between 14 and 25 in Adelaide and surrounding areas, who are at the ‘pointy end’ of the offending spectrum. They have been involved with the youth justice systems more than once, or received more than one youth justice order; and/or are at risk of re-offending. They are often also dealing with a complex set of underlying issues such as mental health, delayed development, drug or alcohol abuse, and physical and emotional traumas.

Step Out links young people to a dedicated mentor to regularly support the young person after their release, providing opportunities and experiences to help the young person successfully transition back into the community. Key elements include role modelling of positive behaviours, establishing support networks for young people and advocating on their behalf to other agencies or organisations.

.....

These young people are at the sharp end of the offending spectrum. Without the right support they are likely to follow a terrible trajectory. Most of them – 9 out of 10 would not be an exaggeration – without intensive support will be institutionalised...”

Senior Sergeant, SA Police

.....

An analysis of the Step Out program by Social Ventures Australia highlighted key features for successful mentoring of young people coming out of prison:

- **Voluntary participation and participant guided support** - Young people choose to participate in the program, they are not mandated by the courts or other agencies to join and they can choose when to disengage. Young people feel empowered and in control, which builds deeper engagement with the program and contributes towards young people embracing change.
- **Relatable mentors with a unique ability to connect with young people** - Young people emphasise the ability to relate to their mentors as a critical component in building a trusting and open relationship. Consultations with young people showed a strong bond that mentors established with their mentees.
- **Establishing support networks for young people** - One of the most important factors in young people offending behaviours is lack of positive support networks in the community. An explicit aim of mentors is establishing connections between the young person, their families and significant others (where it is helpful to do so) or other supportive networks.
- **Advocating to other agencies on behalf of the young people** - Step Out plays a vital role by helping young people identify and access crucial support they need from other organisations or agencies.

The Step Out Program pilot commenced in South Australia in 2010 with the support of the Commonwealth Attorney General’s Department, Matana Foundation for Young People and Red Cross. Since then, Step Out received continued support from Matana Foundation for Young People and is currently funded by South Australian Government and Red Cross.

5. All state and territory governments should commit to broader justice reform policies

In addition to justice reinvestment, Australian Red Cross believes there is a need for Australian governments to enact broader reforms to the criminal justice systems. We note a number of Australian governments are already implementing important justice reforms and encourage all state and territory governments to learn from these initiatives and develop further evidence based reforms.

Recent reforms include:

- the SA Government's enhancement of community based sentencing options for adults and young people
- the Western Australia's Turning Point program allows offenders to undertake a tailored program to address the root cause of their offending
- the Victorian Government has funded an initiative to divert Aboriginal and Torres Strait Islander peoples away from the youth justice system.

Red Cross recommends reforms are put in place that focus on key events in the justice system:

Before a crime is committed for the first or subsequent times

- Reforms should focus on early intervention and prevention to avoid people from committing crimes and from repeat offending, particularly less serious crimes.

When a person is being sentenced for a crime

- Reforms should focus on non-custodial sentences for less serious crimes.

When a person is being released from prison and being reintegrated into the community

- Reforms should focus on early preparation for a positive integration back into the community.

Further detail and recommended strategies for each of these points are outlined below.

Reforms to prevent crime and recidivism

State and territory governments should consider the following options for crime prevention:

- Fund programs to prevent young people from entering or becoming entrenched in the criminal justice system by:
 - establishing and increasing youth offending teams to coordinate services and work with the young person, their family and community in dealing with the factors in a young person's life that impact on their wellbeing and influence offending
 - increasing the use of community-led therapeutic and restorative justice approaches including healing circles and youth conferencing
 - greater use of out of court options. Evidence tells us that therapeutic and restorative processes, such as Restorative Justice program models, Koori and Murri courts, drugs courts and healing circles, are ways in which the criminal justice system can help to rebuild relationships and deliver positive outcomes for the entire community.⁵²
- provide funding for services for identified people who have high rates of re-offending and multiple custodial sentences. Such services should work with people and their families over the long term using a multi-disciplinary approach
- build upon the range of existing restorative justice approaches and programs which involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible
- create pathways away from crime by funding early intervention, prevention and diversion programs for non-serious offenders before they get to court. Where appropriate, less serious offenders should be diverted to community treatment options for drug, alcohol and mental health issues. Support should also be provided to build life skills and to attain education, training and employment.

Reforms to increase non-custodial sentencing

State and territory governments should consider the following options to promote sentencing reform:

- ensure legislation and regulations provide for risk assessments to be undertaken as part of court determinations on sentencing, with courts required to make non-custodial orders where there is no substantive risk to the public
- oversee legislative change so that:
 - courts are not permitted to remand people in custody where they are unlikely to receive a sentence for their offence/s
 - non-custodial sentencing options are used more frequently to replace prison sentences of less than 12 months
 - there is greater use of suspended custodial sentences as an incentive for people not to re-offend.

The recently released Change the Record Coalition Blueprint for Change to address Aboriginal and Torres Strait Islander imprisonment and violence rates supports legislative reform to sentencing. A wider range of sentencing alternatives encompassing non-custodial options would enable judges to ensure that sentences are tailored, fair and appropriate. This would give judges the ability to ensure the sentence fits the crime.

State and territory departments of Corrections and Juvenile Justice should also ensure that there are opportunities for rehabilitation, treatment and support for identified issues included in the conditions of community-based orders. To support this approach, resources should be increased for supervision and support for people on community-based orders.

Reforms to improve parole and reintegration to the community

State and territory departments of Corrections and Juvenile Justice should consider the following options to focus on longer term positive outcomes for prisoners re-entering their communities:

- emphasise transition planning and through-care support as people move from prison to the community. Such support allows people to be better prepared to reintegrate into the community
- fund community initiatives that support reintegration of prisoners into the community and address their complex social needs
- ensure that there is flexibility in the parole system to recognise former prisoners who are making efforts to avoid reoffending.

Recommendations

4. That state and territory governments adopt the justice reform proposals outlined in this report to:
 - prevent crime and recidivism
 - increase non-custodial sentencing
 - improve parole and reintegration to the community

6. Targets for reducing the rate of adult imprisonment should be established by Australian governments

Australian Red Cross believes that if the reforms outlined in this report are implemented, then it will be possible to reverse the trend of increasing incarceration rates and for them reduce over time.

In considering the setting of targets, Australian Red Cross has considered various scenarios that we consider achievable and modelled the potential savings to be achieved under each of these scenarios as outline below.

Scenario	Total savings over 5 years
The incarceration rate is held at existing levels for the next five years rather than continuing to increase by the 10-year-trend of 1.69% per annum	\$1.1 billion
The incarceration rate decreases by 1% per annum for the next five years	\$1.7 billion
The incarceration rate decreases by 2% per annum for the next five years	\$2.3 billion

Under each of these scenarios, there are significant savings that could be realised from not building and operating new prisons and reducing the number of people going to existing prisons, compared with the status quo of incarceration rates continuing to increase year on year.

Even if the rate of incarceration was simply held at current levels for five years there would be savings of \$1.1 billion over that period. These savings rise to almost \$1.7 billion if the rate falls by 1% and to almost \$2.3 billion if the rate falls by 2%.

These savings could be used to reinvest in positive social programs referred to earlier in the report.

More detailed tables outlining these savings and the assumptions underpinning them are included at Appendix A.

In setting targets, the Australian Government should also establish a Closing the Gap justice target to address the over imprisonment of Aboriginal and Torres Strait Islander peoples.

Since 2009, there has been a series of calls for justice targets to be included in the Closing the Gap targets.⁵³ Dr Calma initially recommended the inclusion of targets when he was Social Justice Commissioner. Since then, other reports have recommended justice targets be included in the Closing the Gap targets. In his most recent Social Justice and Native Title report the current Commissioner, Mr Mick Gooda again recommended that justice targets be included alongside the existing targets.

The Amnesty International report outlines how keeping children and young people in communities gives them the best chance for a healthy, happy future. The report aims to develop a deep understanding of the “full story”, including the reasons for over-representation of Indigenous young peoples in the justice system, as well as providing data on Australia’s high rate of Indigenous youth detention across Australia.

Australian Red Cross strongly supports these calls and recommends that the Australian Government include justice targets in the Closing the Gap strategy.

Recommendations

5. That, as a first step, all governments in Australia commit to:
 - a 10% reduction in adult imprisonment rates over the next five years
 - a Closing the Gap justice target to reduce the unacceptably high adult imprisonment rates of Aboriginal and Torres Strait Islander peoples by 50% over the next five years.

Financial modelling

The following tables outline the savings that would accrue if actions were taken to hold steady or reduce the rate at which people are incarcerated. The analysis is presented on a national basis. However, the impacts will vary in specific states and territories.

Three scenarios are presented over a five year period starting from June 2014 (latest available data). In scenario one it is assumed that the actions hold steady the rate of incarceration from June 2014. This scenario represents a small improvement in the forecast incarceration rate which, based on the average increase over the last decade, could be expected to continue to grow at 1.69% per annum. In scenario two, the actions are assumed to result in a 1% per annum decrease in the incarceration rate each year from 2014. In scenario three it is assumed the actions result in a 2% per annum decrease in the incarceration rate.

Scenario 1: Five year projection with a 0% decrease in the Australian incarceration per annum

	2014 (Base Period)	Year1	Year 2	Year 3	Year 4	Year 5
Rate of incarceration [#]	185.6	185.6	185.6	185.6	185.6	185.6
Rate of incarceration if historical trend continues*		188.732	191.917	195.156	198.450	201.799
Total reduction in incarceration rate ⁺		3.132	6.317	9.556	12.850	16.199
Projected population [^]		18,542,304	18,871,777	19,203,809	19,485,021	19,805,984
Number of prisoners if incarceration rate stays at the 2014 level		34,415	35,026	35,642	36,164	36,760
Number of prisoners if the incarceration rate continues to increase		34,995	36,218	37,477	38,668	39,968
Reduction in the number of prisoners [!]		580.80	1,192.21	1,835.18	2,503.81	3,208.39
Costs saved ^{**}	\$106,580	\$63,294,358	\$132,848,524	\$209,095,822	\$291,696,021	\$382,189,818

Scenario 2: Five year projection with a 1% decrease in the Australian incarceration per annum

	2014 (Base Period)	Year1	Year 2	Year 3	Year 4	Year 5
Rate of incarceration [#]	185.6	183.744	181.90656	180.0874944	178.2866195	176.5037533
Rate of incarceration if historical trend continues*		188.732	191.917	195.156	198.450	201.799
Total reduction in incarceration rate ⁺		4.988	10.011	15.069	20.163	25.295
Projected population [^]		18,542,304	18,871,777	19,203,809	19,485,021	19,805,984
Number of prisoners if incarceration rate decreases 1% pa		34,070	34,329	34,584	34,739	34,958
Number of prisoners if the incarceration rate continues to increase		34,995	36,218	37,477	38,668	39,968
Reduction in the number of prisoners [!]		925	1,889	2,894	3,929	5,010
Costs saved ^{**}	\$106,580	\$100,798,626	\$210,517,253	\$329,711,035	\$457,711,290	\$596,800,313

Scenario 3: Five year projection with a 2% decrease in the Australian incarceration per annum

	2014 (Base Period)	Year1	Year 2	Year 3	Year 4	Year 5
Rate of incarceration [#]	185.6	181.888	178.25024	174.6852352	171.1915305	167.7676999
Rate of incarceration if historical trend continues*		188.732	191.917	195.156	198.450	201.799
Total reduction in incarceration rate ⁺		6.844	13.667	20.471	27.258	34.031
Projected population [^]		18,542,304	18,871,777	19,203,809	19,485,021	19,805,984
Number of prisoners if incarceration rate decreases 2% pa		33,726	33,639	33,546	33,357	33,228
Number of prisoners if the incarceration rate continues to increase		34,995	36,218	37,477	38,668	39,968
Reduction in the number of prisoners [!]		1,269	2,579	3,931	5,311	6,740
Costs saved**	\$106,580	\$138,302,895	\$287,405,390	\$447,914,024	\$618,771,294	\$802,912,656

Notes and assumptions:

[#] A 2% reduction applied annually to the base rate of incarceration expressed per 100,000 of adult population

* The incarceration rate increased from 158.8 per 100,000 of adult population at 30/6/04 to 185.6 per 100,00 of adult population at 30/6/14, an increase of 16.88% over the decade or an average increase of 1.69% per annum

⁺ The difference between the incarceration rate in line one and the projected increase in the incarceration rate; expressed as the number of prisoners per 100,000 of adult population

[^] Based on ABS 3222.0 - Population Projections, Australia, 2012 (base) to 2101. The adult population was derived by subtracting the 0-17 year old population for each year. The projections use Series B assumptions that the Total Fertility Rate (TFR) will decrease to 1.8 babies per woman by 2026 and then remain constant, life expectancy at birth will continue to increase each year until 2061, though at a declining rate (reaching 85.2 years for males and 88.3 years for females), Net overseas migration (NOM) will remain constant at 240,000 per year throughout the projection period, and medium interstate migration flows. Data accessed from <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/Population%20Pyramid%20-%20Australia> on 31/7/15

[!] Calculated by multiplying the reduction in the incarceration rate (expressed as a rate by 100,00 of adult population) by the projected Australian population over the age of 18 divided by 100,000

** The reduced number of prisoners multiplied by the cost of incarcerating a prisoner for 12 months. The cost of incarceration is from the Australian Productivity Commission Report on Government Services 2015 and used the costing which is inclusive of net operating expenditure, depreciation, debt servicing fees and user cost of capital. For 2013/14 this cost was \$106,580 per year, a 2.25% per annum increase has been built into the calculations to provide for cost increases across time.

Change The Record Coalition Blueprint for Change⁵⁴

- a) Establish a national, holistic and whole-of-government strategy to address imprisonment and violence rates. This strategy should contain a concrete implementation plan and build on the National Indigenous Law and Justice Framework 2009-2015. In addition, the strategy should be linked to related areas of COAG reform including the National Framework for Protecting Australia's Children 2009-2022 and the National Plan to Reduce Violence Against Women and their Children 2010-2022.
- b) Set the following justice targets, which are aimed at promoting community safety and reducing the rates at which Aboriginal and Torres Strait Islander people come into contact with the criminal justice system:
 - i. Close the gap in the rates of imprisonment between Aboriginal and Torres Strait Islander people by 2040;
 - ii. Cut the disproportionate rates of violence against Aboriginal and Torres Strait Islander people to at least close the gap by 2040; with priority strategies for women and children. In addition, these targets should be accompanied by a National Agreement which includes a reporting mechanism, as well as measurable sub-targets and a commitment to halve the gap in the above over-arching goals by no later than 2030.
- c) Jointly establish, or task, an independent central agency with Aboriginal and Torres Strait Islander oversight to co-ordinate a comprehensive, current and consistent national approach to data collection and policy development relating to Aboriginal and Torres Strait Islander imprisonment and violence rates.
- d) Ensure that laws, policies and strategies aimed at, and related to, reducing Aboriginal and Torres Strait Islander imprisonment and violence rates are underpinned by a human-rights approach, and have in place a clear process to ensure they are designed in consultation and partnership with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies.
- e) Support capacity building, and provide ongoing resourcing of Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to ensure that policy solutions are underpinned by the principle of self-determination, respect for Aboriginal and Torres Strait Islander people's culture and identity, and recognition of the history of dispossession and trauma experienced by many communities.

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- ⁴⁹ See <http://justicereinvestment.unsw.edu.au/sites/justicereinvestment.unsw.edu.au/files/AJRP%20Newsletter%20July%202014.pdf>
- ⁵⁰ There are a number of resources on utilisation of data to plan for justice reinvestment initiatives. LaVigne et al have published a definitive resource entitled *Justice Reinvestment at the Local Level: Planning and Implementation Guide* while Fox, Albertson and Wong have a thoughtful chapter on it in their book *Justice Reinvestment: Can the criminal justice system deliver more for less?*
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