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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia
legcon.sen@aph.gov.au

Re: Value of a justice reinvestment approach to criminal justice in
Australia Inquiry

Dear Secretary,

The Australian National Council on Drugs (ANCD) and its National Indigenous Drug & Alcohol Committee (NIDAC) welcome the opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee inquiry into the value of a justice reinvestment approach to criminal justice in Australia.

To assist the Committee in its inquiries the ANCD & NIDAC are forwarding copies of a number of relevant research papers and reports, on the enclosed USB drive.

- Deloitte Access Economics. 2013. *An economic analysis for Aboriginal and Torres Strait Islander offenders: Prison vs residential treatment*. ANCD Research paper no. 24. NIDAC and ANCD, Canberra.
- National Indigenous Drug and Alcohol committee. 2013. *Bridges and Barriers: Addressing Indigenous Incarceration and Health*. Revised Edition. NIDAC and ANCD, Canberra.
- Rodas A, Bode A, Dolan K. 2012. *Supply, demand and harm reduction in Australian prisons: An update*. ANCD Research paper no. 23. ANCD, Canberra.
- Black E, Dolan K, Wodak A. 2004. *Supply, demand and harm reduction in Australian prisons: Implementation, cost and evaluation*. ANCD Research paper no. 9. ANCD, Canberra.
- Siggins Miller Consulting and Catherine Spooner Consulting. 2003. *Diversion of Aboriginal and Torres Strait Islander youth*

- *from juvenile detention*. ANCD Research Paper no. 6. ANCD, Canberra.

These papers and reports can also be accessed from the ANCD and NIDAC websites at www.ancd.org.au and www.nidac.org.au

In relation to the Economic Analysis for Aboriginal and Torres Strait Islander Offenders and the revised Bridges and Barriers reports we have taken the liberty of attaching the media release that accompanied their recent public launch as it contains statements from both the ANCD & NIDAC on the current intersection between the justice, social and health systems in addressing offending behavior.

We trust these documents will be useful to the Committee in preparing its Inquiry.

Yours Sincerely,

Dr John Herron AO
Chairman
Australian National Council on Drugs
13 March 2013

A/Prof Ted Wilkes
Chair
National Indigenous Drug & Alcohol Committee

MEDIA RELEASE – 4th FEBRUARY 2013

A new landmark report being launched today at Parliament House shows that \$111,000 can be saved per year per offender by diverting non-violent Indigenous offenders with substance use problems into treatment instead of prison

The report – *“An Economic Analysis for Aboriginal and Torres Strait Islander Offenders; Prisons vs Residential Treatment”* – has been produced by the major accounting firm Deloitte Access Economics and also reveals a further \$92,000 per offender in the long term will be saved due to lower mortality and better health related quality of life outcomes.

Indigenous people only make up 2.5% of Australia’s population but figures now show Indigenous people make up 26% of Australia’s adult prison population.

The report says greater investment in drug and alcohol treatment will clearly reduce the ever increasing number of Indigenous people in prisons.

The detailed report concludes there are *“considerable benefits associated with the diversion of Indigenous prisoners into community residential drug and alcohol rehabilitation services instead of incarceration. Diversion is associated with both financial savings as well as improvements in health and mortality.”*

Currently there are just over 29,000 prisoners incarcerated across Australia – with 26% of them (7,656) being Indigenous. Today, Indigenous adults are 14 times more likely to be incarcerated than non Indigenous people.

A recent Victorian study found 35% of those who have been imprisoned will return to prison within 2 years of release. However 50% of Indigenous prisoners would be back in prison within 2 years. High rates of recidivism can also be expected in all jurisdictions indicating that the incarceration of Indigenous offenders is likely to be associated with significant future costs to society.

NIDAC also highlights that despite a 1991 report from the Royal Commission into aboriginal deaths in custody which clearly highlighted the need to lower the number of Indigenous people in prison; this has simply not been achieved. The 1991 Royal Commission clearly stated that *'imprisonment should be utilised only as a sanction of last resort'*.

The Chair of NIDAC, Associate Professor Ted Wilkes said, *"Imprisonment is destroying our people, families and communities. The ever increasing number of indigenous people in prison is a huge issue. It has to be addressed as a matter of absolute urgency. The report confirms not only what we have known for a long time, that diverting people away from prisons leads to better health outcomes, but that diversion makes good economic sense as well."*

"Diversion programs have huge benefits. They can help avoid negative labelling and stigma associated with criminal conduct. They can prevent further offending and they reduce the number of people going to prison. We clearly need a new pathway."

"What we are seeing however is a continuing investment in expanding prisons and a shift away from funding Indigenous specific community controlled residential alcohol and other drug rehabilitation services. This situation defies common sense, economic sense and community well being"

Ted Wilkes added, *"At the end of June 2011 26% (7,656) of the 29,106 prisoners in Australian prisons were Indigenous. In 2011 we had around 2,476 Indigenous men and 400 Indigenous women entering prisons in Australia."*

The report reveals in 2011 that Australia had 115 correctional custodial facilities and in 2010 – 2011 more than \$3 billion was spent on Australian prisons (\$2.3 billion was net operating expenditure and \$0.8 billion was capital costs). In comparison in 2009 – 2010 there were 30 facilities nationwide providing residential drug and treatment services to Indigenous people. Further NIDAC investigation also reveals that for the past 2 years there has been a significant increase in government investment in prisons nationwide whilst a number of drug rehabilitation services to help Indigenous people have either been closed down or had their funding wound back.

NIDAC says prisons are an ineffective setting to treat the underlying causes of Indigenous offending.

Associate Professor Ted Wilkes says substantial savings and clear social gains will unquestionably be made by investing in community based drug and alcohol treatment services that actually cater to the needs of Indigenous people. He says governments need to spend funds in a smarter way by shifting investment from prison to community based and controlled services to help Indigenous people with substance use problems.

Given the seriousness of the issue and the failure of all attempts to date to reduce the over-representation of Indigenous people in prison, NIDAC calls on all governments to develop and support a COAG commitment to Justice Reinvestment that involves shifting spending away from imprisonment towards community based programs and services.

	Indigenous persons	Non-Indigenous persons
Incarceration rate per 100,000 of relevant population	1,868	130
<i>Adult Males in Prison</i>	26%	74%
<i>Adult Females in Prison</i>	31%	69%
<i>Young People in Juvenile Detention</i>	49%	51%

The current levels of incarceration for Indigenous men, women, and young people are 4,093 men, 405 women, and 128 young people per 100,000 of the relevant populations. The contrasting levels for non-Indigenous people are 234 men, 17 women, and 11 young people per 100,000 of the relevant populations. The rates of Indigenous women in prison, has increased by 343% between 1993 and 2003 and 10% between 2006 and 2009.

The report also highlights that currently Indigenous Australians are underrepresented in diversions by courts to drug and alcohol treatment facilities. In 2009 – 10 out of a total 17,589 referrals from court diversion, 13.7% were for Indigenous people – far lower than the proportion of people incarcerated who are Indigenous.

In the simultaneous launching of the updated NIDAC Paper on Indigenous Incarceration Issue – *“Bridges and Barriers”* - Deputy Co Chair of NIDAC, Mr Scott Wilson added, *“Diverting offenders away from prison and into treatment services makes perfect sense. Re-offending rates are high and incarceration is associated with poor health outcomes for prisoners, including a relatively higher risk of death after release. The long term impact of a criminal record on employment opportunities can also often have lifelong consequences.”*

“We also know that 68% of Indigenous prison entrants self report having used illicit drugs during the preceding 12 months. Of all Indigenous prison entrants, those aged 18 – 24 years old were most likely to have used illicit drugs (76%). Indigenous prisoners are also significantly more likely to be dependent on alcohol than non Indigenous prisoners, and Indigenous men were significantly more likely to report that they were intoxicated at the time of the offence for which they were incarcerated. Do governments really believe that prison is the best answer to these problems?”

Dr John Herron, Chairman of the Australian National Council on Drugs says, *"We are not suggesting that governments do away with prisons, there is obviously a need for them particularly for violent offenders. However, this study deliberately excluded those prisoners who stated that their most serious offence was a violent offence. It also only examined pre sentence diversion that involves an offence which is linked to substance use or dependency. "*

"It is the Indigenous people in prison for non violent offences who experienced problematic drug or alcohol use who were examined for diversion from prison into a residential treatment program. Figures provided by Deloitte suggest that there were around 1,600 Indigenous prisoners in 2011 who committed non violent offences which they attributed to drug and alcohol use and which could potentially be suitable for diversion into treatment."

Gino Vumbaca, Executive Director of the ANCD added: *"The ANCD & NIDAC are calling for a halt on the building and expansion of prisons and for that funding to instead be invested into expanding community based initiatives, including residential alcohol and other drug rehabilitation."*

"Simply taking the same old tired and ineffective approach year after year must change. Justice Reinvestment is an alternative solution which is gaining support in Australia. It involves shifting part of the spending away from imprisonment towards community-based programs and services. The announcement of a Senate Inquiry into the value of a justice reinvestment approach to criminal justice in Australia to be undertaken by the Standing Committee on Legal and Constitutional Affairs recognises the need for change, as are more and more communities. It's really time for governments to follow the evidence."

Media enquiries to Ross Woodward / Homira Samadi on 03 9769 6488

FURTHER INFORMATION AS BACKGROUND

Report - Prison vs Rehab: an Economic Analysis for Aboriginal and Torres Strait Islander Offenders

Results

The findings from the report in terms of the difference between the net present value of the costs and benefits of prison and residential treatment are presented in O. A negative result in the 'difference' column represents a financial saving resulting from the use of residential rehabilitation instead of prison or an improvement in mortality and health related quality of life.

Table 7.6 from Report: Net present value, \$ 2012-13

Items	NPV prison Column A	NPV resi rehab Column B	Difference Column B – Column A	Comment
Costs				
Cost of each alternative	\$114,832	\$18,385	-\$96,446	Use of residential rehabilitation represents a saving
Benefits				
<i>Financial benefits</i>				
Recidivism	\$96,348	\$84,888	-\$11,461	Recidivism is lower with residential rehabilitation leading to savings in prison costs
Mental health service usage	\$3,278	\$0	-\$3,278	Residential rehabilitation is not associated with the same adverse impacts on mental health as prison leading to savings in use of mental health services
Hepatitis C treatment costs	\$1,993	\$1,747	-\$246	Residential rehabilitation is associated with lower rates of contraction of hepatitis C leading to savings in treatment costs
Costs of drug use for those who relapse	\$164	\$136	-\$28	Residential rehabilitation is associated with lower rates of drug use relapse leading to savings in healthcare and productivity costs
Subtotal financial	\$101,783	\$86,771	-\$15,012	Saving per offender resulting from use of residential rehabilitation
Net financial benefit of residential rehabilitation			-\$111,458	Savings per offender resulting from use of residential rehabilitation
<i>Non-financial benefits (improved mortality and quality of life)</i>				
Hepatitis C burden of disease	\$23,281	\$23,065	-\$216	These figures represent the monetary value of improvements in mortality and quality of life, and represent benefits of using residential rehabilitation in addition to the financial benefits above
Premature mortality	\$92,543		-\$92,543	
Total non-financial	\$115,824	\$23,065	-\$92,759	

Note: Figures may not add to totals due to rounding. Source: Deloitte Access Economics' calculation.

Conclusion

The analysis undertaken in the report highlights the considerable benefits associated with the diversion of Indigenous offenders into community residential drug and alcohol rehabilitation services instead of incarceration. Diversion is associated with both financial savings as well as improvements in health and mortality.

- The total financial savings associated with diversion to community residential rehabilitation compared with prison are \$111,458 per offender.
 - The costs of treatment in community residential rehabilitation services are substantially cheaper than prison. Diversion would lead to substantial savings per offender of \$96,446 (based on a cost of community residential rehabilitation treatment of \$18,385 per offender). Notably, even if the high side estimate of the cost per offender for residential rehabilitation treatment was used (\$33,822), the saving would still be substantial at around \$81,000.
 - Community residential treatment is also associated with better outcomes compared with prison – lower recidivism rates and better health outcomes and thus savings in health system costs. The savings associated with these additional benefits of community residential treatment are approximately \$15,012 per offender.
- In addition, treatment of Indigenous offenders in the community rather than in prison is also associated with lower mortality and better health related quality of life. In monetary terms, these non-financial benefits have been estimated at \$92,759 per offender.

As the residential treatment scenario is both lower cost and associated with better outcomes than incarceration, it is clearly the more advantageous investment.

Bridges and Barriers: Addressing Indigenous Incarceration and Health – Revised Edition

The imprisonment rates in the below table represent the rate per 100,000 of the relevant population who were incarcerated on June 30, 2012.

The ratio is calculated by dividing the Indigenous rate by the non-Indigenous rate. It represents how much more likely an Indigenous person is of being in prison than a non-Indigenous person.

Indigenous and non-Indigenous imprisonment rates (age standardised) and ratios by State and Territory, 2012			
	Indigenous	Non-Indigenous	Ratio
New South Wales	1883.4	140.4	13.4
Victoria	1443.7	107.7	13.4
Queensland	1358.7	119.9	11.3
South Australia	2179.5	138.6	15.7
Western Australia	3389.9	168.9	20.1
Tasmania	485	128.3	3.8
Northern Territory	2257.5	172.8	13.1
Australian Capital Territory	1245.5	85.4	14.6
Australia	1913.7	129.1	14.8

Source: Australian Bureau of Statistics, *Prisoners in Australia, 2012*

General

Prisoner numbers and rates (per 100,000 of population; not age-standardised) by Indigenous status, 2012		
	Indigenous	Non-Indigenous
Numbers		
Men	7,235	19,826
Women	750	1,438
Young people	544	474
Total	7,985	21,264
Rates		
Men	4,093	234
Women	405	17
Young people	460	15
Total	2,207	124
Sources: Australian Bureau of Statistics, <i>Prisoners in Australia, 2012</i> ; Australian Institute of Health and Welfare, <i>Juvenile Detention Population in Australia, 2012</i> . Note: Numbers and rate for young people are averages during the June quarter of 2012; other numbers and rates are on June 30, 2012.		

Recommendations from updated NIDAC position paper, *Bridges and Barriers: Addressing Indigenous Incarceration and Health*

1. Include information on incarceration rates for Indigenous men, women and young people in *Closing the Gap: Prime Minister's Report*, tabled annually in federal parliament.
2. Provide every Indigenous young person with an individual education support fund to assist and promote their participation and retention within the education system.
3. Seek a commitment from all governments to support the principles of justice reinvestment.
4. Seek a commitment from all governments to reducing barriers to employment for ex-offenders, particularly for those with previous substance use issues.