

## The value of a justice reinvestment approach to criminal justice

RANZCP submission to the Senate Standing Committee on Legal and Constitutional Affairs

March 2013

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## 1. Introduction

The RANZCP welcomes the opportunity to make a submission to the Senate Standing Committee on Constitutional and Legal Affairs Inquiry into the Value of a justice reinvestment approach to criminal justice. This submission will focus on issues relating to mental ill health and measures to decrease rates of incarceration by investing in services in the community to improve mental health, prevent entry into prison, and to reduce recidivism.

This submission will pay particular attention to the Term of Reference (c):

[This inquiry will investigate] The value of a justice reinvestment approach to criminal justice in Australia, with particular reference to:

*(c) the over-representation of disadvantaged groups within Australian prisons, including Aboriginal and Torres Strait Islander peoples and people experiencing mental ill-health, cognitive disability and hearing loss,<sup>2</sup>*

### 1.1 Background

People with mental illness are imprisoned at a higher rate than the general population, with one-third of prisoners having had a mental health disorder and one-fifth reporting self-harm. In addition to high rates of mental illness many offenders also enter prison with physical health problems and high levels of smoking, alcohol and illicit drug use.<sup>11</sup>

Mental health services require increased funding, both in the community and in prison. An overall increase in funding and improved investment in mental health would arguably see rates of imprisonment drop over time. Prison health clinics are understaffed, and most primary care in prison is provided by nurses with only 15% of prisoners' clinic visits being with a medical practitioner.<sup>18</sup> Only 4% of clinic visits are with a mental health team or nurse and 2% with a psychiatrist.<sup>18</sup>

Psychiatric clinics in prisons are limited and stretched by the high demand for services. Similarly, there are inadequate mental health workers and psychologists to provide comprehensive care and rehabilitation services. In addition to the higher rate of incarceration of people with mental illness than the general population, the experience of incarceration and the harsh prison environment itself can exacerbate mental health problems.<sup>13, 19</sup> More investment is needed to improve mental health care within prisons.

The value of a justice reinvestment approach lies in its potential to direct resources away from prison building and into community building – strengthening and empowering communities to help individuals living with mental illness to get the help they need, rather than be imprisoned, if it can be avoided.

## 2. The importance of early intervention children & adolescents

The RANZCP strongly advocates for improved prevention and early intervention programs to promote the mental health and wellbeing of children, as set out in the RANZCP's Faculty of Child and Adolescent Psychiatry's key policy document, [Prevention and Early Intervention of Mental Illness in Infants, Children and Adolescents: Planning Strategies for Australia and New Zealand](#).

The concept of justice reinvestment focuses on several key tenets, one of which is early intervention. By redirecting funding from the prison system into community based initiatives, early intervention becomes possible and a cohort of at-risk people may be deterred from crime.

The development and implementation of early intervention and prevention strategies for the prevention of mental illness in infants, children and adolescents is imperative to addressing the adverse outcomes of mental illness and preventing or reducing mental disorders in adulthood. Early intervention and strategies for the prevention of mental illness in children and adolescents can lead to cost savings later in life, by reducing the likelihood of future imprisonment. Costs associated with mental illness in adolescents are multi-faceted, demonstrated in Figure One below.

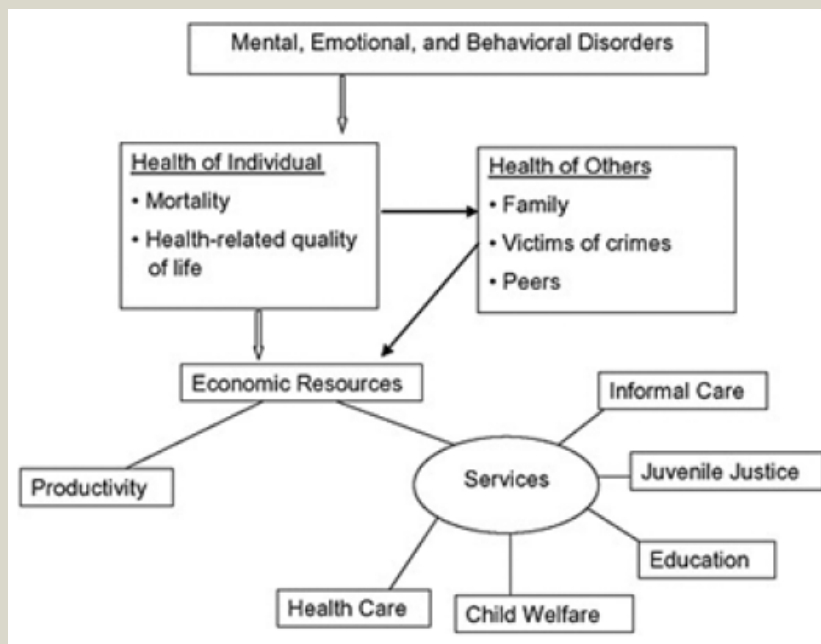


Figure One: Costs of mental, emotional and behavioural disorders<sup>10</sup>

Specifically, the RANZCP supports implementation of prevention and early intervention programs for children and their families through partnerships between mental health, maternal and child health services, schools and other related organisations. This includes programs that:

- aim to prevent or intervene early in the development of aggressive behavior and conduct disorder;

- target at risk children particularly children in out-of-home care those living in dysfunctional family environments and children who have not been helped by less intensive interventions;
- coordinate parenting support and evidence based parenting programs, from universal to indicated, and from conception to five years, with particular focus on at risk groups, including the early and effective treatment of maternal depression and other mental illness/ disorder, together with programs which enhance the parent infant relationship); and are culturally sensitive.

## Recommendation

- *Implement targeted prevention and early intervention programs for children and their families through partnerships between mental health, maternal and child health services, schools and other related organisations.*
- *Built-in, formal economic evaluations for all trials of prevention and early intervention programs for young people to determine whether they have provided value in terms of justice reinvestment.*

### 2.1 Children with conduct disorder

Conduct disorder is one of the most common childhood disorders. It is a psychiatric category marked by a pattern of repetitive behaviour wherein the rights of others or social norms are violated. Symptoms include verbal and physical aggression, cruel behaviour toward people and pets, destructive behaviour, lying, truancy, vandalism, and stealing.<sup>12</sup> Half of all children with conduct disorder develop anti-social personality disorder as adults, and conduct disorder is associated with a 70 fold increased risk of being imprisoned by the age of 25.<sup>7</sup>

Conduct disorder is a major public health problem. Youths with conduct disorder can inflict serious physical and psychological harm on others. They are also at a greatly increased risk of incarceration, injury, mental illness, substance abuse, and death by homicide and suicide.<sup>12</sup> The economic costs of conduct disorder are also high. A pilot study in the book *Conduct Disorders in Childhood and Adolescence* estimates the costs of conduct disorder to be about AUD\$40,000 per year per patient.<sup>8</sup>

Most research for prevention and early intervention in conduct disorder has focused on reducing conduct difficulties through parent training programs. However, there has also been some limited research focusing on early intervention services that deal with emotional and/or conduct problems in a community setting.

Programs demonstrated as being effective for conduct disorder are:

- Nurse Home Visitation program was found to be effective in reducing adolescent delinquency (15 year follow up). This is a targeted individual home visiting program, delivered over two years to low income, unmarried, first-time mothers and includes 60 x 90 minute home visits from pregnancy to age two years.<sup>3</sup>

- A Family Check Up in pre-school age children found that positive and proactive parenting skills correlated with changes in child disruptive behaviour.

### **Recommendation**

- *Significant investment in prevention and early intervention mental health services. By 2015, 10-15% more children aged birth to 14 years old should have access to the mental health services they need to prevent problem behaviours from developing into adulthood.*
- *Increased funding to the Nurse Home Visitation program, which was found to be effective in reducing adolescent delinquency (15 year follow up).<sup>3</sup>*

## **2.2 Language difficulties**

The expansion of pre-school check up programs could also help identify signs of language and communication disorders that can lead to problems later in life. Recent research from Monash University in Victoria has demonstrated that around 50% of community and custodial young male offenders over the last decade have a clinically significant yet undiagnosed oral language (talking and listening) disorder that is significant enough to reach a clinical threshold.

Unrecognised language deficits may masquerade as rudeness or indifference, thus further disadvantaging the young person. Language difficulties may also compromise a young person's understanding of legal process such as bail conditions.<sup>1</sup>

### **Recommendation**

- *Pre-school check up programs should include assessment of language and communication disorders.*

## **3. At-risk groups**

There are a number of groups in the community that have an increased risk of imprisonment and higher rates of mental ill health. Justice reinvestment has the potential to improve mental health outcomes and lower the risk of imprisonment for these at-risk groups.

### **Recommendation**

- *At-risk groups must be given specific attention when implementing a justice reinvestment program.*

### **3.1 Aboriginal and Torres Strait Islander Australians**

There are complex links between incarceration, social adversity and poor mental health for Indigenous people.<sup>6</sup> A recent study published in the *Medical Journal of Australia* which focused on the Aboriginal and Torres Strait Islander (ATSI) prisoner population in Queensland found that

the prevalence of mental disorder among ATSI adults in Queensland custody is very high compared with community estimates.<sup>6</sup> An approach to criminal justice which emphasises building stronger communities could help address this prevalence.

Indigenous Australians are over-represented in Australian prisons. At 30 June 2011, there were 29,601 prisoners in Australian prisons, of which 7,656 (26%) were Indigenous. In comparison, 2.5% of the total population was Indigenous in 2011.<sup>5</sup> The ratio of Indigenous imprisonment is 13.9 times that of the non-Indigenous population.<sup>5</sup> With such high rates of Indigenous representation in prisons, Indigenous mental health is a priority. Indigenous Australians experience significantly higher rates of health problems and mental illness than other Australians. It is vital that the overall healthcare and disadvantage of Indigenous people in Australia is improved as physical health and mental health are intrinsically linked.

A recent report from Deloitte Access Economics demonstrated that the proportion of Indigenous prisoners with an expected serving time of less than two years was 31 per cent.<sup>5</sup> The same report noted that the majority of Indigenous prisoners convicted of a non-violent offence were expected to serve less than five years in prison.<sup>5</sup>

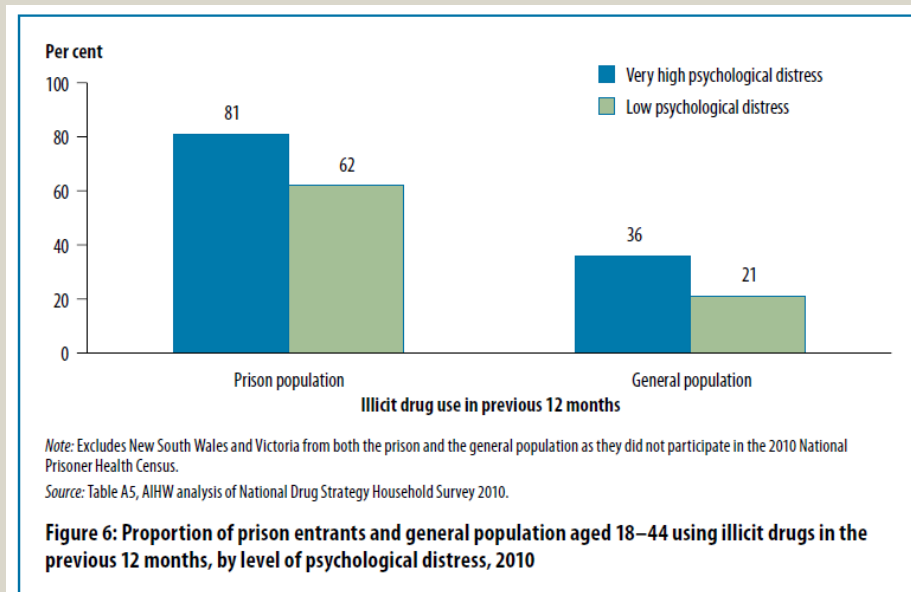
As justice reinvestment is a community-based program which focuses on non-violent offenders, it has the potential cohort to reach this group with targeted re-investment programs.

### **Recommendation**

- *Increase funding for the number of Aboriginal and Torres Strait Islander mental health nurses and health workers in and out of the prison setting.*

### 3.2 Drug and alcohol users

Rates of illicit drug use were much higher in the prison population than the general population, with 66% of prison entrants using illicit drugs in the previous 12 months compared with 15% in the general population.<sup>18</sup> Further, for both prison entrants and the general population aged 18–44, illicit drug use was more common in those with very high psychological distress (81% and 36% respectively) than those with low psychological distress (62% and 21%), shown in Figure Two below.<sup>19</sup>



**Figure Two: Proportion of prison entrants and general population aged 18–44 using illicit drugs in the previous 12 months, by levels of psychological distress, 2010.**

Risky alcohol consumption was also more prevalent among prison entrants than the general population.<sup>17</sup> This was even more extensive for those with very high levels of psychological distress. More than half (53%) of prison entrants aged 18–44 with very high psychological distress consumed 7 or more alcoholic drinks on an average day of drinking (before entering prison) compared with about one-third (31%) of the general population.<sup>19</sup>

Drug and alcohol use during pregnancy is known to increase the risk of Foetal Alcohol Syndrome (FAS). Individuals with FAS suffer from specific types of brain damage which can leave them susceptible to involvement in criminal activity.

As a result of such brain damage, individuals who suffer from FAS often have:

- A lack of impulse control;
- Trouble identifying future consequences of their current behaviour;
- Difficulty planning and connecting cause and effect;
- Difficulty empathising with others and taking responsibility for their actions;



- Difficulty delaying gratification or making good judgments;
- A tendency toward explosive episodes; and
- Vulnerability to social influences such as peer pressure and therefore may commit a crime, or confess to a crime they did not commit, in order to please others.

Research conducted within Canada and the USA shows that children with FASD are 19 times more likely to end up in prison than those who are not affected. Similarly, Canadian research with young offenders has found that more than one fifth are behaviorally impaired due to prenatal alcohol consumption.<sup>9</sup> Researchers at the University of Washington in the United States have estimated that more than half of FASD sufferers encounter trouble with the law, whilst 35% are incarcerated at some stage during their lifetime.<sup>4</sup>

By providing greater access to drug and alcohol services, the Government can reduce the number of people who will be diagnosed with FAS, potentially having an impact on imprisonment rates.

### **Recommendation**

- *Increased funding is required to ensure the provision of training specialists in addiction sub-specialties to meet community demand and to prevent the high rates of imprisonment of people with a drug or alcohol addiction.*
- *More treatment centres for drug users.*
- *More treatment facilities for alcohol addiction.*

### **3.3 People with intellectual disability**

People with intellectual disability (or 'cognitive disability', as per the Terms of Reference) are over-represented in prison populations. A recent study examined 1,325 prisoners in Queensland and found that 9% of prisoners had an intellectual disability,<sup>15</sup> which is three times higher than the prevalence in the normal population (3%).<sup>16</sup> Of the prisoners with intellectual disability, 52% reported that they had been diagnosed with a mental health disorder in their lifetime, as had 42% of prisoners without intellectual disability.<sup>15</sup>

Although people with a dual disability who are in the criminal justice system may have access to services, these are often poorly coordinated with no follow-up. The same study mentioned above<sup>15</sup> also notes that although prisoners with intellectual disability were more likely to receive a transition support plan than their counterparts without intellectual disability, the vast majority (87%) did not receive one. This Australian data underlines the importance of intervention and need for change not only for people with mental health disorders, but also those with dual disability.

## Recommendations

- *Greater investment in follow-up and discharge support services for people with dual disability in the prison setting is required.*

### 4. Summary of recommendations

The RANZCP recommends a number of initiatives that could be funded under a program of justice reinvestment in Australia. These include:

- *Implement targeted prevention and early intervention programs for children and their families through partnerships between mental health, maternal and child health services, schools and other related organisations.*
- *Built-in, formal economic evaluations for all trials of prevention and early intervention programs for young people to determine whether they have provided value in terms of justice reinvestment.*
- *Significant investment in prevention and early intervention mental health services. By 2015, 10-15% more children aged birth to 14 years old should have access to the mental health services they need to prevent problem behaviours from developing into adulthood.*
- *Increased funding to the Nurse Home Visitation program, which was found to be effective in reducing adolescent delinquency (15 year follow up).<sup>3</sup>*
- *That pre-school check up programs includes assessment of language and communication disorders.*
- *At-risk groups must be given specific attention when implementing a justice reinvestment program.*
- *Increase funding for the number of Aboriginal and Torres Strait Islander mental health nurses and health workers in and out of the prison setting.*
- *Increased funding is required to ensure the provision of training specialists in addiction sub-specialties to meet community demand and to prevent the high rates of imprisonment of people with a drug or alcohol addiction.*
- *More treatment centres for drug users.*
- *More treatment facilities for alcohol addiction.*
- *Greater investment in follow-up and discharge support services for people with dual disability in the prison setting is required.*

## 5. Conclusion

Imprisonment does not just affect the individual who is imprisoned. Every time ‘a...person goes to prison and leaves their community, there are children that are losing parents, sisters, brother and uncles and aunties’.<sup>14</sup> Further, the imprisonment of a family member results in the loss ‘not only of economic capital, but also of social capital involving relationships among family members and the organisation of family life towards the maintenance and improvement of life chances of children.’<sup>14</sup>

Increased investment in prevention and early intervention services, a particular focus on at-risk sectors of the community, increasing the number of alcohol and drug treatment centres, and increasing the provision of specialist training in addiction sub-specialties are all worthy programs that could be funded under a justice reinvestment program.

In particular, the development and implementation of early intervention strategies for the prevention of mental illness in children and adolescents is imperative to addressing these adverse outcomes and preventing or reducing mental disorders in adulthood. Given the high rates of people with a mental illness and/or dual disability in prison, addressing the issues raised in this submission presents an opportunity for redistribution of resources with the potential to reduce the number of people in prison.

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