



Submission to Senate Legal
and Constitutional Affairs
Committee:

**Value of a justice
reinvestment approach to
criminal justice in Australia**

VAADA Vision

A Victorian community in
which the harms associated
with drug use are reduced and
general health and wellbeing is
promoted.

VAADA Objectives

To provide leadership,
representation, advocacy and
information to the alcohol and
other drug and related sectors.

March 2013

The Victorian Alcohol and Drug Association

The Victorian Alcohol and Drug Association (VAADA) is the peak body for alcohol and other drug (AOD) services in Victoria. We provide advocacy, leadership, information and representation on AOD issues both within and beyond the AOD sector.

As a state-wide peak organisation, VAADA has a broad constituency. Our membership and stakeholders include 'drug specific' organisations, consumer advocacy organisations, hospitals, community health centres, primary health organisations, disability services, religious services, general youth services, local government and others, as well as interested individuals.

VAADA's Board is elected from the membership and comprises a range of expertise in the provision and management of alcohol and other drug services and related services.

As a peak organisation, VAADA's purpose is to ensure that the issues for both people experiencing the harms associated with alcohol and other drug use, and the organisations that support them, are well represented in policy, program development, and public discussion.

Introduction

VAADA welcomes the opportunity to provide comment on this highly important inquiry. Alcohol and other drug treatment services work with a wide range of demographics, many experiencing multiple vulnerabilities. These vulnerabilities can often contribute to the development of a range of adverse social determinates such as risky or dependent alcohol and other drug use. Depending on available support systems and access to the appropriate services, vulnerable individuals can end up interfacing with the criminal justice system, at which stage the likelihood multiple engagements increase significantly.

This submission calls for the introduction of a range of justice reinvestment initiatives reflecting on the perspective of the Victorian alcohol and other drug treatment sector. It should be noted that as of 30 June 2012, one of the most prevalent offences/charges resulting in incarceration (either sentenced or un-sentenced) was illicit drug related offences (12%) (ABS 2012). This is of concern as there is a research consensus that prison does not reduce disadvantage (in many cases, prison exacerbates existing vulnerabilities) and does not reduce recidivism. A number of recent independent reviews have found prison to be on the verge of a capacity crisis at great cost to the state with the forecasted prison population growth indicative on the ongoing failure of prisons. Australians do not get a good return on investment from the prison system.

a. The drivers behind the past 30 years of growth in the Australian imprisonment rate

From June 2002 to June 2012 the imprisonment rate in Victoria has grown by over 38% (Victorian Auditor General 2012, p 1).

The Sentencing Advisory Council (SAC 2011) details the imprisonment rates for Victoria from 1871 to 2011.

Figure 1 outlines the imprisonment rate between 1871 and 2009 (SAC 2011)



Disturbingly, SAC (2011) cites a steady yet modest increase of approximately 25 per cent in the imprisonment rate per 100,000 head of population from 1977 (38:100,000) to 1993 (50:100,000) (Freiberg and Ross 1999, p 42). However, from the mid 1990s, the prison population increased more rapidly, more than doubling in less than 20 years with 109:100,000 in 2011 (SAC 2011) and continuing to increase with the ABS (2012a) citing a further increase in the rate for the September quarter of 2012 at 113.1:100,000, with 4,947 prisoners in Victoria at that time.

The increase in prison population is temporally aligned with an increase in the 'salience' of the fear of crime, coupled with diminishing public confidence in the justice system and an emphasis on the 'public sentiment' rather than the advice from professionals and experts (Garland 2002, pp 9 - 10) as well as the failure of prisons by virtue of the revolving door, with 36.9 per cent of Victorian prisoners being back in jail within two years of release (SAC 2012).

Fear of crime is a key driver of punitive and populist prison policy with concurrence between mass prison expansion, fear of crime and the diminution of evidence informed policy driving law and order policy.

The drivers behind the growth in the prison rate is complex, with Weatherburn (2004, p 54) noting that there are proximate and distal factors which contribute:

- Proximate: factors such as opportunity (for instance, an unlocked car)
- Distal: factors related to disadvantage, such as a victimization of family violence.

Proximate factors

Determining and preventing proximate factors is complex, as the incentives are fluid in nature. Crimes based on proximate factors are often opportunistic in nature and not necessarily related to entrenched criminality or antisocial tendencies. For instance, the advent of mobile phones and the shift from analogue to digital resulted in an increase in mobile phone theft, in that analogue phones could be cancelled upon the telecommunications company being notified of the theft (and rendered useless to the perpetrator); digital phones however could be used following replacement of the SIM card (Weatherburn 2004, p 150). Opportunistic offenders typically do not engage in criminal

behaviour for very long. Most commit only one or two offences and then cease engaging in criminal behaviour of their own volition, without interaction with the criminal justice system (Weatherburn (2004, pp 147-148) noting that only six per cent of juveniles involved in an offence in 1996 were apprehended by police). Although opportunistic offences, which may be exacerbated by alcohol consumption (Weatherburn 2004, p 148), are common, in most cases increased police presence and intervention would result in net-widening, with more individuals being drawn into the justice system from which many individuals experience difficulties extricating themselves from, as is evident with the high levels of recidivism with 44.6 per cent of prisoners released in 2009-10 returning to the criminal justice system within two years (Productivity Commission 2013, p c21).

Distal factors

Distal factors are key drivers in the increase in the Victorian prison population and this submission contents they are the foundational contributors to crime as well as other vulnerabilities evident in a range of populations.

Tony Vinson (2007) undertook a key piece of work in ascertaining the distribution of social disadvantage in Australia where he identified five key elements relating to disadvantage under which 26 indicators of disadvantage are listed. Vinson (2007, pp 1 – 2) notes that ‘... where the accumulation of problems makes a serious impact upon the wellbeing of residents in a disadvantaged area, locality-specific measures may be needed to supplement general social policy’.

Vinson (2007, pp 18 – 19) highlights the research consensus evident with the association between crime and disadvantage, indicating that the bulk of crimes are committed by a small population which are densely located within a small number of poorer socio-economic localities. Vinson asserts that homicide levels increase in clusters of poverty in metropolitan areas. Reflecting on prisoners themselves, Vinson (2007, p 19) highlights the prevalence of low education levels and high levels of illiteracy.

The association between disadvantage and crime is borne out in fact with research indicating:

- 75 per cent of have completed only up to year 10 of schooling (Australian Institute of Health and Welfare 2010, p ix);
- Between seven and eight per cent of males and 11 per cent of women were homeless prior to their imprisonment (Willis 2004, p 33)ⁱ;
- Aboriginal and Torres Strait Islander peoples are significantly overrepresented in prisons and generally experience more exacerbated adverse social determinants than other prisoners. For example, they 13 times more likely to be imprisoned than other community members (Steering Committee for the Review of Government Service Provision 2009, pp. 4-5);
- 37 per cent report that they have had a mental health disorder at some stage in their lives and 18 per cent are currently on medication for mental health related conditions (Australian Institute of Health and Welfare 2010, pp ix-x);
- 41 per cent are infected with Hepatitis C and 20 per cent infected with Hepatitis B (Victorian Ombudsman 2011, p 8);

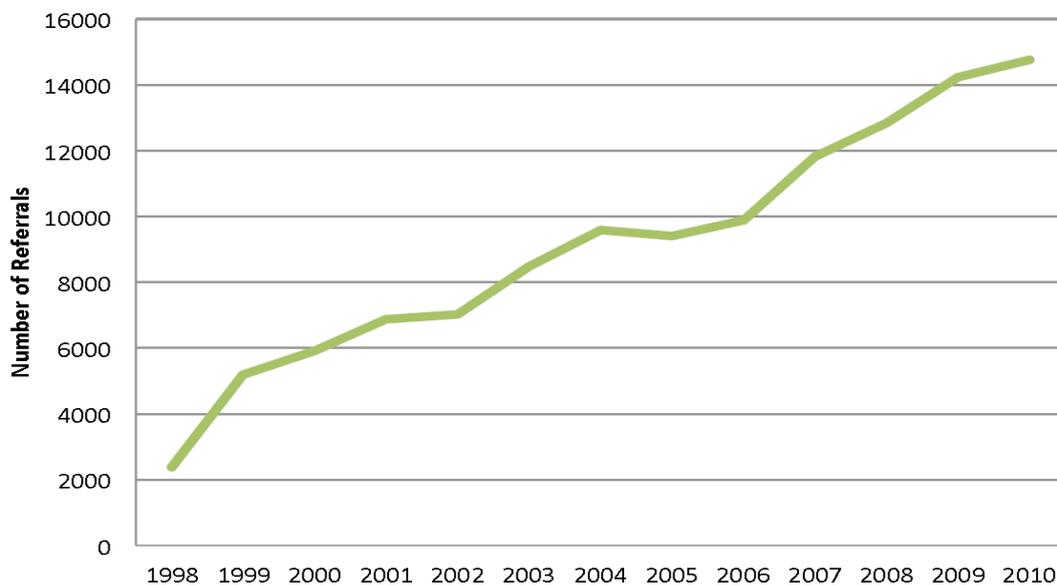
- Prisoners are heavy consumers of both licit and illicit drugs with 81 per cent being current smokers (compared with 16.6 per cent of the general population) (Ministerial Council on Drug Strategy 2010, pp 10 – 11);
- 52 per cent of prisoners reported that they drink alcohol at harmful levels compared with 20.4 per cent of the general population (Preventative Health Taskforce 2009, p 7); and
- 71 per cent of prisoners had used illicit drugs in the past 12 months, compared with 13 per cent in the general community (Australian Institute of Health and Welfare 2010, p 106).

The continued inability to address areas of high density disadvantage coupled with an emphasis on law and order continues to drive the prison population which perpetuates entrenched disadvantage.

Increase in demand for forensic alcohol and other drug treatment

The inability of the justice system to reduce recidivism rates and to address vulnerabilities which impact upon crime levels is putting a significant burden on the forensic alcohol and other drug treatment sector. Evident from Figure 2 below is the rapid increase in referrals to forensic alcohol and other drug treatment.

Figure 2 Total number of COATS referrals 2000 – 2010 (Pollard et al 2011, p26)



In contemporary societies, there exists a widespread assumption that “prison works”, in terms of satisfying “popular political demands for public safety and harsh retribution” (Garland 2002, p.14). In Australia, such assumptions have led to a string of irrational and ineffective criminal justice policies and investment models. Imprisonment is largely ineffective in terms of reducing recidivism and experiences structural and access issues in providing rehabilitation (Victorian Auditor-General 2012). Thus the assumptions about prisons and their success are in stark contrast to the evidence around their effectiveness.

b. the economic and social costs of imprisonment

The economic cost of imprisonment in Victoria is very high. Smart Justice (2011) cited the Victorian State Budget (2010/11) that detailed \$126 million expenditure on developing an additional 244 prison beds. The Productivity Commission (2013, table 8A.6, p 1) indicates that Victoria's recurrent prison expenditure of \$597,321,000 in 2011/12 servicing 4,586 prisoners resulted in a net recurrent expenditure per prisoner per day of \$338. According to Douglas, Wodak and McDonald (2012, p 33), during 2002-2003, 75 per cent of Australian Federal and State government funding on illicit drugs was spent on enforcement related issues.

The social cost of prison is vast. The perpetuation of disadvantage through the imprisonment of often highly vulnerable individuals with a wide range of health and welfare issues provides a clear example of a missed opportunity. Prisons are microcosms of high density disadvantaged populations where only minimal efforts are undertaken to address this disadvantage. Various treatment and rehabilitation programs are undertaken within the confines of an artificial environment, greatly reducing their efficacy. Minimal effort is given to providing post release support for vulnerable prisoners, with a high death rates occurring within the first four weeks post release, as noted by Kinner et al (2011, pp 66 – 67) in their study of ex prisoner deaths between 2007-2008.

The 41 per cent of prisoners infected with Hepatitis C go largely untreated (only three of the 14 prisons in Victoria provide treatment for this virus) with clear evidence that an increase in treatment for all infected populations would also derive positive preventative results. As noted in VAADA's draft position paper, *Reducing harm in prisons*, Hellard et al (2012, p 639) indicates that treating 25 per 1,000 people who inject drugs and who experience Hepatitis C would, over 30 years, reduce the prevalence of infection by 50 per cent. The unacceptably high rate of Hepatitis C is exacerbated by the absence of prison-based needle and syringe programs as well as supervised injecting, both of which would reduce the prevalence of blood borne viruses. The drug testing regime in prisons is, in many ways, antithetical to improved health of prisoners with prisoners shifting to substances which are more harmful and less able to be detected via drug testing methods. The penalties for positive drug tests do not work as a deterrent for a population where it is evident that in most cases, deterrence has been largely irrelevant. Furthermore, by removing privileges such as access to visitors and amenities such as personal computers further alienates prisoners and reduces their capacity to engage in much needed educational programs.

Prisons do not address intergenerational disadvantage, often housing multiple families, across generations at the one time. This is a clear indication of failure.

Upon release, prisoners often struggle to find employment, in part due to impediments evident from a criminal history but also due to the wide array of existing vulnerabilities.

The return on investment for this expenditure is minimal with regard to social, health and economic benefits, especially given the scarcity of resources for other health, education and welfare service sectors.

- 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

Many of these groups have been discussed in part in earlier sections and by virtue of their continued over representation in prison coupled with high recidivism rates it is evident that prisons are not providing the appropriate service response to meet the needs of these populations.

Regarding Aboriginal and Torres Strait Islanders, the National Indigenous Drug and Alcohol Committee's (NIDAC 2013, p xi) report entitled *prison versus residential treatment* highlights the financial savings accrued through provision of residential treatment for alcohol and other drug needs instead of incarceration consisting of savings conservatively estimated at \$81,000 per annum. Further, NIDAC indicate additional savings through reduced recidivism and health expenses accruing additional savings of approximately \$15,000 per annum. VAADA supports this report and urges the Senate Committee to reflect strongly on this report when making findings and recommendations in this area.

This recent research by NIDAC clearly indicates that justice reinvestment is a necessary tool in addressing long term entrenched vulnerabilities in aboriginal communities.

- d. the cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures

The key foundational premise to this section is the research consensus of the prison system's failure to provide an adequate return on investment with regard to:

- Reducing recidivism (and by definition crime);
- Reducing costs and responding to crime and disadvantage; and
- Increasing the health of at risk populations.

From this premise, immediate remedial reform is necessary.

The Victorian alcohol and other drug treatment sector is a multifaceted sector with a wide range of treatment options and means of interventions. Currently the Victorian Department of Health indicates that there are 19 treatments types with current reforms reducing this to six (Department of Health 2012). There has been a scarcity of evaluations on the cost effectiveness of individual modalities of alcohol and other drug treatment in Victoria, however international evidence is robust in supporting the cost effectiveness of such treatment.

The (USA based) National Institute on Drug Abuse (NIDA 2012, p 13) noted a four to seven dollar return on investment through the positive impact of alcohol and other drug treatment on reducing crime. Research from the National Treatment Agency for Substance Misuse (NHS 2012, p 10) indicates that in the UK, drug treatment is estimated to have prevented 4.9 million offences during

2010-2011. Disturbingly, the NHS (2012, p 12) indicated that by reducing investment in drug treatment by £1 million pounds, 9,800 further offences would ensue at a cost to the community of over £1.8 million. The NHS also details how alcohol and other drug treatment can reduce the 'drug taking career' of individuals, citing the average duration of heroin dependence as 20 years, with drug treatment reducing this to 11 years. The NHS (2012a, p 13) notes that every pound spent on treatment saves £2.50 to society. Regarding the duration of treatment, the NHS (2012a, p 5) indicates that the crime level for those in treatment for two years is reduced by half with the longer engagement further reducing crime levels.

International research supports the cost effectiveness of alcohol and other drug treatment.

Drug Courts

The Drug Court of Victoria was established as a pilot in 2002 and achieved permanency in 2005. The Court is situated in Dandenong (Victoria) and has a catchment area limited to the South Eastern suburbs of Melbourne. The most recent review of the Victorian Drug Court was completed in 2006 with an earlier review completed in 2004. Both reviews found that those who completed a Drug Treatment Order (DTO) were less likely to reoffend than the comparison group or those who only partially completed a DTO. One review (King and Hales 2004, p 15) found that those who completed DTOs committed half the number of offences than they had prior to the DTO. A comprehensive analysis of a range of drug court models including those in Australia indicated that those who had participated in the drug court had a recidivism rate of approximately 25 per cent less than those who had not participated (Mitchell, Wilson, Eggers and MacKenzie 2012, p 24).

The most recent cost benefit review undertaken by Acumen (2006, p 4) found that upon completion of the DTO, the number of participants employed full time doubled (from 11 to 25 per cent) and there was a 32 per cent reduction in unemployment.

Acumen (2006, p 38) found that the Drug Court of Victoria, while costing the state \$2.78 million, derived benefits valued at \$16.65 million, achieving a cost benefit ratio of 5.81. Some of the tangible benefits outlined by Acumen (2006, p 39) include savings through reduced recidivism with the subsequent reduced demand on prison capacity and reduced strain on health and welfare services. This includes, in the long term, a reduction in demand for drug treatment, increased employment and safety in the community and improved quality of life for individuals, families and ultimately the community.

Diversionary schemes

The Department of Justice (2012, p 47) notes that 70 per cent of young people cautioned resided in areas exhibiting above average levels of disadvantage. A caution is often an appropriate response to criminal behaviour in that it does not drag an individual into the criminal justice system, but without adequate support to address the causes of disadvantage which may be driving criminal behaviour which, there remains the possibility of further engagement in offending behaviour and subsequent interaction with the justice system.

In many cases, the application of diversionary schemes may assist in addressing these causes. Consideration of the potentially adverse consequences of the penalties/actions as per the current adult diversion model in Victoria would need to be considered (which could result in net widening or net deepening - see VAADA 2012, p 2). However, if the conditions of the diversion provided a means of alleviating factors contributing to disadvantage, positive outcomes could be achieved. Specific diversion programs, implemented on a regional basis and based on population need with provision to address key elements contributing to local disadvantage, could be piloted through a number of regions.

Some studies have indicated that diversion schemes can accrue savings of up almost \$3 for each dollar spent, with these savings achieved through reduced police investigation, prosecution, criminal activity and imprisonment (Hughes and Ritter 2008, p 7).

Diversions schemes are pivotal in driving vulnerable populations away from the justice system and can be used to begin the journey in addressing adverse social determinants.

Justice reinvestment can achieve savings in the health system

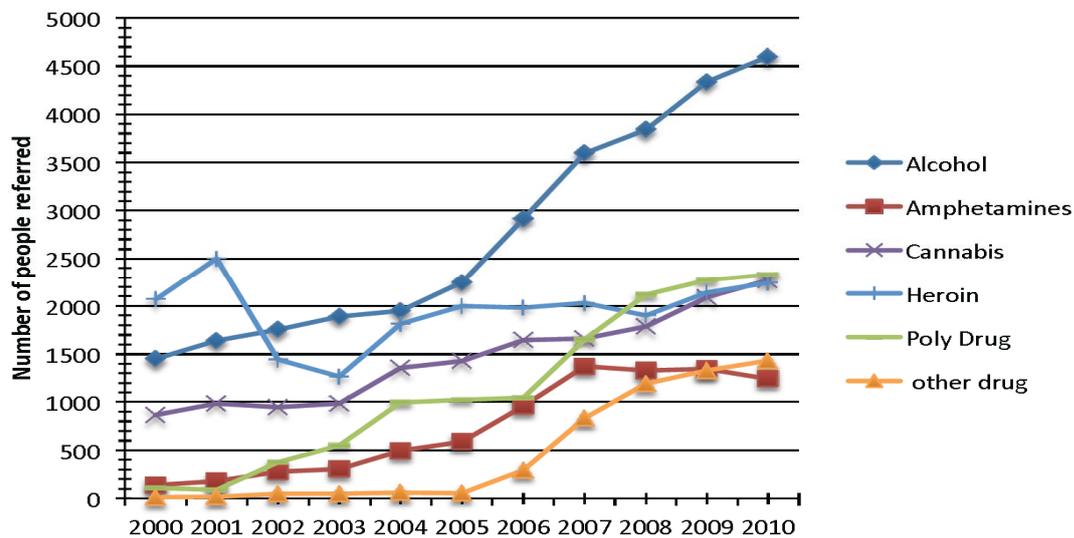
Justice Reinvestment within the purview of the alcohol and other drug treatment sector does not solely reflect on the justice sector. There is growing evidence that alcohol and other drugs create a significant and at least partially preventable burden on Victoria's health system, in particular hospitals and ambulances. The Victorian Auditor General (2011, p vii) indicates that 77,000 Victorians are hospitalized for alcohol and other drug conditions annually; during 2010-2011, 290,000 hospital bed days were used for alcohol and other drug reasons coupled with approximately 26,000 alcohol and other drug emergency presentations (Department of Health 2012, p 7). Lloyd (2012) indicates that during 2010-2011 approximately 20,000 ambulance call outs were related to alcohol and other drug issues. VAADA contends that these figures could be reduced through increasing access to alcohol and other drug treatment programs through the development of seamless pathways from other service sectors and providing additional resources for the sector to deal with increased community demand. Health services are stretched to full capacity with regular complaints regarding ambulance waiting times and lack of hospital beds – increasing treatment would be a cost effective way of preventing the alcohol and other drug related acute interface between community members and the health system, resulting in increased community health and cost savings. The alcohol and other drug treatment sector provides a means of early intervention to prevent hospital admissions.

Changing trends in alcohol and other drug use

It is evident from **Figure 3** that the presence of alcohol in forensic treatment presentations has increased dramatically from 2004. This trend is temporally aligned with an increase in law and order policy responses to 'street based' or 'alcohol fuelled' violence and has occurred under the supervision of a range of governmental strategies. In real terms, there has also been a massive increase in risky alcohol consumption by women (Victorian Auditor General 2012a, p 57). The current approach endures significant limitations given that alcohol related forensic presentations

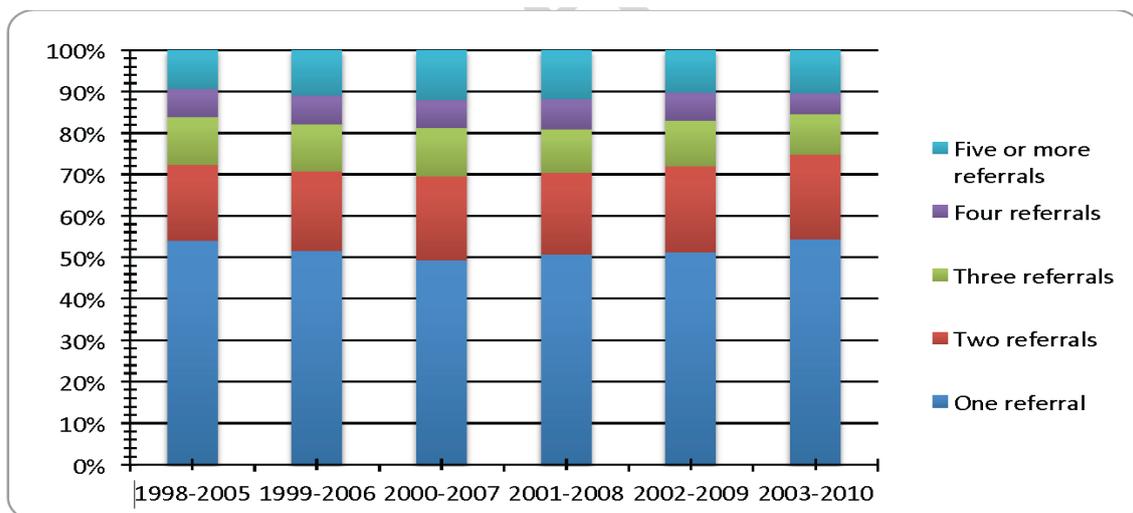
have continued to increase in tandem with incarceration levels. There are a range of strategies which can address both acute and chronic harms related to alcohol consumption which are supported by evidence but largely ignored, such as advertising, taxation and regulation reform, which may contribute to a reduction of alcohol related crime.

Figure 3 Number of clients by substance (Pollard et al 2011, p 29)



Additional to these initiatives, forensic alcohol and other drug treatment must receive greater resourcing to contend with growing populations, in light of the failure of government, noted by the Victorian Auditor-General (2012), to provide rehabilitation and treatment in par with prison population growth. This failure is evidenced by the high prevalence of multiple referrals to forensic treatment as noted in **Figure 4** below.

Figure 4 Proportion of clients referred one or more times in a seven year period (Pollard et al 2011, p. 32)



The international data coupled with state related health data outlined above provides a compelling argument to resource and build the capacity of the alcohol and other drug treatment sector with a view to reduce overall crime and ensuring a better return on investment than currently occurs with prisons.

The savings achieved through building alcohol and other drug treatment could be hypothecated back into the treatment sector and also strategically disbursed to fund evidence informed prevention and early intervention programs.

e. the methodology and objectives of justice reinvestment

This submission has referred to the work of Vinson (2007) with regard to mapping disadvantage in Australia. A key theme of Justice Reinvestment is to comprehensively undertake this mapping exercise and provide the appropriate mix of services to contend with signifiers of disadvantage. Smart Justice (2012) cites Vinson who notes that 25 per cent of prisoners originated from two per cent of postcodes and Vinson (2007, p 97) notes 29 of the 40 most disadvantaged regions in Victoria are rural and regional.

The key theme of justice reinvestment is to redirect funding from justice related services to health, welfare and educational based services with a view to targeting at risk community groups (Brown, Schwartz and Boseley 2012). This will reduce offending from high risk areas and therefore reduce the overall budget outlays to law and order services. Being place-based in nature, research would need to be undertaken to ascertain the needs of each vulnerable community.

Legislative change is necessary to divert more individuals, especially those engaged in drug use who have committed non-violent offences from the justice system.

The challenges with Justice Reinvestment, aside from a backlash from groups supportive of retributive responses to crime (Brown et al 2012, p 100) are:

- Additional funding will need to be provided in the short term to maintain the current prison population levels during the legislative change phase whilst also building the capacity of the necessary services as well as preventative and early intervention-based endeavours in regions with high prevalence disadvantage. It is likely to take a number of years before social capital is accrued;
- Shifting funding from service provision in regions which experience only modest or minimal disadvantage may increase vulnerabilities in those populations; therefore, governments should not reduce existing service provision in some areas to compensate for underservicing in others;
- Reducing prison expenditure targeting post release care and treatment – this would be an iatrogenic outcome (Brown et al 2012, p 101); and
- The difficulties inherent in targeting prevention and early intervention initiatives to the appropriate populations and ensuring that the appropriate response is delivered to the population in need.

To implement successful policies aligned with justice reinvestment, governments at all levels would need to work together to ensure that there is an integrated governmental and service response to addressing the causes of disadvantage.

f. the benefits of, and challenges to, implementing a justice reinvestment approach in Australia

As Weatherburn (2004, p 56) indicates, some crime control strategies (such as education, and support and advice for families) may take many years to produce an effect that we can measure. Accordingly, failure to judge how long these effects may take to materialize can lead to erroneous conclusions about the efficacy of an approach. And so with justice reinvestment, policy makers will be presented with the need to have realistic expectations about the speed of results from such bottom up investments. Moreover, the transition period may prove difficult economically. That is, given the capacity crisis in prisons at present, and the current sentencing trends, the initial investment in justice reinvestment programs will need to be overlapped with a gradual reduction in incarceration rates and the utilization of alternatives to prison sentences.

Key benefits:

- Creating a safer community;
- Addressing the causes which perpetuate disadvantage;
- Strengthening evidence based approaches to reduce disadvantage;
- Reducing government responses which exacerbate disadvantage;
- Improving the health and wellbeing of all Australians;
- Improving health, welfare and education-based service delivery; and
- Achieving significant cost savings across both State and Commonwealth budgets.

Key challenges:

- Effectively negotiating between Commonwealth and State government;
- Contending with groups which support retributive policies;
- Contending with groups which have a vested interest in maintaining the status quo;
- Providing an initial additional cost outlay during the initial implementation phase when retributive responses will be 'wound down' whilst building the capacity of health, welfare and education-based service systems;
- Integrating service systems;
- Ensuring that governments are patient as the positive outcomes may not be realized for a number of terms of government;
- Ensuring the correct mix of services for each region; and
- Ensuring that prevention and early intervention initiatives target the correct populations;

g. the collection, availability and sharing of data necessary to implement a justice reinvestment approach

The data systems for the alcohol and other drug treatment system have a number of deficiencies which have been identified by the Victorian Auditor-General (2011, p 41). Implementing a justice reinvestment approach would require robust and comprehensive data systems with capacity for a real time feedback loop to services and service sectors regarding data. Identifying at risk communities would require integrated data systems as well as the necessary support staff independent from government to administer and manage these systems.

Data system reform is crucial to driving informed, cost effective and evidence based justice reinvestment initiatives and maximising the benefits of health, welfare, justice and educational programs. Data systems must be expanded and updated with significant resourcing from government.

h. the implementation and effectiveness of justice reinvestment in other countries, including the United States of America

Justice reinvestment is achieving a growing global presence.

The Council of State Governments Justice Centre (USA) provides a clearinghouse on the progress of justice reinvestment implementation through the USA (Justice Centre 2013). In Kansas, there are a number of initiatives in place to reduce the costs with a view to reducing the prison population by approximately 4,000 between 2014 and 2018 (Justice Centre 2013a, p 3). Savings will be reinvested in post release care and community corrections based programs. In West Virginia, justice reinvestment is referred to as a framework to develop policies to reduce expenditure on prisons, funnelling the savings into programs which reduce recidivism and increases public safety (Justice Centre 2013b, p 1). Failure to complete probation and the high rate of community orders being revoked were cited as key drivers to the expanding prison population (Justice Centre 2013b, p 2) with forecasted savings, through reform, estimated at \$116 million from 2014 – 2008. The West Virginian justice reinvestment strategies appear to centre on working with those populations already at risk of imprisonment and appear to be lacking on prevention and early intervention initiatives.

Such strategies may involve reducing the punitive nature of the justice system which may alleviate some of the costs but not necessarily reduce disadvantage as effectively as an integrated whole of government approach coupled with a reduction in punitive sentencing. Texas reinvested over \$240 million earmarked for prison expansion into a range of treatment and community programs, including alcohol and other drug treatment, and availing nurses for vulnerable first time mothers (Justice Centre 2013c). At risk regions were mapped (identifying 10 areas where high levels of incarcerated population originate) and targeted. Texas saved at least \$210 million during 2008 – 2009.

There are a range of different justice reinvestment initiatives and models; it is important that programmatic development aligned with justice reinvestment in Australia caters for vulnerable populations and provides the right mix of services.

i. the scope for federal government action which would encourage the adoption of justice reinvestment policies by state and territory governments

The Commonwealth is likely to experience significant challenges in pressuring state and territory governments to adopt justice reinvestment related policies, due to limitations and/or divisions in jurisdiction regarding justice, health and many welfare services. These challenges are exacerbated when retributive approaches to law and order emerge as common parlance in mainstream political debate and are promoted by some media outlets.

The key aim is for states to establish a program stream with incentives to refocus existing programs and foster a justice reinvestment approach.

Incentivise states and territories to reduce incarceration rates

Financial incentives could be provided to states and territories that can reduce their incarceration rates which would likely be additional to the savings accrued in the reduction of prison occupancy and development.

Develop reciprocal funding arrangements with states and territories

Funding strategies between the Commonwealth and states/territories could be developed whereby additional funding could be provided to states and territories if they reach specific targets for recidivism and population health.

Engage a number of international experts to attend key events to promote justice reinvestment

Experts from international jurisdictions currently undertaking justice reinvestment initiatives could present key findings at relevant public events and government sponsored forums to promote the benefits of justice reinvestment. They could also reflect on the evidence supporting justice reinvestment policies and highlight 'best practice'. This could be especially persuasive in cases where the benefits are plainly evident.

Develop a bipartisan position at a Commonwealth level

Foster a bipartisan approach, with a clear focus on what is best for the individual and the community. Mainstream political parties could develop a bipartisan approach to justice reinvestment enabling the Commonwealth Government to consistently drive related policies irrespective of the political cycle.

Engage specific regions to pilot justice reinvestment initiatives

Amenable state/territories could be incentivised through financial incentives to undertake a trial of specific justice reinvestment programs with robust and timed evaluation. This could provide the evidence based foundations for driving justice reinvestment throughout Australia.

There are a range of means through which the Commonwealth can incentivise states/territories to trial and implementation of justice reinvestment initiatives – many of these are linked to maximising the pecuniary interests of states/territories.

j. any other related matters.

By way of conclusion, there is a clear need to build on and expand the initiatives which cohere with justice reinvestment which currently have a solid evidence base. This includes, from the alcohol and other drug sector perspective, Drug Courts, diversionary schemes and increasing access to alcohol and other drug treatment services including pharmacotherapy which plays a key stabilising role in the lives of many Australians. There is a need to ensure that rehabilitation programs in prisons are resourced in tandem with prison population growth and that programmatic supports for prisoners post release are expanded to ensure a smooth transition from prison to the community.

Koori Courts and the Children's Court plays a key role in that both Courts engage with at risk populations are key elements in justice reinvestment strategies.

Building up these existing initiatives will further reduce demand for prison beds and accrue savings for government. These savings with additional investment, can be provided for programs and initiatives which will address entrenched and long term disadvantage which may involve a range of service sectors and various modes of practice, with long term horizontal benefits spanning generations.

Recommendations

VAADA recommends that:

1. The Commonwealth Government develop a bipartisan approach to reducing disadvantage within Australia to consistently drive justice reinvestment initiatives;
2. The Commonwealth Government provide appropriate incentives to influence state and territory governments to implement justice reinvestment initiatives with an overall aim of reducing the prison population and reducing disadvantage. These activities should be evaluated and benchmarked;
3. Justice re-investment be developed into a guiding principle regarding future program initiatives in the criminal justice/prison sphere;
4. The cost effectiveness of prisons be measured against the provision of other health, welfare and educational services with a view to ascertaining system based maximum return on investment;
5. Regions which exhibit above average levels of disadvantage receive additional resources to develop a robust service response to reducing disadvantage;
6. The Commonwealth Government provide incentives for Victoria to extend proven programs such as:
 - a. the Drug Court of Victoria;
 - b. diversion schemes;
 - c. forensic drug treatment in prisons, commensurate to the prison population needs;
7. Prevention and early intervention programs targeting regions and populations exhibiting high levels of disadvantage and vulnerability be implemented; and
8. All justice reinvestment initiatives be accompanied by a robust evaluation process and evidence base.

References

ABS 2012, *Most serious offence/charge*, Australian Bureau of Statistics, cat. no. 4517.0, viewed 15 March 2013,

<http://www.abs.gov.au/ausstats/abs@.nsf/Products/2F45EF48402352E7CA257ACB001314B0?open document>

ABS 2012a, *Corrective Services Australia September Quarter 2012*, Australian Bureau of Statistics, cat. no. 4512.0, viewed 6 March 2013,

[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/911CBE22BB953781CA257ABD001019C4/\\$File/45120_september%20quarter%202012.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/911CBE22BB953781CA257ABD001019C4/$File/45120_september%20quarter%202012.pdf)

Acumen Alliance 2006, *Benefit and cost analysis of the Drug Court Program, final report*, Department of Justice, Victoria.

Australian Institute of Health and Welfare 2010, *The Health of Australia's Prisoners 2009*, Canberra, viewed 8 March 2013, http://www.aihw.gov.au/access/201010/report/prisoner_health.cfm

Brown, D, Schwatz, M and Boseley, L 2012, 'The promise of justice reinvestment', *Alternative Law Journal*, vol 37, no 2, pp 96 – 102.

Department of Health 2012, *New Directions for Alcohol and drug treatment services: a roadmap*, Victorian Government, Melbourne.

Department of Justice 2012, *Practical lessons, fair consequences*, Victorian Government, Melbourne.

Douglas, B, Wodak, A and McDonald, D 2012, *Alternatives to prohibition*, Australia 21, viewed 13 March 2013,

http://www.australia21.org.au/publications/press_releases/A21_Alternatives_to_Prohibition_SEP_1_2.pdf

Garland, D 2002, *The culture of control*, Oxford University Press, UK.

Hellard, ME, Jenkinson, R, Higgs, P, Stoové, MA, Sacks-Davis, R Gold, J, Hickman, M, Vickerman, P and Martin NK 2012, 'Modelling antiviral treatment to prevent hepatitis C infection among people who inject drugs in Victoria, Australia', *Medical Journal of Australia*, vol. 196, no. 10, pp. 638-641.

Hughes, C and Ritter A 2008, *A summary of diversion programs for drug and drug-related offenders in Australia*, Drug Policy Modelling Program, NDARC, Monograph 16, viewed 18 March 2013, <http://ndarc.med.unsw.edu.au/sites/ndarc.cms.med.unsw.edu.au/files/ndarc/resources/16%20A%20summary%20of%20diversion%20programs.pdf>

Justice Centre 2013, *Justice reinvestment*, viewed 13 March 2013, <http://justicereinvestment.org/>

Justice Centre 2013a, *Justice reinvestment in Kansas*, The Council of State Governments Justice Centre, viewed 13 March 2013, <http://justicereinvestment.org/states/kansas/pubmaps-ks>

Justice Centre 2013b, *Justice reinvestment in West Virginia*, The Council of State Governments Justice Centre, viewed 13 March 2013,

http://justicereinvestment.org/states/west_virginia/pubmaps-wv

Justice Centre 2013c, *Texas*, The Council of State Governments Justice Centre, viewed 14 March 2013, <http://justicereinvestment.org/states/texas/how-tx/quantify-tx>

King, J and Hales, J 2004, *Victorian Drug Court, Cost Effectiveness Study: May 2002 to December 2004*, Department of Justice.

Kinner, SA, Preen, DB, Kariminia, A, Butler, T, Andres, JY, Stoové, MA and Law, M 2011, 'Counting the cost: estimating the number of deaths among recently released prisoners in Australia', *Medical Journal of Australia*, Vol. 195, no. 2, pp. 64-68.

Lloyd, B 2012, *Trends in alcohol and drug related ambulance attendances in Melbourne: 2010/11*, Turning Point Alcohol and Drug Centre, viewed 13 March 2013, [http://docs.health.vic.gov.au/docs/doc/E97DF2F3B37EE839CA2579F40014208B/\\$FILE/Ambo%20Project%20Annual%20Trends%20Report%202010-11.pdf](http://docs.health.vic.gov.au/docs/doc/E97DF2F3B37EE839CA2579F40014208B/$FILE/Ambo%20Project%20Annual%20Trends%20Report%202010-11.pdf)

NIDA 2012, *Principles on drug addiction treatment: a research based guide*, National Institute on Drug Abuse, USA, viewed 13 March 2013, http://www.drugabuse.gov/sites/default/files/podat_1.pdf

NHS 2012, *Estimating the crime reduction benefits of drug treatment and recovery*, National Treatment Agency for Substance Misuse, United Kingdom, viewed 13 March 2013, <http://www.nta.nhs.uk/publications.aspx?category=Drug+treatment+research+and+evidence>

NHS 2012a, *Treat addiction, cut crime*, National Treatment Agency for Substance Misuse, United Kingdom, viewed 13 March 2013, <http://www.nta.nhs.uk/publications.aspx?category=Drug+treatment+research+and+evidence>

Mitchell, I, Wilson, DB, Eggers, A and MacKenzie, DL 2012, *Drug Courts' effect on criminal offending for juveniles and adults*, Campbell Systemic Reviews, viewed 8 January 2012, http://www.ndcrc.org/sites/default/files/mitchell_drugcourts_review.pdf

Pollard, J, Berry, M, Ross, S and Kiehne, M 2011, *Forensic AOD treatment in Victoria*, Victorian Department of Health.

Preventative Health Taskforce 2009, *The Healthiest County by 2020 Technical Report 3: Preventing Alcohol-related harm in Australia*, Australian Government, viewed 8 March 2013, <http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/tech-alcohol-toc>

Productivity Commission 2013, *Report on Government Services 2013*, Australian Government, viewed 8 March 2013, <http://www.pc.gov.au/gsp/rogs/2013>

SAC 2011, *Victoria's imprisonment rates, 1871 to 2011*, Sentencing Advisory Council, viewed 6 March 2013, <http://www.sentencingcouncil.vic.gov.au/page/about-sentencing/sentencing-statistics/imprisonment/victorias-imprisonment-rates>

SAC 2012, *Released prisoners returning to prison*, Sentencing Advisory Council, viewed 13 March 2013, <https://sentencingcouncil.vic.gov.au/page/about-sentencing/sentencing-statistics/imprisonment/released-prisoners-returning-prison>

Smart Justice 2012, *Justice reinvestment: investing in communities not prisons*, Federation of Community Legal Centres, viewed 13 March 2013, http://www.smartjustice.org.au/cb_pages/files/SMART_Reinvestment.pdf

VAADA 2012, *Improving diversion for young people in Victoria*, Victorian Alcohol and Drug Association, Collingwood.

Victorian Auditor-General 2011, *Managing drug and alcohol prevention and treatment services*, viewed March 2013, <http://download.audit.vic.gov.au/files/20110302-AOD.pdf>

Victorian Auditor-General 2012, *Prison Capacity Planning*, viewed 7 March 2013, <http://www.audit.vic.gov.au/publications/20121128-Prisons/20121128-Prisons.pdf>

Victorian Auditor-General 2012a, *Effectiveness of justice strategies in preventing and reducing alcohol-related harm*, viewed 14 March 2013, <http://www.audit.vic.gov.au/publications/20120620-Alcohol/20120620-Alcohol.pdf>

Victorian Ombudsman 2011, *Investigation into prisoner access to health care*, Victorian Ombudsman, Melbourne.

Vinson, T 2007, *Dropping of the edge: the distribution of disadvantage in Australia*, Jesuit Social Services, Richmond.

Weatherburn, D 2004, *Law and order in Australia*, The Federation Press, NSW.

Willis, M 2004, *Ex-prisoners, SAAP, housing and homelessness in Australia*, Australian Institute of Criminology, viewed 8 March 2013, <http://www.aic.gov.au/documents/9/B/2/%7b9B207562-F019-4BF2-B3DC-06EAAB3F7B8D%7d2004-05-SAAP.pdf>
