

Justice Reinvestment:  
The Economic Benefits for Victoria

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## Statement of Authorship

This dissertation is my own work and it contains, to the best of my knowledge, no material published or written by persons other than myself, except where due reference is made in the text. None of the material submitted as part of this dissertation has been accepted for the award of any other degree or diploma in any tertiary institution.

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As the supervisor for this dissertation, I confirm that the work submitted has to the best of my knowledge been carried out by the student as named above, and is worthy of examination.

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## **ABSTRACT**

Victoria's Baillieu Government is committed to increasing the prison estate. In a time of economic uncertainty, it is prudent to question whether the high costs of the Victorian prison system offers the state value for money. Crime rates in Victoria have been decreasing, however the prison population is increasing. The increased use of prison as punishment does not increase public safety, nor does it reduce crime and recidivism rates. The most incarcerated communities are also the most disadvantaged and marginalised. Justice reinvestment is a data-driven, evidence-based policy response whereby a portion of the corrections budget is redirected into high incarceration communities to fund proven, community based crime prevention strategies that are appropriate to that specific community. Interest in the concept has been growing within political and academic discourse internationally and in Australia, with implementation occurring in several international jurisdictions. The concept is yet to be adopted anywhere in Australia. This dissertation argues that, if implemented in Victoria, justice reinvestment could have a positive economic impact on the corrections budget whilst addressing incarceration and crime rates and public safety issues.

## INTRODUCTION

Contemporary academic criminal justice literature is heavily concentrated on specifics relating to North America and Europe, and there exists scant analysis of emerging northern hemisphere trends in an Australian context. This thesis will redress this imbalance, and outline the emergence of justice reinvestment, its application in a number of jurisdictions, and determine its appropriateness and benefits for Victoria's criminal justice system.

Justice reinvestment is a relatively new concept in criminological literature and public policy, evolving in criminal justice thought and practice internationally since 2003. Justice reinvestment is a data-driven, evidence-based approach whereby a portion of the corrections budget is redirected into high incarceration communities to fund proven crime prevention strategies that are appropriate to that specific community. Whilst implementation has been occurring in numerous other jurisdictions, it has not yet been adopted in Australia.

Justice reinvestment offers an opportunity for a paradigm shift in criminal justice policy (Carroll 2004:485). Justice reinvestment is a term that is not initially clear. In the past it has had varied definitions used by different people: for example, Solda describes it as working with 'individuals at greatest risk of committing crimes, thereby reducing criminal behaviour and recidivism' (2011:33) whereas Schwartz sees it as the reversal of community funds being channeled into prisons (2010:2). Allen suggests that the 'diffuse meaning' of the

concept is what gives it such wide appeal (2011:617). Using the broadest definition, justice reinvestment is a process whereby corrections funds are directed into communities that utilise the corrections systems the most to fund programs to reduce the incarceration and crime rates. This is a holistic approach to crime prevention that impacts positively not only on the crime and recidivism rates of individual offenders but also on the whole community.

Justice reinvestment is about prevention rather than punishment. In this dissertation, the term is not used to specify a specific program of work but rather a policy response of crime prevention and crime reduction that is targeted towards the communities that are highlighted as needing it the most. The process involves understanding what the underlying causes of criminal behaviour within particular communities are and putting together a program of work to address them. The purpose of justice reinvestment should be to prevent people entering the criminal justice system in the first place. As Sampson and colleagues point out, preventing crime occurring in the first place involves researching the specific nature of the crime problem and developing specific solutions to that specific problem (2010:38).

The broad definition means that crime prevention programs might include other agencies that deal with education, housing, parenting or other social services. Some academics, such as Findlay et al, point out that 'punishment should not be regarded always as the most appropriate response to the crime problem' (1999:206). Justice reinvestment is a policy response to tackle the root causes. The strategy produces a 'virtuous circle, which draws funds away

from prison and into strengthening community infrastructure' (Allen 2008:42).

Justice reinvestment programs do not necessarily have a criminal justice focus, although there would be a 'knock-on' effect. For example, the programs may focus on drug and alcohol abuse, mental health, accommodation or educational issues. The Victorian Auditor General has publically stated that because crime and recidivism 'are so strongly linked with disadvantage and marginalisation' any programs that target this should be supported (Victorian Auditor General 2011:1). This goes to the very heart of justice reinvestment, which advocates diverting funds from the corrections system into communities with high incarceration rates to tackle the causes of crime while saving the government money. The communities that are the most disadvantaged and marginalised are also the most incarcerated. Farrall maintains that reinvesting into 'the most deprived and crime-ridden areas would have a positive affect on the problem of crime (2002:228).

Whilst the concept is being considered by the Australian Federal Attorney General's Department (2011), the Social Commissioner at the Human Rights Commission (2009) and scholars such as Schwartz (2010), it has not yet been adopted as a public policy position. Responsibility for correctional systems in Australia rests with the states and territories, and policy implementation differs greatly between jurisdictions.

This dissertation will focus on the viability of introducing Justice Reinvestment in Victoria. It will examine justice reinvestment as a concept, assess its



application in the United States (US) and the United Kingdom (UK), analyse the current political and economic climate in Victoria and consequential obstacles for a policy transition, and consider whether justice reinvestment might be an appropriate option to address incarceration and crime rates, public safety issues, and have a positive economic impact in Victoria.

Chapter One will provide an overview of the emergence of justice reinvestment and outline the historical and theoretical background. Chapter Two will discuss the application of justice reinvestment, particularly in regards to the United States and the United Kingdom. Chapter Three describes the societal impact of crime and incarceration, with Chapter Four outlining justice reinvestment in practice in Australia and Victoria, building on the economic argument for change.

## **CHAPTER ONE: The emergence of 'justice reinvestment'**

This chapter will outline the origins of justice reinvestment and place the concept within a practical, historical and theoretical context. Many initiatives and policy positions adopted in Victoria have originated elsewhere. The Neighbourhood Justice Centre in Melbourne is typical of this: its framework and introduction was based heavily on the Red Hook Community Justice Center in New York (Victorian Auditor General 2011:11). Similarly, justice reinvestment has been operational in the United States (US) since 2003 and interest and application has been increasing in United Kingdom (UK) policy discourse since 2005, although is yet to become formal government policy.

### **Origins of Justice Reinvestment**

The conception of justice reinvestment began in 1998 when Cadora and Swartz (2012) began justice mapping the neighbourhoods of Brooklyn, New York: an academic task that graphically illustrated from where inmates originated and the costs of incarcerating them. This mapping exercise also found that concentrations of people being incarcerated originated from the most deprived neighbourhoods of Brooklyn, and that the incarceration of these residents was costing the over one million dollars per annum. The term 'million-dollar blocks' was coined. Many academics, such as Petersilia (1998), Wright (1982) and Garland (1990) among others, were questioning what the community was gaining from prison expenditure and whether incarceration of offenders from

impoverished communities was effective. It was this research that led to the concept that would later be called 'justice reinvestment': a concept that argues that crime and recidivism can be reduced by addressing core social issues specific to high incarceration communities rather than through imprisonment.

Cadora and Swartz's mapping illustrated two main points: first, offenders were concentrated in particular neighbourhoods and communities; and second, the maps showed that the concentration of offenders were from disadvantaged and marginalised communities. The knowledge that the majority of offenders in prison come from disadvantaged communities is not new and, as Allen (2007:5) argues, prisoners are 'disproportionately drawn from certain poor neighbourhoods where a range of social, health and community problems are concentrated'. Likewise, Golash (2005:155) reiterates that social factors such as 'income inequality, poverty, unemployment and local social disorganisation contribute to crime'. De Giorgi's research similarly focuses on social control in the late 20<sup>th</sup> century economy (2006:xiii) and he maintains that there is disproportionate impact on the 'surplus population' (2006:xi) who are burdened by "social pressures and who are relatively disadvantaged ... when compared to other classes" (Rushe and Kirchheimer in De Giorgi 2006:6).

The demography of offenders in prison is disproportionately constituted of people who have poor education attainment, are unemployed, or who are affected by substance abuse or mental health issues. Lacey (2008:10) highlights that the penal system 'mops up' segments of society that have been failed by other social services such as education and employment and De Giorgi argues

that people from disadvantaged backgrounds are more likely to commit publicly visible crime which provokes the most severe public reaction and which therefore warrants incarceration (2006:6). Both Lacey (2008) and Golash (2005) aver that punishment is not necessarily the most productive way of dealing with the so-called 'crime problem' when there are explicit class issues and social disadvantages present.

The term 'justice reinvestment' initially emerged in a paper by Tucker and Cadora of the Open Society (Tucker & Cadora 2003), a US think-tank that advocates a just, democratic and open society. Their paper built on the work undertaken by Cadora and Swartz in 1998. Although the actual term only emerged in 2003, programs that might now collectively be considered to fit within a 'justice reinvestment' framework were implemented in the late 1990s in the US and were directed specifically at juveniles. The first of these programs was directed at community services in Oregon: the Deschutes County took financial responsibility for incarcerating juveniles, providing the county with a strong incentive to keep juveniles out of jail. The county implemented a community service program that reduced youth incarceration by 72% within one year (Tucker & Cadora 2003:7). However, the first 'justice reinvestment' program under legislation for adults was implemented in the US state of Connecticut in 2004.

## **The Effect of Mass Incarceration on the Community**

Justice reinvestment developed further as researchers and policy makers recognised the negative impact mass incarceration has on the community. Austin et al (2003:458) suggest that mass incarceration weakens the capacity for communities to perform essential functions such as raising children, having a healthy environment for families, jobs and a vibrant civic life. Clear (2007:3) has also demonstrated that mass incarceration produces further social problems that can increase the incarceration rate. Furthermore, the ever-increasing government-spend on prisons and the corrections system diverts essential funds from other public services and agencies that might impact the incidence of crime in a tangible way (Austin et al. 2003:460). Clear (2007), Cromwell et al (2002) and Austin et al (2003) each propose that the risk of directing finite funds towards prison rather than to other community engagement policies and social services programs can add additional pressure to the corrections system. Lacey, for instance, notes that the social and economic costs of incarceration are often neglected in existing literature (2008:12). The work on justice reinvestment aims to redress this.

## **The Effect of Incarceration on the Offender**

The prison experience can negatively affect offenders beyond the express aims of the punishment. Irwin and Owen (2005:94) maintain that imprisonment 'does considerable harm to prisoners in obvious and subtle ways': this harm can

impact on the prisoner post-release; diminishes the chance of successful reintegration into society; and increase the likelihood of recidivist offending behaviour. Farrall (2002) concurs and outlines the importance of post release access to social services in reducing reoffending, noting that offenders confronting difficulty accessing social services post-release from prison are more likely to reoffend (Farrall 2002:228). To counter this affect, social services ought to be concentrated within high incarceration communities.

Golash suggests that it is unacceptable to rely on punishment at all to reduce crime (2005:160) and advocates that, rather than punishment, positive interventions such as improving parenting skills and employment opportunities will have a longer and more lasting impact on offending behaviour and the crime rate (Golash 2005:40). Cohen, alternatively, argues that there is a place for punishment but that the prison system as it is currently modeled is ineffective (1985:30).

Garland maintains that the use of imprisonment is 'irrational, dysfunctional, and downright counter-productive' (1990:4), and Farrall's analysis of the criminal careers and behaviours of 199 male and female offenders in England concluded that the type of punishment the offender received had little impact on the likelihood of further offending. A better predictor of desistence from crime, he argues, is age and the ability to gain stable employment, life-partnerships and disengagements from peer group (Farrall 2002:3).

## **The Effect of Incarceration on the Crime Rate**

Garland (1990:290) provides a juxtaposing view, suggesting that despite evidence showing that prison does not meet the express aims of reducing crime, and in fact reinforces criminality, the negative aspects of incarceration remain tolerated. Austin et al (2003:453) suggest that high incarceration rates do not reduce the crime rate, and that imprisoning offenders for purposes of punishment, deterrence and incapacitation assumes that criminal behaviour is a rational choice of each individual and that each individual has the same opportunities to have the choice to live a law-abiding life or not. The laws in Australia however are 'rooted in the notions of free will and individual responsibility' (Stewart & Wortley 2006:67). Austin et al argue that free will is but a small factor in an individual's actions and that factors such as economic and social situation influence behaviour much more significantly (Austin et al 2003:459). This compares with the Enlightenment period views of Beccaria (1995), who surmised that people behave in a rational manner and if they choose to commit a crime they are breaking the social contract. Therefore, he maintains that laws must be clear and punishments 'proportionate' to the crime (Beccaria 1995:113).

Cohen (1985) argues for more humane treatment of offenders and advocates research into 'just and effective alternatives' (1985:267), although recognises the inherent problems with using community alternatives and diversion from prison because of the possibility of increasing the number of people entering the criminal justice system that would not have otherwise. He referred to this

phenomenon as 'net widening', and that there might also occur increased intensity of intervention, 'denser nets', and new services, 'different nets', and these might supplement existing control mechanisms (Cohen 1985:44). Cohen's research demonstrates the difficulties with prison as well as community corrections in dealing with the so-called crime problem.

## **Penal politics**

Both Cromwell et al (2002) and Simon and Feeley (2003) provide evidence illustrating that much correctional policy is formed by the public perception of crime and a law and order politics agenda. Previously criminal justice professionals have shaped public opinion on criminal justice policy, although are rarely now involved in the debate (Simon & Feeley 2003:84). Scheingold, for instance, argue that the opinions of criminologists are often the opposite of public policy in regards to corrections, and suggest that the gap has never been so great between scholars, law makers, and public opinion (in Simon & Feeley 2003:80).

Sentencing standards and penal policy are very much shaped by public opinion and law and order politics. The creation of 'moral panics' and the pressure to 'do something' have driven public policy and the increased severity in sentencing (Simon & Feeley 2003:82). Similarly, Rothman (2003), Blomberg (2003), Golash (2005) and Austin et al (2003) outline the political dimension to imprisonment.



Findlay et al highlight that 'law and order' politics is pervasive throughout all of the Australian political spheres. They suggest that commonly 'punitive political responses ... become criminal justice policy, at the expense of justice for the individual' (Findlay et al. 1999:206). Hedderman concurs, suggesting that public policy formed by penal populism in the face of strong evidence against building new prisons is dangerous. She maintains that the cost-effectiveness of prisons and whether they actually provide for the increase in public safety is often ignored in public debate. Building prisons, she suggests, is a never-ending financial burden that will only cost the taxpayer more money in the long run. Furthermore, she maintains that building new prisons will only decrease public safety and increase crime rates long term (Hedderman 2008:38).

Over recent years, politicians from all political persuasions have 'tended to compete with each other as to whom ... [is] toughest on crime' (Cavadino & Dignan 2006:82). Each political party endeavours to show how much tougher they will be on criminals than their opponent because it is seen as a 'vote winner'. Thus, the penology debate has become 'increasingly politicized' (Blomberg 2003:422). This has been at the expense of any reasoned debate as 'being tough' is seen as the only acceptable criminal justice policy. Hedderman suggests that in the past, penal populists have framed the debate in terms of 'punishment versus leniency' (2008:38), which has been detrimental to any discussion of reform.

The issue of the use of prison is not simplistic. Questioning the validity of prison as a form of social control and punishment does not mean tolerating crime.

Those that are calling for penal reform are not necessarily calling for leniency. As discussed in Chapter Three, there are longstanding issues with the use of prison and the detrimental effects it has on offenders and the wider community. To discuss these issues does not amount to being soft on crime; it is an attempt to look at how crime policy can be framed better. Although research has not shown that tougher penalties will reduce crime, law and order politics is attractive to politicians because it is 'symbolically effective' (Cherney & Sutton 2006:388).

Crime and justice issues are too important not to be adequately debated and discussed. The crime rates or types of crimes do not 'determine the kind of penal action that a society adopts' (Garland 1990:20). This is all part of the political and media circles, which in turn dictates public opinion. Nonetheless, as Wright points out, public policy should 'not be based on badly thought out and ill-informed attitudes merely because they are widespread' (1982:24).

Mass imprisonment is not just a social but also a political problem (Hough & Solomon 2008:3). This is because the media and political circles are currently shaping the criminal justice debate: crime is an emotive issue. It is portrayed to the general public by the media and politicians as a simplistic issue that affects everyone, meanwhile taking the heat off other pressing issues such as the economy or education.

The issue is not just simplified but also, as Austin et al maintain, 'seductive' in political and media circles (2003:460). Lurid stories about serial killers, violent street crime and antisocial youth are reported on disproportionately which in

turn makes the general public believe crime is much more common than it actually is. The media reports on crime inconsistently so is not a reliable source for levels of crime and punishment (Kleck 2003:297). However, with the overreliance of crime reporting in the general media, the public perception of crime is skewed. However, it is the public perception of the crime problem that has a large influence on correctional policy (Cromwell et al 2002:6).

## **Theoretical Background**

Halsey (2006:107) observes that there is not one 'theory or approach [that] is capable of understanding all there is to know about crime'. However, as this chapter illustrates, there is a body of evidence that suggests that low socio-economic neighbourhoods provide the largest populations of offenders (Weatherburn & Lind 1998:4). Functioning communities utilise informal social control as their 'main source of public safety' (Clear 2007:198). However, if this is lacking then more severe formal social control and punishment is used. High incarceration neighbourhoods are deficient in informal social control.

Justice reinvestment borrows ideas from the concepts of restorative justice and community justice. Clear and Cadora (2003:1) describe the two central ideals involved in community justice. Firstly, each jurisdiction is fundamentally different and as such criminal justice strategies must be tailored to fit these differences. Secondly, informal social controls such as family and the community are more important to public safety than the formal system of social

control, the criminal justice system. Restorative justice on the other hand holds offenders to account in ways that are constructive rather than punitive and can be applied along all stages of the criminal justice process (Daly et al. 2006:441).

Theoretically, however, justice reinvestment is 'rooted' in Shaw and McKay's social disorganisation theory (Carroll 2004:485). Building on Burgess's zonal theory, in 1942 Shaw and McKay mapped delinquent behaviour according to the residence of the offender. This mapping showed that most delinquent behaviour occurred while the offender lived within the most inner zone of the city and decreased as the zones moved outwards. Within justice reinvestment, maps are made of offenders' residence to ascertain which communities have the highest rates of incarceration and therefore are in need of investment into social services.

High incarceration communities are not necessarily based in high crime, inner city areas with transient populations as Shaw and McKay's theory may suggest. The root causes of crime which are generally identified in high incarceration areas are, amongst other problems, poverty, low educational attainment, unemployment, child abuse and issues with drugs, alcohol or mental health. Childhood experience has also been shown to be an indicator of future crime involvement. Although Shaw and McKay's research agreed with the root causes of crime, they attributed the 'social disorganisation' to a transient population that does not have a sense of community (Graham & Clarke 2001:165).

High incarceration communities in Australia are not just prevalent in the inner city but exist right across the geographical spread. The transient population does not cause the social disorganisation of these communities necessarily. This social disorganisation is influenced by a lack of social services and investment. Crime is the result of the 'inability to provide integrative mechanisms that could link inhabitants to the wider social order' (Graham & Clarke 2001:165). Although Shaw and McKay's research was developed in Chicago, the general notion is relevant to other high-crime areas. It is these issues that are conducive to criminal behaviour.

This chapter has outlined the emergence of justice reinvestment and placed it within historical and theoretical context. Chapter Two will summarise the framework of justice reinvestment and the current international application of the strategy.

## CHAPTER TWO: International Applications of Justice Reinvestment for Crime Prevention

This chapter outlines the process and application of justice reinvestment, with a specific focus on the United States (US) and the United Kingdom (UK). Justice reinvestment is a data-driven and evidence based approach. It is a policy response based on sound research of proven strategies and appropriate data analysis. Any program implemented under a justice reinvestment policy should have community input and be community based to ensure the most effective program. Table 1 outlines the four steps involved in implementing justice reinvestment.

<b>Steps to Justice Reinvestment</b>	
<b>1. Analysis and mapping</b>	Detailed mapping and analysis identifies the communities that have the highest rates of incarceration.
<b>2. Development of options for the community</b>	Once a community has been identified by its incarceration rate, detailed research identifies the root causes of offending and reoffending in that particular community. Options for investment in services or projects are then developed to address these causes.
<b>3. Quantify savings and reinvest into the community</b>	Quantify savings on corrections spend based on the data collected then reinvest a portion of the savings into the crime prevention options identified.
<b>4. Evaluation</b>	Ongoing evaluation of services and projects to ascertain the impact on crime, imprisonment and recidivism rates as well as the impact on social capital, community wellbeing and the money saved.

**Table 1:** *Steps to Justice Reinvestment, Source: Calma 2009:15*

These four steps ensure that that any justice reinvestment strategy is locally appropriate and tailored to the specific needs of the community. The steps also

ensure any program that is implemented is evidence based, well researched and is evaluated on an ongoing basis.

Schwartz (2010:2) suggests that justice reinvestment should be employed along the whole criminal justice path 'in prevention of offending; diversion from custody at the point of remand or conviction; and in lowering the numbers returning to custody via breaches of parole or reoffending' (2010:2). Justice reinvestment initiatives should include a raft of measures to address crime and incarceration in the short, medium and long-term (Attorney-General's Department 2011:5). These measures may include legislative changes to sentencing policy, parole and probation or community focused approaches such as housing, education, drug and alcohol rehabilitation or parenting. Strategies which target behaviour such as parenting would require a much more long-term view to see any impact on crime rates (Weatherburn & Lind 1998:5). Justice reinvestment ensures an effect on the system within the short and long term.

### **Requirement for bipartisan support**

Justice reinvestment has been actively used in the US for the last decade. It is a relatively new concept in criminology that shows promising results in regards to incarceration and offending rates, however requires further analysis in the long-term (Attorney-General's Department 2011:3). Butts and Evans (2011:18) submit that any initiative is vulnerable to change in government policy because of the election cycle or because of public opinion. It is imperative to secure

bipartisan support from all political parties to ensure it remains a short and long-term approach. Support across the political spectrum is essential from local, state and federal governments as well as community groups. The most successful crime prevention initiatives have had the effective co-operation of agencies at all levels of government as well as the community (Crawford & Jones 1995:17). This must include the many different portfolios of government as well as support from the general public.

Currently funding for community services and corrective services comes from different sources so there is no incentive for any agency to change the status quo. The key to making any justice reinvestment program work is to make the local community accountable for solving its specific crime problem and allowing the local government to claim the funding from the state government (Tucker & Cadora 2003:5). This ensures that all levels of government are working together while keeping the flow of funding consistent.

## **Data analysis and crime mapping**

Justice reinvestment does not use crime mapping to identify crime 'hotspots'. Rather, justice reinvestment employs techniques to map incarceration, therefore mapping where the offender is from or will return to rather than where the offence takes place. This allows investment to be 'targeted towards the places that most need reshaping in terms of local infrastructure, production of social capital and better governance' (Schwartz 2010:6).



The solution to crime and offending behaviour in each high incarceration community will be different because it must be geographically targeted, and tailored to the specific needs of each community. Justice reinvestment requires accountability and responsibility to be devolved at the local level (Tucker & Cadora 2003:2). The data gathered on each high-incarceration community can be used to guide social services or community programs that will reduce offending and reoffending. Any solution implemented must be a proven crime prevention strategy based on evidence and the specific data collected in each community.

### **Community options**

Justice reinvestment looks holistically at the community, although this concept is not about community or alternative sentences. Research has shown that the number of so-called 'alternative' sentences available to the judiciary do not necessarily reduce the number of prison sentences as the alternatives are used as replacements or alternatives to each other rather than an alternative to prison. Therefore the alternatives to imprisonment supplement rather than replace incarceration (Cohen 1985:44). Even if the various 'alternative' sentences are effective programs for reducing some offending behaviours, 'they do not hold the promise of controlling mass incarceration' (Clear 2007:183).

Garland questions how an institution such as prison can be 'both relatively stable and deeply problematic at one and the same time?' (1990:277). In countries such as Australia that do not have capital punishment, prison is the

ultimate sanction. Although there is ongoing penal reform in regards to conditions and programs within the prison, the problems remain with the prison as an institution.

Justice reinvestment does not suggest that prison should not be used to 'address criminal behaviour where appropriate' (Attorney-General's Department 2011:4). However, by using justice reinvestment strategies, prison is reserved for those offenders that pose the greatest risk to the public while offering a better way of dealing with crime.

In its submission to the Inquiry into Access to Justice, the Australian Human Rights Commission (2009:1) outlined that justice reinvestment is not about 'tinkering around the edges of the justice system', but is an holistic approach to stopping people entering the system at all. Justice reinvestment is not about punishment; nor is it about replacing incarceration. Within justice reinvestment, prison still remains the ultimate sanction. However, justice reinvestment is about reducing the need for incarceration by stopping people entering the criminal justice system in the first place by getting to the root cause of much crime.

## **Crime prevention**

As Beccaria (1995:103) noted, it is a better outcome for the community that crime is prevented from occurring rather than punishing offenders after the fact. Punishing an offender does not undo the harm caused by the crime

committed. A victim may be compensated in some cases, however the damage cannot be undone (Mackie in Golash 2005:51). Offenders must be taken to account, however the whole community benefits if crime is not committed in the first place. Crime control must be proactive rather than reactive. The United Nations Guidelines for the Prevention of Crime (summarised in Table 2) outline principles on which effective prevention should be based.

<b>United Nations Guidelines for the Prevention of Crime</b>	
<b>1. Government leadership</b>	At all levels to create and maintain an institutional framework for effective crime prevention.
<b>2. Socio-economic development and inclusion</b>	Integration of crime prevention into relevant social and economic policies, focus on integration of at risk communities, children, families and youth.
<b>3. Cooperation and partnerships</b>	Between government organisations, civil society, and business sector.
<b>4. Sustainability and accountability</b>	Adequate funding to establish and sustain programs and evaluation, and clear accountability for funding.
<b>5. Use of a knowledge base</b>	Using evidence of proven practices as the basis for policies and programs.
<b>6. Human rights/rule of law/culture of lawfulness</b>	Respect for human rights and promotion of a culture of lawfulness.
<b>7. Interdependency</b>	Take account of links between local crime problems and international organised crime.
<b>8. Differentiation</b>	Respecting different needs of men and women and vulnerable members of society

**Table 2** *United Nations Guidelines for the Prevention of Crime, Source: AIC 2012:5*

Justice reinvestment is an appropriate crime prevention strategy as it adequately addresses all eight of the UN specified crime prevention principles. As a policy response it meets each of these specific principles because it requires bipartisan support from all levels of government, as well as input from

the community. It is evidence based and tailored specifically to each community so that the most appropriate responses are implemented.

The National Crime Prevention Framework (NCPF) developed by the Australian Institute of Criminology suggests that effective crime prevention can 'maintain and reinforce the social cohesion of communities' (AIC 2012:3). The NCPF reiterates that to address the causes of crime, everyone must work together in a totally bipartisan approach, which includes 'individuals, communities, businesses, non-government organisations and all levels of government' (AIC 2012:3).

The NCPF also outlines that, although policies and programmes from many other sectors such as health, education and housing may not be aimed strictly at crime prevention, any crime prevention benefits entailed in these programs should be 'identified, acknowledged and, wherever possible, enhanced' (AIC 2012:4).

### **United States experience with Justice Reinvestment**

In the US, pressure on the government from the public to address the so-called crime problem has been attributed to increases in sentencing severity and therefore increases in the prison population (Hall et al, Scheingold, Gordon, Currie in Simon & Feeley 2003:82). The US has the highest incarceration rate of any country across the world: despite containing five percent of the world's population, the US holds a quarter of the world's prisoners (Cavadino & Dignan

2006:55). In 2006 they had a rate of 725 people incarcerated per 100,000 of the adult population (Lacey 2008:9). This is despite the fact that in 2011, violent crime had declined by 13.4 percent since 2001 (FBI 2011:1).

Cavadino and Dignan point out that law and order ideology has spread across the world from the US (2006:50). Law and order ideology is used by governments to 'manage the problem of crime by means of ever harsher punishments' (ibid.). Cromwell et al (2002:3) suggest harsh punishments are used in the corrections system as a social control mechanism. This has impacted on the demographics of the prison population, US prisons being disproportionately predominantly made up of disadvantaged African-Americans and Hispanics (Cavadino & Dignan 2006:55).

From the 1970s onwards, the prison population in the US was in a steady incline because of severity of sentencing among other factors. The prison population grew by over 400 percent in the 30 years following (Cavadino & Dignan 2006:54). This resulted in prison overcrowding and a perpetual cycle of expensive prison-building programs. In the 20 years leading up to 2008, spending on corrections rose from US\$12 billion a year to US\$52 billion a year (Justice Center 2010:1).

At a hearing of the US Congress, the chairman of the subcommittee on Crime, Terrorism and Homeland Security, Robert Scott, pointed out that all across America, 'states and localities cannot continue to proceed with business as usual, as business as usual is not working for either budgets or for public safety'

(United States Congress 2010:1). Several states in the US including Kansas, Texas and Ohio have successfully implemented justice reinvestment strategies as part of the drive to reduce incarceration and crime rates as well as impacting positively on their budgets.

### ***Texas***

A significant example of a US state using justice reinvestment is Texas. Within the US, the State of Texas is well known for its tough stance on crime and sentencing. Although Texas has a completely different population and social demographic from Victoria, it is an interesting comparator because of its law and order ideology fits with the current Victorian Government's stance on criminal justice issues. Adam Gelb, a Director at the Pew Center on the States, described Texas as the 'very symbol of law and order' in the United States (United States Congress 2010:39).

Texas has one of the largest prison estates in the US. In 2010 Texas held 153,950 prisoners within 112 prisons (United States Congress 2010:57). The population in prison in Texas was over five times the prison population in the whole of Australia in 2010, which had 29,700 people in custody (ABS 2010c). With its tough stance on crime, Texas consistently has the highest rate of execution of prisoners than any other state in the US. In 2010, Texas had 17 executions, which was over double the amount of the state with the second highest number of executions, Ohio.

Each year the Texan legislature had been spending billions of dollars to build new prisons and operate the existing ones. In 2007, official state projections predicted that the prison population would rise by a further 17,000 offenders in the five years following requiring the state to spend \$523 million to build and operate an additional seven prisons (United States Congress 2010:57). That year was a turning point for criminal justice policy in Texas.

In 2007, with the Texan state budget tightening, all sides of the political spectrum recognised the legislature could not continue pouring money into an expensive corrections system that was having little impact on recidivism and public safety. Taking the lead from other US states that had implemented justice reinvestment such as Connecticut, the State of Texas utilised the services of the Justice Center to ascertain to viability of implementing justice reinvestment within Texas

The Justice Center is funded by the US Federal Government and other private contributors. It is an agency that assists state and local government in the US to implement justice reinvestment approaches. The Center provides technical assistance and advice as well as data collection and research. They will provide assistance to any US government that demonstrates bipartisan interest in justice reinvestment, willingness to provide access to data and a commitment to support the costs of the technical assistance (Justice Center 2010:4)

After extensive research, the Justice Center concluded that the factors driving the prison population growth in Texas were increased probation revocations,

reduced capacity of residential treatment programs serving people on probation and parole and fewer approvals for parole. The Center also found the system was overwhelmed by prisoners with drug, alcohol or mental health issues that would be better served in alternatives to incarceration (United States Congress 2010:58). Using this research, the State invested \$241 million into a package of reforms to address the factors outlined by the Justice Center rather than spending over double that by building new prisons. Since the justice reinvestment policies have been introduced in Texas, the State has reduced its spending on corrections and the prison population, the crime rate and the recidivism rate have all been reduced, with projections showing this should continue in the future (United States Congress 2010:39).

## **Justice reinvestment in the United Kingdom**

Interest in justice reinvestment has been growing in the UK although it is yet to become official government policy. The prison population in the UK has been growing year on year. In a 2003 review of the British penal system, Lord Carter suggested that the severity of sentencing in British courts was caused by the interplay of the media, politicians and sentencers (in Hough & Solomon 2008:2). In 2006, the imprisonment rate in the UK was 148 per 100,000 of the adult population (Lacey 2008:9).

The justice reinvestment work in England was borne out of research conducted between 2000 and 2004 in regards to the viability of using restorative justice principles in prisons. The research highlighted that many of the needs of



victims, offenders and the wider community could not be addressed within the prison but by addressing issues endemic in these high incarceration neighbourhoods such as lack of accommodation, education, employment and treatment for substance abuse (Allen et al 2007).

### ***Gateshead project***

Based on the earlier restorative justice research and the promising results from the US, a justice reinvestment 'project' was undertaken in Gateshead in the North East of England in 2005. Research was conducted into areas where people resided before they were incarcerated. The researchers found this data extremely difficult to access. However, through multiple sources they were eventually able to map where incarcerated offenders lived before being imprisoned. Using this data, the researchers came up with recommendations for local level projects to address offending behaviour and also farther-reaching policy implications.

The proposals to be implemented locally fell into three groups: first, devolved working with offenders; second, better multiagency working; and third, a greater role for local authority in supervising offenders in community (Allen et al 2007:27). Despite the interest in this research, these recommendations were never fully implemented.

### ***Inquiry by House of Commons Justice Committee***

In the 2009-10 session of the UK parliament, the House of Commons Justice Committee conducted an inquiry into justice reinvestment. The Committee's report, *Cutting crime: the case for justice reinvestment*, was published in 2010 with an overall consensus that it was a strategy the Government should implement to stabilise the growing prison population and decrease offending behaviour.

The prison and probation services in England and Wales are struggling to manage the current level of offenders (House of Commons Justice Committee 2010:6). Evidence at the inquiry showed that by 2009 the prison population had doubled since 1992 despite falling crime rates (House of Commons Justice Committee 2010:5). Furthermore, the Ministry of Justice (MoJ) has estimated that a total of 96,000 prison places will be required by 2014. Although now rejecting the construction of three so-called 'Titan' prisons which would hold up to 2,500 prisoners each, the UK government still has a large prison building program in place. Five new prisons will be built as part of this program, each with a capacity of 1,500 new beds. The Treasury has guaranteed funds to the Ministry to support the building and operation of its prisons up to the value of £4.24 billion British pounds over a 35-year period (House of Commons Justice Committee 2010:23).

Following the inquiry, the Justice Committee agreed that the best way of dealing with the issue of crime and mass imprisonment was to implement justice

reinvestment strategies, negating the need for the prison-building program.

The MoJ responded on behalf of the government, suggesting the department sought a similar outcome to the committee, even if their approach differed (MoJ 2010:3).

The MoJ acknowledged it was addressing many of recommendations contained in the report, albeit not within the scope of an official justice reinvestment policy (MoJ 2010:7). For example, the MoJ agreed that more stringent justice mapping and data collection would be advantageous to ascertain which areas have the highest offending and incarceration rates. Following a justice reinvestment approach this data would be used to determine which communities would be better served by particular services. The Government however has suggested this data would be used to determine where to build the new prisons as it would more beneficial for offenders to be placed in a prison near where they live (MoJ 2010:27). Although the government agreed with many of the Committee's recommendations, it is still determined to proceed with its building program to provide 'sufficient prison places to meet expected demand' (MoJ 2010:8).

### ***Diamond Initiative***

In 2009, the Diamond Initiative was established by the London Criminal Justice Partnership (LCJP) to test justice reinvestment principles and to offer resettlement assistance to short-term prisoners upon release in wards in six of London's most deprived boroughs (LCJP 2011:foreward).

During the Diamond Initiative, research showed that offenders had on average five needs that needed to be met for them to desist from offending (LCJP 2011:24). These needs ranged from education, to lifestyle and associates, relationships, accommodation, drug and alcohol misuse (LCJP 2011:24). In this small sample of offenders, it showed there was a broad spectrum of needs that must be addressed by various agencies, not just the corrections system, to reduce the amount of crime being committed.

The two-year evaluation of the Diamond Initiative showed no impact in terms of offending and reoffending as a result of the programme (LCJP 2011:foreward). Of the offenders referred to Diamond, just over 42 percent reoffended within 12 months of release from prison, compared to 41 percent of the control group (LCJP 2011:42). However, the evaluators of the initiative suggested the negative result had more to do implementation hindrances and tensions between agencies involved rather than the guiding principles of justice reinvestment (LCJP 2011).

## **Economic considerations**

Over the last 50 years, the imprisonment rates have been rapidly increasing in the US and the UK (Lacey 2008:9). In the 1980's, Box and Hale argued that there was an existence of increased severity in criminal justice policies during economic crises wholly unrelated to crime rates (in De Giorgi 2006:25).

The so-called Global Financial Crisis (GFC) reached its zenith in September 2008 when US securities company Lehman Brothers went into bankruptcy and the US Government financially rescued a large insurance company and two large mortgage agencies (RBA 2010). The effect of this was a near meltdown of the global financial markets as fears spread across the globe of the global financial system (RBA 2010). Over the following years, governments around the world instituted wide-ranging policy responses to support stability across the financial systems.

The states and counties of the US are in the midst of fiscal crises (United States Congress 2010:3). Similarly, the UK is experiencing her worst economic crisis since the end of World War Two in 1945 (House of Commons Justice Committee 2010:5). The MoJ who is responsible for the Prison Service in the UK must find 1.3 billion pounds worth of savings in its budget by 2013.

Since the GFC, governments in the US and the UK have had to consider the economic impact of their government policies. In a climate of such fiscal uncertainty, policy makers and practitioners have realised that 'prisons alone cannot provide the solution to the economic consequences and challenges of offending' (LCJP 2011:5). The large prison building programs that both nations had in place previous to the GFC is no longer sustainable. Long term, the costs of prison and the knock-on effects on the community is not a viable solution to crime.

The economic situation in both the US and the UK has been the catalyst for researching or implementing more appropriate correctional policies. The policy of building and operating large prison estates has proved to be waste of money. Justice reinvestment is a more cost effective option for reducing offending behaviour and recidivism

Chapter Two has outlined the guiding principles of justice reinvestment and the application of the concept in the US and the UK. Chapter Three describes the effect of crime and mass imprisonment on the community, building the case for penal reform.

## **CHAPTER THREE:**

### **Societal impact of crime and mass imprisonment**

This chapter builds the case for a change in criminal justice policy. It outlines the effect of crime and imprisonment on the community and whether prison currently meets its express aims.

The principles of punishment include retribution, rehabilitation, individual or general deterrence and community protection (Findlay et al. 1999:211). Prison does not fully meet all of these aims, particularly in regards to the latter three. Foucault surmises that prison has always been a failure in meeting these express aims (in Garland 1990:149). As Cromwell et al (2002:21) point out, the public rightly demands a correctional system that satisfies 'both punishment and public safety objectives' (2002:21). Imprisoning offenders does not positively impact on crime rates and therefore does not improve public safety. As will be shown in this chapter, mass imprisonment is detrimental to public safety.

#### **Juvenile offending**

Offending behaviour can be linked to early childhood experiences such as poor housing, poor parental supervision and low family income (Farrall 2002:40). Communities that encounter mass incarceration also have a number of other social problems including 'crime, adolescent delinquency, social and physical disorder, low birth weight, infant mortality, school dropout, and child

mistreatment' (Sampson, Morenoff & Gannon-Rowley 2002 in Clear 2007:65)

Offending behaviour typically commences at a young age. In discussion of the 'age-crime curve', Farrall (2002:5) illustrates how typically the criminal careers of males start at 10 years of age, peak at 17-19 years and then decline, whereas females start at 10, plateau between 14 and 18 years of age before slowly declining.

In a submission to the *Inquiry into the Impact of Violence on Young Australians*, the NSW Government put forward multiple factors that need to be addressed in a young persons life to decrease the likelihood of engaging in violent activity. These factors are found within the community, the family, the school, peers and within the individual (NSW Government 2010:1). These might include poor supervision, unemployment, transience of residency, single-parent households and disadvantage (Sampson and Wilson in Golash 2005:40).

Family and parenting variables are in fact key predictors of criminal behaviour (Murray 2005:442). Work by the Australian Institute of Criminology (AIC) suggests that some of the 'strongest predictors' of involvement in juvenile crime include poor parenting and child abuse or neglect (AIC 2012:14). Therefore, there should be support within the community to assist families that are struggling financially or with their parenting skills, otherwise a 'predictable number of their children will turn to crime' (Golash 2005:156). Research by the AIC showed that the areas in New South Wales that had the most recorded child abuse and neglect also had the most number of juvenile offenders appearing in



Children's Court over the period of the study (Weatherburn & Lind 1998:6).

Similarly, Golash's (2005:39) research of prisons in the showed over one half of prisoners serving sentences for violent offences reported a history of childhood abuse, compared to one-tenth of the general population.

Furthermore, Farrington et al have shown that parent criminal convictions are a strong predictor of a child's own criminal behaviour later in life (in Murray 2005:449). In fact recent research in Tasmania by the AIC showed that the children of parents with criminal records have a much greater likelihood of becoming involved in crime than children whose parents do not have a criminal record (Goodwin & Davis 2011:5).

## **Recidivism**

The Australian criminal justice system has become 'distinctly more punitive in recent years' (Cavadino & Dignan 2006:77). However, research has shown that incarceration 'by itself does not reduce recidivism' (Mulvey et al in Butts & Evans 2011:3). A study by the AIC shows that recidivism rates across Australia have remained fairly stable over the past five years with approximately 44 percent of prisoners being returned to prison or community corrections in 2010 (AIC 2011:iv). The current rate of prisoners returning to prison in Victoria within two years of being released stand at 33.9 percent (Corrections Victoria 2010:12). Evidence would suggest that prison encourages rather than deters crime (Rethinking 2012:11).

Hedderman (2008:35) indicates that sending people to prison for short periods of time only exacerbates existing problems. Prison may disrupt an offender's life long enough for them to lose employment or accommodation but prison may not offer any rehabilitative benefits in such a short time frame. It is 'virtually impossible to do anything productive with offenders on short sentences' (Rethinking 2012:7). Therefore, short prison sentences for less serious offences or being on remand may compound the existing problems of an offender and therefore the community.

Irwin and Owen (2005:104) discuss that beyond the societal factors such as lack of education, housing and healthcare, released prisoners are not adequately prepared for life on the 'outside' because prison 'incites their anger, resentment and sense of injustice towards conventional society'. Despite minimum guidelines, standards, auditors' reports and legislation, prisoners in Australia are still being subjected to physical, sexual and mental abuse (Perez et al. 2009), lower healthcare outcomes (AIHW 2009) and high incidences of self-harm and suicide (McArthur et al 1999:2).

The prison has been 'criticized virtually from its inception' (Cohen 1985:30). The criticism is leveled at the institution in regards to its failure to meet its express aims but also at the further damage it can inflict on prisoners. Stone despairs that prisons survive despite 'the overwhelming evidence of their social dysfunction' (in Garland 1990:5). The harm that is inflicted on inmates in prison is challenging as the inmates are eventually let back out into the community. Research on Australian prisoners by Schneider et al. (2011:1)

categorised 12 percent of male prisoners and 19 percent of female prisoners as 'severely' psychologically distressed. Further to this, offenders interviewed by Goulding (2007:401) explained that even if they were not violent before going to prison, they had to become violent to survive once inside. In fact, Goulding describes prisons as 'high risk, high fear environments ... where the threat of violence is ever present' (2007:400).

Even when an offender has not been damaged by their prison experience, it is difficult to expect they will be able to reintegrate adequately back into society (O'Toole 2006:138). Furthermore, as Calma (2009:12) points out, an offender might receive the best and most effective rehabilitation programme available in prison; however, if they are returning back to a community where there are few opportunities, there may be little hope of them staying out of prison for long.

Research in the UK found that offenders who experienced problems accessing services such as employment and drug and alcohol treatment upon release from prison were more likely to reoffend (May in Farrall 2002:13). Further work in Victoria found a released prisoner is more likely to reoffend if they experienced delays in accessing social services such as welfare benefits and accommodation (Victorian Auditor General 2011:1). This is problematic in Victoria whereby 28.3 percent of the general population has difficulty accessing service providers (ABS 2010b). This number could potentially be less for recently released offenders who are integrating back into disadvantaged communities with scant services.

## **Weakened communities**

Imprisoning people not only affects the individual offender but also ‘weakens the entire community’ (Calma 2009:42). Addressing factors such as social exclusion are important as they impact on rates of crime. As discussed in this chapter, these include factors such as ‘neighbourhood disadvantage, unemployment, intergenerational disadvantage, limited education prospects, poor child health and wellbeing and homelessness’ (AIC 2012:7). Research in the US by Beckett and Western (in Cavadino & Dignan 2006:56) showed that those American states that spent the least on welfare policies also had the highest incarceration rates in the country.

The communities that experience the highest rates of incarceration also typically experience deprivation, disadvantage and a lacuna in social services and social capital. The people in the communities that experience the highest rates of incarceration share many aspects such as low educational attainment, unemployment, substance abuse or mental health issues. Despite the knowledge and research available, there has no real engagement with the public about the solutions to the crime problem potentially lying within the education, health and social systems (O’Toole 2006:130). In Australia, in communities whereby a high proportion of offenders are sent to prison, the corrections system can be the ‘best-funded-governing institution’ (Schwartz 2010:2).

Clear (2007:10) suggests that the reduced levels of informal social control that is produced when so many from a community are sent to prison, causes more

crime than it prevents. Furthermore, the concentration of mass imprisonment within communities 'tends to reproduce the very conditions that lead people to prison' (Davis 2003:16). This leads to a vicious cycle. Mass incarceration affects the whole community, not just the individual offender. Clear maintains that mass incarceration of communities 'produces the very social problems on which it feeds' (2007:3).

Clear purports that any money that is spent on the community 'prevents the collateral damage that otherwise comes from locking up so many residents' (2007:201). Increased incarceration increases the need for more prison beds. The money used to build and run prisons is diverted from essential public services that as Austin et al point out are the 'very same services that will have a far greater impact on reducing crime than building more prisons' (2003:460). With more money being spent on corrections, there is less money to be spent on other social needs such as education and health (Cromwell et al 2002:7).

Clear suggests that a community that is experiencing high levels of incarceration will also experience an increase in crime (2007:89). There is also a correlation between income inequality (rather than abject poverty) and high crime rates (Golash 2005:42). Feeley and Simon describe the disadvantaged strata of society as a 'dysfunctional population, without literacy, without skills and without hope; a self-perpetuating and pathological segment of society' (in De Giorgi 2006:104). This 'dysfunction' manifests itself in high crime and incarceration rates. Those from marginalised groups find themselves in prisons, which are also overrepresented with people with mental illness, history

or abuse as a child, substance abuse and little education (Golash 2005:4). It also makes this segment of society susceptible to targeting by criminal justice policies.

Rushe and Kirchheimer (in De Giorgi 2006:6) suggest that the system reacts most severely to the crimes committed by the 'subordinate classes'. The crimes committed such as visible street and violent crime are dealt with more harshly than so-called white-collar crimes despite the enormity of the harms that can be caused by the latter (Sutton & Haines 2006:156).

Chapter Three has described the disfunction of mass incarceration in relation to the offender and the community. Chapter Four makes the case for implementing justice reinvestment in Victoria.

## **CHAPTER FOUR: Justice reinvestment in practice in Australia**

This chapter outlines the case for implementing justice reinvestment in Victoria. The current corrections system does not meet its express aims and is costing the state millions of dollars to operate annually.

The Federal Attorney-General's Department has confirmed that the Commonwealth is interested in the concept of Justice Reinvestment and discussed the issue with the Justice CEOs of the states and territories in 2011 (Hansard 2011). There is currently no agreed funding source for such a program (Hansard 2011). As each state and territory controls their respective justice systems, the state and territory governments would need to drive the concept forward. Nonetheless, interest in Australia is slowing building in the concept by some political factions. The Green Party has included justice reinvestment into their national corrections policy and the Western Australian Labor Party published a paper on the issue in 2010 (Papalia 2010). Further to this, Senator Wright from South Australia discussed the issue of Justice Reinvestment in Federal Parliament in March 2012 suggesting that there is a role for the Commonwealth Government to become involved in any State-led justice reinvestment program (Hansard 2012).

In the 2009 report, *Access to Justice*, by the Legal and Constitutional Affairs References Committee, the Committee noted that Justice Reinvestment could 'result in reduced rates of incarceration and significant costs-savings, better outcomes for both individuals and governments' (LCARC 2009:xviii). The

committee recommended that 'the federal, state and territory governments recognise the potential benefits of justice reinvestment, and develop and fund a justice reinvestment pilot program for the criminal justice system' (LCARC 2009:110). However this recommendation was made in regards to the Indigenous population rather than for implementation into the mainstream criminal justice system.

## **Indigenous communities**

The Social Justice Report 2009 by the Aboriginal and Torres Strait Islander Social Justice Commissioner focused partly on justice reinvestment as a vehicle to reduce Indigenous over-representation within the Australian criminal justice system (Calma 2009). Furthermore, Schwartz (2010:2) argues that justice reinvestment is an approach that is 'suited both to articulated policy aims in relation to Indigenous people, and to particular circumstances of Indigenous communities' and thus is an ideal process to be directed towards the Indigenous population.

Justice reinvestment should be directed at high-incarceration communities to reduce offending behaviour rather than being used to rebalance the disproportionate number of indigenous people in prison: that is, it ought to reduce incarceration rates across a whole community rather than focus exclusively on one demographic within that community. There has been no evidence from localities that have implemented justice reinvestment that this should be the case. The Federal Attorney-General's Department has put



forward that any uptake of justice reinvestment would need to be ‘implemented across the board as a mainstream measure to reduce crime and associated rates of incarceration’ rather than focused solely on Indigenous communities (Attorney-General’s Department 2011:19).

## **Justice reinvestment in Victoria**

The current corrections system in Victoria is in need of reform. At a time when the state is required to be more fiscally responsible, dedicating millions of dollars to a prison-building program is not the best use of public funds. Enlarging the capacity of the prison system is not the most effective way to increase public safety nor will it have any tangible effect on the state’s crime rates.

The criminal justice policy in Victoria is formulated from a strong ‘law and order’ platform. As witnessed in the 2010 election campaign, penal politics is a significant issue in Victorian political campaigning. Penal politics is so ingrained in the political diktat of Victorian elected members that it will be a hard cycle to break. Law and order politics suggest that the ‘more punishment the state advocates, the more concerned it is about crime’ (Findlay et al 1999:206). As has been shown, law and order politics is popular with the electorate and there is currently no incentive or political traction for an MP to take on penal reform (Clear 2007:11).

The State of Victoria is currently in a position of what Christie calls ‘democratic

crime control' (in Rothman 2003:409). Currently criminal justice policies are based on political and populist ideals rather than hard research.

Increasingly, the general public in Victoria and elsewhere in Australia have been subjected to political spin and a hardening of law and order policies (O'Toole 2006:130). Clear suggests that this kind of politics however has the potential to damage communities by moving funding into the criminal justice system that would otherwise be spent on other community institutions such as health or education (2007:89).

The state of Victoria is currently using criminalisation to address many social problems that could be alleviated through other services other than the criminal justice system. The state's correction system has become what Clear calls a 'kind of social welfare policy' (2007:61). It is politically and practically easier to criminalise offenders first and foremost without getting to the root causes of much offending. It is also politically easier to justify punishing someone that has committed a crime, than it is to admit failings in the government's social system. De Giorgi suggests that incarceration is used to confine marginalised communities 'inassimilable by the contemporary system' (2006:xi).

The current Victorian corrections policy is based more on law and order politics than sound criminological research. The Federal Attorney-General's Department has expressed that spending government funds on well-researched, evidence-based crime prevention strategies 'can result in both financial savings as well as crime reduction' (Attorney-General's Department 2011:5). According

to the Victorian Department of Planning and Community Development (DPCD), over the next 40 years, Victoria's population is expected to grow by approximately one percent year on year reaching 8.7 million by 2051 (2012:12). The bulk of the predicted increase will occur within Melbourne, with the State's capital rising from 4.1 million in 2011 to 6.5 million in 2051, with overseas migration expected to be the main contributor to this population growth (DPCD 2012:3). With this rise in population, there is a risk of rising crime rates. Rather than incarceration, a long-term criminal justice strategy must be devised and implemented as soon as possible. As Tucker and Cadora rightly point out, the question should not be 'where do we send this individual?' but 'what can be done to strengthen the capacity of high incarceration neighborhoods to keep their residents out of prison?' (Tucker & Cadora 2003:4).

### **Imprisonment rate**

There is no correlation between crime rates and prison populations within Victoria. The crime rates have been steadily decreasing, year on year with recorded crime decreasing by 2.4 percent in 2010-11 from the year previous (Victoria Police 2011:12). Meanwhile between 2009 and 2010 the prisoner population in Victoria increased by four percent (ABS 2010c). As Austin and Irwin point out, 'confinement neither significantly reduces crime rate nor has any positive effect on recidivism' (in Cromwell et al 2002:7). As Davis wryly remarked, the only effect of having larger prison populations is having larger prison populations (2003:12).

The crime rate in Victoria has had little effect on the state's rising rates of incarceration. This shows that the rise in incarceration across Victoria is not a reaction to crime per se but rather a conscious policy choice (Butts & Evans 2011:ii). Some academics have argued that incarceration encourages offending behaviour. Golash contends that it is perverse to move forward with a set of policies that increase crime and then use prison to reduce the crime that it has produced (2005:160). This creates a repeating cycle of crime and incarceration.

In December 2011, Australia had a national adult imprisonment rate of 166 prisoners for 100,000 adult population, which had risen from 150 prisoners per 100,000 in only a decade (ABS 2012, ABS 2010c). Victoria fairs better with one of the lowest prison populations in Australia, with a rate of 110 prisoners per 100,000 adult population (ABS 2012). Cavadino and Dignan have suggested that Victoria's relatively low incarceration rate in comparison to other states may have something to do with the fact that Victoria has a much smaller proportionate Indigenous population (2006:84). The Northern Territory, Western Australia and New South Wales, which have larger Indigenous populations have incarceration rates of 772 prisoners, 263 prisoners and 162 prisoners per 100,000 adult population respectively (ABS 2012). The reasons behind the differing prison populations however could be as much to do with each state's sentencing policies or discretion of judges as anything else.

However, although Victoria's prison population nowhere near reaches the volume of the Northern Territory, it still remains unacceptably high when

prison is not addressing public safety issues. Nonetheless, the incarceration rate is predicted to increase with the implementation of the new sentencing policies. Unless changes are made to the Victorian criminal justice system, the prisoner population will continue to increase well into the future.

Although the state government has a large prison building program in place it is not obvious that this will increase the 'deterrent effect' (Kleck 2003:293).

However, as Rothman points out, to change the criminal justice landscape and the fixation with building more prisons would require political leadership 'that so far has been absent' (2003:413). Within Victorian political discussion, there seems to be no alternative vision for the corrections system than the one that is currently in operation. The only solution currently offered to the problem of crime is to implement tougher sentencing and build more prison beds.

### **Prison building program**

The prison-building program is at the forefront of the Victorian government's corrections policy. Cherney and Sutton proclaim that 'it is time for Australian governments to adopt a more policy-driven approach to crime prevention' (Cherney & Sutton 2006:389). However, there is currently no clear program of reform for the Victorian criminal justice system. Although Butts and Evans predicted that the high costs of incarceration would 'dominate fiscal and programmatic decision making' (2011:ii), this has not been the case for Victoria.

The high building and ongoing costs to the criminal justice system and therefore

the state's taxpayers has not been a deterrent to the Government. As Golash points out, spending money on additional prison beds is 'politically easy' (2005:156). Lacey puts forward that in general, governments use prison-building programs for two main purposes: first, building prisons shows that the government is 'doing' something about the 'crime problem'; second, but perhaps less overtly, there is more prison space to 'mop up' the section of the community to whom other parts of the social system such as education and employment have failed (Lacey 2008:10).

In the run-up to the 2010 Victorian State Election, the Coalition pledged to build more prison places. Now in power, the Coalition Government has commenced its promised building program. Andrew McIntosh, the Minister for Corrections, has suggested that building prisons is good for the state economy as it will add at least 1,500 new jobs to the labor market, hundreds during the construction phase and nearly 300 ongoing staff jobs once completed (McIntosh 2012). The new beds are being added to the estate to meet the expected prison population increase, in part, resulting from the Coalition's 'key sentencing reforms' (McIntosh 2012).

In the updated 2011-12 Victorian Budget, the Coalition Government allocated over \$66 million to Corrections Victoria to kick-start the rollout of 500 additional beds in the prison estate to meet their election promise (McIntosh 2011). The money in the updated budget becomes part of the \$691.1 million the State Government already provides for the day-to-day running of the Victorian corrective services (Government of Victoria 2012:198).

Since the 2011-12 budget, the state government committed to a further 395 beds to the estate to be built before the next election which is scheduled for November 2014. This brings the total of new prison beds either currently being built or to be built in Victoria in the next two years to 895 (McIntosh 2012). As at June 2010, there were 4916 beds in the prison estate including 13 male and female prisons, and one transition centre (Department of Justice 2010:7). Once all the new beds are completed, the additional 895 beds will represent an increase of nearly 20 percent in the Victorian prison estate in just over four years. This increase in prison beds will impact on the operational costs of the Victorian corrective system.

## **Economic consideration in Victoria**

The current economic climate may prove to be a turning point for law and order politics in Victoria. As Schwartz points out, in the past, the economic basis for reform of the corrections system has been 'under-utilised' (Schwartz 2010:4). Although Australia and thus Victoria has fared better economically than other developed countries throughout the Global Financial Crisis (GFC) and its aftermath, the State and its budgets have not been unscathed. It is a time that the Victorian State Government needs to be financially prudent.

The effect of the crisis proved to be considerably less in Australia than in other countries. For example, Australia did not dip into recession nor did any of the banks require 'bail-outs' from the Government. Nevertheless, the Australian

economy still slowed and there was a large decline in equity prices (RBA 2010). Although Australia fared economically better than many other developed nations since the GFC, it has not been immune to the international effects. All Australian State and Federal Governments have had their budgets reduced.

In the 2012-13 Victorian State Budget, the Treasurer, Kim Wells, articulated that Victoria faces financial difficulties because of the high Australian dollar, weaker global and economic conditions and substantial reduction in ... revenue' (Department of Treasury and Finance 2012:1). Wells maintains that the Victorian Government must keep 'spending growth in check' (Department of Treasury and Finance 2012:1).

In the penal debate, any discussion about 'the huge social and economic costs of an ever increasing penal establishment seem to have disappeared' (Lacey 2008:12). With the current financial state of Governments not only in Australia but worldwide, it is surprising that so little of the public debate has centred on whether 'prison represents a cost-effective way of tackling crime and reducing reoffending' (Hedderman 2008:36). In Victoria, prison does not currently offer the state's taxpayers value for money.

## **Value for money**

The Australian Bureau of Statistics (ABS) has suggested that it is very difficult to put a number on the 'real' cost of crime to the community as although it is known how much money is spent on the criminal justice system, it is virtually



impossible to calculate all the associated costs to the community for the crimes that are reported, let alone the majority which are not (ABS 2010a).

Nonetheless, when calculating the costs of crime to the community, very little attention is paid to the criminogenic effects of imprisonment nor that damage to the rest of the community because of mass imprisonment (Lacey 2008:14).

The very existence of the penal system 'helps us to forget that other answers to these problems are possible' (Garland 1990:4). Therefore, looking at prison from a purely financial perspective, it is questionable as to whether imprisoning offenders offers value for money. For the millions of dollars allocated to the Victorian corrections system, it is worth considering whether there is an adequate return in public safety to justify the investment. Nowhere in the debate in Victoria is the question asked whether prison actually reduces crime or improves public safety (Lacey 2008:12). Prison has been shown to have little effect on crime in the community and is therefore not improving public safety despite the increased amount of money being spent.

The prison population is also affected by Government sentencing policy and the 'problem of mass incarceration cannot be addressed without changing sentencing law and practice' (Clear 2007:13). The government has also anticipated a further increase in the number of prison beds required through their reforms abolishing suspended sentences for all serious crimes and tougher punishments across the board (Department of Treasury and Finance 2012:15). Prison beds will never be built as fast as they can be filled. Experience internationally has shown that building prisons will always feed rather than

meet the demand for beds (Hedderman 2008:38, Clear 2007:178). Adding to this, forecast expenditure always has the potential to increase with building costs and ongoing running costs. Nonetheless, the state government has committed to increasing the prison estate by nearly 20% by the end of their current term in office. This is despite the current treasurer reiterating that the government will curb 'excessive spending' (Department of Treasury and Finance 2012:1).

## **Implementing justice reinvestment in Victoria**

Although many initiatives have worked elsewhere, including justice reinvestment in the US, the Victorian government cannot simply transport best practice and expect that it will work. Each community and location is different and will require extensive research and data collection to work out what will work. There are three key issues for implementation of best practice including 'implementation challenges, the environments in which success was achieved, and the symbolism of crime prevention' (Cherney & Sutton 2006:386).

Although many of the high crime areas in Victoria are not necessarily 'inner' city, they share similarities with the cities studied by Shaw and McKay with poverty, unemployment and lack of other social services present. Justice reinvestment would need to be tailored for a Victorian solution. The very nature of the geographic spread of communities within the state is different to the American high-rise neighbourhoods that have benefitted from justice

reinvestment. However, because justice reinvestment advocates the use of 'local grassroots initiatives' (Allen 2011:618), each solution can be tailored to the specific community.

The Corrections Victoria Strategic Priorities 2010-2011, state that the purpose of Corrections Victoria is to 'contribute to safer communities by delivering a safe, secure and humane correction system ... through our offender management practices, actively engaging with offenders and the community to promote positive behavioural change and address social disadvantage' (Corrections Victoria 2010:2). Justice reinvestment has the ability to address the strategic priorities of Corrections Victoria by meeting the express aims of the agency. This concept allows change to occur within individual offenders as well as within the community.

Justice reinvestment is not just a corrections or criminal justice system issue. It must involve all government departments including but not limited to education, health and social services. Although the responsibility for corrections in Victoria falls squarely with the state government, because of the far-reaching implications of such a policy, all facets of government must actively support it. Cherney and Sutton (2006:386) have suggested that although Victoria has been seen as a 'pioneer' in crime prevention initiatives in the past, policy changes and lack of political support have meant that many initiatives have not been able to live up to their initial potential. For justice reinvestment to have any long-lasting effect, it requires support from all aspects of the government.

While the political discussion in Victoria currently favours a hardline approach to law and order, justice reinvestment offers an opportunity for reform that should appeal to all sides of the political spectrum. It is a concept that should hold interest for 'fiscal conservatives and liberal progressives alike' (Allen 2011:617). On the one hand it will save public funds at a time when the government needs to be particularly prudent, and on the other hand improvements could be made to the most disadvantaged and marginalised communities in the state. The net effect of the changes would be a reduction in incarceration, crime and recidivism rates as well as improving the life chances of the residents in currently high-incarceration communities.

The current criminal justice policy in Victoria does not meet the aims of the government's own departments. The 'vision' of the Victorian Department of Justice is for a 'safe, fair and livable society' (Corrections Victoria 2010:2). At present, the Victorian corrections system does not contribute to this vision because building prisons is not making the community safer, fairer or more livable. Justice reinvestment however offers a beacon of hope to Victoria, which would provide for a safer and fairer community. Although the social, political and geographical circumstances are different in Victoria than in America where justice reinvestment has been successfully applied, the benefit of this concept is that it is tailored specifically to the specific needs of the community. The root causes of crime within the state would be identified and tackled in a localised and specific way.

It is essential that all social programs be subjected to thorough analysis to gauge potential harm, benefit, safety and efficacy and be 'coupled with evaluations that have scientific credibility' (McCord 2003:17). Further to this, in 2011, the Victorian Auditor General stated that the 'development of any new program should be based on sound conceptual design supported by reliable evidence and research' (Victorian Auditor General 2011:9). This goes to the heart of Justice reinvestment. Programs are data-driven and implemented according to appropriate evidence.

Justice reinvestment is a way of looking at whether things can be done better. It is not about replacing a form of punishment, such as prison, with something else. Justice reinvestment is about addressing the root causes of crime, not to be lenient on offenders, but to ensure public safety and save scarce government funds in the long term.

The community must become part of the long-term solution. Although sentencing policy needs to be reevaluated also, justice reinvestment offers a step change to the criminal justice system that can start having effects immediately. Allen points out that justice reinvestment will be more effective if it is developed in conjunction with changes to central law and policy (2011:626). Justice reinvestment is a proactive response to criminal justice that differs from the current corrections policies in Victoria.

This chapter has outlined the case for implementing justice reinvestment in Victoria. With this concept there is an opportunity to not only save money in

the state corrections budget but to make a tangible difference to marginalised communities while lowering the crime and incarceration rates.

## CONCLUSION

Justice reinvestment is yet to be implemented anywhere in Australia. The evidence of the strategy's efficacy can be gleaned from the successes in the US. Justice reinvestment has only been operational for the past decade so there will need to be ongoing research into the longer-term benefits of the approach. However, the short and medium term benefits look promising and furthermore, the benefits could include not only crime reduction but other benefits to the community outside of the criminal justice sphere.

There are also many barriers to implementing justice reinvestment as many of the contributors to criminality such as low educational attainment, drug, alcohol and mental health issues, unemployment and accommodation issues are outside of criminal justice system and require multiagency working. There may be inherent problems involved in multi-agency working because of 'different histories, cultures, and traditions ... conflicting ideologies, strategies, and practices' (Crawford & Jones 1995:20). These differences would need to be mitigated otherwise they risk the success of any initiative that might otherwise be successful. This was one of the issues that prevented positive results from the Diamond Initiative in London. However, the promise of reduced incarceration and crime rates and increases in public safety is worth striving for.

For any new approach or initiative to be attractive within the political sphere and the electorate, it must work not just on the ground but 'at a symbolic level' (Cherney & Sutton 2006:389). Justice reinvestment is not an easy option as it requires unequivocal bipartisan political and community support for the notion and will require a lot of 'hard selling'. Nonetheless, if a state like Texas with its traditionally hardline approach to criminal justice can implement justice reinvestment with bipartisan political and community support, then there is hope for implementation in Victoria.

Keeping the community safe and reducing spend on corrections does not have to be mutually exclusive (United States Congress 2010:4). The State of Victoria needs a better return for the massive investment in the criminal justice system. Justice reinvestment may just provide the key. Justice reinvestment strategies will allow the State Government to develop suitable and localised policy options to increase public safety, reduce crime and recidivism rates, stabilise if not reduce the prison population, saving the Victorian tax-payers money that can be redirected into other essential services. Although justice reinvestment is still in its infancy in Australia, Victoria has an opportunity to lead the nation in reducing its incarceration rates while investing in communities and contributing to economic prudence.



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