

Committee Secretary

Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

21 March 2013

By email: legcon.sen@aph.gov.au

The value of justice reinvestment principles for Australia

Dear Committee Secretary

Thank you for the opportunity to make a submission to the Committee's inquiry on justice reinvestment.

Scope of submission

Our submission addresses the following terms of reference (ToR): (a),(b),(c),(d), (e),(f),(g) and (i). It focuses on Victoria's criminal justice system.

Summary

We recognise that there is a pressing need to evaluate, adapt and trial promising criminal justice initiatives such as justice reinvestment because of a concerning unsustainable growth in Victoria's prisons and the prison population.

The Federation recommends research, evaluation and pilot programs to determine the viability and impact of justice investment in Victoria.

About the Federation and community legal centres

The Federation represents Victoria's 51 community legal centres (CLCs). CLCs are independent, community organisations that provide free legal services to the public. CLCs provide free legal advice, information and representation to more than 350,000 Australians each year. There are around 200 community legal centres across Australia. CLCs receive funds and resources from a range of sources including state, federal and local government, philanthropic foundations, pro bono contributions and donations. Centres also harness the energy and expertise of thousands of volunteers.

CLCs integrate legal assistance for individual clients with community legal education, community development and law reform projects that are based on client need and are preventative in outcome.

Why effective criminal justice policies that reduce crime matters to us

Every year, community legal centres assist over 100,000 Victorians. Over 80% of our clients earn less than \$26,000 a year and around 60% receive assistance from Centrelink. In particular, we assist people with mental illness and intellectual

Level 3
225 Bourke Street
Melbourne
Victoria 3000

Tel: 03-9652 1500
Fax: 03-9654 5204
administration@fclc.org.au
www.communitylaw.org.au

Federation of
Community Legal Centres
(Victoria) Inc
Registration A0013713H
ABN 30 036 539 902

disability, homeless people, young people and Aboriginal and Torres Strait Islander peoples—all of whom are over-represented in prison.

CLC client groups have the most to gain from criminal justice policies that successfully reduce crime and the most to lose from policies that are ineffective and discriminatory.

Harsher sentencing directly impacts on disadvantaged groups, entrenching poverty and exclusion. It drives the demand for prison expansion which only diverts resources from cost-effective ways of preventing crime.

Our relevant expertise - Smart Justice

Smart Justice is a coalition of 25 legal and community organisations led by the Federation. It seeks to enhance the safety of all Victorians by promoting an understanding of criminal justice policies that are effective, evidence-based and human rights compliant. The organisations involved in Smart Justice have a vast array of experience working in the criminal justice system with those affected by it.¹

The Smart Justice project involves producing factsheets on various topical criminal justice issues such as justice reinvestment. Our factsheets are available on our website at www.smartjustice.org.au.

Harsher sentencing is the main driver of prison growth [ToR (a)]

Over the past decade, Victoria's prison population has increased dramatically, rising 44%. In 2006 the Victorian Ombudsman concluded that the increase was due to harsher sentencing policies.²

Since the change in government in 2010, the growth in prison numbers is expected to accelerate. The coalition government's law and order sentencing policies which include abolishing suspended sentences and introducing minimum mandatory sentences will lead to more people going to jail for longer terms.³

Prison is costly and overall is not effective in reducing crime [ToR (b)]

In the 2010/11 Victorian State Budget, the Victorian Government announced \$126 million spending to build 244 additional prison beds – a cost of over \$500,000 per prison bed.⁴ The average real net operating expenditure per prisoner per day in 2009/10 was \$240.66, or close to \$90,000 per year.

Victorian Government annual spending on prisons (excluding community corrections) has increased 151% over the past decade to \$593 million in

¹ de Kretser & McDonnell, 'A smarter criminal justice system: The role of community legal centres' (2012) 37(1) *Alt LJ* 6.

² Ombudsman Victoria and Office of Police Integrity, *Conditions for persons in custody*, (2006), 12.

³ Department of Justice (Vic), Annual Report 2010-11 (2011) 30. For a detailed analysis of the impact of sentencing law changes in Victoria: McDonnell & Farrell, 'Tough, tougher, toughest: A new government's approach to sentencing laws in Victoria' *Alt LJ* 37:3, 2012, 238.

⁴ Minister for Police, Corrections & Emergency Services, 'State Budget 2010:', 966; More Frontline Police To Keep Our Community Safe' (Media release, 4 May 2010).

2011/12.⁵ Spending is set to accelerate over the next decade to cater for the rapidly expanding prison population. Based on estimates of prison growth over the next decade, additional prison construction will cost over \$1 billion and operating costs will be close to \$200 million a year on top of current costs.⁶

Yet there is evidence which shows that prison often fails to rehabilitate people and may increase the risk of reoffending when released.⁷ 49% of Victorian prisoners have been in prison before.⁸

Ending disadvantage is the key to reducing over-representation in the criminal justice system [ToR (c)]

People who are or have been in prison are typically from highly disadvantaged backgrounds. The report *Growing Victoria Together* found that approximately 50% of the Victorian prison population had two or more characteristics of serious disadvantage which included unemployment, intellectual disability, drug or alcohol issues, homelessness and prior admission to a psychiatric institution.⁹

Poverty and unemployment are risk factors for offending. While poverty does not cause crime of itself, is a major problem experienced by people coming out of prison—being in prison exacerbates poverty and is part of a cycle of disadvantage that increases the risk of reoffending.¹⁰

Research indicates that reducing disadvantage and increasing income equality will reduce crime.¹¹ Similarly, there is evidence that providing stable housing, employment opportunities and post prison release support can reduce reoffending.¹²

The key to ending over-representation in the criminal justice system is to end disadvantage. This is why a justice reinvestment approach which diverts spending on prisons to spending on community programs in disadvantaged areas has the potential to reduce crime and reoffending.

There are cost effective alternatives to prison [ToR (d)]

In Victoria, it costs around \$87,000 a year to house each prisoner and an estimated \$500,000 per prison bed in construction costs.¹³ If we can divert 1,000 low security risk prisoners from prison, this would generate around \$587 million in savings. These funds could then be reinvested in programs and services that address the causes of crime, under a justice reinvestment approach.

⁵ Victorian State Budget papers show the prison budget (excluding community corrections) for 2011/12 was \$593 million compared with \$236 million in 2002/03: www.dtf.vic.gov.au .

⁶ Royce Millar, 'Super jails to cost billions' *The Age* 11 June 2011.

⁷ Sentencing Advisory Council (Vic), *Does Imprisonment deter? A review of the evidence* (2011) 22.

⁸ Department of Justice (Vic) Statistical Profile of the Victorian Prison System 2005-06 to 2009-10 (2010) 37.

⁹ Victorian Government, *Growing Victoria Together Progress Report, 2005-2006* , (2006), 358-359.

¹⁰ Rose, 'Poverty and Crime' in Serr (ed), *Thinking about poverty* (2006), 110-11.

¹¹ Weatherburn, *Law and Order in Australia: Rhetoric and Reality* (2004), 190-197, Rose, above, 107-110 and Wilkinson & Pickett, *The Spirit Level: Why More Equal Societies Almost Always Do Better* (2009), 144.

¹² Rose, above, 116.

¹³ Smart Justice Factsheet (2012) *Justice Reinvestment: investing in communities not prisons*.

Early intervention through court programs, such as the Neighbourhood Justice Centre, the Victorian Court Integrated Services Program and Drug Courts have been shown to be cost effective ways of reducing crime. These programs tackle underlying causes of crime by linking offenders with treatment programs and support.

Why a data driven approach to criminal justice such as justice reinvestment is likely to be more effective in reducing crime [ToR (e)]

An attractive feature of justice reinvestment is its evidence based approach to criminal justice because policy is informed by analysing crime data which ensures that policies have the potential to reduce crime and reoffending.

Overcoming challenges with justice reinvestment to reduce crime [ToR (f) (g) (i)]

Unlike New South Wales, Western Australia and South Australia, Victoria does not presently have an agency which independently compiles, analyses and publishes crime statistics and prison trends or evaluates court and corrections program outcomes. In 2009, the Victorian Ombudsman recommended consideration of the establishment of an independent agency. While the current coalition government has promised to act on a subsequent similar recommendation, it is yet to establish such a unit.

Problems around independent collection and analysis of crime statistics and prison trends could be overcome by establishing an Australia wide expert criminal justice data collection and analysis agency along the lines of the Council of State Governments Justice Center in the USA.

Sincerely

Michelle McDonnell
Senior Policy Adviser

Twitter @SmartJusticeAus