

Indigenous Offender Health Capacity Building Group

This is a supplementary submission to an earlier one (Submission No. 83) to the Senate Inquiry into the value of a Justice Reinvestment approach to criminal justice in Australia.

It provides revisions to Recommendation 4 (original submission Page 1 - Executive Summary) and Page 10 (body of submission where the rationale for the recommendations is discussed).

In our original submission Recommendation 4 read as follows:

4. Enacts amendments to Commonwealth and States crime sentencing legislation to ensure incarceration rates for certain categories of offence are held static, allowing diversion of saved funds to Justice Reinvestment initiatives which would be monitored through the Authority.

We wish to amend the wording of that recommendation to read as follows:-

- 4. Through COAG, negotiates the amendment of Commonwealth and State and Territory criminal and other relevant laws, to ensure incarceration rates for certain categories of offence are at the very least held static, thereby allowing diversion of saved funds to Justice Reinvestment initiatives which would be monitored through the Authority.*

The attached new versions of Pages 1 and 10 of our submission show how we would like the revised recommendation to be read in context.

Senate Inquiry into the value of a Justice Reinvestment approach to criminal justice in Australia

Executive Summary

To close the gap in disparities between Indigenous and non-Indigenous Australians, innovative approaches and strategies for reducing the hugely disproportionate impact of incarceration on Indigenous Australians, such as Justice Reinvestment, must be implemented.

We propose a national reform agenda, essential to move from a mere 'concept' of Justice Reinvestment to a tangible and measurable policy. Further, to achieve reform genuine partnerships between 'community' in all its forms, and governments at all levels must be established and maintained.

Our recommendations are that the Australian Government:

1. Enacts legislation to establish an *Australian Justice Reinvestment Authority* that has a mandate to comprehensively implement and evaluate Justice Reinvestment policy.
2. Allocates adequate 'start-up' funding to establish the Authority.
3. Through COAG, works with all jurisdictions to determine agreed levels, targets and timeframes by which incarceration levels in each jurisdiction will be reduced.
4. Through COAG, negotiates the amendment of Commonwealth and State and Territory criminal and other relevant laws, to ensure incarceration rates for certain categories of offence are at the very least held static, thereby allowing diversion of saved funds to Justice Reinvestment initiatives which would be monitored through the Authority.

The rationale for each recommendation is discussed in the body of this submission.

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3. Through COAG, work with all jurisdictions to determine agreed levels, targets and timeframes by which incarceration levels in each jurisdiction will be reduced.

Rationale: Ultimately, national incarceration rates should reflect, *at the very most*, no more than the 2.5% Indigenous population rate. Accordingly, an indicative incarceration rate target for Australia should be set by the Authority. A number of Commonwealth and COAG reform programs have set targets against which success of a reform is measured. Examples include the National Indigenous Reform Agreement and the Australian Organ and Tissue Donation and Transplantation Authority. The National Indigenous Reform Agenda sets targets against in six areas - Indigenous life expectancy, mortality, access to early childhood education, literacy, school attainment and employment. The National Congress of Australia First Peoples [1] and the Social Justice Commissioner [2] have called for justice targets to be integrated into the Indigenous Reform Agenda. We also hold this view, and suggest that achieving targets in each jurisdiction should be monitored through the proposed National Justice Reinvestment Authority. An example of a Justice Reinvestment target is provided by the State of Oklahoma, where a target of a 10% reduction in violent crime by 2016 [3]. Without an equivalent measure in Australia there will be little imperative for change. An associated indicative task could be that the Authority works with all jurisdictions to determine an agreed level by which the incarceration levels in each will be reduced and the commensurate savings would be diverted from the corrections sector for reinvestment to Justice Reinvestment initiatives in those jurisdictions.

4. Through COAG, negotiates the amendment of Commonwealth and State and Territory criminal and other relevant laws, to ensure incarceration rates for certain categories of offence are at the very least held static, thereby allowing diversion of saved funds to Justice Reinvestment initiatives which would be monitored through the Authority.

Rationale: A policy of Justice Reinvestment is based on shifting funds from the criminal justice and prison system to investment in local communities. This will necessarily require a reduction in the number of people given custodial sentences. Amendments to the crimes sentencing legislation in each jurisdiction for less serious offences such as a breach of parole or probation and reduced length of sentences for less serious crimes are examples of possible amendments.⁸

8. See for example, *Crimes (Sentencing Procedure) Act 1999* (NSW).