

22 March 2013



Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Email: legcon.sen@aph.gov.au

Dear Senate Committee

Re: Senate Inquiry into *Value of a justice reinvestment approach to criminal justice in Australia*

Thankyou for the opportunity to participate in the Senate Inquiry into justice reinvestment.

Red Cross is committed to making a contribution to building a more cohesive, fairer and safer Australian society. Through working with people who are in the criminal justice system or people who are at risk of interacting with it, Red Cross aims to contribute to a more inclusive society. Internationally, Red Cross has a long history of working with offenders and provides a wide range of initiatives and programs in prisons and the area of criminal justice.

Australian Red Cross has a Board endorsed "Policy on Justice and the Impacts of Imprisonment", which clearly articulates our commitment to working with offenders and their families in Australia.

Red Cross recognises that while prisons are a necessary part of society, the current expenditure is unproductive and ineffective in rehabilitating people or in deterring crime. Red Cross strongly supports the introduction of a Justice Reinvestment approach to channel funds to address the causes of crime targeting and addressing issues of marginalisation and disadvantage within communities where there are higher incidences of offending. Justice reinvestment invests in people and communities to provide alternate pathways to incarceration that result in people leading more productive lives.

Australian Red Cross recognises that justice reinvestment as an approach needs to be adapted to Australia's context. We look forward to developing partnerships with government, corporate and community sectors in making a difference in the lives of vulnerable people caught up in the criminal justice system.

I would be very pleased to further the important Justice Reinvestment discussion directly through the inquiry hearings. Please do not hesitate to contact my office if you require any further.

Yours sincerely,

Robert Tickner
Chief Executive Officer, Australian Red Cross

**Australian Red Cross
submission to the Senate
Inquiry into the value of a
justice reinvestment
approach to criminal justice
in Australia**

March 2013



**the
power of
humanity**



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Executive Summary

Australia has overinvested in prisons as a response to crime. The number of adult prisoners in Australia has more than doubled in the last two decades increasing from 14,305 in 1990 to 29,383 in 2012. More than half of this increase is because we are incarcerating people at increased rates; in 1992, 112 people per 100,000 of the adult population were in prison, in 2012 it was 168 people per 100,000 of the adult population. It costs about \$3.2 billion per year to run the 114 prisons operating around Australia.

Red Cross recognises that prisons are a necessary part of society; however we believe too much of this expenditure is unproductive. Prisons are not achieving the purposes they claim. They are not effective in rehabilitating people or in deterring crime. Furthermore the community is feeling less secure and less safe despite the “hard on crime” approach driving up the prison population.

It would be a smarter investment to use much of the funds currently spent on prisons to address the causes of crime and to build stronger, safer communities. If Australia incarcerated people at the same rate it did in 1990 this would free up \$1.1 billion of government prison outlays each year for more productive correctional use.

“Justice Reinvestment” channels funds to address the causes of crime, and targets the communities from which offenders come. Rather than taking them to prison, it invests in people and communities to provide alternate pathways that result in people leading more productive lives.

Under such an approach, investment is directed to key points in the criminal justice system: arrest, pre-trial, supporting non-custodial sentences, better support on release and community supervision. In addition, investments in community building, family support, early years, prevention and other programs and initiatives that address vulnerability and disadvantage, including locational disadvantage, are financed through the funds. Included in these investments is diverting funds to alcohol and drug services, mental health services, housing, employment and training as well as other areas which support and assist people to maintain their health and wellbeing and to live productively.

Research and the available data highlight that people in prison generally have backgrounds of disadvantage and social exclusion. In addition the incarceration rates for people who come from specific geographic communities that are characterised by disadvantage or who are Aboriginal and Torres Strait Islander people are far higher than for the general population.

The “justice system” is failing Aboriginal and Torres Strait Islander people, with incarceration rates 14 times the rate of non-Indigenous people. There are systemic issues behind this including the lack of economic participation and the legacy of the Stolen Generations which mean, sadly, that juvenile detention and prison have become a right of passage for Indigenous young people across Australia.

While Red Cross believes that justice reinvestment is a better alternative to the current criminal justice approaches in Australia, we recognise that there are barriers and challenges to implementing justice reinvestment in Australia. Key factors are that:

- In Australia’s federated system of government, with nine different jurisdictions having responsibility, there is a need for collaboration as well as leadership. Red Cross calls on the

Australian Government to take up leadership in promoting justice reinvestment within Australia working through the Coalition of Australian Governments (COAG) arrangements.

- Within specific jurisdictions around Australia, joined up government responses are required that emphasise integrated planning, pooled funds, intra-government committees and long term timeframes.
- Impacting on the deep and persistent disadvantage that drives crime is complex and solutions are elusive. It requires whole of society responses. Red Cross does not believe the non-government sector at this point is strongly placed to provide lasting and large scale solutions but we do believe that the starting points are evident and must be taken up so that as a society we can work towards solutions that will work.
- Publicly the debate needs to be changed from being “harder” or “softer” on crime to considerations about the most effective responses and the strategic use of limited resources in addressing crime and community safety. Red Cross wants governments to promote balanced information being provided about crime, the criminal justice system and community safety.

Australian Red Cross recognises that justice reinvestment as an approach needs to be adapted to Australia’s context and that it will look different from what has been implemented in the United States.

We have made 23 recommendations to the Senate Inquiry into justice reinvestment. These are provided in full immediately following this executive summary. A key recommendation is that the Australian and state and governments jointly fund trialling of justice reinvestment sites in three or four locations using a place based approach. The intent of the trial is to prove or disprove the idea that justice reinvestment will positively impact on crime and imprisonment rates in Australia. The recommendations identify how this pilot could be funded through reducing the rate at which people are incarcerated by winding this back to the rates which prevailed in 2000.

Recommendations

Leadership by government

1. That the Australian and State and Territory Governments commit to justice reinvestment as the policy and planning framework for the justice systems throughout Australia. COAG oversees and monitors a National Framework and Agreement with the Standing Council on Law and Justice being responsible for oversight of whole of government responses.
2. That the Australian Government, through COAG adopts a leadership role in promoting justice reinvestment in Australia. In support of this leadership role, the Australian Government should:
 - Establish and maintain a clearinghouse of information in relation to justice reinvestment;
 - Promote geographic analysis and mapping to inform justice reinvestment;
 - Take up a coordination and driving role in the research framework and agenda referred to in recommendation 10, and contribute to the funding of relevant research to achieve this.
3. That the Australian and State and Territory Governments undertake public education campaigns to support balanced information and perceptions of crime and justice issues within the community. As part of these campaigns specific strategies to address sensationalised media treatment of crime and justice should be enacted.

Supporting and implementing justice reinvestment

4. That the Australian and State/Territory governments jointly fund trials of justice reinvestment sites in three or four locations using a place based approach which includes metropolitan, regional and remote sites¹. Such trials should test whether justice reinvestment is effective in terms of reducing crime and imprisonment in the targeted sites. Trials should occur over a minimum five year time frame and incorporate a robust evaluation process which includes a cost/benefit analysis (desirably using social return on investment).
5. That short term funding for these trial sites be provided through the Proceeds of Crime fund with longer term funding being delivered as per recommendations six and seven.

Establishing and monitoring targets to fund justice reinvestment

6. That State and Territory Governments, along with the Australian Government through the COAG Standing Council on Law and Justice, establish an agreement which sets targets on a

¹ Trial sites should be based on mapping and have robust community engagement and governance models to underpin them.

state and territory basis. The agreement should include a five year goal for states and territories to reduce incarceration rates to 30 June 2000 levels².

7. That the savings from reduced incarceration rates be quantified by governments and independent consultants using an econometric model that accounts for whole of system costs. That 80% of the net savings generated by the particular state or territory be reinvested in early intervention, prevention, diversion and reintegration services and initiatives that reduce crime and prevent recidivism in that state or territory. The remaining 20% could be taken as a dividend by the relevant government.

Building our knowledge to support implementation of justice reinvestment

8. That the Australian Bureau of Statistics as part of the Prisoners in Australia data collection process identify and report aggregated data on the postcodes people live in immediately prior to incarceration and the postcodes they live in immediately following release from prison.
9. That the Australian Government establish systems that provide a more robust understanding of the financial costs of crime, justice and imprisonment across the whole system. That output from these systems be made publicly available to inform planning for justice reinvestment.
10. The COAG Standing Council on Law and Justice establish a national research framework and strategic agenda to increase the knowledge base for implementing justice reinvestment and associated strategies.

Increase services and responses that prevent crime and recidivism

11. That State and Territory Governments invest in whole of community support and early intervention programs for locations with high rates of crime. Investments should be guided by local community plans which build on community assets to address the identified needs.
12. That State and Territory Governments create pathways away from prison by funding early intervention, prevention and diversion programs for the least serious offenders before they get to court. Where appropriate, less serious offenders should be moved to drug, alcohol, housing and mental health supports in the community and supported to get and hold employment.
13. That State and Territory Governments fund programs to prevent young people from entering or becoming entrenched in the criminal justice system by:
 - increasing the use of restorative justice:

² At 30/6/2000 across Australia there were 148 prisoners per 100,000 of adult population compared to the 30/6/2012 rate of 168 prisoners per 100,000 of adult population. This recommendation would see an average reduction of 2.38% per year in the prison population. Based on the 2012 data at the end of the 5 year period there would be 3,497 fewer people in prisons around Australia than in June 2012 (25,886 compared to 29,383 at 30/6/2012).

- establishing/increasing youth offending teams to coordinate services and work with the young person, their family and community in dealing with the factors in a young person's life that impact on their wellbeing and influence offending; and
- greater utilisation of out of court options.

14. That State and Territory Governments fund services for identified people who have high rates of re-offending and multiple custodial sentences. Such services should work with people (and their families) over the long term using a multi-disciplinary approach.

Increasing non-custodial sentencing

15. That State and Territory Auditors General ensure legislation and regulations that provide for risk assessments to be incorporated into court determinations on sentencing, with courts required to make non-custodial orders where no substantive risk to the public is identified.

16. That State and Territory Auditors General oversee legislative change so that where people are unlikely to receive a sentence for the offence/s for which they have been charged, courts not be permitted to remand people in custody³.

17. That State and Territory Auditors General oversee legislative and regulatory changes so that prison sentences of less than 12 months duration be replaced with non-custodial sentencing options.

18. That State and Territory Auditors General oversee legislative and regulatory changes to increase the use of suspended custodial sentences to better mobilise the effectiveness of suspended sentences as a tool for providing reason for people not to re-offend.

Reintegration, parole and community-based orders

19. That State and Territory Departments of Corrections and Juvenile Justice ensure there are opportunities for rehabilitation, treatment and support for identified issues incorporated into conditions of community-based orders. Resources allocated to supervise and support people on parole and community-based orders should be increased.

20. That State and Territory Departments of Corrections and Juvenile Justice ensure that there is adequate flexibility for responding to breaches of conditions, to take into account gains that have been made by people who are making efforts to avoid reoffending.

21. That State and Territory Departments of Corrections and Juvenile Justice emphasise transition planning and through-care support as people move from prison to the community. This allows people to be supported to reintegrate into the community, address aspects of social exclusion they may be experiencing and be supported in desisting from crime.

³ It is noted that about 23% of all prisoners are on remand/not charged and that the prison system is simply a holding place for them while their cases are dealt with (only those people who are a public risk or at substantive risk of absconding should be remanded).

22. That State and Territory Governments fund community initiatives that support reintegrating people released from prison back into the community through positive social networks, rebuilding family and cultural connections, dealing with shame, maintaining emotional wellbeing and providing opportunities for community participation and contribution.

Other recommendations

23. That political parties focus on the evidence in relation to the most effective responses and strategic use of limited resources in addressing crime and community safety, rather than the seemingly unproductive and expensive “tough on crime” stance which is prevalent in public policy.

1.0 Overview of justice reinvestment

1.1 What is the issue?

As of June 2012 there were 29,383⁴ adults in prison in Australia. Rates of imprisonment have been rising; over the last 22 years across Australia the rate at which adults are incarcerated has increased by 50% from 112 people to 168 people per 100,000 adults in the population (in 1990 there were 14,305 adults in Australian prisons). Quite simply we as a society we are choosing to incarcerate people rather than address the causes of offending.

Apart from being unjust social policy, this is not financially sustainable. The annual cost of providing and operating prisons across Australia is just over \$3.2 billion dollars⁵ per year. The costs of building new prison beds equates to approximately \$500,000⁶ per bed and if Australia's rate of incarceration continues to grow at similar rates there will need to be a \$5 billion investment in capital expenditure in the next decade.

This is unproductive expenditure. Prisons are not achieving the purposes they exist for. They are not effective in rehabilitating people or in deterring crime. Fifty-five percent of people in jail have previously served prison sentences and 39% of people are reincarcerated within two years of their release⁷. They do not appear to have an impact on perceptions of community safety either with people generally feeling more unsafe or at risk of crime despite the rising rates of incarceration.

While prisons are a necessary part of an ordered advanced society this is costly. Incarceration rates in Scandinavian countries are about 70 prisoners per 100,000 of adult population and in Germany and the Netherlands they are 82 per 100,000⁸. If Australia incarcerated people at the same rate it did in 1990 (112 people per 100,000 of adult population) this would free up \$1.1 billion of government correctional outlays each year for more productive use by government.

It is a smarter investment to use some of these funds to address the causes of crime and to build safer communities. Contrary to the "tough on crime" perspective which seeks to lock people away to keep society safer, the countries with lower rates of incarceration identified above do not appear to be particularly dangerous and unsafe places to live.

1.2 Scope of this Submission

This paper outlines Red Cross' view that justice reinvestment provides a more effective approach to criminal justice practice than the current systems in place across Australia. We recognise that justice reinvestment as an approach needs to be adapted to Australia's context and in particular must be integrated with the community and social supports that are already provided as part of our society.

⁴ Australian Bureau of Social Services 2012

⁵ Based on costs provided in the Report on Government Services 2013 Volume 1

⁶ Projected costs based on NT and Vic Govt. announcements on costs of building new prison facilities

⁷ Report on Government Services 2013 Volume 1

⁸ Data accessed from the International Centre for Prison Studies website on 7/3/13

(http://www.prisonstudies.org/info/worldbrief/wpb_stats.php?area=all&category=wb_poprate)

Our position is that justice reinvestment provides a mechanism for channeling funds to more effective approaches to reducing crime, keeping society safer and more cohesive and reducing recidivism than does locking up people at ever increasing rates and continually expanding the prison population.

The paper has been developed in response to the Senate Inquiry into the value of a justice reinvestment approach to criminal justice in Australia. Red Cross does not seek to respond to each of the terms of reference being considered by the Inquiry. Informed by our strategic directions, policy position in relation to justice and the impacts of imprisonment, experience in providing justice programs and expertise as a community service organization, this submission will primarily address the following terms of reference:

- The social costs of imprisonment
- The overrepresentation of disadvantaged groups within Australian prisons, in particular Aboriginal and Torres Strait Islander communities.
- The cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures.
- The benefits of, and challenges to, implementing a justice reinvestment approach.

The submission begins in this initial section with an overview of justice reinvestment. After briefly outlining Australian Red Cross' commitment to justice and addressing the impacts of imprisonment, the body of the submission in section three addresses the key areas of social inclusion, the impacts on Aboriginal and Torres Strait Islander people and place based approaches as a more effective investment in addressing crime and community safety. The fourth section recognises the challenges of implementing a justice reinvestment approach and considers some approaches in addressing these.

1.3 What is justice reinvestment?

Justice reinvestment invests resources in vulnerable communities in order to address the causes of crime and imprisonment. In the context of growing imprisonment rates, escalating prison costs and the ineffectiveness of incarcerating people as a means of reducing crime justice reinvestment diverts a portion of the funds that would otherwise be spent on new or expanded prisons to identified local communities where there is a high concentration of offenders.

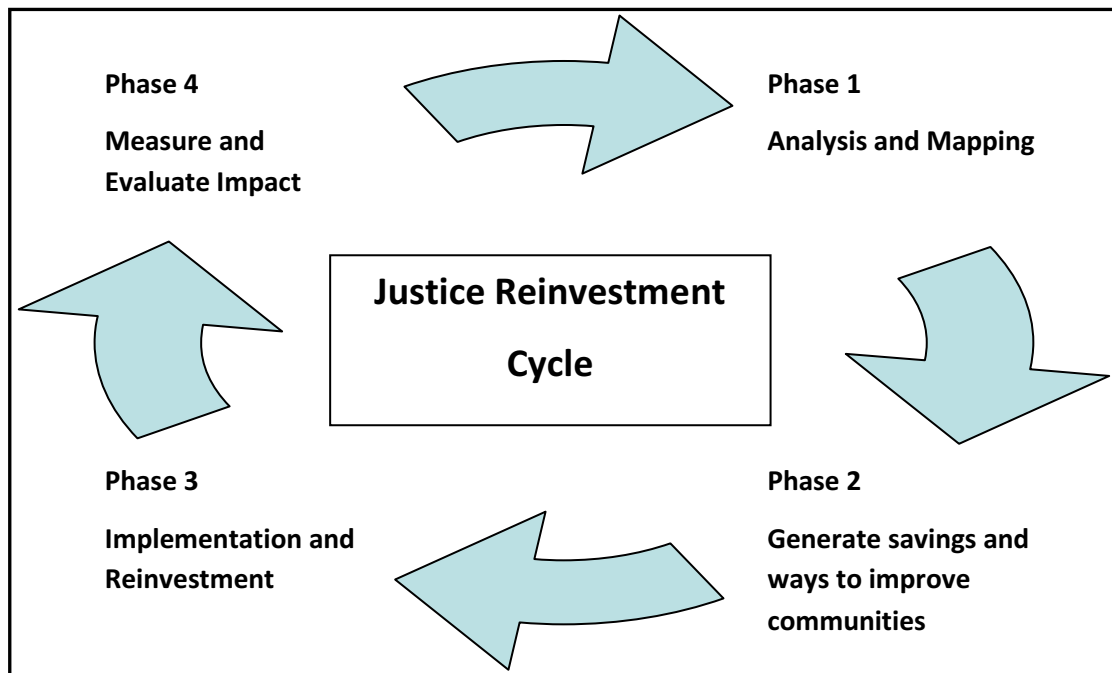
Justice reinvestment is a mechanism for investing resources in vulnerable communities in order to address the causes of crime and imprisonment. There are four interlocking phases in undertaking justice reinvestment⁹:

- Phase One – Analysis and Mapping - Collect, analyse and map data about crimes to identify communities where there are a high proportion of offenders. Develop an understanding of the underlying causes of crime in these communities and the current programs and expenditure in these communities.
- Phase Two – Develop Options to reduce offending – Consult with communities to identify opportunities to address the causes of crime and to reduce offending. These options could

⁹ There are variations on how the stages of justice reinvestment are described this description is based on the 2009 Australian Human Rights and Equal Opportunities Commission Social Justice Report

include community based alternatives to imprisonment, community strengthening and prevention programs, improved post release programs and changes to current criminal systems.

- Phase Three – Implementation – Identified communities are resourced to implement prevention, diversion and prevention of reoffending programs and initiatives.
- Phase Four – Evaluation – Measure and evaluate the outcomes and impact of a justice reinvestment approach.



Phases one and two of the justice reinvestment cycle emphasise the importance of mapping, engaging with relevant communities, understanding what factors give rise to criminal behaviour in a particular community and the development of responses and local strategies to address these causes. Necessarily justice reinvestment initiatives must be informed and guided by the communities they are investing in. A consequence of this is that there is no pre-determined list of investments that will “solve” crime in a particular community. The remaining two phases close the loop by implementing the investments and then determining the impact so that either initiative that was effective can be intensified or if not effective other more informed initiatives can be invested in.

1.4 International context of justice reinvestment

Justice reinvestment originated in the United States in the mid 1990’s and is currently being applied in over 15 states across America. A range of initiatives have been funded by diverting funds from expanding prisons to education and employment services, children and youth programs, throughcare and care coordination services, improving housing services, creating resource centres, alternative to jail programs as well as victim services. Reinvestment is focused on specific neighbourhoods that are associated with high rates of incarceration and community supervision.

In the United Kingdom justice reinvestment has also influenced correctional policy. The House of Commons Justice Committee in 2010 after consideration of the correctional system recommended

justice reinvestment be adopted in the UK¹⁰. The report observed “Our evidence suggests that prison is a relatively ineffective way of reducing crime for other than serious offenders who need to be physically constrained for the protection of the public. Justice reinvestment seeks to shift the culture away from imprisoning people because this has been demonstrated not to work and instead strengthen the communities from which offenders come in order to reduce crime and keep society safe.”¹¹

In Oregon through a justice reinvestment approach there was a 72 percent drop in juvenile incarceration following resources being redirected to restorative justice and community service programs.
See <http://justicereinvestment.org/>

While the Cameron Government which came to power in 2010 has not formally adopted justice reinvestment as policy, its early steps seemed to be informed by the approach. In 2011, the Justice Minister sought to give courts greater capacity to make non-custodial sentences in place of sending people to jail and closed three prisons with a total of 800 beds. In addition, the UK Government is trialling a social investment bond that is seeking to generate a financial return through reducing the recidivism rates of 3,000 prisoners; if successful the return will be generated through reduced costs to government. Recently the Justice Minister in the Cameron Government has changed and there appears to be less support for these approaches.

1.5 Australian context

The essential principle behind justice reinvestment is not particularly new; keep people out of jail and support vulnerable people and communities. In Australia, the issues involved have been recognised for considerable periods of time; equally as a nation we have considered what could be done differently. Key reports over the last couple of decades have specifically addressed the Australian context and its unique challenges. The following table identifies some of these reports

Report	Authorising group	Key conclusions
Royal Commission in to Aboriginal Deaths in Custody Inquiry Final report 1991	Australian Government	Too many Aboriginal and Torres Strait Islander people are in custody too often. Imprisonment should only be used as a last resort when no other way exists for dealing with a problem. There are many social factors that are outside the justice system that require change in order to have an impact on Aboriginal and Torres Strait Islander offending and incarceration.
Human Rights and Equal Opportunities Commission Social Justice Report 2009	Australian Human Rights and Equal Opportunities Commission	Indigenous imprisonment rates are unacceptably high. The current approaches are not working. Justice reinvestment may hold the key to unlocking Indigenous Australians from the cycle of crime and escalating imprisonment rates.
National Law and	Standing	Proposes a national approach with whole of government and

¹⁰ House of Commons Justice Committee 2010

¹¹ House of Commons Justice Committee 2010

Justice framework 2009-2015	Committee of Attorney-Generals	community partnership in addressing complex issues of Indigenous incarceration. Closing the Gap targets are not achievable without improvements in justice outcomes, particularly for Indigenous family and community safety.
Making our Prisons Work 2010	WA Legislative Assembly Inquiry	Concluded that the justice system has limited impacts on the underlying problems which are related to social, health and education factors. The report recommends a justice reinvestment approach is piloted in a community where there is a high concentration of offenders.
Doing Time – Time for Doing 2011 Review into indigenous youth in the criminal justice system	House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs	The Indigenous juvenile incarceration rate is unacceptable. Closing the Gap strategy should include specific justice targets Recommended that government focus their efforts on early intervention and diversion programs and that justice reinvestment is further investigated as an approach.

Red Cross is mindful that Australia has its own history and context to the correctional systems that exist across the country. While justice reinvestment has its roots in the United States our correctional system is different, most notably in the substantially lower rate at which people are incarcerated¹². Justice reinvestment in Australia will necessarily be different compared to what is occurring the US. For instance, while there are opportunities to expand non-custodial sentencing in Australia, about 20% of sentences are custodial, while in the US about three quarters of offenders are given prison sentences.¹³

1.6 What is the fiscal impact?

The estimated total costs of criminal justice, victim assistance, security and insurance to the community amounted to almost \$36 billion in 2008; government expenditure on criminal justice accounted for about one quarter of the estimated overall costs¹⁴.

The focus of this submission is on the cost of the prison system which is costing nationally about \$3.2 billion dollars to provide each year. Appendix One provides a brief analysis based on recommendation six which seeks Australia to reduce its rate of incarceration to the level that prevailed in 2000. If this occurred uniformly across Australia it is estimated that \$432 million of government expenditure on prisons would be saved annually. This does not account for savings in police, court, victim assistance or victim impact costs.

There is significant variation in the rate at which people are incarcerated across Australian jurisdictions and it is evident that some governments are already reaping savings by reducing rates of incarceration. For instance the two states which have reduced rates of incarceration in the 12

¹² In Australia the national incarceration rate is 168,000 per 100,00 of adult population, in the US it is 716 per 100,000 of adult population

¹³ Sarah Hudson 2013

¹⁴ K Rollings 2008

years to 2012, Queensland and NSW are estimated to save \$115million (an 18% saving) and \$152million (a 14% saving) respectively in the 2012/13 expenditure required to provide prisons.

Conversely, the jurisdictions where rates of incarceration have increased are wearing the budgetary impact of this. By way of example, the Northern Territory where the rate of incarceration increased by 80% in the 12 years to 2012, if rates had been held to the national average of 13.5% increase the estimated cost of providing prisons in the Territory would have been \$58million lower, resulting in a saving of 37%. The situation in South Australia where there was a 43% increase in the rate of incarceration was that the estimated cost of providing prisons in 2012/13 could have been reduced by \$47million, a 20% saving.

2.0 Red Cross Red Crescent Context

2.1 The International Red Cross Red Crescent Movement

Australian Red Cross is a member of the International Red Cross Red Crescent Movement with millions of members and volunteers operating in 188 countries. National Societies act as auxiliaries to the government and public authorities of their own countries in the humanitarian field and provide a range of services including disaster relief, health and social programs. As the custodian of the Geneva Conventions, the International Committee of the Red Cross has a permanent mandate under international law to visit prisons, organise relief operations, reunite separated families and undertake other humanitarian activities during armed conflicts. The International Federation of Red Cross and Red Crescent Societies is a global humanitarian organisation, which coordinates and directs international assistance following natural and man-made disasters in non-conflict situations.

Our Movement's mission is to prevent or reduce human suffering, wherever it is found, Our Fundamental Principles are: Humanity, Impartiality, Neutrality, Impartiality, Voluntary Service, Unity and Universality.

Red Cross' work in Australia is guided by Strategy 2015. Directions under this Strategy which are particularly relevant to justice are our commitments to:

- Build bridges back to the community for people who are socially excluded
- Address the disadvantage that Aboriginal and Torres Strait Islander people experience
- Use place based approaches to address locational disadvantage

Seven priority areas for Red Cross:

- strengthening disaster and emergency services
- increasing international aid and development
- addressing Aboriginal and Torres Strait Islander disadvantage
- overcoming social exclusion by providing bridges back into the community
- tackling entrenched locational disadvantage
- championing International Humanitarian Law
- addressing the impact of migration

2.2 History of Commitment to Justice and the Impacts of Imprisonment

Activities and programs to support individuals and families involved in the justice system have a long history in the Movement. The first social welfare activities in prisons among National Societies commenced in the 1930's under the auspice of the French Red Cross which provided health and social welfare activities in prisons. Today, National Societies across the world undertake a range of activities in prisons, as well as programs to support prisoners and their families in the communities in which they live. These include social welfare, material assistance, health services, employment opportunities, training and education, support for young offenders and families of offenders, facilitation of contacts by foreign prisoners with their country and families and development of alternative measures to imprisonment, social rehabilitation and reintegration.

2.3 Australian Red Cross Policy on Justice and the Impacts of Imprisonment

The *Board Policy Statement on Justice and the Impacts of Imprisonment* outlines the Australian Red Cross commitment to improving the lives of individuals and families who are socially excluded and marginalised as a result of their involvement in the justice system.

Red Cross recognises the role of the prison system in society, but also believes that it is a system that can have damaging long term impacts on those who are imprisoned, their families and the broader community. Red Cross seeks to contribute to a safer and more socially cohesive community by diverting people from crime, reducing rates of reoffending and reintegrating offenders into the community. This will make communities safer, stronger and more resilient while leading to reduced social and economic costs.

The Australian Red Cross Policy on Justice and the Impacts of Imprisonment is provided as an appendix to this submission.

Addressing the Terms of Reference

3.0 Including people in society

3.1 Social exclusion drives imprisonment

Against the backdrop of prisons not having the deterrence or rehabilitation impacts sought of them we need to look at who is in prison and why in order to locate more effective solutions. There are many issues involved in why people are imprisoned and a number of those reasons are contested.

The data and information in the side box indicates that it is not just anyone who is in jail. People who are in prison tend to be disadvantaged and excluded; in many cases this disadvantage is across several factors or is particularly chronic with longevity across time. The available data and research highlights that people in prison generally have backgrounds of disadvantage that typically include low education, unemployment, mental health issues, cognitive impairment, drug and alcohol use, sexual abuse and issues related to their family of origin. In addition, the incarceration rates for people who come from specific geographic communities that are characterised by disadvantage or who are Aboriginal and Torres Strait Islander people are far higher than for the general population.

A consequence of the entrenched and chronic disadvantage of many prisoners is that the pathways that led them to prison are quite lengthy, involving cumulative impacts. Recent research by Baldry¹⁵ has analysed the records of people with mental health and cognitive disability who have had interactions with the criminal justice system. The research profiles the stories of people and attributes costs to the range of institutional care they have been subject to indicating that some people caught up in the system are costing hundreds of thousands of dollars a year just in institutional costs. The report concludes that in these cases care, protection and early intervention do not occur in any substantial or sustained way.

- A study found that, of the 15,000 people with major mental illnesses in Australian institutions, around one-third were in prisons.⁹
- In a NSW health survey of young people in custody 10-13 percent were assessed as having an intellectual disability. 21 percent reported symptoms consistent with schizophrenia and 88 percent reported symptoms consistent with a psychiatric disorder.¹⁰
- Prior to incarceration 71% of prisoners are unemployed and many are not functionally literate with up to 20% having an intellectual disability.
- Around half of young men and women in juvenile justice centres are Aboriginal and/or Torres Strait Islander. Young Aboriginal people are detained at a rate 24 times higher than other people in the same age range.¹²
- A young person in a low socio-economic area is almost six times as likely to be in detention as someone in an area of high socio-economic status.¹²

⁹ Ogloff, JPR et al, The identification of Mental Disorders in the Criminal Justice System

¹⁰ NSW Department of Juvenile Justice, NSW Young People in Custody Health Survey

¹² AIHW, Juvenile Justice in Australia 2008-9

¹⁵ Baldry, E. 2008, The Booming Industry: Australian Prisons, UNSW, Sydney

3.2 The impacts of imprisonment

Red Cross holds the position that jails are necessary in creating a safe and cohesive society. Some people must be incarcerated as a consequence of the risk they pose to other people in the community or due to the particularly disruptive and negative impact they have on the community. Too often however, prisons are the end points that people find themselves in as a consequence of crossing the lines of criminality as they deal with the vulnerability and disadvantage they face in life. Largely people commit crime in the absence of a fair go, opportunities most of us take for granted, inadequate protective factors and ineffective or non-existent support networks and services.

Prisons do not appear to be not working and perversely may tend to increase the likelihood of reoffending¹⁶. Alternative pathways for people must be found; pathways that lead away from rather than to prison. Otherwise, the situation will continue to exacerbate as a consequence of the impacts of imprisoning people¹⁷ (see side box).

In terms of gender, while only seven percent of the prison population are women, the rate at which women are being incarcerated is rising faster than for men. In the 10 years to 2012, the number of women prisoners increased by 48%, while the number of men increased by 29% over the same time period. The crimes women are incarcerated are different and the design of design of prison facilities, offender programs and preventative community responses are often more focused around the experience and needs of men rather than women. There are also impacts on families with women tending more often to be the primary care giver; their absence from the family may have negative impacts on their children.

3.4 Reintegration to the community and intergenerational impacts

It is salutary to note that most people imprisoned will return to the community. The average time that prisoners serve is just less than 2 years (23 months)¹⁸. There is not accurate information to identify how many people are released from prison back into the community however it seems that 50,000 – 52,000 people per year is a reasonable estimation¹⁹.

On return to the community, people often struggle to have the basic structures for life in place; housing is an issue for many people with a number of people becoming homeless on release from prison, finding employment is likely to be difficult with a custodial record and absence from the workforce, while return to the family can be a protective factor for a person on release research also points to the stress a persons return to the family creates and the negative consequence on family functioning and children as absent parents seek to take up a position in the family. In addition, through the associations and networks formed in prison, the stigma that goes with a prison record and as a

<p>Impacts of Imprisonment</p> <ul style="list-style-type: none">•Fracturing of family and community ties•Negative impact on mental health•Hardening of attitudes and brutalisation•Decreased employment opportunities on release•Stigma and social exclusion <p>Development of criminal networks while in prison</p> <ul style="list-style-type: none">•Crime producing effects on families <p>Adapted from D Brown</p>

¹⁶ See Weatherburn 2010 and Wan 2012 for Australian literature on this
¹⁷ Brown, D 2010.
¹⁸ Australian Bureau of Statistics 2012
¹⁹ This figure is based on Martire and Larney’s estimations in 2009.

consequence of having been encultured in socially unproductive ways while in prison reintegration to the community is challenging.

The pathways that took people to jail in the first place and the social exclusion that they experience tend to be reinforced through custodial sentences. Ex-prisoners talk about their self-identity being that of a prisoner, of someone who is not valued, doesn't fit in and not able to lead a life like other people do. Feelings of worthlessness, lack of self efficacy and not having the skills to "make it" further marginalise people. Re-offending and recidivism is a strong likelihood; 55% of people in prison have served a previous sentence in an adult prison and 38% of people are reimprisoned within two years of release²⁰.

The impacts are not limited to the individual though; there is an intergenerational aspect to criminal behaviour. UK data shows that the children of prisoners are six times more likely than their peers to become prisoners. In Australia Goodwin and Davis²¹ have found that the children of parents with a criminal record have a much greater likelihood of becoming involved in crime themselves than the children of parents who do not have a criminal record; they pointed to the need for policy makers to focus attention on reducing environmental risk factors.

3.5 Investing smarter

There is a need to invest adequate resources in prevention and early intervention. We have already seen that risk factors associated with offending include unemployment, substance abuse, mental health issues and homelessness; often more than one of these factors is present in people's lives. Addressing these factors is required both at the behavioural level in people's lives but also at a structural level to stop the cycle of persistent disadvantage that people experience.

Australia can be proud of the services it provides across a range of health and social areas and the structures it has put in place to provide a safety net for people. We must do more than invest in prison beds in order to create a safer and more cohesive society. Dealing with the underlying issues of people's disadvantage and exclusion is a better investment. Poverty reduction, support for training and employment, affordable housing, increasing mental health services, drug and alcohol services along with other health and social services will support people's functioning and inclusion in society.

We know that for young people investing in the early years and supporting families is a good investment. Strong families and communities are protective factors for children and young people. Histories of neglect by parents are a significant factor in young people offending. Investments in families and investments in supportive relationships with schools and communities are necessary to support positive life outcomes and prevent young people committing crime.

While Australia has diversion programs, we should further invest in these programs for at risk young people and young people who have offended so pathways that lead away from youth detention and jail are provided and accessible. There is also evidence to support that restorative justice has a part to play in how crime is handled and that restorative justice can be a more positive approach that leads to reparation and decreases the likelihood of offending in the future.

²⁰ Report on Government Services 2013

²¹ Goodwin and Davies 2012

3.6 Changing the paradigm

In thinking about making a difference we also need to change the paradigm that is used in the criminal justice system. There should be a focus on how and why people stop offending. We know that most people do stop offending, at least eventually. We need to learn from the desistance literature²² that;

- People need to see that change is both desirable and possible.
- The strengths and resources a person has – both personal and in their social networks - to overcome obstacles should be a focus rather than their deficits and the risks they pose.
- To support positive change people need to develop a self identity that is pro-social and experience themselves in control of their futures with a clear sense of purpose and meaning in their lives.
- The social networks people live in are important. Positive identity formation around roles such as parent, employee, friend and so on must be a focus.
- One size will not fit all; there should be tailored and flexible approaches that are calibrated to the individual situations of people.
- Desistance is a difficult and complex process that is likely to involve relapses at some point and that supervision must be realistic at managing these setbacks constructively rather than punitively.

Offender management services need to think of themselves less as providers of correctional treatment and more as supporters of desistance processes.
Marina and Label

The desistance approach holds the individual offender is accountable but highlights that social integration is not something that any individual can achieve by themselves. Desistance arises from a person using their strengths, resources and networks to tackle the barriers they face however wider social and economic forces and community contexts are also crucial and the systems and structures that sit behind them should support desistance rather than create additional barriers.

²² For instance see Farrall, Giordano, McNeill, and Maruna.

Case Study: Step Out and Reconnect

Peter is 16 years and is a participant of Step Out, a Red Cross program supporting young people leaving detention. Peter was serving a detention order at Magill Youth Training Centre in South Australia and was matched with peer mentor, Kim. Peter has an extensive criminal history, between 2009 and 2010 Peter only spent 2 weeks in the community. His offending has been linked to heavy amphetamine use and rush seeking. The amount of time he has spent in custody and his alcohol and other drug use has impacted on his ability to engage in education; he has completed year 9 of high school. His offending and time in custody has resulted in a fractured relationship with his parents. Despite this he has a strong desire to please and be accepted by his family.

Peters' primary goal in his personal development plan (PDP) was to form new friendships that aren't based around offending behaviors. He acknowledged that this was difficult because of the "safety" of his previous peer group.

However he worked with his peer mentor to identify how he can attract new friends and what level of disclosure about his past is appropriate.

Since being in the Step Out program Peter has made some positive changes. Although Peter was still using amphetamines he was using at a low level, due to harm minimisation strategies provided by his peer mentor.

At the end of July 2011 Peter had spent 2.5 months in the community which is the longest time since he was 11 years old. However Peter is now back in custody and the peer mentor is working with Peter and his family to repair their relationship. Peter is receiving visits and phone communication from his family.

Since returning to custody, Peter has completed a Certificate 2 in Horticulture and is again preparing for release. To support him with his preparation, Peter and his peer mentor have been focusing on increasing his employability in the Horticultural industry through improving his literacy skills. To do this his peer mentor has used Peter's interest in hip hop, and Peter has been writing lyrics. As well as improving his literacy skills this has provided Peter with an opportunity to express his feelings about his life including his decision making and the time he has spent in detention facilities. Peter has shared some of these lyrics with his mother and is also more confident now in writing letters to his family and other supporters.



4.0 Aboriginal and Torres Strait Islander Communities – Impacts and underlying contributors to Incarceration

4.1 Over representation

There has been a stream of reports including the Royal Commission into Aboriginal Deaths in Custody detailing the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system. All have raised questions and often provided recommendations regarding the lack of success of the current system and whether there are more efficient, effective and socially just ways to tackle behaviours that are deemed unlawful.

The national imprisonment rate of Indigenous adults in 2011-12 was 2246.3 per 100,000 people in comparison to a rate of 123.7 per 100,000 of the general population. Aboriginal and Torres Strait Islander people are imprisoned at 14 times the rate for non-indigenous people. This gap appears to have increased significantly in the last decade with Aboriginal and Torres Strait Islander imprisonment rates increasing by 51.5% compared to a marginal increase in the non-Indigenous imprisonment rate²³.

Remedying Aboriginal and Torres Strait Islander disadvantage requires a long-term, sustained commitment to working in partnership with Aboriginal and Torres Strait Islander people and communities.

Add to this a disturbing trend that sees the rate of imprisonment for Aboriginal and Torres Strait Islander women growing rapidly – some 58.6% compared to 35.2% for Aboriginal and Torres Strait Islander men – along with the Aboriginal and Torres Strait Islander youth detention rate remaining unacceptably high at almost 24 times the rate of non-Indigenous youth detention.

Data also identifies that Aboriginal and Torres Strait Islander people are more likely to be the victim of crimes; being 23 times more likely to be hospitalised for assault than non-Indigenous Australians. Overrepresentation continues for Aboriginal and Torres Strait Islander people in the child protection system and in relation to most social indicators.

4.2 Impact of incarceration rates on Communities

The unacceptable level of over-representation of Aboriginal and Torres Strait Islander peoples within the criminal justice system clearly shows that the justice system is failing Indigenous Peoples and investment in prevention, early intervention and post release support has not been sufficient to stem the widening gap between Indigenous and non-indigenous incarceration rates. It also reveals the impacts on Aboriginal and Torres Strait Islander communities that have long term ramifications on the prospects, health and well being of families and communities for generations to come.

It is important to recognise that there is a link between victims and offenders with many offenders also being victims of crime themselves, or the children of victims. Furthermore, the profiles of

²³ Australian Bureau of Statistics 2011

disadvantage related to offenders and victims are often very similar indicating a high level of complexity in relation to over-representation and victimisation²⁴.

4.3 Stolen Generations

The Australian Government's 1997 *Bringing Them Home Report* highlighted the affects forcibly removing children from their families has had on Aboriginal and Torres Strait Islander peoples, their families and communities²⁵.

For many thousands of generations, Aboriginal and Torres Strait Islander communities and families have been part of intricate family and kinship structures that have supported key relationships between grandparents, aunts and uncles, parents and children. These relationships can be described as the compass from which the individual is able to establish their purpose, identity and role within the family and community.

Government policies of the past however, in particular policies that saw the forced removal of Aboriginal and Torres Strait Islander children and assimilation of Aboriginal and Torres Strait Islander cultures, have gouged parenting and kinship structures in countless communities and have left many generations rudderless. Without the ability to pass on knowledge across generations some families find themselves with inadequate parenting skills or struggling to find solutions to challenging situations

Furthermore the *Royal Commission into Aboriginal Deaths in Custody* prioritised aspects of "family control" recommending that family needs be given greater emphasis in the design and content of programs for reduced youth incarceration rates. It suggested that interruptions in the family structure along with other social determinants placed young people at greater risk of coming into contact with the criminal justice system.

4.4 Economic Participation

Sarah Hudson²⁶ cites a number of reports supporting the notion that although Aboriginal and Torres Strait Islander offending is a problem in capital cities, the percentage of offenders is much higher in remote and very remote communities. A common feature in these locations, Hudson argues, is the high level of disadvantage including high rates of unemployment and welfare dependency. She goes on to report that

"Research has found that unemployment is a greater risk factor for offending than Indigenous status. The imprisonment rate of Indigenous people who were employed at the time of their offending was 332 per 100,000 population. The rate for unemployed Indigenous people was 6,495 per 100,000."²⁷

Noel Pearson's Cape York Institute suggested welfare reform measures in a number of Cape York communities in Far North Queensland. In this policy context, passive welfare dependence is

²⁴ National Congress of Australia's First Peoples 2013 National Justice Policy

²⁵ Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children and their Families

²⁶ Hudson 2013

²⁷ Select Committee on regional and remote Indigenous communities 2010

perceived as a barrier to engagement in the real economy and a contributor to negative social norms including alcohol abuse and community violence, both of which play a major role in the overrepresentation of Aboriginal and Torres Strait Islander peoples in prison.

The *Royal Commission into Aboriginal Deaths in Custody* made a number of recommendations related specifically to increasing economic opportunities as a means to reducing overrepresentation. The report identified unemployment and poverty as common social determinants impacting Aboriginal and Torres Strait Islander incarceration rates.

4.5 Social Norms

Hudson²⁸ refers to a “tipping point” in communities arguing that when large numbers of a community’s population are in prison or have direct personal knowledge of prison, imprisonment becomes part of the socialisation process and no longer a deterrent. Imprisonment and the behaviours that lead to it become so normalised that they become part of the culture of that family or community.

If for instance domestic violence is the behaviour children see frequently with little or no adjustment or consequence being managed it can be seen as “normal” or part of the everyday roles of men and women. Similarly if large proportions of a community or family engage in the misuse of alcohol or drugs, a level of acceptance for this behaviour settles in and becomes just an everyday part of life. When these behaviours become social norms even positive cultural values, such as the Aboriginal and Torres Strait islander responsibility to share, become corrupted.

More disturbing is when imprisonment and thus the behaviours that lead to imprisonment are so normalised that they are regarded as a rite of passage. For some Aboriginal and Torres Strait Islander communities, imprisonment is so much a part of life. Although a hard concept to accept, it is unfortunately one that prevails in communities where high dysfunction supported by negative social norms exists.

4.6 Family Violence

Family violence in Aboriginal and Torres Strait Islander communities remains one of the most telling sets of data in understanding incarceration rates and the affect of individual, family and community well being.

The Australian Productivity Commission²⁹ paints a disturbing picture of unacceptable levels of violence in Indigenous communities:

- Indigenous people are hospitalised as a result of spouse or partner violence at 34 times the rate of non-indigenous people
- Indigenous women are 45 times more likely than non-indigenous women to be victims of domestic violence

For many communities alcohol plays a contributing role in the rates of family violence and its consequent path to high incarceration rates. Regardless of source the statistics concur that there is more likelihood of significant harm and rates of family violence when alcohol is present.

²⁸ Hudson (2013)

²⁹ Australian Productivity Commission Report on Overcoming Indigenous Disadvantage(2009)

In the over 120 Aboriginal and Torres Strait Islander communities where Red Cross works closely with vulnerable families and individuals, the negative stresses related to multiple social determinants are often punctuated with various levels of violence. The goal of all our work is to focus on the strengths of a community's inherent values and seek positive change that is led and owned by the community.

Case Study: Finding a men's place

RespectED is a prevention, education and capacity building program developed by the Canadian Red Cross to address violence and abuse and is now being implemented in Australia. RespectED is leading discussions around violence prevention and child safety in Tennant Creek, Ceduna and Port Augusta.

In Tennant Creek, RespectED is dealing with some of the issues faced by men who have been mandated to spend time in the Barkly Region Alcohol and Drug Abuse Advisory Group Centre.

RespectED Prevention Educator Linda Turner says Respect ED is a positive program instead of just looking at the negatives: "One of the things we do is go back to cultural strengths of the old days and see what happened in the past," LT explains. "Go back to their grandfather and father's day, and see what they put in place. Cultural practices that protected young people and children. I've found the men are stopping and looking within. They're becoming inspired to go and learn the culture themselves or if they do have the knowledge, go out and teach it."

Kelvin comes from Kalinjarri, 80 km south of Tennant, but came to Tennant when he was 10 years old when his mother and father got sick. He used to work in construction. "I was repairing houses. Went from a part-time job to full-time," he says. "I liked working as you were part of a team, a group." Footy also gave him the opportunity to be part of a team and travel – another thing he's going to do when he gets out. "I'm starting to see everything I can do with my life," he says. "We used to drive around the streets, going in circles, drinking. I had a fight when I was drunk and got locked up. But it's given me the chance to get my head straight. I started thinking about family, my little girl who's six and my boy who's five."

"When I was growing up in my community, our Elders would have ceremony. My grandfather's way was strong language and strong culture. In my father's time there started to be cars, guns, alcohol, and violence."

"For my children, as they get older, I'll take them back to where I come from. I'll take them out and tell them their grandfather's stories. I've got a lot of stories to tell them... Now I'm not just looking at the mistakes I made. I'm looking at what I can do."

Phil Allen, Manager of RespectED believes the power of RespectED is in the opportunity it provides participants to tell their story. “It gives them a voice, which has been taken away from them,” he says. “The program attempts to show how violence in community is not our way...How a community-based approach is going to go about changing this violence.”

5.0 A Place Based Approach to Justice Reinvestment

5.1 What is a place based approach?

Place-based approaches can be seen as one of the logical responses to localities that are home to a congregation of people suffering from the effects of social exclusion as described in the previous section. Place based approaches also assist in mitigating the known outcome that, simply by living in a community of 'congregated disadvantage', the harmful impacts of social exclusion are exacerbated. The evidence is that **concentrations of disadvantage** limit life choices and chances; undermine health and wellbeing; and tend to trap people in intergenerational cycles of vulnerability and disadvantage.

The term 'locational disadvantage' refers to neighbourhoods or geographic areas in which multiple factors that lead to disadvantage interconnect and compound, leading to deeper and more entrenched disadvantage. This results in concentrations of poverty and people living in these locations experiencing both higher levels, and intergenerational cycles, of disadvantage.

Place based approaches respond to locational disadvantage by using 'joined up' local responses to address issues in a specific neighbourhood or locality. 'Place based' work typically employs community development principles and may involve many different actors, including not-for-profits, local organisations, governments, business and especially local community members. Solutions are tailored to the unique circumstances of the place/location in partnership with the community.

5.2 Why adopt a place based approach for justice reinvestment?

Despite our nation's recent strong economic growth, some communities remain caught in a spiral of low school attainment, high unemployment, poor health, **high imprisonment rates** and child abuse, according to Tony Vinson's³⁰ report *Dropping off the Edge*, which maps the distribution of social disadvantage throughout Australia. The report identifies for each state and territory locations of high social disadvantage and found that of the most disadvantaged postcodes in Australia unemployment, criminal convictions and imprisonments were twice the rate of other postcodes. This was found to be most prevalent in locations where high proportions of Aboriginal and Torres Strait Islander people reside, regardless of geographic remoteness. Vinson's study indicated that even in large cities such as Sydney and Brisbane, where access to greater employment opportunities exist, Aboriginal and Torres Strait Islander people resided in lower socioeconomic suburbs and neighbourhoods where unemployment, high welfare dependency and criminal convictions prevail. The 2009 Social Justice Report of the Australian Human Rights Commission also presents data on the top 5 locations of Indigenous adult prisoners.

³⁰ Vinson, T 2007

One of the key elements of a justice reinvestment approach is to develop measures and policies to improve the 'prospects not just of individual cases but of particular places'. This is in contrast to the reliance in the corrections realm on risk assessment tools that focus on the characteristics of the individual rather than seeing their community context as integral to the offending cycle. Place-based approaches will have a positive effect on all community members (current and future) – not just those likely to offend. This is particularly the case for direct and indirect victims who can benefit from an increase in social cohesion and reducing the causative factors contributing to stressors which lead to offending. Place-based approaches can also have an impact on reducing recidivism though facilitating a community approach that maximizes the social inclusion of the person returning to the community once they are released from jail.

5.3 What would a justice reinvestment place based approach look like and how would it be implemented?

All place-based approaches focus on the unique situation of the community taking into account the particular strengths and challenges of that community. Rather than a one size fits all approach, resources can be put where they will achieve greatest impact. For example, the drivers for social exclusion and high rates of imprisonment in an isolated remote Aboriginal community are likely to be different to those of middle-ring capital city suburbs with large numbers of high-rise public housing estates.

Evidence indicates that effective place-based interventions often include:ⁱⁱⁱ

- agreed and clear focus and purpose of actions and approaches
- engagement processes based in respect and positive story telling
- investment in infrastructure and facilities
- data to track social inclusion outcomes against measures defined by the community
- appropriate governance and institutional arrangements at all levels, and
- a focus on sustainability.

Place-based approaches should focus on all levels of intervention but with a focus on reducing those factors that lead to a greater risk of incarceration. These may include broad targets of employment and reducing household overcrowding to more specific approaches focusing on reducing foetal alcohol spectrum disorder and addressing communication disorders.

As described previously, the Human Rights Commission Social Justice Report³¹ indicates Justice Reinvestment has four distinct phases:

Phase One – Analysis and Mapping - Collect, analyse and map data about crimes to identify communities where there are a high proportion of offenders. Develop an understanding of the underlying causes of crime in these communities and the current programs and expenditure in these communities.

³¹ Human Rights Commission Report 2009

'Justice mapping' or 'prison geographies' allow policy makers to identify 'million dollar blocks' (or communities) – literally, a block of housing that is home to people whose incarceration costs over \$1 million per year – where prison related expenditure is concentrated'. As a result, as Schwartz points out '...millions are spent **on** the community but not **in** it'. However, rather than just focussing on the direct cost impact of incarcerating members of a particular location, the social, economic, cultural, spiritual impact should also be accounted for. This is especially the case where a significant proportion of adults from a small community are removed for long periods of time.

For example, in 2007/8 the greatest number of adult indigenous prisoners in Queensland came from Cairns, Brisbane and Townsville. However the greatest impact may be felt on Palm Island which although having lower numbers, is significantly higher as a proportion of the total adult community. In Northern Territory, 72 prisoners came from Papunya with a total population of 379, and 93 adults incarcerated from Yuendumu with a population of 817. The impact on the social infrastructure of these communities is significant. (Ref Schwartz 2010 and Social Justice Commission 2009)

Similarly, a cursory examination of data³² comparing indigenous prisoner last known address from 2008 to 2009 reveals that there was a 58% increase in the number of prisoners from Katherine Urban region, and Wadeye experienced a 92% increase. The impact both of the offences on victims and the community as well as the removal of community members to prisons many hundreds of kilometers away would be an important factor to explore. (NT Dept Justice, Correctional Services Annual Statistics

Phase Two – Develop Options to reduce offending – Consult with communities to identify opportunities to address the causes of crime and to reduce offending.

These options could include community based alternatives to imprisonment, community strengthening and prevention programs, improved post release programs and changes to current criminal systems.

The Australian National Council on Drugs (ANCD, 2013) recently released a report comparing imprisonment to residential care facilities for indigenous offenders who had drug and alcohol issues. In summary, the cost of community residential rehabilitation services is substantially less than imprisonment and is also associated with better outcomes including reduced recidivism and better health outcomes – with the additional cost benefit to the health system. Communities that identify that abuse of drugs and alcohol as an issue in their community and which contribute to offending behaviour could be invited to consider a community located facility as an alternative to imprisonment.

Red Cross works with over 150 communities throughout Australia including over 100 rural and remote Aboriginal and Torres Strait Islander Communities. In many of these communities, community development approaches have been utilised to work with the community on identifying solutions to the issues that impact them most. Would benefit from an additional statement on this..." Key guidelines that drive our approach to Working with Communities and are relevant to the implementation of a justice reinvestment approach are;

- Only working with communities that agree to our involvement

³² NT Govt, Correctional Services Annual Stats

- Communities are actively involved in the planning, implementation and review of responses.
- Contribute to the development of an integrated service that includes establishing local linkages and engaging other providers in the community.
- Work with communities for a minimum of 7-10 years to ensure any changes are sustainable.

Case Study Woorabinda Qld

Working with the community to ensure they are supported to drive and lead solutions to achieve positive change has led to the creation of the Woorabinda Governance Group.

Woorabinda Governance Group founding member and former councillor, Anthony Henry says discussions began with the basics. How do we ensure agencies, government and non-government, provide the best service to our community?

Crucial to the solution he says, was to understand the impact of years of oppression such as alcohol, drugs and domestic violence.

Woorabinda is an Aboriginal community two and half hours drive inland from Rockhampton, Central Queensland. Its residents are among the most disadvantaged in Australia on a number of socio-economic and health indicators, living shorter lives, experiencing high levels of distress and having lower educational outcomes compared to non-Indigenous Australians.

“We camped out with a few of the Red Cross operators out bush and talked about the history of Woorabinda, what people had to give and the skills out here.”

“Then we looked at how we start re-building,” Henry says determinedly.

This meant a focus on employing and training local people, “to empower the community through structures which they get to manage.” Henry says Woorabinda wants to run its own race and find its own pathways. Because if we don’t own our problems and our issues know one else will solve them”.

Under the direction of the Woorabinda Governance Group, that goal is on track. All of the 14 full-time and casual Red Cross workers in Woorabinda are Aboriginal and/or Torres Strait Islander peoples, running programs from youth and family support to community engagement.

The Woorabinda Governance Group oversees a number of programs in the community and are calling for more residents to get involved to “bring strength and more ideas.”

Following the incarceration of a group of Woorabinda youth, whose offences impacted many across the community, local elders initiated a reintegration approach to ensure not only a smooth transition back to the community but more importantly a sense of healing for the ex-prisoners and their families.

Before their return to the community the ex-prisoners joined Elders and key family members camping in bushlands surrounding Woorabinda. This was a time to debrief the combined experiences of all affected by the offences, their contact with the criminal justice system and the distances that had separated them from each other. It was also a time to forgive, rebuild trust and make plans before the ex-prisoners rejoined their community.

Phase Three – Implementation – Identified communities are resourced to implement prevention, diversion and prevention of reoffending programs and initiatives.

Research has repeatedly highlighted the four most important factors contributing to successful re-entry to society from custody are: accommodation; education and employment; appropriate treatment programs; and social support networks. It could be assumed that better collaboration and improved service levels in these areas would form many of the responses identified in a place-based response. Based on the consultation with communities and the priorities they develop, programs could be implemented across a range of areas. These may include substance abuse residential programs, cultural camps as both diversion programs but also supporting the reintegration of returning prisoners, youth holiday programs, parenting support programs, housing programs, and employment programs. The programs implemented would depend on the analysis of who is offending, how are they offending, what leads to the offending, who is impacted by the offending and what are the environmental factors that contribute to the offending. Critical to this approach, is the ability to quantify the savings which result and, of course, the impact on the community.

In leading the way for the implementation of a Justice Reinvestment place based approach, Governments at the Federal, State and Local jurisdictional level will need to recognise that their services are funded to respond to many of the complex needs people who are socially excluded experience, such as mental health and substance abuse early intervention and treatment programs. Relevant departments across all three jurisdictions need to be prepared to suspend some of their global operating practices and procedures, such as strict eligibility requirements and funding only on case mix formula, for the term of the place based approach. In order to genuinely respond to the needs of the community as a whole, all organisations that can contribute will be required to reshape their current operating practices in order to respond to the new model that addresses the needs identified in partnership with each participating agency or organisation.

Critically, the governance model for each of the place-based initiatives would include community members as well as service providers and funders. Without the oversight and input of the community themselves, the major impacts in shaping factors that cause offending and re-offending in a specific place may not be identified and acted upon in the continual manner required to bring about sustainable change.

Phase Four – Evaluation – Measure and evaluate the outcomes and impact of a Justice Reinvestment approach.

One of the benefits of a place-based approach to justice reinvestment is that it allows funders, supporters and community members themselves to track the progress of implementation.

Whilst there are some clear indicators to be measured, such as the rate of offending and re-offending, the time between offending and re-offending and the level and severity of the offences, a genuine place-based approach to justice reinvestment would include establishing with the

community what needs to change in the location to reduce offending and how that best would be measured. One of the best ways to do this is through the use of Community-Based Participatory Research. Red Cross has been involved in an award winning research project that well demonstrates how this can occur in a place-based approach.

Case Study: Community-Based Participatory Research

Red Cross receives funding from the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) as a Facilitating Partner for Communities for Children (C4C) program. C4C programs provide services to ensure children have the best start in life by focussing on prevention and early intervention approaches that bring about positive family functioning, safety and child development outcomes for children and their families in disadvantaged communities throughout Australia. As a Facilitating Partner, Red Cross brokers funds to support local activities and services that are focused on families with children with children 0-12 years of age in two locations, Palmerston and Tiwi Islands in the Northern Territory. Community Partners have been contracted to deliver a range of child or family focused programs to enhance and improve family living on the Tiwi islands and Palmerston in areas such as family safety and child development, improved ante natal and post natal care, improved family relationships and so on.

Working within a community development framework, the C4C program from the outset made a commitment to embed a Community-Based Participatory Research (CBPR) approach to evaluate activities and services delivered as part of the program.

The CBPR approach to evaluation actively and fully involves members of the recipient communities, as equal partners, at every stage of the research process - from the identification of key issues, to the inception of research proposals, through to the evaluation and dissemination of data and results. CBPR creates bridges between Red Cross staff, evaluators and communities, through the use of shared knowledge and valuable experience.

This collaboration further lends itself to the development of culturally appropriate data collection methods, thus making the evaluation more effective and efficient.

It is through full and equal partnership that CBPR is distinguished from more traditional forms of evaluation.

As a **collaborative relationship** is created, community members become active contributors to the evaluation process, therein adding meaning to the project and promoting sustainability through relationships based on trust and mutual respect. This is particularly poignant for groups that have been traumatised and oppressed due to historical events and colonial processes, such as Aboriginal Australians and Torres Strait Islander communities.

The ultimate benefit to emerge from such collaborations is a deeper understanding of a community's unique circumstances, and a more accurate framework for investigating and adapting best practices to community needs.

The key elements of the evaluation process include –

- Strengthening evaluation capacity of Local Committee members and Community Partner agency staff, through initiatives such as training community members on the local evaluation teams in evaluation process

- Participatory development of the monitoring and evaluation framework, including developing the evaluation questions and processes for collection of evidence together
- Regular reports and review of evaluation with Local Committee members and Community Partners to support and reflection

Review of the Red Cross C4C evaluation model has revealed some of the key elements for successful participatory evaluation that could be applied to Justice Reinvestment models using a place-based approach:

- Jointly identifying evaluation priorities with the respective communities
- A high level of involvement from both the evaluator and the communities
- Decision-sharing between evaluator, Red Cross staff and the communities
- Co-learning and knowledge development across evaluator, Red Cross staff and communities
- Guiding partnership across sites
- Mutual ownership of C4C activities and services

The review of the model also demonstrated some key impacts which, again, could be replicated within a place-based justice reinvestment approach:

- Generating instrumental and practical knowledge
- Building sustainable services including alternative funding sources
- Improved community interests and capacity to own and respond to early childhood issues
- Establishing congruence between evaluation and local social context
- Developing evidence
- Promoting social change.

6.0 Barriers to implementing a justice reinvestment approach

While Red Cross is convinced that justice reinvestment is a better alternative to the current Australian criminal justice approaches we recognise that there are barriers and challenges to trialling and potentially implementing justice reinvestment in Australia. This section briefly identifies some of the key challenges and provides some directions in response to them. The recommendations which follow pick up a number of these responses providing detail around what should be done in Australia to make a difference.

6.1 Australia's federated system of government; the need for collaboration and leadership

Constitutionally and administratively the state and territory governments have the primary responsibility for the criminal justice, police, courts and corrections systems. The states and territories also have significant carriage of the services that can be protective factors in providing support and redressing people taking pathways that may lead them to prison. These protective factors include education, health, mental health, alcohol and drugs, community support, family services and social services. The Australian Government has a role across a number of these areas and also has primary responsibility for training, education, and Indigenous affairs.

With nine different governments having responsibility for the array of services and sectors that impact on crime, community safety and custodial outcomes it is evident that inter-government collaboration is required. The Council of Australian Governments has been established to provide inter-government collaboration and should be the mechanism that drives adoption of justice reinvestment.

Red Cross' view is that national leadership must occur if Australia is to achieve improved outcomes for people who commit crime and to make communities safer and more cohesive. Because the issues involved are national we implore the Australian Government to take up leadership in promoting justice reinvestment within Australia.

While a full justice reinvestment approach is a considerable challenge to introduce across Australia Red Cross is mindful that the immediate future should be focussed on putting in place strategies and adequate funding to undertake proof of concept of justice reinvestment for Australia. Trialling justice reinvestment and evaluating its impact is fundamental as is putting in place better information and data systems to inform decisions about where to invest and what in. The recommendations made provide some tangible steps that should be taken. Implementation of these recommendations is a relatively modest undertaking and inexpensive given the costs we as a nation are already bearing.

6.2 Government Departments; joined up approaches are required

Within each of the nine governments there are a number of departments each of which impacts on the outcomes that people and our communities will experience. Various reports and other information have pointed to the lack of coordination between the relevant government

departments that generally occurs within the jurisdictions. This was reflected in the findings of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report on Indigenous youth in the criminal justice system which expressed “concern that funding and programs are scattered across the country without clear and cohesive objectives and leadership”³³.

With individual departments having responsibility for program areas in their portfolio there is need for cross-portfolio thinking and action. As we have seen there are cumulative factors and entrenched disadvantage driving why people offend and go to jail; these are complex areas that demand intra-government responses that transcend portfolio boundaries and thinking.

Whole of government responses are required that will emphasise integrated planning, pooled funds, intra-government committees and long term timeframes. Departmental budgets and responsibility are under challenge in contemplating justice reinvestment. Getting the buy-in of health, education, community and social government agencies is necessary and changing the paradigm for correctional and justice agencies is also necessary. The consequence of government not taking a holistic and integrated view is to continue to overinvest in correctional facilities with the marginal investments that are made most likely contributing to crime rather than reducing it.

6.3 Deep and persistent disadvantage is complex and solutions are elusive; we have the starting points though

Promoting justice reinvestment as a better system and exhorting government to collaborate and provide leadership is one thing; the other side of the coin is to deliver on the vision of justice reinvestment in driving down crime, reducing recidivism and contributing to a safer community.

Impacting on disadvantage, particularly where disadvantage is deep and persistent is complex. Red Cross does not underestimate the challenge there is in identifying the right policies, services and criminal justice responses to put in place. Nor do underestimate the challenge of implementing them well and evaluating them with rigour to find out what truly worked and what did not.

Fortunately, we have starting points from the evidence and research as well as from the experience and wisdom that is in the various systems involved. The importance of prevention, early intervention and diversion are clear as is the necessity to effectively support reintegration to the community following release from prison. The sentencing procedures must also be a place for changed approaches. The background and environmental factors must also be a dominant focus; early childhood, healthy families, education, strong communities and economic participation are all fundamental to creating better pathways for people through life.

Despite these starting points this is a learning curve and implementing justice reinvestment should be understood as such. We do not fully understand what works or how to implement initiatives that are indicated. There is also the importance of involving communities, of really engaging them, ensuring effective community governance and supporting leadership development. Mechanisms for funds holding, accountability, collaboration and evaluation will all be required and will develop over time through cumulative learning.

³³ HoR Standing Committee on ATSI Affairs p 319

6.4 Public perceptions and attitudes; influencing them, not just being influenced by them

The public and the media have a high interest in crime, what is fitting as punishment and community safety. As such these factors are politicised and often played out in the context of party politics.

The public's knowledge of crime and the criminal justice system is generally informed through the media, through their families and friends experiences and through the political process. In many instances, the information is partial, one sided, sensationalised or inaccurate. Overall, there seems to be a perception that crime is constantly increasing and that offenders are treated leniently while victims of crime have their lives disrupted if not destroyed.

The crime statistics across Australia are highly variable with different and inconsistent trends in overall crime and violent crime. There is also variability in sentencing practices between jurisdictions. In this context vested interests use crime statistics and sentencing outcomes for their own ends.

In this context justice reinvestment can readily be portrayed as being soft on crime. The consequence of this is that it is not politically wise to adopt it. Governments should take a role in providing public information and discussion about the crime, the criminal justice system and community safety. Governments should seek to influence public perceptions and leading informed debates. As part of informed debate approaches like justice reinvestment should be considered so that what is in the best interest of society can be more effectively determined.

Appendix 1 People in Australian prisons

This appendix presents comparative data on the number of people in Australian prisons at 30 June 2000 and 30 June 2012. It observes the variability across jurisdictions of the rates of incarceration and briefly outlines the financial impact that continuing to expand the prison capacity has on state and territory government budgets.

Across Australia the overall rate at which people are incarcerated has increased by 13.5% in the 12 year period and as a consequence of this along with population growth the prison population has increased by 7,677. There are significant variations in the rate at which people are incarcerated. In the 12 year period to 2012 Queensland and NSW both decreased the rate of incarceration, Queensland by 4% and NSW by 1%. Each of the other states and territories increased their incarceration rates, the Northern Territory and the ACT had the highest increases at 80% and 65% respectively.

Comparison of adult prisoners in Australian prisons between 2000 and 2012					
	Total number of prisoners at 30/6/2012	2012 rate of incarceration(a)	Total number of prisoners at 30/6/2000	2000 rate of incarceration(a)	% change from 2000 in the rate of incarceration
Australia	29,391	168	21,714	148	13.5% increase
NSW	9,645	171	8,547	172	0.6% decrease
VIC	4,884	112	3,153	85	31.2% increase
QLD	5,593	159	4,482	166	4.4% decrease
SA	2,077	160	1,299	112	42.8% increase
WA	4,964	267	3,124	218	22.5% increase
TAS	494	125	390	109	14.7% increase
NT	1,411	826	635	458	80.3% increase
ACT	313	107	239	65	64.6% increase

(a) Rate per 100,000 of the adult population.
Australia reports

Data source: ABS Prisoners in

This submission has contended there are significant financial benefits to governments in holding growth or decreasing growth in the number of people in prisons. This is evidenced by NSW and Queensland. If these states had increased their prison population at the Australian average of 13.5% over the 12 year period the NSW Government would have required an additional \$152 million to fund prisons in the 2012/13 year. That's an additional 14% more than what the estimated cost to NSW will be. Likewise Queensland avoided having to spend \$115 million in the same year, an effective estimated budget saving of over 18% of total costs. The table outlines the calculations.

Estimated costs if growth in the prison population increased at the Australian average – comparison for NSW and Queensland				
State	Estimated no. of prisoners at 30/6/2012 – if growth was at the Australian average	Estimated 2012/13 cost if growth was at the Australian average	Estimated 2012/13 cost of the actual number of prisoners at 30/6/2012	Estimated yearly savings
NSW	11,012	\$1,225,809,926	\$1,073,729,625	\$152,080,301
Qld	6,628	\$737,809,679	\$622,640,725	\$115,168,954

Conversely jurisdictions that have increased the rate of incarceration above the Australian average have essentially had an impost on their budgets. In the Northern Territory the rates of incarceration has increased by 80% across the 12 year period. If the Northern Territory had grown at the Australian average (13.5%) the estimated saving would be \$58 million on the 2012/13 estimated cost of providing prisons in the NT; that is 37% of the total estimated cost. In South Australia the additional expenditure required is estimated to be \$47 million in 2012/13 due to the growth in the incarceration rate being 43% rather than 13.5%; a 20% reduction in the estimated cost.

Estimated costs if growth in the prison population increased at the Australian average – comparison for the Northern Territory and the ACT				
State	No. of prisoners at 30/6/2012 – if growth at the Australian average	Estimated 2012/13 cost if growth was at the Australian average	Estimated 2012/13 cost of the actual number of prisoners at 30/6/2012	Estimated yearly savings
NT	888	\$98,855,539	\$157,079,575	\$58,224,036
SA	1651	\$183,705,898	\$231,222,025	\$47,516,126

Assumptions for the estimates

- The average number of prisoners in each jurisdiction in 2012/13 is the number of prisoners at 30 June 2012.
- The annual cost is \$111,325 which is the 2011/12 average national cost comprising of net operating costs, depreciation, debt servicing fees and the user cost of capital³⁴.

The situation in Australia's juvenile justice systems is very different to this. Between 1981 and 2002 there was a 61% decrease in the number of young people in custody though since 2004 there has been an upward trend in the rates of young people being held in detention. The difference has been working to the principle that young people should only be placed in detention only as a last resort.

³⁴ 2013 Government Services Report

With 86% of young people being under supervision in the community there has been considerable decreases in young people in custody.

Policy Statement on Justice & the Impacts of Imprisonment

This Policy Statement outlines the Australian Red Cross commitment to improving the lives of individuals and families who are socially excluded and marginalised as a result of their involvement in the Justice System. Australian Red Cross recognises the role of the prison system in society, but also believes that it is a system that can have damaging long term impacts on those who are imprisoned, their families and the broader community. Australian Red Cross seeks to contribute to a safer and more socially cohesive community by diverting people from crime, reducing rates of reoffending and reintegrating offenders into the community. This will make communities safer, stronger and more resilient while leading to reduced social and economic costs.

Offenders, ex-offenders and their families can be counted among the most vulnerable and socially excluded people in Australia. The evidence shows that offenders often have histories of abuse, neglect, inadequate education, poor literacy, unemployment, poor

health and mental health, poverty, cognitive impairment, drug and alcohol issues and homelessness. People are not only excluded from society when they are in prison or youth justice, but having served their custodial sentence, they experience considerable stigma and difficulty in reintegrating back into the community. This can prevent ex-prisoners from fully rejoining the community and participating in society. The Policy on Justice is also inclusive of detainees in immigration detention including those awaiting resolution of their visa status, section 501 detainees, and those subject to trafficking.



Australian Red Cross will develop skills and capacity to undertake strategic and targeted interventions including in collaboration with others to best contribute to addressing the following issues subject to resources being available:

To prevent the involvement of young people in the Justice System through early intervention

Australian Red Cross is committed to undertaking prevention and early intervention programs, education and information activities and creating pathways to positive social engagement so that young at risk people are less likely to offend and to be incarcerated.

To improve the safety, health and wellbeing of individuals who are incarcerated

Australian Red Cross is committed to improving the safety, health and wellbeing of offenders through a range of health and welfare programs and activities within prisons, including programs to minimise harm, enhance life skills, support and maintain family connections and build personal capacity and resilience.

To reduce the stigma and stress experienced by the families of those who are incarcerated

Australian Red Cross works with families and children of prisoners to maintain family connections and overcome the stress and stigma of having a family member incarcerated.

To support ex-prisoners to successfully reconnect to the community

Australian Red Cross undertakes transition programs and initiatives that support successful reintegration of people back into the community.

To focus on providing support to people who are over-represented in the Justice System as well as those who are particularly vulnerable

Australian Red Cross seeks to provide support to people who are most vulnerable including people who are over-represented in prison populations. This includes a focus on Aboriginal and Torres Strait Islander people, people with mental illness or other cognitive impairments, people from culturally and linguistically diverse backgrounds such as those subject to trafficking and s501 visa holders, and people who are homeless or at risk of homeless.

To address the high rates of imprisonment of Aboriginal and Torres Strait islander people

Australian Red Cross seeks to address the high rates of imprisonment of Aboriginal and Torres Strait islander people by working with communities and organisations to develop more effective evidence-based solutions. This work will be informed by the findings of the *Royal Commission into Aboriginal Deaths in Custody* and other social justice reports including the need for development of approaches focusing on early intervention, prevention and community-led alternatives to imprisonment.

To provide alternative pathways and support for ex-offenders to contribute to the work of Red Cross

Australian Red Cross is committed to developing pathways and support for ex-offenders to contribute their knowledge, skills and energies to its work both as staff, members and volunteers.

To advocate to address the underlying causes of crime, the impacts of imprisonment and high rates of imprisonment among vulnerable groups of people

Australian Red Cross seeks to persuade decision makers and opinion leaders to address the causes of crime, the impacts of imprisonment and the high rates of imprisonment among vulnerable people, and to consider alternative measures to imprisonment where appropriate, including Justice Reinvestment.

In working with individuals, and the families of individuals, who are involved in the justice system, Australian Red Cross acknowledges that victims of crime have suffered harm, including physical and mental injury, emotional suffering, economic loss, and impairment as a result of criminal acts and omissions. In line with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), Australian Red Cross acknowledges and supports the right of victims of crime to be treated with respect and recognition; to be referred to adequate support services; to be afforded

the protection of physical safety and privacy; and the right to compensation from both the offender and the State.

This Policy is subject at all times to the wider established HR and Risk Management policies of Red Cross designed to ensure organisational integrity, reputational protection and the safety of our clients, volunteers, and staff.

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