



Ms Christine McDonald  
Inquiry Secretary  
Senate Standing Committee on Legal and Constitutional Affairs

Via email

Dear Ms McDonald

Thank you for the opportunity to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into the value of a justice reinvestment approach to criminal justice in Australia.

We wish to make a brief submission based on the Commission's involvement with a Justice Reinvestment approach.

In 2011, the Commission undertook a Review of the ACT Youth Justice System, including a human rights audit of the Bimberi Youth Justice Centre. That Review included a comprehensive consideration of how a justice reinvestment approach might be adopted in the ACT context. The Commission defined justice reinvestment as a strategy by which public funds dealing with the consequences of crime are redirected to address the causes of crime. In practice, we found justice reinvestment in a youth justice context is the integrated investment in programs such as nurse home visits, mental health assessments for new mothers, parenting education, early education before starting kindergarten, restorative justice for low-risk offenders, anger management and other therapeutic interventions, and youth drug courts. We found investing over the long term in an integrated prevention and diversion strategy will provide the best opportunity to reduce offending and deliver significant long-term benefits to the ACT community. Our Review recommended that the ACT Government:

*Rec 7.32: The ACT Government adopt a long-term Justice Reinvestment Strategy that addresses the underlying causes of crime.*

*Rec 7.33: The ACT Government develop meaningful mechanisms to partner with Aboriginal and Torres Strait Islander communities to design and deliver a long-term Justice Reinvestment Strategy that will reduce offending by Aboriginal and Torres Strait Islander young people. Consideration be given to conducting a thorough 'mapping' of all programs and services offered to Aboriginal and Torres Strait Islander communities, including the level of engagement by Aboriginal and Torres Strait Islander people*

Since, the Commission has worked with interested ACT stakeholders to investigate models of justice reinvestment in the ACT context. These stakeholders have included the ACT Chief Minister and Treasury Directorate, ACT Justice and Community Safety Directorate, ACT Aboriginal and Torres Strait Islander Elected Body and the Centre for Indigenous Studies at the Australian National University. This has included three workshops involving a broad range of stakeholders on

8 November, 2 August 2012 and 16 October 2012, as well as regular meetings of the steering group throughout 2011, 2012 and 2013. This work has included considering research opportunities to investigate how such a model might be used and evaluated in the ACT.

Based on this work, the Commission continues to advocate for the adoption of a Justice Reinvestment model in the whole criminal justice system, beyond the youth justice system. We submit that doing so on a systematic, national basis would bring benefits for the Australian community as a whole.

### **People with Disability in the Justice System**

The Commission would also like to make specific comment on the term of reference covering the over-representation of disadvantaged groups within Australian correctional facilities for young people and adults, including people experiencing mental ill-health, cognitive disability and hearing loss. This description by John Ryan MLC, Chair of the NSW Parliamentary Inquiry into the Increase in Prisoner Population (2002) still applies generally:

*The prison population consists of men and women who are, on average, of lower socioeconomic status, of poorer health and of lower levels of education than the rest of the population. Indigenous men and women and those with an intellectual disability or a mental illness are significantly over represented. The majority of prisoners who pass through the prison system each year serve sentences of less than six months.*

Similarly, in the ACT, 63% of detainees reported in the 2010 Inmate Health Survey that they had suffered a head injury where they had become unconscious. The 2007 National Prison Entrants Bloodborne Virus and Risk Behaviour Survey found that 35% of prisoners tested positive to Hepatitis C antibodies, 40 times higher than in the general population.

With the bipartisan commitment to the introduction of a National Disability Insurance Scheme and the commencement of five pilot sites across the country, now is the perfect time to look at how the lack of adequate disability supports has contributed to an increase in the prison population of people with a disability. As stated above, most prisoners serve only short sentences before being released back into the community. For those prisoners with a disability, a lack of basic services in the community can, and often does, lead to high rates of recidivism.

It is critical that funding for the NDIS considers the current prison population when projecting the cost of the scheme and that an adequate and appropriate level of throughcare is provided to those prisoners who are eligible. This short term cost implication will, similarly to the rationale applied to funding early intervention services, yield long term savings consistent with the intent of justice reinvestment principles.

PwC's 2011 report: *Disability Expectations: Investing in a better life, a stronger Australia*, which followed the release of the Productivity Commission's report on Disability Care and Support, notes that just under 30,000 people reside in prisons in Australia at an annual cost of around \$100,000 per annum per person. Large proportions of people in prisons have an intellectual disability, an acquired brain injury or a mental health condition.

Significant reform in the disability system could lead to reduced incarceration but only if the NDIS is adequately funded. If the number of prisoners in Australia decreased by 10%, this would result in savings of approximately \$300 million per annum to the prison system. Disability support and early intervention programs to achieve these outcomes are able to be provided at far more modest unit costs and will achieve far better outcomes.

While the Commission is aware that a Senate Inquiry into the National Disability Insurance Scheme is currently underway and the issue of funding for the Scheme will be picked up in that Inquiry, the Commission considers that it is important to make the connections between justice reinvestment and adequate funding of disability supports, and that the findings of the justice reinvestment inquiry in relation to this issue are fed into the NDIS inquiry.

Thank you for the opportunity to comment on this Inquiry.

Yours sincerely

Helen Watchirs OAM  
Human Rights and  
Discrimination Commissioner

Alasdair Roy  
Children and Young People  
Commissioner

Mary Durkin  
Health Services Commissioner  
Disability and Community  
Services Commissioner

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