

Freedom Socialist Party

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Committee Secretary, Senate Legal and Constitutional Affairs Committee
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A submission about better alternatives to a justice reinvestment approach to criminal justice in Australia.

The Freedom Socialist Party is a socialist feminist political party. The party has been established in Australia since 1983. Over the past 30 years, we have been active in support of a wide range of justice campaigns.

We acknowledge the sovereignty of the Indigenous nations of this continent and advocate treaties with each sovereign nation. We have been leaders for decades in the movement to stop Aboriginal deaths in custody. We have campaigned for the rights of women in prison, against the privatisation of custodial system, for civil liberties and against any extension of police powers.

We have also campaigned for the release of political prisoners. Notable Australian examples include:

- Heather Osland, who was jailed for defending herself against her sexist and brutal husband;
- Union leader, John Cummins, who was jailed twice on contempt of court charges for doing his job representing members and ignoring court orders not to visit his members on building sites.
- Lex Wotton, a respected Palm Island Aboriginal leader, who was jailed for his leadership of a legitimate political protest after yet another cover up of a death in custody.

We call for addiction to be treated as a health issue, not a law and order issue, and advocate the full legalisation of drugs (under community control to remove the profit motive). We advocate that abortion is fully legalised at all stages of pregnancy and removed from the criminal code in every state and territory. We call for the full legalisation of prostitution. We believe everyone should be entitled to an independent living wage. We call for plentiful resources to be allocated to provide free, high quality, respectful mental health care for all who need it. We demand the immediate cessation of police brutality and racist harassment of people of colour and the establishment of elected civilian community controlled police review boards with the power to discipline and sack police who brutalise and murder Indigenous people, immigrants, youth, queers, women and workers. We believe free quality education and training is right and that everyone should have a secure roof over their head that they can call home.

All of these interconnected issues cannot be separated from the questions being considered by the Senate Legal and Constitutional Affairs Committee.

A justice reinvestment approach is not necessary to provide solutions to the growing rate of imprisonment of some of the most marginalised people in our society. What is required is a different society with vastly different priorities. We need a society that addresses poverty and homelessness and that provides quality support for people suffering poor mental health and addiction. We need a society that welcomes immigrants instead of demonising refugees and locking them in immigration detention. We need a society that extends parenting payment, rather than cutting it. And, we need a society that is based on genuine respect and recognition of the sovereignty of each and every Aboriginal and Torres Strait Island nation.

(a) The drivers behind the past 30 years of growth in the Australian imprisonment rate.

There is a range of drivers behind the growth of the Australian imprisonment rate in the last thirty years.

Ballooning income inequality and a steady growth of those in poverty is one key driver. A report released last year by Australian Council of Social Service, titled *Poverty in Australia* details how a shameful one in eight Australians are living in poverty. This represents 2.3 million people. This is the best possible interpretation of the data from the Australian Bureau of Statistics based on a narrow definition of poverty. If poverty is defined as 60 per cent of the median income—a measure used in many other OECD countries—the rate jumps to a staggering 21 per cent of the population living in poverty! The report shows that rather than the situation improving, it is continuing to *worsen*, with more than a third of people who rely on social security payments living in poverty. A study commissioned by the Australian Council of Trade Unions shows that the following key measure of income inequality rose between 1997 and 2009 (reflecting the expanding gap between rich and poor): forty percent of the population owns 84% of the wealth. The bottom 20% owns just 1%.

There is also bipartisan support for tougher law-and-order measures from both the Australian Labor Party and the Coalition trotted out at every state election leading to a race to the bottom. Added to this, there is an epidemic of racist policing of Aboriginal and immigrant communities, with a particular focus on young people in these communities. Others who experience unwelcome political harassment are young queers and transpeople, homeless people and those with a mental illness.

(See findings from the “Police Accountability Project” run by the Flemington Kensington Community Legal Centre, which, amongst other things, exposes the epidemic of racial profiling:
http://www.communitylaw.org.au/flemingtonkensington/cb_pages/policeaccountability1.php

The law is also enforced unequally. For example, Local Law 8, in the inner Melbourne municipality of Yarra, criminalises drinking on the street for one sector of the community—Yarra’s Indigenous population—while its people who can pay to

consume alcohol may sit on the street and drink in public in its inner city streets lined with bars and cafés charging \$10 a glass.

This racist legal structure regularly leads to the death in custody of people incarcerated on the flimsiest of pretexts—the death Kwementyaye Briscoe in Alice Springs last year exemplifies this double standard.

(b) The economic and social costs of imprisonment.

We object to the phrasing of this question and the whole approach to justice reinvestment, which poses this program as a way for penny-pinching administrators to trim the budget while posing as forward thinkers, working to solve social problems.

Stop wasting money for corporate welfare, tax big business and fund services which: support those with addiction issues, mental health services, education and training and secure, quality public housing for those released from prison.

The social costs of imprisonment are immense. People—especially Indigenous people—die in custody. Children are separated from their parents. Lives are ruined and the lives of future generations are ruined.

(c) The over-representation of disadvantaged groups within Australian prisons, including Aboriginal and Torres Strait Islander peoples and people experiencing mental ill-health, cognitive disability and hearing loss.

The disproportionate imprisonment of people with a disability or mental ill health is a product of the gross failure to provide adequate support for people with special needs. It is a disgrace that people suffering from a mental illness end up in a police watch house or prison cell because there is no one else to call. This year it will be the 19th anniversary of the death of Aboriginal woman, Colleen Richman, who was suffering from a mental illness when she was shot and killed outside Hanover Welfare Services in St Kilda. Tyler Cassidy, who was fifteen years old when he was shot and killed by police in Northcote, would have turned twenty this year.

It seems almost unnecessary to repeat the often quoted and extremely shocking figures about the continuing growth in Indigenous imprisonment. More than half of the 339 recommendations of the Royal Commission into Aboriginal Deaths focused on imprisonment being a last resort. While governments have published many fat volumes claiming to have implemented these recommendations, the facts say otherwise.

The Freedom Socialist Party was pleased to support a year of action in 2012 to stop deaths in custody organised by the Indigenous Social Justice Association - Melbourne. Campaign material, urging action, stated “in 2011, the Indigenous imprisonment rate rose for the 11th year in a row, despite the prison population falling for the first time in a decade. Indigenous Australians are now 14.3 times more likely to be incarcerated than non-indigenous Australians. Even though Indigenous people make up just 2.5 percent of the general population, today, about one in four prisoners (25 per cent) are Aboriginal or Torres Strait Islanders.”

There is a clear interconnection between issues of race, sex, class, mental health, addiction and homeless. In 2011, there was a 20 per cent increase in the imprisonment rate of Aboriginal women. The *Medical Journal of Australia* reported in June 2012 that 90 per cent of Indigenous women in Queensland prisons have a mental illness. Many of the mentally ill are routinely dealt with by the police rather than getting the health services that they actually need. Racism means this happens more to Aborigines and sexism means it happens more to women.

(d) The cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures.

The availability of alternatives to imprisonment is *utterly* inadequate! Providing people with a real future — respectful healthcare, housing, training, jobs and ensuring the connection of Indigenous people to their land is sacrosanct — clearly works.

These services can be funded. It merely takes the will. Moving to actually collecting the mining tax would be a great start. It is necessary to stop the ongoing corporate welfare, tax the rich and fund the services people needed.

(e) The methodology and objectives of justice reinvestment.

We oppose moving to a justice reinvestment approach in Australia. This is because the program is couched within the framework of an economic rationalist model and focuses on cutting costs.

The objective of stopping prison from becoming a revolving door for the most oppressed in our society—through funding the services required to provide genuine support—is admirable. However, we do not see why providing essential services needs to be packaged up as a money-saving exercise. This is starting from the wrong angle and will provide token funding rather than delivering the level of service required to genuinely address disadvantage.

It is also essential that the users of these services are the ones who determine how these services will be run, especially when we are talking about Aboriginal and Torres Strait Islander Australians. The justice reinvestment model does not have self-determination built into its framework. By failing to put the users of these services in the driver's seat when it comes to developing the programs, the chances of meeting their objectives will be significantly reduced.

(f) The benefits of, and challenges to, implementing a justice reinvestment approach in Australia.

The only benefit of such an approach is this: the continuing growth of the number of people incarcerated and the over representation of Indigenous people, people with mental illnesses, immigrants and the poor in the prison system is a problem.

The key challenge is that justice reinvestment, as a public policy, is premised on saving money for the public purse. To genuinely address the issues that the most

oppressed on our society face will take a massive injection of funds—much more than can be “saved” through reducing the number of people in prison.

The key problem is that government policy as a whole is based on cutting funding to health, housing, education and training, privatising these services and emphasising the idea that the user must pay. Given this, the small amount of funds that may be injected through the implementation of justice reinvestment, will not compensate for the sweeping cuts that are taking place.

(g) The collection, availability and sharing of data necessary to implement a justice reinvestment approach.

No comment on this point.

(h) The implementation and effectiveness of justice reinvestment in other countries, including the United States of America.

The Freedom Socialist Party has conducted a study of justice reinvestment as implemented in a number of states in the U.S.A.

Our conclusions were published in an article titled “Justice Reinvestment U.S. style: Not a model to emulate” in the *Freedom Socialist Organiser*, October 2011. We are submitting this article as part of our submission: <http://www.socialism.com/drupal-6.8/?q=node/1742>

(i) The scope for federal government action, which would encourage the adoption of justice reinvestment policies by state and territory governments.

We do not encourage the adoption of justice reinvestment policies.

(j) Any other related matters.

Our conclusion is that justice reinvestment is a cost-cutting community safety program that takes a risk analysis approach. Less money is spent on supervising those who are considered to be at a low risk of re-offending, and a portion of the savings goes into intensifying the supervision of those who are seen as high risk.

It is sold to conservatives as a neo-liberal program to save money. It is sold to social justice advocates and those concerned about the over representation of the most oppressed in the prison system as a way to get additional funding to provide a few more services.

We argue that social justice advocates who embrace justice reinvestment lack ambition. This framework adds nothing and draws social justice advocates into supporting a scheme for bean counters.

We concluded our article critiquing justice reinvestment in the U.S. with concrete proposals for what we consider to be the alternative approach now.

We said: “The link between imprisonment and poverty, unemployment, homelessness, addiction and loss of connection to land and community is crucial. However, a JR style program is not a prerequisite for fully funding all of the support services prisoners need on their release. Redirecting funds from corporate welfare and war could fund these services now!

Abolishing racist arrests and sentencing would drastically reduce the prison population. Other key demands include:

- All forms of discrimination against ex-prisoners must be eliminated;
- Scrap Local Law 8 in the City of Yarra and end the harassment of (mainly Indigenous) people for public drinking;
- Treat drug and alcohol addiction as health, not criminal, questions and legalise drugs under community control;
- Establish independent civilian review boards to hold police accountable and end the appalling brutality.

Australia is a country where, in 2009, a 12-year-old Aboriginal boy was charged with receiving stolen goods for accepting a Freddo Frog lolly and the West Australian police argued that it was appropriate to have the court deal with him, because police had spoken to him about other matters previously!

The demand to fully implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody remains as relevant today as it was 20 years ago. We don't need a new scheme designed by cost-cutters. What *is* needed is action on the demands the movement has long advocated. This includes recognising that the struggle to end Indigenous deaths in custody cannot be separated from the wider struggle of Australia's First Nations for sovereignty and a treaty.

We consider our alternative approach is vastly superior to the justice reinvestment model.

Yours sincerely

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