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19 March 2013

Committee Secretary (Attention: Ms Christine McDonald)

The Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms McDonald

Submission to the Senate Inquiry into the value of a justice reinvestment approach to criminal justice in Australia

Reference(s):

A. Email Senate Standing Committee on Legal and Constitutional Affairs dated 10 December 2012

Thank you for the opportunity to provide a submission to the above Inquiry (reference A). Please find attached a submission from the Noetic Group Pty Limited (Noetic) (enclosure 1).

Noetic's submission focuses on the following elements of the Inquiry's terms of reference:

- + the methodology and objectives of justice reinvestment
- + the benefits of, and challenges to, implementing a justice reinvestment approach in Australia, and
- + the scope for Federal Government action which would encourage the adoption of justice reinvestment policies by state and territory governments.

Please note that much of the content of this submission will shortly appear in a Noetic Note (a company white paper). In addition, Noetic has worked with a range of organisations in the social policy sector and elements of our submission may be included in other submissions.

Should the Inquiry require additional information or explanation, we would be pleased to be able to assist.

Thank you again for the opportunity to provide a submission to the Inquiry and we wish the Committee the best for this important task.

Yours sincerely

Peter Murphy
CEO

Enclosure:

1. Noetic Group Pty Limited submission to Inquiry into the value of a justice reinvestment approach to criminal justice in Australia

NOETIC GROUP PTY LIMITED SUBMISSION TO THE SENATE INQUIRY INTO THE VALUE OF A JUSTICE INVESTMENT APPROACH TO CRIMINAL JUSTICE IN AUSTRALIA

Introduction

The Noetic Group Pty Limited (Noetic) is a professional services firm that has provided consulting services to governments and not for profit organisations in the social policy field. This work has included reviews, policy development, strategy development and program evaluations. It is Noetic's experience through this work, and the company's internal exploration of the issue of Justice Reinvestment, that provides the basis of this submission.

This submission sets out:

- + Noetic's experience in the exploration of Justice Reinvestment,
- + a background to Justice Reinvestment and its application in Australia,
- + the benefits of implementing Justice Reinvestment in Australia,
- + a suggested model for the implementation of Justice Reinvestment in Australia, and
- + a discussion of the role of the Commonwealth in doing so.

Noetic's Experience with Justice Reinvestment

As noted previously, Noetic is a broad based consultancy that has a practice which provides advice to government and non-government organisations in the social policy field. This work includes:

- + A Review of Juvenile Justice for the NSW Government
- + An evaluation of indigenous through care programs in the NT and QLD for the Federal Attorney General's Department
- + Planning for the NT government on its implementation of the Carney inquiry to youth justice
- + The development of a Youth Justice blueprint and diversion plan for the ACT Government
- + Working with the Department of Family, Housing, Community Services and Indigenous Affairs (FaHCSIA) on the implementation of the stronger futures program (particularly around community safety)
- + Noetic's staff have also undertaken a range of speaking engagements on the topic of youth justice and justice reinvestment

Noetic has undertaken a number of projects that have recommended Justice Reinvestment as an issue for consideration by different governments. The first of these was for the NSW Minister for Juvenile Justice in

April 2010 as part of **A Strategic Review of the NSW Juvenile Justice System**.¹ This report proposed three strategic options for consideration by government. The recommended option, *Option 3: A Change in Thinking – Justice Reinvestment*, sought the implementation all of the review’s recommendations and this included adopting a Justice Reinvestment approach. This would primarily occur through the diversion of funding earmarked for the construction of juvenile justice facilities to programs and services that address the underlying causes of crime in local communities. Notably the Review acknowledged that in recommending this option, there were risks in that the benefits might not be realised and that additional investment in juvenile justice facilities could be required.

Noetic worked with the government of the ACT in the **development of a Youth Justice Blueprint**². In the lead up to the development of the Blueprint, the ACT government undertook a review of its diversion activities and how these could be improved. Noetic undertook the public consultation phase and this included discussion on Justice Reinvestment. Importantly the Blueprint has Justice Reinvestment as a core element of the ACT’s approach.

Background

As is widely documented elsewhere³, Justice Reinvestment emerged from the United States of America (USA) in the early 2000s. The concept believed that by applying resources to reduce the causes of offending behaviour instead of incarceration, overall expenditure could be reduced and community safety improved. The background for this concept was that expenditure on corrections had grown in nearly all states (of America) faster than any other area of expenditure, offenders often originated from concentrated geographic areas, recidivism rates remained high and community safety was only being improved (if at all) by keeping large numbers of offenders incarcerated.

The implementation of Justice Reinvestment has developed significant momentum since the idea was first developed. Some 17 states have active Justice Reinvestment programs⁴. Interestingly, these include states usually associated with conservative approaches to justice issues (such as Texas). It is likely that the financial impacts of the Global Financial Crisis on state finances have helped accelerate the adoption of the concept.

The evidence from the USA concludes that implementation of Justice Reinvestment is providing benefits. However, to achieve those benefits, there is additional cost in the initial stages of implementation, where both existing corrections expenditure is incurred and additional funding on programs designed to address the causes of offending behaviour is needed. Addressing the causes of offending behaviour is a long term and complex issue. There are unlikely to be any quick results. However, the current approach to justice and increasing expenditure is not yielding worthwhile results. The drivers for adopting Justice Reinvestment are included in the Benefits section below.

¹ Noetic Solutions Pty Limited, **A Strategic Review of the NSW Juvenile Justice System**, pp.175-177. See http://www.djj.nsw.gov.au/pdf_htm/publications/general/Juvenile%20Justice%20Review%20Report%20FINAL.pdf

² http://www.dhcs.act.gov.au/data/assets/pdf_file/0009/337590/Blueprint_for_Youth_Justice_in_the_ACT_2012-22.pdf

³ See <http://justicereinvestment.org/> for current trends and thinking in the USA.

⁴ See <http://justicereinvestment.org/states>

Application in the Australian Context

In seeking to apply Justice Reinvestment in Australia, it is important to recognise that Australia's circumstances are different from that of the USA. While there are some similarities, such as rising incarceration rates over the past two decades, there are many differences. These include:

- + **Level of disadvantage.** Australia has many disadvantaged people, however, the level of disadvantage is generally not considered to be at the same rate of the USA.
- + **Rate of incarceration.** The USA has arguably the highest imprisonment rate in the world at 500 per 100,000 of population⁵ while Australia's rate is 168 per 100,000⁶. This substantial difference is likely to make the economics of Justice Reinvestment less attractive in Australia if the key driver to adoption is reducing expenditure on corrections.
- + **Location of disadvantage.** Much disadvantage in the USA is concentrated in tight geographic locations. This is perhaps best exemplified by the so called ghettos in major USA cities. There are readily identifiable localities in Australia that are blighted by disadvantage (most notably remote and regional centres with high Indigenous populations, and small pockets of major Australian cities). However, the concentration of disadvantage in Australia is such that a place based intervention is appropriate.

As noted previously, Indigenous disadvantage is major issue for Australia. Significant effort is being expended to reduce this disadvantage, although there is a long way to go. Noetic believes that Justice Reinvestment should not be seen solely as a response to Indigenous disadvantage. Rather it should be seen as a response to geographical areas of high crime.

Noetic's research and assessment is that there is much to recommend Justice Reinvestment based on the experience of the USA. However, the differences noted above means that it needs to be contextualised to Australia's specific circumstances. This contextualisation will be essential if it is to be successfully applied and this means it will look somewhat different to the US experience. A suggested model for this is explored in a subsequent section of this submission. Before arriving at a model, it is important that the likely benefits of undertaking Justice Reinvestment be clearly understood. The next section provides a framework for articulating these benefits.

The Benefits of Implementing Justice Reinvestment

Noetic uses its own Investment Management Framework in helping clients understand the drivers, objectives, enablers, business changes and ultimately the benefits to be derived from any new proposed idea, program or project. Perhaps the most useful artefact from this process is the Investment Logic Map (ILM). It provides a readily understood explanation of the benefits and the relative strength of the benefits. Annex A provides an explanation of each of the elements of the ILM.

⁵ <http://www.prb.org/Articles/2012/us-incarceration.aspx>

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[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/ADB317600AB68902CA257ACB00136DC0/\\$File/45170_2012.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/ADB317600AB68902CA257ACB00136DC0/$File/45170_2012.pdf)

As part of the company's work on Justice Reinvestment, Noetic has developed an ILM to help explain what is driving the need for the application of Justice Reinvestment; describe at a high-level what would need to be done and what the benefits are likely to be. Some of the projected benefits are tangible (such as long term savings, reduced recidivism, etc.) while others are intangible (such as perceptions of crime rates, more resilient families, etc.). This ILM is illustrated in Figure 1 below.

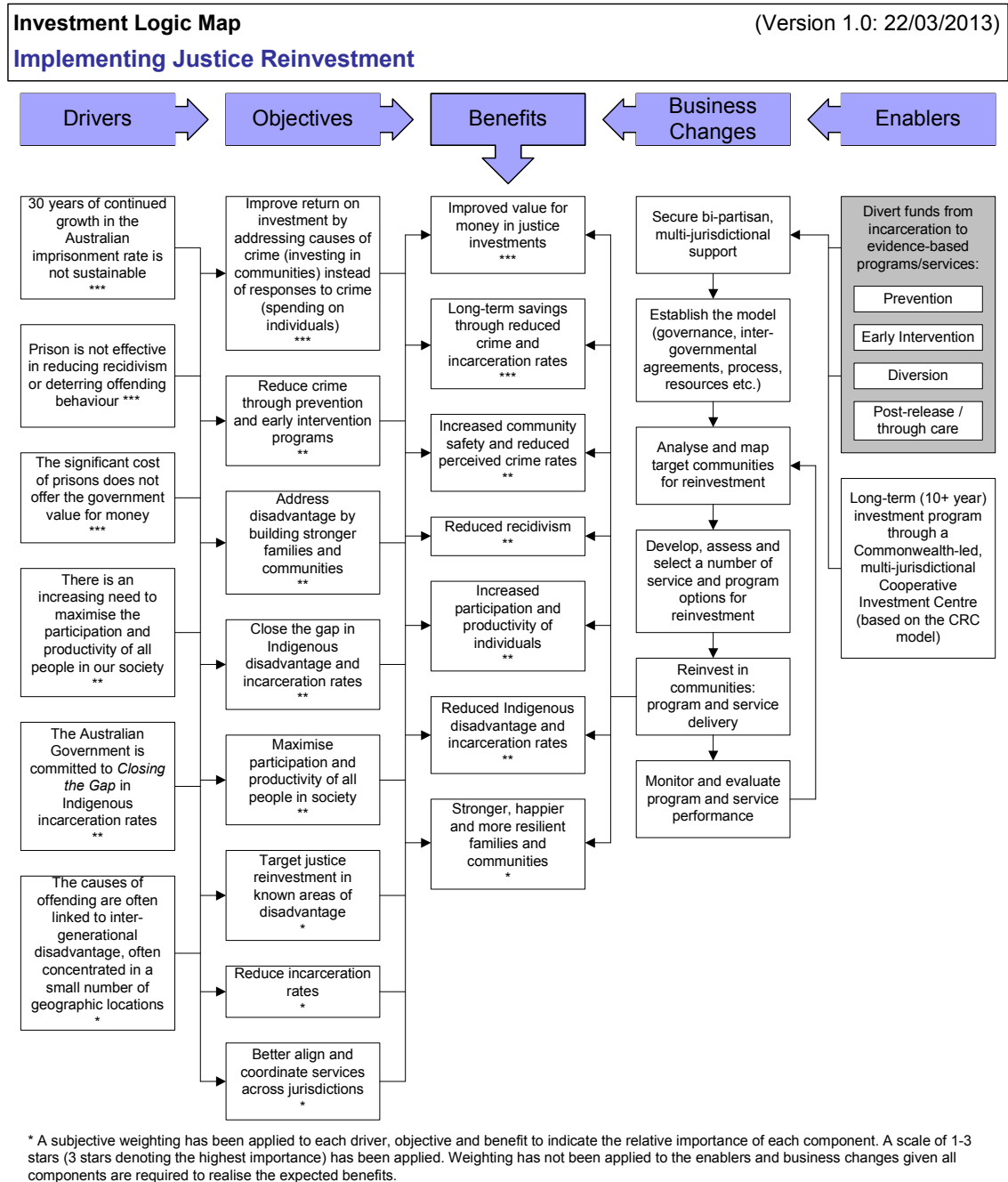


Figure 1: Investment Logic Map for Justice Reinvestment⁷

⁷ A high resolution electronic copy of this ILM is available to the Committee on request.

Most of the benefits accrued through the application of Justice Reinvestment would go to the States and Territories who are responsible for corrections, law and order. For the Commonwealth, the most important benefit is that of increased participation and productivity of individuals that are caught up in the justice system. As the **Intergenerational Report**⁸ highlights, the future cost of health care for an ageing population will be significant. The direct costs and loss of productivity from those incarcerated adds to this burden. As the population continues to age, this burden will become increasingly unaffordable. Consequently, reducing incarceration, reducing recidivism and improving family wellbeing will have important economic benefits.

The other important benefit for the Commonwealth is that Justice Reinvestment could assist in the reduction of Indigenous over representation in the justice system. Indigenous people are 15 times more likely to be imprisoned than non-indigenous people⁹. According to the Productivity Commission, governments spend some 5.83 times more on Indigenous people for public order and safety¹⁰. While the Commonwealth Government does not incur much of this cost directly, it is responsible for 45 per cent of the \$25.4 billion spent on Indigenous people annually. Reducing the need for services related to family dysfunction and the consequences of incarceration will assist in reducing this expenditure and meeting the Closing the Gap targets.

A Suggested Model for Implementation

A foundation of Justice Reinvestment is that money spent on early intervention, prevention, diversion and through care¹¹ will yield results in reducing offending and recidivism. The implementation of such programs and the delivering of results will take time. Consequently, embarking on Justice Reinvestment is not a short term undertaking. Noetic's research suggests that a timeframe of ten years is needed to allow implementation and evaluation to occur to demonstrate results. A mechanism to support this long time horizon is required.

Noetic believes an approach similar to that currently used for *Cooperative Research Centres* could provide the required mechanism. Its key features are:

- + Bi-partisan support and multi-jurisdictional agreement
- + A ten year (or greater) funding agreement
- + Multi-jurisdictional funding and operation
- + Location based so that each centre would undertake all Justice Reinvestment action within a defined area
- + It would be responsible for:

⁸ Intergenerational Report Australia to 2050 future challenges - http://archive.treasury.gov.au/igr/igr2010/report/pdf/IGR_2010.pdf

⁹ [http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/ADB317600AB68902CA257ACB00136DC0/\\$File/45170_2012.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/ADB317600AB68902CA257ACB00136DC0/$File/45170_2012.pdf)

¹⁰ 2012 Indigenous Expenditure Report Overview, p16.

¹¹ Throughcare is the coordinated, integrated and collaborative approach to reducing the risks of re-offending. It covers all people from their first point of contact with the corrective services institutions, to the completion of their legal orders and their transition to law-abiding community living.

- Development of a local plan
- Implementation of programs through government agencies (from all tiers of government) and service providers
- Monitoring and evaluation of programs
- Sharing of learnings with other centres

It is suggested that these Centre be called **Cooperative Justice Reinvestment Centres (CJRC)**.

The following is the suggested process for implementation of the CJRC model:

- + **Step One: Establish the Model** – this will involve establishing a coordinating body in the Attorney General's Department (AGD) or the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to drive the implementation process and oversee any regional based services. It will also involve extensive consultation with state/territory human service and justice departments and the commonwealth government (AGD and FaHCSIA) to define and develop the arrangements for the operations of the CJRCs.

Step Two: Analysis and Mapping - Justice Reinvestment is based on evidence that a large proportion of offenders come from a relatively small number of disadvantaged communities. A geographic analysis of the prison population is needed to identify which communities are generating the greatest cost to Australia's prison systems. A comprehensive analysis and mapping activity therefore needs to be undertaken to identify communities with a disproportionate number of prisoners across Australia. This analysis and mapping activity should then be used to inform the establishment of a pilot CJRC that will generate the greatest return on reinvestment. It is proposed that a *Block by Block* approach will be most effective in demonstrating the benefits of a justice reinvestment approach and a single representative pilot be undertaken in a carefully selected regional centre. Once the pilot begins to yield results, the model would then be applied to the next selected centre and so on. This will allow lessons to be applied to each implementation, and programs and approaches can be adapted to suit individual community circumstances.

- + **Step Three: Developing Options** - Once a CJRC has been established in an area, it will have primary responsibility for directing funding to the most appropriate areas in their local communities. CJRCs should determine the level of community involvement required to identify services and programs which will address local causes of offending and generate buy-in and acceptance of the services and programs in the community. This may involve the establishment of community governance models (i.e. government, NGO and respected community representatives overseeing the development of options) or extensive community consultation. Regardless of the model adopted by individual CJRCs, this engagement needs to focus on identifying the underlying causes of offending in their community and generating program and service options which will address these causes. This will ensure that the community is involved in generating solutions that will ultimately reduce offending by addressing real local issues as they relate to each community.

This process will generate a number of service and program options, not all of which are likely to be funded. These options therefore need to be evaluated and prioritised to ensure they are consistent with evidence on 'what works' and that they will deliver the required return of reinvestment. The

assessment should consider the breadth of options across the continuum of early intervention, crime prevention and rehabilitation. Justice reinvestment is based on application across this continuum and on building cohesive families as a means to drive cohesive communities. This assessment will therefore be important in ensuring that identified options are driven by local demand, but grounded in evidence and spread across a continuum of assistance based on cohesive families.

- + **Step Four: Reinvesting in Communities** – In accordance with the identified services and programs which will address local causes of offending identified in Step 3, begin investing in relevant intervention, prevention, diversion and through care programs.
- + **Step Five: Monitoring and Evaluating:** CJRCs will be responsible for monitoring program performance and conducting comprehensive program evaluations. Key performance indicators and the necessary data gathering processes should have been established in the assessment of programs and services conducted in Step Three. This ensures that the program benefits and key performance indicators are defined up-front and the necessary arrangements are established to ensure performance reporting is not overly onerous.

In implementing this model, (as outlined in Step 2) Noetic suggests a 'block by block' approach. That is commencing with one site and progressively expanding as lessons are learnt and applied. The first area to be trialled should be carefully chosen. A key factor in selection should be that it has sufficient access services to ensure that programs can be delivered across the life of the trial.

A Role for the Commonwealth

Noetic firmly believes that there is an important role for the Commonwealth in the development and implementation of Justice Reinvestment. As noted previously, the Commonwealth will accrue benefits through the successful implementation of this approach. There are also important other reasons why the Commonwealth should take a leadership role in its implementation. These include:

- + The remit and many of the services delivered by Commonwealth agencies (such as those delivered through the FaHCSIA) will be crucial to success.
- + The Commonwealth can work across the States and Territories to ensure that it is applied in areas where it is most needed.
- + The Commonwealth could provide the funding necessary to cover the initial stages of the Justice Reinvestment program to prove the concept. This would allow the States and Territories to fund Justice Reinvestment with confidence that it will deliver future benefits.

Summary

There is a sufficient evidence base to suggest Australia should consider a trial of Justice Reinvestment. It must be reiterated that there is an element of risk as to whether the process deliver all of the projected benefits. However the risk in not trialling the concept is that Australia will continue to spend significant and increasing amounts of money on the justice system for no appreciable benefit. The current return on investment is minimal. With an ageing population, the real cost of this expenditure will grow. Noetic believes the use of the CJRC model will provide the most effective and sustainable implementation method, and perhaps most importantly ensure a thorough evaluation.

Authors

This submission was compiled by:

- + Anthony McGinness, General Manager, Business Unit NSW
- + Peter Murphy, CEO
- + Megan Worsdell, Senior Consultant

Annexes:

- A. Explanation of the elements of an Investment Logic Map

ANNEX A

Investment Logic Map

Noetic's benefits realisation approach begins with an Investment Logic Map that identifies and defines the benefits of an investment. It is a powerful graphical communication tool that provides a clear understanding of the business problem. It illustrates on one page what defines success for the project by identifying:

- + **Drivers:** The reasons for undertaking the investment (i.e. the external pressures or forces that require a response from an organisation). Evidence is required to justify a driver's existence.
- + **Objectives:** The organisation's response to the external drivers. These are the high level aims/goals/aspirations of the project (and are therefore based around project management principles). If you achieve these objectives, you have adequately responded to the threat, risk or opportunity posed by the drivers.
- + **Benefits.** The benefits are the advantages gained by the organisation's objectives being completed. So, if you achieve an objective, what benefits will flow to either the organisation (enabling benefits) or the community (outcome benefits). Benefits must be real and measurable.
- + **Business Changes.** To achieve any benefits, *someone* has to do *something* differently. That *someone* can be either be a member of the organisation or a member of the community. The *something* can be any activity that is performed.
- + **Enablers.** There must be an enabler that will lead to the realisation of a benefit. These are the actual outputs of the project (e.g. an IT system).