



St Vincent de Paul Society
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Submission to the Inquiry into the Value of a Justice Reinvestment Approach to Criminal Justice in Australia

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 148 countries around the world. In Australia, we operate in every state and territory, with more than 50,000 members, volunteers, and employees. Our people are deeply committed to our work of social assistance and social justice, and we run a wide variety of programs around Australia. Our work seeks to provide help for those who are marginalised by structures of exclusion and injustice, and our programs target (among other groups) people who are homeless and insecurely housed, migrants and refugees, people living with mental illness, and people experiencing poverty.

On 10 December 2012, the Senate Standing Committee on Legal and Constitutional Affairs invited the Society to provide a submission to its *Inquiry into the Value of a Justice Reinvestment Approach to Criminal Justice in Australia*. The Society's member states and National Council have consulted, and the Society welcomes the opportunity to contribute a submission.

Introduction

First, the Society warmly welcomes a focus on justice reinvestment as a policy perspective on crime and punishment. Too often the shallow and demonising rhetoric of "tough on crime" has shaped debate: a discourse which does nothing to acknowledge the deep structural and social causes of antisocial and criminal behaviour. Instead, as acknowledged by the Committee, our prison populations grow, while recidivism rates remain high.¹ A fresh perspective around criminal justice has been desperately needed, and the Society looks forward to working with government on its justice reinvestment approach, to help shape a fairer and more effective criminal justice system in Australia.

The Society also supports the broadness of the Committee's approach to "justice reinvestment". Some justice reinvestment initiatives focus on particular at-risk groups (such as young people, or Indigenous people).² While such targeted approaches are important, we believe that to reduce prison populations and crime levels it is very important to focus more broadly on the deep underlying structural factors which lead to crime.

In preparing this submission, the Society not only consulted with Society members, but also with participants in one of the Society's mental health programs in the Canberra/Goulburn area.

Term of reference (a): Increase in imprisonment

The Society believes that the increase in imprisonment rates over the last 30 years is not due to an increase in real crime. For example, police statistics show that in Victoria overall crime rates have in fact *dropped* by an average of 18.4% over the last 10 years.³ Similarly, in New South Wales, murder, burglary, and break-and-enter offences have each dropped by between 20% and 71%.⁴ Taking

¹ Australian Institute of Criminology, *Recidivism* (at aic.gov.au/crime_community/communitycrime/recidivism.html on 13 March 2013).

² For example, New South Wales's recent Youth on Track program (youthontrack.lawlink.nsw.gov.au/yot/index.html on 13 March 2013).

³ Victoria Police, *Crime Statistics 2011/2012* (3 September 2012) (at police.vic.gov.au/content.asp?a=internetBridgingPage&Media_ID=72176 on 13 March 2013).

⁴ Steve Moffat and Derek Goh, NSW Bureau of Crime Statistics and Research, *An update of long-term trends in property and violent crime in New South Wales* Issue paper 78 (April 2012) (at [bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB78.pdf/\\$file/BB78.pdf](http://bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB78.pdf/$file/BB78.pdf) on 13 March 2013).

national averages, it seems that violent crime has not increased over the last 20 years, while property crime rates have dropped significantly.⁵

With crime levels stable or dropping, the rise in imprisonment rates must be due to other factors. The increase in imprisonment rates is, we believe, due to increasingly inappropriate imprisonment of those whose crimes can be appropriately managed in other ways. As mentioned above, crude political themes of being “hard on crime” inevitably lead to too many people in jail who shouldn’t be. These inappropriate policies result in legislation which disproportionately increases maximum penalties for crimes, and, worse still, to mandatory sentencing of people who should never go to prison. Taking away judicial discretion – the ability for the judge to assess the person before them on an individual basis – results in many people going to jail for whom other options would have been far more appropriate.⁶ This type of sentencing disproportionately affects those who are compelled to have no choice but to commit crimes, for example the mentally ill, those experiencing extreme poverty, and children and young people.⁷ As part of a sector that works with these marginalised and disadvantaged people who are disproportionately imprisoned, we are deeply saddened by the increase in mandatory sentencing, as are others in the sector.⁸

Term of reference (b): economic and social costs of imprisonment

What is prison like?

By all accounts we have heard, the prison environment is highly antisocial, and psychologically damaging.

One young Society service user, Andrew, who had seen his peers cycling in and out of prison, said that in prison people had to fight for their lives, and were routinely beaten up or psychologically tormented by other inmates. This was supported by an older service user, Keith, who had been in prison himself. A case manager with the Society, has helped many people exiting prison rehabilitate into the community. The stories she has heard are much the same: violence is rife in prisons, to the extent that she knew of one Alexander Maconochie Centre inmate who feigned a severe psychological illness so that he could get into protective custody and away from the violence.

The costs of prison

We believe that the harmful prison environment outlined above has the effect of increasing antisocial behaviour in many people exiting prison.

With mental health support in prisons inadequate, our service users believed that when people come out of prison they have had become more rough and violent; characteristics required to survive in prison. The psychological toll is also ongoing: the feeling of being “hollow”, which [redacted] believed

⁵ Australian Institute of Criminology, *Australian Crime: facts and figures 2012* (at aic.gov.au/documents/0/B/6/%7B0B619F44-B18B-47B4-9B59-F87BA643CBAA%7Dfacts11.pdf on 13 March 2013) 6-7.

⁶ Judicial Council of Australia, *Judge for Yourself: A Guide to Sentencing in Australia* (at sentencingcouncil.vic.gov.au/sites/sentencingcouncil.vic.gov.au/files/judge_for_yourself_a_guide_to_sentencing_in_australia.pdf on 13 March 2013) 34.

⁷ For example Natasha Robertson, “Most Needy Kids at Risk in Sentencing Push”, *The Australian* (26 February 2013) (at theaustralian.com.au/national-affairs/indigenous/most-needy-kids-at-risk-in-sentencing-push/story-fn9hm1pm-1226585445246 on 13 March 2013).

⁸ See, for example, theage.com.au/victoria/salvos-lash-out-at-tough-on-crime-policies-20130223-2eyfm.html#ixzz2LwcWg3A6 (on 13 March 2013).

was caused by prison cutting people off from their emotions. This has the effect that people coming out of prison may have little ability to regulate their emotions.

The above behavioural and psychological consequences of prison also apply to those who are on remand. The people we spoke to also believed that the way prison can transform a life can be particularly marked for young and vulnerable offenders, often on remand or incarcerated for minor offences. Young people can be severely changed by a sudden immersion in a prison culture of violence, abuse, and drug use, and a new network of criminal contacts.

In addition to changing behaviours, prison also stigmatises those who have once been there. Having been in prison marks you legally: the police always know who you are, you will have a criminal record for the rest of your life, and you will have lost the right to vote while in prison. There is also a social stigma. Keith had found that people in the community are reluctant to engage with people who have been in prison, and many employers won't accept anyone with a criminal history. In experience, almost everyone coming out of prison wants to work, but between very limited training and development in prison, and employer prejudices, often the only work they can get is to take cash-in-hand jobs which offer no security, low pay, and frequent exploitation. Moreover, in many cases people coming out of prison want to turn their negative experiences into helping others, by teaching or counselling, only to find strict laws which prevent them from entering these professions in which they could contribute diverse perspectives.

In brief, many people leave prison more violent and unstable than when they entered, and having formed criminal connections, and drug dependencies. Those that leave prison wanting to reform, re-join the workforce, and participate in society, often find structural barriers to work or housing. The highly vulnerable position of people exiting the prison system without proper support leads to the high risk of homelessness⁹ and unemployment¹⁰ in this group, as well as recidivism. In fact, these phenomena are linked, with some people reoffending just so that they can go back to prison, where they will at least have a roof over their head, and be adequately fed.

Term of reference (d): the cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures

The Society believes that, in many cases, alternatives to imprisonment can prevent the negative outcomes for individuals and the community outlined above. While there will always be a need for prisons to hold serious and dangerous offenders, we agree with the sentiment expressed by Senator Penny Wright when addressing parliament last year, that there are many people in prison who should not be there. The justice reinvestment target group should be “people who could be held accountable for their crimes while safely remaining in the community; people on remand, held not because they pose a risk to public safety but because they have no permanent home; people who may not have offended in the first place if they had been able to access treatment for mental health or substance abuse problems; people who cannot afford to pay their fines; and young people who enter prison as

⁹ Homelessness Australia, *Leaving Care, Finding Home? Preventing Exits into Homelessness An Evidence Based Policy Paper* (January 2011) 3; Matthew Willis, Australian Institute of Criminology, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia: Final Report to the National SAAP Coordination and Development Committee* (May 2004).

¹⁰ Stuart A Kinner, Australian Institute of Criminology, *The Post-Release Experience Of Prisoners In Queensland* (September 2006) 3.

low-level offenders and then leave as more hardened criminals who are much more likely to commit serious crimes”.¹¹

Justice reinvestment programs should focus on keeping the above groups out of prison. Measures would include homelessness services, and mental health and substance abuse services, as well as more specific prevention, early intervention, diversionary and rehabilitative services. This would extend to providing education to all ages, helping with employment, and generally fostering greater community engagement.

Conceived of in such a way, the Society notes that much of our current work sits very well within a justice reinvestment framework. For example, many of our programs aid those with housing needs, help to link in vulnerable people with mental health or employment services, or connect young people with community services. All of these programs are providing a justice reinvestment function, in that these services are likely to be diverting a percentage of service users away from antisocial behaviour and crime.¹²

Case Study: Oaks Estate

Since at least 2000, the Oaks Estate public housing units, and their surrounds just south of Canberra, were rife with crime. Assaults and burglary were very common, and the area was a dumping ground for stolen cars. Drug use was high. One resident of Oaks Estate had witnessed someone being killed in a recreation area. In response to the crime rates, the police were performing constant drive-bys of Oaks Estate, and had even established a permanent presence, day and night, in a police van parked on the road beside Oaks Estate.

About three years ago, as part of a program funded by the ACT Government to support mental health, the Society entered a head lease arrangement with Housing ACT for an initial 8 housing units, which has now grown to 32 units within Oaks Estate. Two of the units were set up for communal leisure and development activities, and Society employees are onsite through the day Monday to Friday, and on call at other times, providing a range of support services. The program accepts many people exiting institutions including prison and adult mental health facilities. The ACT Health funding of \$500,000 per annum runs the Oaks Estate program, and a similar program elsewhere in Canberra.

The change in Oaks Estate since the Society moved in has been phenomenal. Oaks Estate is now described by residents as safe, happy, and, most importantly, as a community. The Society works regularly with around 50 residents, who attend cooking classes and excursions organised by the Society, and have access to education and employment services via the internet provided in the community room. The community enjoy weekly meals together, a thriving shared vegetable garden, and a reading group. Individuals can access case management and referrals to other programs.

Relationships are better too. The St Vincent de Paul program has helped open communication pathways: instead of solving problems with violence, residents are more likely to talk to each other about the issue now. The emotional “hollowness” in ex-prisoners is slowly wearing away, as people realise that they are valued, and that they add value, within the community. Drug use and drug-related crime have also decreased.

¹¹Commonwealth of Australia, *Parliamentary Debates*, Senate, 13 September 2012, 98 (Senator Penny Wright) (at ncis.anu.edu.au/_lib/doc/penny_wright_adjournment_13sep2012.pdf on 13 March 2013).

¹² See for example *Justice Reinvestment Campaign for Aboriginal Young People* (at justicereinvestmentnow.net.au/case-studies/ on 13 March 2013).

Resident K believes that the program run by the Society has a huge rehabilitative power for those coming out of prison. He says that leaving jail and coming into such a supported environment gives people a real chance to properly re-integrate back into society, as opposed to leaving prison homeless, with no mental health or employment support, and no community to go to. Case Manager agrees, and has seen patterns of institutionalisation broken by the program. She recalls one resident who had been in and out of prison his whole life, who went through the program. There, he received housing, anger management education, and stabilisation of his medication, along with the benefits of having, possibly for the first time, a real community of his own. Since leaving the program, he has bought his own house in the country, is in a stable relationship, and is a contributing member of society.

In addition, the cost to the broader community has decreased. says that over the last three years, assaults have significantly dropped off, and residents agree. K can't remember a break-in since the Society moved in the started bringing people together. The police no longer do drive-bys, and their permanent van is now gone from outside Oaks Estate.

Term of reference (f): the benefits of, and challenges to, implementing a justice reinvestment approach in Australia

The Society's vision is to offer "a hand up" to people in need. We do this by respecting their dignity, sharing our hope, and encouraging them to take control of their own destiny. As such, we believe that the primary benefit of implementing a justice reinvestment approach in Australia will be to help the individuals it is targeted at. We have seen through our work and our research that people who are valued, empowered, and connected are far less likely to end up in the revolving doors of the justice system, which lead to violence, mental illness, and poverty. Instead, we believe everyone deserves a proper chance to gain the skills they need to thrive in our society.

Secondarily, there are benefits to the immediate communities of people who stay out of jail. Children can keep their parents, and parents keep their children. Employers can keep their staff. As stated above, we believe that those who have been close to the criminal justice system have unique perspectives and skills, which if properly harnessed could add real value to their communities.

Thirdly, a justice reinvestment approach brings benefits to the much broader community, in the way of crime reduction and increased safety.

Finally, there is an economic imperative. Justice reinvestment ultimately saves the government and tax-payer significant money, as police resources are freed up (as at Oaks Estate), and fewer criminal court and prison resources are required. This is not to mention the secondary economic benefits of an increased workforce, and, for programs like Oaks Estate, decreased homelessness, decreased unemployment, decreased domestic violence, and decreased reliance on emergency mental health services and other health services. The value of the investment has been calculated at a huge 1:14 ratio of investment to return,¹³ long-term or around a \$200,000 saving per offender diverted away

¹³ See, for example, Federation of Community Legal Centres, *Smart Justice: Investing in Communities Not Prisons* (at smartjustice.org.au/cb_pages/files/SMART_Reinvestment.pdf on 13 March 2013) 2; The New Economics Foundation, *Unlocking Value: How we all Benefit from Investing in Alternatives to Prison for Women Offenders* (25 November 2008) (at neweconomics.org/publications/unlocking-value on 13 March 2013).

from prison.¹⁴ This saved money can then be spent on further community programs, or perhaps ultimately invested elsewhere.

The Society believes that one challenge to justice reinvestment will be short-term funding: we believe that the state of prisons is such that it is not reasonable to take money out of prisons to spend on justice reinvestment at this point. An initial outlay of funds must come from somewhere else. However, the evidence and our experience strongly indicate that the initial funding will ultimately be repaid.

A second challenge to justice reinvestment was raised by residents of Oaks Estate, who pointed out that justice reinvestment only works when participants want to be there, and want to change. While this might seem like an insurmountable problem in cases of institutionalised offenders, residents and case managers we spoke to suggested several ways to increase participation in such programs:

1. Cultivate a shared interest with prospective participants, and use that as a base to discuss participation in justice reinvestment programs and opportunities;
2. Instead of forcing a program onto someone, spend time talking about their goals and how to help them achieve those goals, using a justice reinvestment framework;
3. Continue to reach out and engage, even if the program is rejected at first;
4. Educate young people on the facts of prison. K , for example, believed that if people understood exactly what prison was like it might encourage them to engage more with justice reinvestment, and less with crime.

Term of reference (j): any other related matters.

Reinvestment programs take time to bear fruit. The Society believes that any trial should be given a three-year trial minimum period to show results.

The Society is excited to continue the discussion about justice reinvestment with government, and other stakeholders. We support a move away from the current counter-productive system of over-imprisonment, and towards a community building focus. We encourage the use of programs, such as those the Society already runs, to address deeper structural causes of antisocial behaviour, by building education and training, housing, mental health, engagement, and other services. Having seen the success of many existing programs such as Oaks Estate, we believe that a justice reinvestment approach to criminal justice in Australia will not only bring great rewards for society and for individuals, but is already well within our reach.

Dr John Falzon
Chief Executive Officer

¹⁴ In Australia, see for example Deloitte Access Economics, *An Economic Analysis for Aboriginal and Torres Strait Islander offenders: Prison vs Residential Treatment* (at deloitteaccessseconomics.com.au/uploads/File/NIDAC_Deloitte%20Access%20Economics%20Report%281%29.pdf on 13 March 2013) xi.