

Chapter 8

Towards a justice reinvestment approach for Australia

Introduction

8.1 The committee's inquiry elicited a great deal of interest from many stakeholders in the justice and community sectors. That interest, and indeed the large amounts of evidence provided to the committee, shows that justice reinvestment is a concept which is attracting attention across Australia as a means of addressing increasing incarceration rates in an evidence-based and community focussed approach.

8.2 This chapter draws together the evidence presented in the previous chapters and provides the committee's conclusions and recommendations on its inquiry into the value of a justice reinvestment approach for Australia.

The value of a justice reinvestment approach in Australia

8.3 While it is acknowledged that the rate of imprisonment in Australia is substantially less than in some overseas jurisdictions, most notably the United States, during 2011–12, on average, there were 29,213 people (excluding periodic detainees) held in Australian prisons. Just over a quarter of these people were Aboriginal and Torres Strait Islander prisoners. The rate of imprisonment for Aboriginal and Torres Strait Islander prisoners was 15 times higher than the rate for non-Indigenous prisoners.

8.4 The rates of imprisonment in Australia have increased over the last three decades. At 30 June 2012, the adult imprisonment rate was 168 per 100,000. In 1984, the rate of imprisonment was approximately 86 per 100,000. The changes to rates of imprisonment have varied between jurisdictions over the last ten years: in the Northern Territory, the rate has increased 72 per cent, while in Western Australia the rate increased 37 per cent.

8.5 Prisons are a very expensive undertaking: in 2011–12, expenditure on the corrections system exceeded \$3 billion in total across Australia. Added to the cost of police services and courts (criminal and civil), the total justice system expenditure was \$14.02 billion. The costs borne by government through welfare, health and other services are significant and the social costs borne by communities and families are immense.

8.6 These figures indicate that jurisdictions across Australia have relied, and continue to rely, on incarceration as a deterrent to criminal offending at great cost to the taxpayer and society generally. While governments continue to support the expensive corrections system, it has not been successful in addressing offending behaviour – prison is not a deterrent and recidivism rates continue to hover around 40 per cent.

8.7 It appears to the committee that given the significant failures of the current justice system, it is time to look at where and why crime occurs and to address the underlying drivers of offending and reoffending. The committee considers that justice reinvestment has a proven track record in achieving successful outcomes through both lowering incarceration rates and targeting the drivers of crime. It is a community-focussed, evidenced-based approach that provides savings, diverts offenders, addresses the causes of crime, and strengthens communities.

8.8 The four step methodology of justice reinvestment – demographic/justice mapping and analysis of data; development of options; implementation; and evaluation – ensures that limited government resources are effectively targeted at communities where most offenders come from and return to. The evaluation mechanisms embedded within the justice reinvestment approach also ensure that the savings gained are only spent on programs which show positive outcomes in reducing offending behaviour.

8.9 The methodology of justice reinvestment requires an extensive range of community-level data, sophisticated and robust analysis of data, identification of policy options and evaluation of programs. One of the challenges of implementing a justice reinvestment approach in Australia will be the lack, and the inaccessibility, of the data required. However, the committee considers that this is not an insurmountable obstacle and indeed, improvements in data collection and analysis will provide benefits for many sectors of government.

8.10 There will need to be both government and community support if a justice reinvestment approach is to succeed. In addition, trialling of justice reinvestment will provide valuable insight into how it may be applied in Australia. The committee considers that the Commonwealth can play a key role in fostering support for the concept of justice reinvestment as well as trialling the approach in communities.

Commonwealth role

8.11 The importance of the role of the Commonwealth in supporting justice reinvestment in Australia was highlighted in evidence. Submitters acknowledged that the states and territories have the primary responsibility for criminal justice but argued that increasing incarceration rates are occurring in all jurisdictions. As such, there appears to be a benefit in a national approach to tackling this problem through justice reinvestment. It was stated that there are opportunities for the Commonwealth to encourage and support justice reinvestment. Indeed, the AHRC commented that 'the success of justice reinvestment in Australia relies on a cooperative relationship between the Australian Government and the states and territories'.¹

8.12 It was argued that there are a number of reasons why the Commonwealth should support a justice reinvestment approach. The successful implementation of a justice reinvestment approach would provide benefits to the Commonwealth, particularly economic benefits through a decrease in the need for welfare services and

1 Australian Human Rights Commission, *Submission 85*, p. 10.

income support.² Mr Hunyor, NAAJA, added this comment in relation to Indigenous communities:

...the Commonwealth invests masses of money in the Territory, and I guess in some respects subsidises the Territory because of issues like remoteness, because of the large Indigenous communities and because of its strategic placement in Australia and the region. So the Commonwealth is currently spending many billions of dollars every year on Territory and Aboriginal communities, and it has a real interest in seeing that that is not money wasted.³

8.13 In addition, it was noted that the principles of justice reinvestment align with the aims of policies such as Closing the Gap. Mission Australia submitted:

The significant over-representation of Aboriginal Australians within the justice system also provides a logical point of involvement for the federal government. This is consistent with a number of the recommendations in *Doing Time – Time for Doing* as well as the social inclusion agenda. The Aboriginal & Torres Strait Islander Social Justice Commissioner has stated that 'In effect, justice reinvestment could become a very powerful tool for ensuring that Indigenous Australians are socially included. It meets the concerns of policy makers 'mindful of the costs and benefits and evidence of returns for investment', the need for holistic early intervention and evidence based policy'.⁴

8.14 The compatibility of justice reinvestment with respect for human rights was also raised by the HRLC. The HRLC noted that 'in its recommendations to Australia in 2010, the UN Committee on the Elimination of Racial Discrimination specifically recommended that Australia "adopt a justice reinvestment strategy, continuing and increasing the use of Indigenous courts and conciliation mechanisms, diversionary and prevention programs and restorative justice strategies".'⁵

8.15 There were various suggestions about the role the Commonwealth could undertake within a justice reinvestment approach. Principally, that role was seen as one of leadership.⁶ Mr Rodney Astbury, WAAMH, commented that:

The role of the Commonwealth in providing leadership around that is really critical, because there is a history of attempts to address this complex issue across government agencies that have had very limited success.⁷

2 Noetic Group, *Submission 98*, p. 9.

3 Mr Jonathon Hunyor, North Australian Aboriginal Justice Agency, *Committee Hansard*, 1 May 2013, p. 15; see also, Mission Australia, *Submission 99*, pp 10–11.

4 Mission Australia, *Submission 99*, p. 10.

5 Human Rights Law Centre, *Submission 120*, p. 1.

6 See for example, Western Australian Council of Social Service, Western Australian Association for Mental Health, Western Australia Network of Alcohol and Drug Agencies, *Submission 64*, p. 41; Noetic Group, *Submission 98*, p. 9.

7 Mr Rodney Astbury, Western Australian Association for Mental Health, *Committee Hansard*, 17 April 2013, p. 11.

8.16 NATSILS saw the Commonwealth leadership role as significant in 'securing the necessary buy in from state and territory governments'.⁸ The AHRC submitted that the Commonwealth could set a policy landscape, together with the states and territories, that moves away from imprisonment and towards diversion and crime prevention.⁹

8.17 There were other areas where it was considered that the Commonwealth could provide leadership. The South Australian Justice Reinvestment Working Group suggested that the starting point would be for the Commonwealth to recognise the benefits of justice reinvestment as a 'concept'.¹⁰ It was also suggested that the Commonwealth could use the COAG process to influence state government, particularly around justice targets.¹¹ Mission Australia added that 'any commitment at the COAG level would also ensure that there was cooperation across all levels of government and all departments; substantially reshaping how we deal with over-representation'.¹² Mission Australia went on to state:

Supporting Closing the Gap is the National Indigenous Law and Justice Framework which aims to eliminate Indigenous disadvantage in law and justice by providing a national approach to addressing interactions between Aboriginal Australians and the justice systems in Australia. This too could be a mechanism for the federal government action as the framework is intended to support Closing the Gap in relation to community safety. It is considered the framework will be instrumental in achieving COAG objectives so could provide a suitable mechanism by which to incorporate justice reinvestment into policy.¹³

8.18 The Attorney-General's Department responded to calls for the Commonwealth to play a role in the implementation of justice reinvestment. Mr Duggan emphasised that the states and territories have primary responsibility for the justice system:

The Commonwealth can play an important role in encouraging the adoption of such approaches, bring the states and territories together to share approaches and experiences, and disseminate information about approaches overseas. Those are all roles that we have attempted to take in the recent past. The decision to adopt the justice reinvestment approach—and the extent to which the approach is adopted—is ultimately a question for each state and territory in consultation with the Commonwealth.¹⁴

8 National Aboriginal and Torres Strait Islander Legal Services, *Submission 72*, p. 30.

9 Australian Human Rights Commission, *Submission 85*, p. 10.

10 South Australian Justice Reinvestment Working Group, *Submission 28*, p. 11.

11 Ms Kerry Graham, Just Reinvest NSW, *Committee Hansard*, 1 May 2103, p. 26.

12 Mission Australia, *Submission 99*, p. 11.

13 Mission Australia, *Submission 99*, p. 11.

14 Mr Kym Duggan, First Assistant Secretary, Attorney-General's Department, *Committee Hansard*, 17 May 2013, p. 14.

8.19 Mr Duggan went on to comment that there was a much greater debate on justice issues and some signs of change:

I have to indicate to you that we believe that there is much greater debate and discussion now that we can have with states and territories on these issues, not least because the cost of constantly incarcerating more people is causing a rethink. We think there is at least bipartisan support at the Commonwealth level for a consideration of these issues. This is purely a personal point of view, of course, if you will excuse that, but we think there is a real opportunity emerging at the moment for there to be a debate almost across party lines on this issue. We are quite encouraged by some of the contacts we have with our counterparts in states and territories where you have coalition governments. So it is not quite as simplistic as perhaps it once was—that we have a law and order debate every time there is an election. I think there is a much more nuanced discussion capable of being had at the moment. And, indeed, it is happening.¹⁵

8.20 It was also suggested that the Commonwealth could support the establishment of the justice reinvestment structures needed in the states and territories.¹⁶ In addition, it was argued that the Commonwealth should support the improvement of data collection and analysis.¹⁷ For example, consistent data collection, or aggregation of consistent data from state agencies, as a means to provide a national framework for justice reinvestment. In this regard, Commonwealth action would be on a scale beyond that possible by any single jurisdiction. Mission Australia suggested that the Commonwealth could commit to making its own data available from any Commonwealth agencies that align with justice reinvestment initiatives.¹⁸

8.21 Mr Bonig also commented on data issues and the Commonwealth's role following the South Australian working group's difficulties in trying to establish whether sufficient data exists to support a trial of justice reinvestment. Mr Bonig stated:

One of the things the South Australian working group has been trying to do is get to the bottom of some data and look at whether or not a pilot program is feasible. It does not appear that there is a consistent recording of data and it appears that different departments record data differently. There is no central database where we can go to get some of the data that we need. The federal government could coordinate the bringing together of existing programs. There appears to be what is colloquially known as a silo mentality, which means that some programs are being delivered by some

15 Mr Kym Duggan, First Assistant Secretary, Attorney-General's Department, *Committee Hansard*, 17 May 2013, p. 17.

16 Ms Melanie Schwartz, Chief Investigator, Australian Justice Reinvestment Project, *Committee Hansard*, 1 May 2013, p. 59.

17 Mr Ralph Bonig, Joint Co-Ordinator, South Australian Justice Reinvestment Working Group, *Committee Hansard*, 1 May 2013, p. 17.

18 Mission Australia, *Submission 99*, p. 10; see also Ms Kerry Graham, Just Reinvest NSW, *Committee Hansard*, 1 May 2013, p. 26.

departments without consultation with other departments. The federal government could assist in bringing together existing programs. A lot of this could be driven through COAG adopting justice reinvestment and working with the states, as is done with the mental health project and some of the other national projects which still have a state focus. Obviously the Standing Council on Law and Justice would also be able to have some input.¹⁹

8.22 A further avenue for the Commonwealth to assist in improved data collection suggested by WACOSS was through grants and service agreements to encourage and support the collection of relevant and comparable data relating to justice and service delivery outcomes. A similar arrangement could also be negotiated into National Partnership Agreements and other joint funding arrangements.²⁰

8.23 Funding was one area where submitters suggested that the Commonwealth would have a key role.²¹ The Victorian Alcohol and Drug Association supported the use of incentives by the Commonwealth to influence state and territory governments to implement justice reinvestment.²² In addition, the National Association of Community Legal Centres suggested that the Commonwealth support justice reinvestment through directly funding programs, much as occurs in the US where federal grants are provided to government agencies and non-profit organisations for justice reinvestment programs.²³

Trials of justice reinvestment

8.24 It was noted that currently there is limited evidence to shape the way in which justice reinvestment might be realised in Australia. Submitters therefore recommended that pilot justice reinvestment projects be conducted to prove the concept.²⁴ This would help to inform the implementation of future projects²⁵ and allow the states and territories to fund justice reinvestment with the confidence that it will deliver future benefits.²⁶ Ms Graham, Just Reinvest NSW, stated:

I believe even more strongly that, if a justice reinvestment trial site happened in Australia then...there would be an evaluation in place that allowed the field to grow. Service providers and governments would learn from a demonstration site more quickly to get greater outcomes and policy

19 Mr Ralph Bonig, Joint Co-Ordinator, South Australian Justice Reinvestment Working Group, *Committee Hansard*, 1 May 2013, p. 17.

20 Western Australian Council of Social Service, Western Australian Association for Mental Health, Western Australia Network of Alcohol and Drug Agencies, *Submission 64*, p. 41.

21 Anti-Discrimination Commission Queensland, *Submission 71*, p. 24.

22 Victorian Alcohol and Drug Association, *Submission 92*, p. 16.

23 National Association of Community Legal Centres, *Submission 103*, p. 20.

24 Australian Red Cross, *Submission 113*, p. 35.

25 National Association of Community Legal Centres, *Submission 103*, p. 16.

26 Noetic Group, *Submission 98*, p. 9.

change than if we tried to retrospectively mine all of the programs that are being funded and find out what works.²⁷

8.25 It was recommended to the committee by many submitters, including the AHRC, that the Commonwealth, in partnership with the states and territories, support trials in selected Aboriginal and Torres Strait Islander communities where there is a high level of offending.²⁸ The South Australian Justice Reinvestment Working Group also advocated Commonwealth funding:

The issue that will face some of the States and Territories is how to fund any pilot studies. As this justice reinvestment is not just about incarceration but seeks to address a number of underlying socio economic problems which underpin the cause for offending such as, health, welfare and education there is a Federal responsibility to assist in the implementation of a justice reinvestment programme. Therefore consideration could and should be given to some national funding.²⁹

8.26 The AHRC stated that trial sites should be communities with high concentrations of Aboriginal and Torres Strait Islander imprisonment and any trials should be accompanied by a research and evaluation strategy to ensure any lessons around design, process and implementation can be used in other sites.³⁰

8.27 The National Congress of Australia's First Peoples suggested that some trials should be undertaken in remote communities:

Once you look at remote communities, the feasibility starts [to] go down, but that does not mean it should not be attempted or trialled. We would suggest that we should at least attempt some trials in some remote communities first. One of the core things of justice reinvestment is that all the programs that are funded are really thoroughly evaluated to see what is working and what is not.³¹

8.28 However, the AHRC commented that care should be taken to ensure that there is capacity and a good local governance structure within the community to support a trial. Ms Priday, AHRC, stated that 'there is no point in us going into the community with the most challenging problems in the first instance and asking them to do something that is quite complex without having the capacity there'.³²

8.29 A further matter raised in relation to conducting a trial was the need to ensure that appropriate cooperation and support is provided by the relevant state or territory government. The AHRC commented that in some states, particularly NSW, justice

27 Ms Kerry Graham, Just Reinvest NSW, *Committee Hansard*, 1 May 2103, p. 22.

28 Australian Human Rights Commission, *Submission 85*, p. 11.

29 South Australian Justice Reinvestment Working Group, *Submission 28*, p. 11.

30 Australian Human Rights Commission, *Submission 85*, p. 11.

31 Ms Tammy Solonec, National Congress of Australia's First Peoples, *Committee Hansard*, 17 April 2013, p. 22.

32 Ms Emilie Priday, Senior Policy Officer, Australian Human Rights Commission, *Committee Hansard*, 1 May 2013, p. 3.

reinvestment groups had been working to gain support of the government and the community for justice reinvestment so that there are areas that would be receptive to a trial.³³

Independent body

8.30 There was much support from submitters from the establishment of a central body to provide coordination, support and research services for justice reinvestment. Submitters pointed to the experience in the US where bodies such as the Council of State Government Justice Center have played a pivotal role in the success of justice reinvestment.

8.31 The creation of a central body was seen as an essential step in the implementation of justice reinvestment in Australia. Ms Graham, Just Reinvest NSW, stated:

This strategic body would be absolutely, as we see it, central to and essential in helping that community, and then in helping many others replicate that for their own needs. And we do not see it as being a lot of money invested. It really would be an aggregator of best practice, a support to community capacity-building and an evaluation support. Those would be its key roles.³⁴

8.32 Ms Schwartz provided the Australian Justice Reinvestment Project view on the role of the body in guiding justice reinvestment:

The body would have responsibility for coordinating the various stakeholders; developing choices for initiatives to initially reduce levels of incarceration or make initial savings to the corrections budgets; broker agreements as to the policy initiatives to be put into effect; and conduct independent evaluation.

The auspicing body would also ensure that an agreed proportion of the money saved from the corrections budget is actually reinvested in high-stakes communities, and in this way the body will have a crucial role in ensuring that JR is not in fact used as a foil for disinvestment in communities where money saved is channelled elsewhere and not into the high-stakes communities. We would submit that this is a possible role that the federal government can play in supporting and resourcing this type of auspicing body.³⁵

8.33 NATSILS also supported the creation of a central body, arguing that a central independent coordinating body would provide non-partisan advice on effective, evidenced-based justice reinvestment initiatives; collect data and identify communities for justice reinvestment initiatives; assist in strategic development of justice

33 Ms Emilie Priday, Senior Policy Officer, Australian Human Rights Commission, *Committee Hansard*, 1 May 2013, p. 5.

34 Ms Kerry Graham, Just Reinvest NSW, *Committee Hansard*, 1 May 2103, p. 25.

35 Ms Melanie Schwartz, Chief Investigator, Australian Justice Reinvestment Project, *Committee Hansard*, 1 May 2013, pp 56-57.

reinvestment plans; and assist with building community capacity, monitoring selected policy options and ongoing evaluation of social and economic outcomes.³⁶

8.34 Submitters commented that the Commonwealth could provide support to such a body, including financial support.³⁷ NATSILS went further and provided recommendations in relation to the establishment of a central body:

That the Commonwealth Government work with the Standing Council on Law and Justice to secure agreement with State and Territory governments to commit to jointly establishing an independent central coordinating agency for justice reinvestment.

In securing agreement with State and Territory governments, that the Commonwealth Government consider the potential for attaching relevant conditions to the funding it provides to State and Territory governments.

In the event that agreement is not secured, that the Commonwealth Government itself establish an independent central coordinating agency for justice reinvestment.

That the central coordinating agency focus on building the evidence base that will inform justice reinvestment initiatives. Such will not only assist in identifying locations for justice reinvestment initiatives but will also provide the necessary data to inform modelling as to the fiscal benefits that could be achieved which could serve to convince any State and Territory governments which have not yet signed on.³⁸

8.35 The National Centre for Indigenous Studies recommended that an authority be established through Commonwealth and state and territory uniform legislation and that the authority have a mandate to comprehensively implement and evaluate justice reinvestment policy. The Centre submitted that a legislative basis for the authority would ensure that the justice reinvestment agenda would be progressed. Further, that the Commonwealth should provide adequate start-up funding for the authority.³⁹

8.36 Mr McDonald, Productivity Commission, sounded a note of caution in relation to the establishment of a central body. He stated:

I am just not sure of what the current level of knowledge is within government and what the government policymakers already have and whether you are running the risk of setting up a body to tell governments their core business, which is running the justice system. Potentially, you would hope that they know about the interactions between the justice system and their social and economic policies. More information is always

36 National Aboriginal and Torres Strait Islander Legal Services, *Submission 72*, pp 29–30; see also, Ms Emilie Priday, Senior Policy Officer, Australian Human Rights Commission, *Committee Hansard*, 1 May 2013, p. 2.

37 National Association of Community Legal Centres, *Submission 103*, p. 20.

38 National Aboriginal and Torres Strait Islander Legal Services, *Submission 72*, p. 31.

39 National Centre for Indigenous Studies and Indigenous Offender Health Capacity Building Group, *Submission 83*, p. 9.

good, but I would just need to be convinced that there was gap to be filled.⁴⁰

Justice targets

8.37 Submitters supported the implementation of justice targets.⁴¹ The Australian Human Rights Commission recommended that the Commonwealth and state and territory governments commit to justice targets:

Beyond this the commission recommends that the Australian government set up the policy landscape so that we move from imprisonment towards diversion and crime prevention. Justice targets should be set to reduce the imprisonment rate for Aboriginal and Torres Strait Islander people. Targets should be implemented as part of a properly funded community [Safe Communities] National Partnerships program as part of the Closing the Gap strategy.⁴²

8.38 The Commissioner for Children and Young People WA noted that measuring the achievement in any areas requires the establishment of a baseline and effective targets to ensure progress is measurable. The Commissioner has called for the integration of criminal justice targets into the COAG Closing the Gap Initiative. The Commissioner went on to state that:

It is essential in aiming for targets in health, early childhood, education and employment that the rate of Aboriginal over-representation is addressed as part of the effort to close the gap on Aboriginal disadvantage.⁴³

8.39 The National Congress of Australia's First Peoples commented that the lack of a justice target is a 'gaping hole' in the Closing the Gap framework. While there are COAG targets in other areas, such as educational attainment, there is no justice target. Congress stated that the target should be aimed at reducing the incarceration rate by 50 per cent. Ms Solenec commented:

We believe that, if justice reinvestment is implemented on a national level with the standardised data collection, they are going to be able to meet these targets. It has been quite difficult for state governments, particularly governments like [the Western Australian Government], to commit to justice targets. Every time it has come up at the committee on law and justice, governments such as this one say: 'We can't do that. We're not going to admit to these targets.' But we think that, if justice reinvestment were in tandem with the targets so that both things happened at the same time and

40 Mr Lawrence McDonald, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 17 May 2013, p. 11.

41 See for example, Community Legal Centres NSW, *Submission 102*, p. 18; National Association of Community Legal Centres, *Submission 103*, p. 20.

42 Ms Emilie Friday, Senior Policy Officer, Australian Human Rights Commission, *Committee Hansard*, 1 May 2013, p. 2.

43 Commissioner for Children and Young People WA, *Submission 23*, pp 6–7.

they are both going to go down, we are going to be able to meet the targets and have all the benefits from justice reinvestment.⁴⁴

8.40 The National Centre for Indigenous Studies also supported the development of justice targets commenting that, without a target in Australia, there will be little imperative for change. The Centre stated that 'ultimately, national incarceration rates should reflect, *at the very most*, no more than the 2.5% Indigenous population rate'. An indicative incarceration rate target for Australia should be set by the proposed justice reinvestment body. It was stated that an associated indicative task could be that the proposed body works with all jurisdictions to determine an agreed level by which the incarceration levels in each will be reduced and the commensurate savings would be diverted from the corrections sector for reinvestment to justice reinvestment initiatives in those jurisdictions.⁴⁵

8.41 The committee notes that the Standing Committee on Attorneys-General its Communique of 12 and 22 July 2011 stated:

Ministers discussed the unacceptable rates of incarceration of Indigenous Australians, including the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs' Doing Time – Time for Doing Report and agreed:

(a) to significantly reduce the gap in Indigenous offending and victimisation and to accurately track and review progress with a view to reviewing the level of effort required to achieve outcomes

(b) to ask First Ministers to refer to COAG the possible adoption of justice specific Indigenous closing the gap targets, acknowledging that in many instances their relative occurrence are due to variable factors outside the justice system.⁴⁶

Conclusion

8.42 The committee acknowledges that incarceration is a necessary option within the sentencing regime. However, incarceration should be seen as a last resort and only for serious offenders. Incarceration should also not be used because of the absence of adequate alternative solutions. The committee is particularly concerned that people with mental health issues, cognitive disability and alcohol and drug problems are sent to prison because there are no other options available for courts to consider.

8.43 The committee considers that the present approach to justice does not adequately address the determinants of crime with the result that Australia is facing ever increasing incarceration rates. This provides compelling reasons to explore other options.

44 Ms Tammy Solonec, Director, National Congress of Australia's First Peoples, *Committee Hansard*, 17 April 2013, p. 21.

45 National Centre for Indigenous Studies and Indigenous Offender Health Capacity Working Group, *Submission 83*, p. 10 (revised).

46 Standing Committee on Attorneys-General, *Communique*, 12 and 22 July 2011.

8.44 Justice reinvestment provides a mechanism to address these issues, particularly Indigenous incarceration. Any move toward a justice reinvestment approach will require the support of all governments. The committee considers that the Commonwealth should take the lead in this regard and place the implementation of justice reinvestment on the COAG agenda.

8.45 The committee further considers that given the challenges of implementing a justice reinvestment approach in Australia identified in the evidence, comprehensive trialling is necessary. The use of trials will allow for an evaluation as to whether justice reinvestment is in fact a viable option in Australia.

8.46 In order to conduct a trial, the data issues must be addressed and coordination, support, evaluation and research services would be necessary. The committee believes that a central, independent body would be best placed to provide these services for the benefit of any State or Territory willing to undertake such a trial. The benefits of an independent body are well established by the experience in the United States where organisations such as the Council of State Governments Justice Center have played an important facilitative, non-partisan role in assisting the implementation of a justice reinvestment approach.

8.47 In addition, the committee notes the current research work being undertaken by the Australian Justice Reinvestment Project, University of New South Wales. The committee considers that the development of a trial should have regard to the work of the Project.

8.48 The committee considers that the establishment of a central body should be supported by the Commonwealth but will also require support and commitment from state and territory governments.

Recommendation 5

8.49 The committee recommends that the Commonwealth adopt a leadership role in supporting the implementation of justice reinvestment, through the Council of Australian Governments.

Recommendation 6

8.50 The committee recommends that the Commonwealth commit to the establishment of a trial of justice reinvestment in Australia in conjunction with the relevant states and territories, using a place-based approach, and that at least one remote Indigenous community be included as a site.

8.51 Further, the committee recommends that any trial actively involve local communities in the process, is conducted on the basis of rigorous justice mapping over a minimum time frame beyond the electoral cycle and be subject to a robust evaluation process.

Recommendation 7

8.52 The committee recommends that the Commonwealth provide funding for the trial of justice reinvestment in Australia.

Recommendation 8

8.53 The committee recommends that the Commonwealth, through the Standing Committee on Law and Justice, promote the establishment of an independent central coordinating body for justice reinvestment with the following roles:

- provision of advice as to methodology regarding justice reinvestment;
- identification of the national, consistent data required for effective implementation of justice reinvestment;
- development of options for policy and initiatives to reduce levels of incarceration and identify potential savings for corrections budgets;
- assistance with justice mapping for identification of place-based communities and identification of existing services and gaps in services required to reduce crime;
- brokering agreements between stakeholders;
- independent evaluation of programs and savings; and
- monitoring reinvestment of savings in high stakes communities.

8.54 The final matter which the committee wishes to address is the issue of justice targets. The committee considers that there are sound reasons to establish a target to reduce the imprisonment rate for Aboriginal and Torres Strait Islander people.

Recommendation 9

8.55 The committee recommends that the Commonwealth refer to the Council of Australian Government the establishment of justice targets for Aboriginal and Torres Strait Islander people as part of the Closing the Gap initiative, directed to reducing the imprisonment rate of Aboriginal and Torres Strait Islander people.

Senator Penny Wright

Chair