RECIDIVISM
The Way Forward

Table of Contents

1 Executive Summary

Recidivism rates have remained high for many decades, highlighting the failures of current efforts to reduce rates of reoffending.

This paper draws upon prisoners' experience in consultation with judicial and political figures. The following areas have been identified as the key factors — in order of importance — in reducing recidivism:

1. **Housing** — A significant issue for ex-prisoners is finding housing after they are released from prison, this results in homelessness. Inmates should be released into guaranteed subsidised housing in the private rental market.

2. **Earned Release** — Currently, prisoners have no encouragement to improve themselves or their skills. Coming from this sort of environment and then being required to adjust to working for incentives and being surrounded by people who are motivated to achieve for personal gain is difficult for ex-prisoners.

3. **Computers in Cells with ICT** — Computers in cells with safe access to information communications technology (ICT) allows prisoners access to mainstream education, training, and health services. This access also improves mental health as the individual isn't completely isolated.

4. **Social support** — Better social support structures for prisoners and ex-prisoners, including peer mentoring, would greatly assist ex-prisoners in reintegrating into the community.

5. **Financial stability** — A key issue in recidivism is that people leaving prison don't have the means to support themselves financially. They should be subsidised to enrol in education programs that will lead to employment.

6. **Substance abuse** — Ex-prisoners are more likely to suffer death or disease from substance abuse than others. They need better access to external rehabilitation services and/or opioid

replacement therapies. Other countries have shown that a drug policy that gives primacy to public health principles leads to much less recidivism and much less crime.
.

7. **Learning skills to avoid anti-social habits** — Programs should be offered by trusted external suppliers through computers in cells. These should include cognitive skills and other behavioural training to eliminate anti-social habits, as well as psychological assistance in maintaining healthy relationships with family and other members of the community.
These programs should continue to be offered after release.

8. **Better post-release services —** Prisoners are often released with minimal support and understanding about how to successfully function in society when there are so few choices available to them. Rehabilitative treatment alongside reasonable surveillance may improve recidivism rates.

RECIDIVISM

Many people return to prison after having completed a sentence. They are released and then go on to reoffend. This fact is surprising to the general public, however in many jurisdictions it is the norm. This represents a structural failure of the justice system to create law abiding citizens and a safer community. Imprisonment itself is identified as a cause of crime rather than a solution.[1] The costs of this failure are enormous in social and economic terms.

1.1 Imprisonment itself as a factor

The imprisonment of an offender, rather than alternative forms of sentencing (including restitution, community service orders or parole), increases the rate of recidivism. Breaking social structures and obligations, work, family, housing, and developing damaging habits and social connections all contribute to higher recidivism rates.[2] Research from the NSW Bureau of Crime Statistics and Research has found

---

[1] Zheng Cheng et al, 'Psychiatric disorders and violent reoffending: a national cohort study of convicted prisoners in Sweden' (2015) 2(10) *The Lancet Psychiatry* 891-900.
[2] David J Harding et al, 'Short- and Long-Term Effects of Imprisonment on Future Felony Convictions and Prison Admissions' (2017) 114(42) *Proceedings of the National Academy of Sciences* <https://www.pnas.org/content/114/42/11103>.

that incarceration has little if any deterrering impact and may actually "increase the likelihood of further reoffending".[3] These findings affirm international studies which also conclude that prison has no "specific deterrent… [but a] criminogenic effect". [4]

Harsh and oppressive incarceration conditions also contribute to increased recidivism rates. This increase is due to prisoners being subjected to severe physical and mental upheaval, rendering eventual reintegration into society a challenging experience. In *Exchanging Ideas II,* Grant stated that correctional treatment is more effective when administered via community based programs rather than in custody which is an expensive method, especially when considering that it costs $197 a day per person versus the $21 per day spent on offenders serving community orders. [5]

Overcrowding within prisons undermines rehabilitation prospects in several ways. As of the most recent release from *Corrective Services Australia* there were on average 42,506 daily prisoners.[6] These prisoners experience deteriorated living conditions, restricted access to healthcare and undercuts on educational opportunities. Consequently, physical violence amongst prisoners increases while the mental health of prisoners worsens.

Increased recidivism rates are linked to limited education and employment prospects which are another consequence of persistent underfunding. Without genuine access to training during their sentences and post-release employment support, prisoners risk losing their pre-incarceration identities, experiencing financial hardship and therefore significantly increasing the likelihood of recidivism.

Raising the age of incarceration is an essential step towards combating these issues and reducing recidivism. Research shows that the earlier a child interacts with the criminal justice system, the greater the chances of returning to the same setting upon reaching adulthood. This is because prison is a violent place with an imbalance of power amongst the staff and inmates.

---

[3] Don Weatherburn, 'The effect of prison on adult re-offending' (2010) 143 *Crime and Justice Bulletin* 10.

[4] Ibid.

[5] Kate Lumley and Stephen Norrish, 'Exchanging ideas about Aboriginal contact with the criminal justice system' (2011) 23 (10) *Judicial Officers Bulletin* 88.

[6] Australian Bureau of Statistics, *Corrective Services, Australia, September Quarter 2021* (Catalogue No 4512.0, 25 November 2021) <https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release>.

Currently prisoners are totally disempowered to earn their early release by any effort they make. They have to be passive and wait. This situation is entirely contrary to the principles of human society where you benefit from personal endeavour and contributions to others. Without incentives to do things like undertake programs that encourage personal changes, prisoners are bored, and turn to using drugs and causing management problems. This ideology of '*all stick and no carrot*' not only contributes to a harmful environment but it fails to utilise the significant opportunity to reduce the rate of recidivism.[7]

Further when prisoners are released they are unmotivated, with learned idleness, and yet still expected to reintegrate into society. This process is counterintuitive to the goal of rehabilitation and prisoners thriving beyond prison, as Professor Paul Mullen states "The correctional culture and the physical realities of prisons are rarely conducive to therapy".[8] In fact, "rigid routines, the pedantic enforcement… of minor rules, [and] the denial of… identity, add[s] to the difficulties of managing vulnerable and disordered people".

Mullen further explains that the prison system can render some people unfit to survive the outside world. "[Prisons] provide," he said, "remarkably predictable environments with clear rules [but] limited… delineated roles".[9] Whilst some "mentally disturbed persons" may be accommodated in jails, this is in no way beneficial to living in the community.

In the past, remission was used to encourage prisoners to make efforts to improve themselves. Earning early release was the basis for Alexander Maconochie's successful changes in Norfolk Island at the beginning of the Australian penal colony. This policy initiative resulted in a recidivism rate reduced to 2%.[10] Additionally, situations such as the COVID-19 pandemic have caused continuing lock-downs in solitary confinement. Although, this was not intended by the judge at the time of sentencing, this is

[7] John Clay, *Maconochie's Experiment* (John Murray Publishers Ltd, London, 2001) 249; Guy, G. Cherry, Claire E. Rossmark, *Maryland Diminution Credit System*, Department of Legislative Services, Office of Policy Analysis Annapolis, Maryland, December 2001; Alison Lawrence, *Cutting Corrections Cost, Earned Time Policies for State Prisoners*, National Conference of State Legislatures, July 2009; https://justiceaction.org.au/remission.

[8] Paul Mullen, 'Mental Health and Criminal Justice: A Review of the relationship between Mental Disorders and Offending behaviours and on the Management of Mentally Abnormal Offenders in the Health and Criminal Justice Services' (2001) 36.

[9] Ibid.

[10] Human Rights Commision, *Not for Service: Experiences of injustice and despair in mental health care in Australia* (Report, 2006) Part 6.9.

recognised as being unfair to prisoners contributing to dissent and riots in the past, and has been the basis for sentence reductions in a structured way.

1.2 Social Support

A critical factor in decreasing recidivism is through social support mechanisms, whereby the facilitation of positive relationships assists in the successful reintegration of offenders into society. Several studies have supported this notion, highlighting the capacity of social support to improve well-being and ultimately produce better health outcomes for individuals. For instance, social support assists individuals in coping with life's many adversities and encourages people to pursue the opportunities provided for growth and development. Such outcomes are best achieved through community involvement, improved familial relationships, and peer mentoring. By creating a supportive environment, individuals released back into the community can successfully re-integrate with the rest of the community.

Undoubtedly, prisoners face limited opportunities to socialise, which impedes their ability to secure social support and resources. Community and social support improve social connections and relationships for individuals, both inside and outside of the prison walls. These concepts are not one-dimensional and can include many methods, including the use of digital technology such as tablets and computers in prisons.

Technology can help connect prisoners with their families whilst also encouraging prisoners to participate in reintegration programs and activities. The current initiative for implementing technology in Australian prisons was *Corrective Services NSW* (CSNSW) trialling the implementation of in-cell tablet technology. 600 tablets at two Sydney prisons were trialled, and there is potential for this technology to extend to the provision of rehabilitation programs. In the ACT, computers have been in all cells since 2008 run by PrisonPC, with white listed websites and email contacts of over 20,000 per week keeping prisoners close to their communities and services.

Furthermore, *Peer Mentoring* programs are highly recommended to provide an avenue for both the mentor and mentee to enter an avenue of assistance and advice. The decriminalisation of drugs, the greater use of drug courts and ensuring sufficient access to in-person and post-release rehabilitation programs have all been effective methods in reducing drug-related deaths and recidivism.

However, many of these programs offered are delivered by people who have a minimal understanding of the effect of life in prison, especially as they have primarily had a one-sided outlook on the criminal justice

system. *Peer Mentoring* programs create the necessary foundations for the mentee to learn new skills and build confidence and direction to overcome life's obstacles, from a mentor with lived experience. This also empowers a mentee to find and implement solutions while building a solid and adaptive support network.

Also important is the continued use and promotion of affirmational support programs which give offenders a support network that promotes self-confidence and self-help strategies. The aim of these programs is to give offenders personal mechanisms of self-management in the hopes of reducing recidivism caused by emotional and self-respect related issues.

1.3 Housing After Release

Alongside rehabilitation and educational programs, financial and employment issues must also be considered, as these issues hinder an offender's reintegration into society. Two main areas of this section will focus on financial stability and securing housing post-release.

Providing programs to promote prisoners' financial stability post-release, in conjunction with skills and education, are key to societal integration. This is crucial during a pandemic, where public health orders increased unemployment, and increasing house prices combine to become major disadvantages for ex-prisoners. However, these re-entry programs available to prisoners have been lacking, especially in Australia.

The other important factor is the securement of stable housing, as many offenders find themselves homeless after release, creating a cycle of reincarceration. Research has demonstrated that stable housing is integral to breaking this cycle, as individuals who do not have stable housing post-release are far more likely to reoffend and return to prison, as prisons can be considered more liveable spaces than the streets.
An offender's housing status after release, thus, becomes an integral component in reducing recidivism.

1.4 Financial Stability, Skills and Education

Financial instability is a pivotal contributor to recidivism. Individuals recently released from prison must be provided with an adequate amount of money to successfully reintegrate into society without feeling the need to re-offend and commit crimes for financial gain. Despite the government providing crisis payments to individuals post-prison release, the amount provided is often criticised as being insufficient for reintegration. In fact, financial instability can occur during prison, as there is a strong likelihood that prisoners who use drugs whilst incarcerated will be pressured to pay their debt by engaging in crime.

A lack of education is another risk factor for recidivism. Research has found that individuals who participated in correctional education programs have a 43% lower chance of re-offending than those who did not. Even post-incarceration, individuals find employment generally in low-skill and high labour jobs that provide limited employment benefits and limited opportunities to obtain a professional licence. This places a ceiling on their potential to advance their careers, improve their salaries, and increase job security.

Having educational qualifications helps prisoners secure meaningful employment. Meta-analyses have shown that vocational and academic education increased the likelihood that prisoners would be able to support themselves by 0.9% at 15 months post-release. [11] The likelihood that prisoners obtained employment was 13% higher than those who did not receive a correctional education.[12] Thus, ensuring that all people in prisons and psychiatric hospitals can access tertiary courses through Australian universities can help reduce recidivism.

Accordingly, it is integral to assist ex-prisoners in securing meaningful employment, which ensures financial stability upon release. We recommend implementing vocational training and employability skills during the incarceration period. This is crucial in making ex-prisoners employable and equipping them with experience for the real world so that they can become financially stable and less likely to reoffend. Various legal measures, such as re-entry programs that have already been implemented within prisons,

---

[11] RAND Corporations, 'Educational and vocational training in prisons reduces recidivism, improves job outlook' (Press release, 22 August 2013) <https://www.rand.org/news/press/2013/08/22.html#page-content>.

have contributed significantly to reducing recidivism rates as it equips prisoners with the relevant skill sets required for employment post-release. As such, this suggests the need to re-direct government

[12]

funding towards similar programs to encourage ex-prisoners to gain employment and subsequently reduce recidivism.

Despite the restrictive nature of jobs available, employment post-incarceration is still effective in reducing recidivism rates and overcoming the negative social stigma around ex-prisoners. This is because employment plays a crucial role in encouraging rehabilitation and the reintegration of ex-prisoners into society. Education and subsequent employment also encourage prisoners to undertake pro-social choices rather than return to crime, particularly for younger offenders.

Delivering and participating in education programs, behaviour programs and therapy sessions throughout the incarceration period can be greatly assisted by having access to computers and tablets in prison. Various studies across Australia suggest that technology is a key tool to increasing employability. It enhances computer literacy and access to technology, which is integral to social inclusion in the 21st century. Providing tablets enables individuals to connect further with the community and families, which will facilitate a smoother reintegration and skill development, ultimately deterring individuals from reoffending. Programs delivered in prisons also assists prisoners to develop life and relationship skills that play a crucial role in reducing recidivism.

Introducing computers in cells via the Norwegian import model, delivered through a safe and secure user interface, will provide access to counselling, education and legal services. The introduction of such services will be invaluable to prisoners, providing social support, financial stability, skills and education, preventing substance abuse and antisocial habits and bettering the post-release services.

The introduction of the above services will also maximise prisoner productivity, who spend up to 18 hours of their day in isolation. Along with lessening periods of isolation in imprisonment, assisting in

Ibid.

rehabilitation and lowering recidivism, introducing such services will also encourage empowerment and self-management amongst prisoners. Furthermore, healthcare services will also have increased access, removing the barriers posed by a traditionally physical appointment-based system during a pandemic.

1.5 Substance Abuse

The issue of substance abuse is complex when intersected with crime and addiction. Substance dependency is often twinned with mental health conditions. The criminalisation of drugs breeds stigma and marginalisation that intensify drug and mental health problems to the extent that the Productivity Commission observed that stigma is a leading factor behind the crisis in the Australian mental health system. A large proportion of prisoners released from prison that reoffend are directly linked to illicit drug offences.

Consequently, 75% of them are re-offenders and 80% are imprisoned due to drug-related offences in New South Wales.[12] 67% of inmates take illicit drugs 12 months prior to entering prison and younger adults were substantially higher (76%) than those over 45 years old (53%).[14] These figures generally represent individuals of lower socioeconomic status, perpetuating a cycle of inequality, system failure, and further creating a substantially higher mortality rate for ex-prisoners due to drug-related incidences.[13]

The link between offences committed for illegal drug use, the high rate of recidivism and the high drug-related mortality rate post-release demonstrates inadequacies in the criminal justice system. Thus, there is a need for reform, including better treatment post-release to smooth the transition and rehabilitation process, and judicial management of drug-related offenders.

There are several positions that can be considered to reduce recidivism rates related to substance and drug use. These positions include the decriminalisation of drugs, establishing drug courts and drug programs to create a pathway to rehabilitation, and reiterating the importance of addressing substance abuse to reduce

---

[12] Australian Bureau of Statistics, *Corrective Services, Australia, June quarter 2018* (Catalogue 4512.0, 06 September 2018). [14] Ibid.

[13] Stuart Kinner, 'High-risk injecting drug use after release from prison' (2012) *Centre for Research Excellence into Injecting Drug Use* <https://creidu.edu.au/system/policy_document/2/pdf/Policy_Brief_Kinner_PDF.pdf>.

recidivism rates. The decriminalisation and the de-stigmatisation of drugs and encouragement of treatment can decrease the level of drug-related offences as exemplified in a Portugal case study that found a decrease in drug-related deaths.[16] Countries that have introduced programs such as the heroin and hydromorphone assisted drug treatment programs have emerged with far lower recidivism rates, for

[16]

Ibid.

example, Switzerland (81 per 100,000), British Columbia (66 per 100,000) and other European countries (61 per 100,000 in the Netherlands, 77 per 100,000 in Germany, 81 per 100,000 in Denmark).[14]

Drug courts provide another way to target drug-related offences, as they aim to create community-based rehabilitation and prevent recidivism within the system. Studies have proven a positive correlation between drug courts and lowered recidivism in Australia. A study conducted by the *National Drug & Alcohol Research Centre* and *NSW Bureau of Crime Statistics and Research* (BOCSAR) found that participants in the *Drug Court* were found to have a 17% lower reoffending rate than those not placed in the program.[15] Participants in the *Drug Court* program also took 22% longer to commit an offence against another person.[16]

However, the impact of the *Drug court* is very modest. In the 2020 BOSCAR assessment, the 17% lower reoffending rate applied only to "person offences". There was no difference between the *Drug Court* group and the group that was eligible for the Court but for which there was not a place, in relation to the time to the next offence of any kind, time to the next property offence, or time to the next drug offence. Moreover only about 40% of the group who commenced treatment completed it to the satisfaction of the *Drug Court*.[20]

The drug reform processes undertaken in the ACT may follow a similar structure undertaken by NSW. NSW has implemented the <u>NSW Drug Court</u>, a specialist court, which takes referrals from the Local and District Courts for offenders who are dependent on drugs and considered eligible for a *Drug Court program*.[17] The *NSW Drug Court* is governed by the *Drug Court Act 1998* (NSW) and the *Drug Court*

[14] Institute for Crime & Justice Policy Research, 'Highest to Lowest - Prison Population Total', *World Prison Brief* (Webpage) <https://www.prisonstudies.org/highest-to-lowest/prison-population-total>.

[15] Stuart Kinner, 'High-risk injecting drug use after release from prison' (2012) *Centre for Research Excellence into Injecting Drug Use.* <https://creidu.edu.au/system/policy_document/2/pdf/Policy_Brief_Kinner_PDF.pdf>.

[16] Ibid.

[20] Ibid.

[17] Drug Court New South Wales, 'What is the Drug Court of NSW?', *NSW Drug Court* (Web page, 07 July 2020) <https://www.drugcourt.nsw.gov.au/drug-court/about-us.html>.

   Ibid.

Regulation 2015 (NSW) to provide long-term solutions to the cycle of drug use and crime.[22]

22

Targeted rehabilitation programs promoted in-prison and post-release continue to aid in rehabilitation.[18]An evaluative report on the CJC transitional and reintegration programs for clients with Alcohol and Other Drug (AOD) dependencies undertook five separate studies using qualitative analysis processes. It was found that clients who received the *Community Restorative Centre*'s (CRC) support after leaving prison experienced a significant reduction in their contact with the criminal justice system (including time in custody and rates of reoffending).[19]

The CRC Evaluative Report and data demonstrates that transitional and reintegration programs are necessary to reduce recidivism and there is a need to 'understand the practical and relational kinds of support people require within the context of structural and systemic disadvantage'. Importantly, the CRC report also notes that the 'manner in which people who have experienced incarceration and disadvantage are treated by workers (respectful, non-judgemental, compassionate, consistent) is a fundamental factor in achieving change in a range of areas, including breaking cycles of recidivism and alcohol and other drug use'.[25]

[18] Stuart Kinner, 'High-risk injecting drug use after release from prison' (2012) *Centre for Research Excellence into Injecting Drug Use* <https://creidu.edu.au/system/policy_document/2/pdf/Policy_Brief_Kinner_PDF.pdf>.

[19] Dr Mindy Sotiri, Dr Ruth McCausland, Dr Rebecca Reeve, Lucy Phelan and Terry Byrnes, 'They're there to support you and help you, they're not there to judge you': Breaking the cycle of incarceration, drug use and release Evaluation of the Community Restorative Centre's AOD and reintegration programs' (2021).

   Ibid.

To quote the Productivity Commission: Among those who formally enter the justice system, people with mental illness are overrepresented at every stage. Among police detainees, about 43% of men and 55% of women were reported to have a previously diagnosed mental disorder; while about 40% of prison entrants have been told they have had a mental health disorder (including substance use disorder) at some stage in their life double the rate among the general population.(Productivity Commission, Report Mental Health vol. 1, No. 95, p. 46, 30 June 2020).

Drug treatment services have a better record in promoting recovery of people with co-occurring substance and mental health conditions than specialist mental health services. Services should be readily accessible, effective and non-stigmatising and incorporate the following elements:

a) except for short term emergency interventions when the personal safety of the drug users and others is at stake, services should be voluntary. Coerced and involuntary treatments

25

should be minimised because of the elevated risk of mortality and morbidity that they present;

b) have a long-term focus on well-being and recovery rather than abstinence. Engagement and stabilisation rather than abstinence should be the primary objectives;

c) removed from the stigmatising processes of the criminal law;

d) low threshold to facilitate voluntary engagement;

e) involve peer support services to facilitate engagement and retention and post treatment support.[20]

---

[20] Sterling S, Chi F, Hinman A, 'Integrating care for people with co-occurring alcohol and other drug, medical, and mental health conditions' (2011) *Alcohol Research and Health* 338, 349 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3625993/>.

The drug-related rehabilitation programs, which are effective, include the opiate substitution treatment which is a viable program that is done from in-prison programs to post-release programs.[21] Furthermore, places such as Wandoo Rehabilitation Prison for women have seen enormous successes with less than 1% of participants returning.[22] Other interventions for substance abuse are being provided by organisations such as *WHOS*,[23] *Alcoholics Anonymous*,[24] and *Narcotics Anonymous*.[25]

1.6 Antisocial Habit Changes

Anti-social behaviours, often developed during childhood or adolescence through environmental factors, contribute to the cycle of re-offending. These behaviours often become habitual and can be subject to change, depending on the nature of the person and the seriousness of the behaviour.

An offender who engages in serious antisocial behaviours, including domestic violence, sexual offences and theft, are predeterminers for recidivism. Due to the practice of these behaviours, many offenders face significant social adaptation issues, including stigmatisation and ostracism from family and community

---

[21] Dr Mindy Sotiri, Dr Ruth McCausland, Dr Rebecca Reeve, Lucy Phelan and Terry Byrnes, 'They're there to support you and help you, they're not there to judge you': Breaking the cycle of incarceration, drug use and release Evaluation of the Community Restorative Centre's AOD and reintegration programs' (2021).

[22] Francis Logan, 'Records broken at Australian-first drug treatment prison' (Media Release, 26 July 2020) <https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/07/Records-broken-at-Australian-first-drug-treatment-priso n.asp>.

[23] WHOS, 'About WHOS', *WHOS* (Web Page) <https://whos.com.au/about-whos/>.

[24] Alcoholics Anonymous Australia, 'Frequently asked questions from people new to AA' *Alcoholics Anonymous* (Web Page) <https://aa.org.au/new-to-aa/frequently-asked-questions/>.

[25] Narcotics Anonymous Australia, 'FAQs' *Narcotics Anonymous* (Web Page) <https://www.na.org.au/multi/faqs/>.
   Ibid.

members. This results in a negative impact on the ability to find work or housing, return to formal education, or build (or rebuild) individual and social capital.

The types of programs which are proven to be effective in addressing antisocial behaviours include the cognitive skills training program for offenders in Canada, which is a community program, that reduced the recidivism rate by 66.3%.[26] Another example is the sex offender treatment, which has been implemented in a number of countries and has decreased the recidivism rate of sexual offenders by 26.3%.[27]

These findings show that the community-based therapeutic programs, which aim to develop positive social and personal values, could effectively rehabilitate prisoners.[28] Not only can it correct distorted perspectives, it also emphasises strengthening self-efficacy and motivation for drug rehabilitation. Cumulatively, this can increase an offender's ability to cope with frustrations and eliminate excessive expectations regarding the negative effects of abstinence from drugs.

Research published in *Lancet Psychiatry* concluded that community therapeutic models far outweigh prison-based therapy providers in their effectiveness in reducing recidivism. Ultimately, the *Lancet Psychiatry* extensive meta-analysis research indicated that prison programs largely run by correctional services are 'modest at best' in reducing recidivism. This latest, reputable and major global meta-analysis concluded that currently prisons do not effectively reduce recidivism while community oriented programs can aid in the transition for an individuals' release.[35] Chang et al, also argues that prisoners are insufficiently prepared for successful community reintegration, as prisons do not address incarcerated people's worsening

---

[26] David Robinson*,* 'The Impact of Cognitive Skills Training on PostRelease Recidivism among Canadian Federal Offenders' (Research Report, Correctional Service Canada, August 1995).

[27] Martin Schmucker and Friedrich Lösel, 'Sexual Offender Treatment for Reducing Recidivism among Convicted Sex Offenders: A Systematic Review and Meta-Analysis' (2017) 13(1) *Campbell Systematic Reviews* 1.

[28] Noam Haviv and Badi Hasisi, 'Prison Addiction Program and the Role of Integrative Treatment and Program Completion on Recidivism' (2019) 63(15-16) *International Journal of Offender Therapy and Comparative Criminology* 2741-2770. [35] Gabrielle Beaudry, et al. 'Effectiveness of psychological interventions in prison to reduce recidivism: a systematic review and meta-analysis of randomised controlled trials' (2021) 8(9) *The Lancet Psychiatry* <https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(21)00170-X/fulltext>.

social determinants in recidivism, reinforcing that 'therapeutic communities were associated with reductions in recidivism':

> '*One potential explanation for no clear effectiveness of such CBT interventions found in the current systematic review is that these interventions are not linked with psychosocial support upon release… do not address the accommodation, employment, and financial difficulties after release that contribute to recidivism risk.*
>
> *…A second finding, from a subgroup analysis, was that participation in a therapeutic community was associated with reduced reoffending risk… [and the] role of therapeutic communities, as programmes tailored to specific needs…*'[29]

In conclusion, the meta-analysis paper delineated the implications of what is effective to be offered in prisons, and necessitating the development and evaluation of transition programs and in community resettlement:

> '*First, in-prison interventions might not be effective unless they are linked with interventions that target the psychosocial needs of released individuals… Another implication of our review is that the effects of in-prison psychological interventions on recidivism appear to be smaller [than other reviews]… estimated to be around 0·65 (95% CI 0·57–0·75)… using weak research designs… Research suggests that tailored individualised interventions are associated with better treatment outcomes… future research should develop and evaluate the effects of follow-up treatments in the community after release…*[and] *understanding the influence of environmental factors within prisons on treatment effects… because prisons are not primarily therapeutic environments and they prioritise security over health and rehabilitation needs…*'[30]

Despite repeated failures in demonstrating their efficacy or impact on recidivism, Australian correctional services persist in funding what are mostly non-specialist health professionals to run in-prison programs,

---

[29] Ibid 768.

[30] Ibid 768, 769.

that prioritise security over health and rehabilitation needs Leadership intransigence to improve poor resourcing, and low prisoner participation rates persist, despite decades of funding. Australia's justice system needs to face rising recidivism, and the regularity of avoidable cases of deaths in custody indicative of failed duty of care. The promotion of the *Desistance Model* to encourage a positive approach to prisoners from correctional staff, shows the dearth of evidence based planning and delivery, and the blown out over-reliance of security staff as potential facilitators to be the 'turning points' of an individual recidivist's complex of problems. Offering appalling little to improve prisoner conditions within a distrusted, a-therapeutic and coercive prison system, it fails to improve the wider environmental, employment and social factors post release. Another example, is the *NSW EQUIPS* in-prison program suite, and the dismal use of outside community-based resources to prepare prisoners for transition back into community post release. *Desistance Model* and the *EQUIPS Suite* are both in-prison models, and are critiqued further in this paper.

In contrast, access to education and development by providing prisoners with computers in their cells is based on an import model, and it relies on access to existing, quality resources that are readily available in the community, is the best model to continue development within and beyond the prison walls. As the *Lancet Psychiatry* world-wide meta-analysis paper concludes that programs that tap into the community and enable positive transition back into community is the evidence based trajectory for research to reduce recidivism, and is the direction this highly reputable and globally extensive meta-analysis research concludes is worthy of further development, especially in the face of limited resources to benefit for prisoner and so reduce recidivism.

Services provided by Corrective Services often fail to demonstrate efficacy plus have low participation rates despite decades of funding, for example, the *NSW EQUIPS* program suite. Unlike making access to education and development by providing prisoners with computers in their cells which is based on an import model (not in-prison model), and can continue beyond the prison walls. Programs that tap into community resources, and enable positive transition is what research indicates to be effective and worthy of further development and research.

Critical impediments to *Cognitive Behavioural Therapy* counselling available to prisoners currently, is counselling delivery access and 'dose', provided by prison psychologists in-house, and dependent on program availability. Also the confidential basis of a trusting or therapeutic relationship is undermined as corrections staff can use the information - without practitioner nor prisoner consent - that will be used on the a-therapeutic, legal basis of decision-making about an individual prisoner's classification and release. This structural conflict of interest limits the effectiveness of correctional services in-prison 'therapy' is fundamental to impeding trusting or therapeutic relations. It is borne out in the disappointing participation and recidivism results in NSW, from the sporadic evaluation of the *EQUIPS* program suite, despite being funded for over a decade.

Research indicated the need to be a continuity of 'treatment' regardless of prison status and beyond prison confinement, to enable a more seamless post release transition into the community. It is indicative of in-reach by community services focussed on supported transition of individuals, rather than rely on in-house correctional programs, or community corrections premised largely on monitoring of punitive sanctions outside of a prison facility rather than positively enabling an individual's transition from a strengths based model.

1.7 Post-release Services

Properly supported, less intensive and more community supervision alongside rehabilitative treatment can decrease recidivism. Assisting prisoners to manage their behaviour and comply with societal norms is a critical part of this supervision. The efforts taken to reduce recidivism extend beyond the confines of prison, and far into the community where offenders are more or less required to learn social integration again. In that sense, this section provides an overall discussion of a collection of academic sources that outline the reduction of recidivism rates through the implementation of aftercare programs. Aftercare programs are

those which prepare offenders for successful social reintegration during and after prison, and aims to close the gap between their lives during incarceration and that after incarceration.[31]

There are two distinct approaches to aftercare for offenders reentering society. A restrictive approach to aftercare traditionally involves surveillance of offenders using ankle monitors and other means of electronic monitoring. For higher risk offenders, correctional officers have tended to occupy dual roles of 'enforcer' and 'social worker'. Although the level of risk of an offender upon release will determine the parole conditions that a prisoner is subject to, the level of surveillance must be appropriate to the risk. However, there is little evidence of crime reduction gains from the reimprisonment of low risk offenders for technical violations of parole conditions.[39] The more supportive approach to aftercare involves rehabilitation and community reintegration through early intervention programs and the employment of external organisations which provide aftercare services.

Having a case manager or case management team that can link offenders to their required services and treatments and can monitor their progress and report this to the appropriate authorities is important to reduce recidivism as they can ensure that ex-prisoners receive treatment and support beyond custody. Throughcare, or a continuum of care supports ex-prisoners with their reintegration into the community and maintains their in-prison rehabilitation by providing continuous support and services through social institutions including law enforcement, prisons and courts as well as through local businesses, non-custodial corrections, members of the community, voluntary and faith-based organisations and non-correctional government agencies such as health and education.

---

[31] Maria Borzycki, *Interventions for Prisoners Returning to the Community: A report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department* (Final Report, February 2005) <Interventions for prisoners returning to the community>. [39] Ibid.

2 What is Recidivism?

Recidivism is a concept that refers to a person's relapse into criminal behaviour after their release from prison. Recidivism is often used to measure the 'effectiveness of prison systems and post-release offender management programmes',[32] presumably because it offers a quantifiable and easily assessable metric. The success of our nation's 'rehabilitation' programs (to address individual deficits or defects) and 'reintegration' (of an individual into living in a society) is based on how individuals within their society can avert, redress or recover from personal disadvantage and social challenges they face.[33] The statistics that have been included throughout this paper have been derived from the Australian Productivity Commission.[42]

2.1 Varying Measures of Recidivism

The concept of recidivism is simple, however, there are complications regarding the measurement of recidivism.[34] Recidivism is complex, and can be affected by structural justice-related factors, such as subject target offending or racist practices, and the way in which recidivism is defined. Internationally, re-conviction and re-imprisonment are typically used as markers of recidivism.[35] In Australian jurisdictions, it is more common to specify recidivism as a return to prison or other correction services.[36] The definition of recidivism is relevant, as the timeframe used to define reoffending can range from one year to five years.[37] Given that re-offending is generally understood to be intermittent, rather than regular, longer terms of two to five years seems realistic.

---

[32] Denis Yukhnenko, Shivpriya Sridhar and Seena Fazel, 'A systematic review of criminal recidivism rates worldwide: 3-year update' (2020) 4(28) *Wellcome Open Research* 1, 3.

[33] Joe Graffam, 'Disability and Employment: Improving Prospects for Ex-prisoners', Deakin University Australia (Powerpoint) 6 <http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf>.

[42] Australian Government, *Report on Government Services 2021* (Final Report 22 January 2021) <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/justice>.

[34] Jane Melanie, et al, 'Australia's prison dilemma' (Research Report, Australian Government Productivity Commission, October 2021) 43 <https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf>.

[35] Ibid.

[36] Jason Payne, *Recidivism in Australia: Findings and Future Research* (Final Report No.80, 2007).

[37] Yukhnenko, D, Sridhar, S and Fazel, S, 'A systematic review of criminal recidivism rates worldwide: 3-year update, Wellcome Open Research' (2019) *Wellcome Open Research* Table 1.

Even within an organisation, these definitions can vary. The Productivity Commission's 2021 report defines recidivism as either the return of an individual with a prior sentence to prison within two years of their release; or the return of an individual with a prior sentence to prison, regardless of when the initial conviction occurred.[38] The Productivity Commission cites the measures used by the *Report on Government Services* (SCRGSP 2020a), which measures recidivism as the proportion of those who 'returned to corrective services (prison or community corrections) with a new correctional sanction within two years [of serving a sentence]'[39]For individuals who were not imprisoned, recidivism has been measured as 'the proportion of adults discharged from community corrections orders who returned to corrective services (prison or community corrections) with a new correctional sanction within two years'.[40]

2.2 Australian State Governments' Measures of Recidivism

The NSW Government has a goal to reduce recidivism by 5% by 2023.[41] Under this plan, recidivism is defined as 'adult offenders released from custody who have a new proven personal, property or serious drug offence in the 12 months following release.' To monitor progress on the 5% reduction in recidivism goal, the measure taken from the NSW definition of recidivism is whether a person convicted of a personal, property or serious drug offence had been in prison within 12 months of the new conviction.[42]

In contrast to NSW's goal, the ACT seeks to reduce recidivism by 25% by 2025.[43] However, rather than NSW's one-year timeframe used in the definition of recidivism, the measure used by the ACT is the

---

[38] Jane Melanie, et al, 'Australia's prison dilemma' (Research Report, Australian Government Productivity Commission, October 2021) 42.

[39] Ibid 43.

[40] Ibid.

[41] NSW Government, 'Reducing recidivism in the prison population', *NSW Government* (Web Page, 2021) <https://www.nsw.gov.au/premiers-priorities/reducing-recidivism-prison-population>.

[42] Ibid.

[43] ACT Government, 'Reducing recidivism', *Justice and Community Safety Directorate* (Web Page, 2020) <https://justice.act.gov.au/justice-programs-and-initiatives/reducing-recidivism>.

number of 'adults released from prison who are re-sentenced and returned to prison within two years.'[44]

South Australia recently undertook to reduce recidivism rates by 10% by 2020.[45] South Australia defines and measures recidivism as the 'percentage of adult prisoners released from custody who return to correctional services with a new correctional sanction (either prison or community corrections) within two years.', a definition adopted from the *Report on Government Services.*[55]

The key difference between the definitions of recidivism between the states is the timeframe used as the measure. Whilst the ACT and South Australia have a two-year timeframe and a more general definition of returning to correctional services, NSW has a timeframe of 12 months and only considers recidivism as a conviction of a personal, property or serious drug offence.

2.3 Academic Perspectives: Best Practice to Reduce Recidivism

Policy makers and academics are required to identify which causes of recidivism should be targeted to most effectively promote change. This examination of best practice explores the issues noted by academics and policy makers as being of the utmost priority. It should be noted, however, that there are several issues regarding the analysis of recidivism data, including methodological constraints and unclear recidivism definitions.[46] Additionally, there is often a disparity between what works in the scientific laboratory to results in the real world.[47]

Recidivism has been a focus of research for decades with academics engaging in a wide exploration of the incarceration and post-incarceration experience. Literature commonly focuses on the immediate needs of individuals as they leave prison, including housing and employment, as well as the impact of incarceration

---

[44] Ibid.

[45] Government of South Australia, *Reducing re-offending by 10% by 2020* (Final Report, 2018) <https://www.corrections.sa.gov.au/__data/assets/pdf_file/0004/27796/10by20-Response-and-Action-Plan.pdf>.
[55] Ibid.
[46] Jason Payne, *Recidivism in Australia: Findings and Future Research* (Final Report No.80, 2007) <https://www.aic.gov.au/sites/default/files/2020-05/rpp080.pdf>.
[47] Faye S. Taxman, 'Community Capacity-Building and Implementation Advances to Addressing the RNR Framework' in *Beyond Recidivism: New Approaches to Research on Prison Reentry and Reintegration* (New York University Press, 2020) 39.

on people's families and wider communities.[48] There has also been a shift to examine the systems themselves, including how and why policies were implemented as well as their impact on rates of crime and re-offending.[49]

The effective combination of criminal justice and social policies with local and community-orientated partnerships can create safer communities by preventing crime. In order to implement programs to reduce recidivism, factors that influence individuals' reoffending must first be recognised.[50] Some studies tend to focus on specific crimes to evaluate the effectiveness of programs, such as sex offenders, drug-related offenders or violent offenders, while others embrace a more holistic approach to recidivism.[51]

The United Nations Office on Drugs and Crime (UNODC) has recognised the need for more social support to be provided to ex-prisoners upon their release to reduce recidivism.[52] The UNODC has also found that positive reintegration outcomes are more likely where programs are holistic and continue throughout prison and outside of prison, and when they address the specific physical and social needs of offenders.[53] Social support programs should also involve various stakeholders including multiple levels of government, their agencies (i.e., in health, education, prison administration and law enforcement), in addition to other community services.

Vocational education training (VET) in prisons is another core priority, as prisoner education that can lead to future employment may assist prisoners in becoming contributing members of society and decrease the likelihood of reoffending.[54] VET provides prisoners with workplace experiences, employment stability and

---

[48] Andrea Leverentz, Elsa Chen, and Johnna Christian, 'Introduction' in *Beyond Recidivism: New Approaches to Research on Prison Reentry and Reintegration* (New York University Press, 2020) 2.

[49] Ibid 3.

[50] United Nations, *Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders* (Final Report, December 2018) 9 <https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf>.

[51] Denise Lievore, *Recidivism of sexual assault offenders: rates, risk factors and treatment efficacy* (Australian Institute of Criminology, 2004).

[52] United Nations, *Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders* (Final Report, December 2018) 9 <https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf>.

[53] Ibid 6.

[54] Susanne Bahn, 'Community safety and recidivism in Australia: Breaking the cycle of reoffending to produce safer communities through vocational training' (2011) 9(3) *International Journal of Training Research* 261, 266.

increased community trust and safety by building rapport.[55] This should continue post-release, where prisoners should have access to a greater range of services such as education, treatment, rehabilitation, community-based orders and restorative justice programs. These services can reduce recidivism by diverting focus away from the imprisonment experience, and

continuing the development of new habits.[56]

The Commission on Social Determinants of Health highlighted the extent to which Australian justice sector policies focus on the prevention of crime, whilst addressing social determinants of health. Conditions that affect people's lives and health (including housing, employment, and educational opportunities) are shaped by the distribution of power and resources which greatly overlap with identified social determinants of incarceration, disproportionately impacting Aboriginal and Torres Strait Islander Peoples.[57] In order to reduce recidivism rates, community-based programs must be implemented to empower communities in developing a relevant knowledge base about the causes of, and potential solutions for, recidivism.[58] These solutions should be informed by the specific needs of the local community, based on their unique circumstances.

While there is a responsibility to address these social determinants of offending, it is also crucial to address individual responsibility for crime and empower change through rehabilitation. There has been a recent emphasis on innovative programs that harness creativity to create opportunities for and hope among prisoners.[69] Creative rehabilitation, such as crafts, can not only provide therapeutic benefits but also future employment opportunities.

---

[55] Ibid.

[56] Samantha Battams, et al, 'Reducing Incarceration Rates In Australia Through Primary, Secondary, And Tertiary Crime Prevention' (2021) 32(6) *Criminal Justice Policy Review.*

[57] Commision on Social Determinants of Health, *Closing The Gap In A Generation: Commission On Social Determinants Of Health* (Final Report 2008).

[58] Australian Institute of Criminology, *Justice Reinvestment in Australia: A review of the literature* (Research Report 2018), https://www.aic.gov.au/sites/default/files/2020-05/rr09_justice_reinvestment_in_australia_160518_0.pdf

[69] Hannah Graham and Rob White, 'Analysing Innovation' in *Innovative Justice* (Routledge 2014) 3.

2.4 Primary, Secondary and Tertiary Crime Prevention

Crime prevention occurs across a range of institutional settings, including in communities, schools, labour markets, labour markets, local policing, and criminal justice.[59] Primary intervention involves modifying environments to prevent crime from occurring. This may involve strengthening community and social structures. Secondary intervention involves early intervention initiatives with individuals, population groups and communities considered to be at an elevated risk of committing crime.[71] Primary and secondary interventions often utilise social support to lessen criminal behaviour, and tend to rely on increased access to quality education and training for the broader community. The final, tertiary stage of prevention focuses on those who have already offended or reoffended, and aims to divert current offenders away from imprisonment.[60]

Recidivism can be combated by reducing initial prisoner numbers and 'detention damage'. The correctional Justice system must face the essential question of 'Why do we punish?' as doing has led to large reductions in incarceration overseas. Compared to the U.S., Dutch judges are much less likely to give a prison sentence. More commonly, authorities imposed a fine or required community work, and they also maintained a wait list for a criminal system where peopl;e who had not yet committed by the time they were called to serve were not imprisoned.[61] The effect of a reduced incarceration rate is evident, as the Netherlands have reported that almost half of their prisons were shut down by 2014, and the Dutch justice department predicts that by 2023, the total prison population will drop to just 9,810 people.[62]

In Australia, there is a tendency to focus on tertiary prevention of recidivism, rather than primary crime prevention that would address the underlying social and situational causes of offending.[63] This has largely

---

[59] Lawrence Sherman, et al, 'Preventing crime: what works, what doesn't, what's promising' (Research in Brief, July 1998).

[71] Margaret Cameron and Gloria Laycock, *The Cambridge handbook of Australian criminology* (Cambridge University Press, 2002) 313, 331.

[60] Martin Andresen and Greg Jenion, 'Crime Prevention and the Science of Where People Are' (Research Report, Criminal Justice Policy Review, June 2008) 2.

[61] 3Danielle Batist, 'How the Dutch Are Closing Their Prisons', (Web Page) <https://www.usnews.com/news/best-countries/articles/2019-05-13/the-netherlands-is-closing-its-prisons>.

[62] Ibid.

[63] Samantha Battams, et al, 'Reducing Incarceration Rates In Australia Through Primary, Secondary, And Tertiary Crime Prevention' (2021) 32(6) *Criminal Justice Policy Review*. [76] Ibid.

been due to the rise of neo-liberalism and the political need to be seen to be 'tough-on-crime' which has led to increased spending on prisons rather than early intervention and social support programs that could prevent offending in the first instance.

The use of Reconciliation Action Plans (RAPs) can be beneficial within the First Nations Peoples justice sector. RAPs can address the high recidivism rates among First Nations Peoples and moreover their overrepresentation in prisons. These forms of primary and secondary consultation can include improving community consultation, connection and subsequently improving their socioeconomic opportunities. [76]

ISSUES RESULTING IN RECIDIVISM

3 Imprisonment Itself

The imprisonment of an offender, rather than the use of alternative forms of sentencing (such as restitution, community service orders or parole), increases rates of recidivism. Imprisonment disconnects individuals from social structures and obligations, work, family, and housing, and leads to the development of damaging habits and social connections.[64] Furthermore, overcrowding in prisons culminates in restricted access to healthcare and education opportunities and overall deteriorating living conditions.[65] These factors contribute to higher rates of recidivism.

The issue of high recidivism rates has been termed as the 'revolving door' of reincarceration. Continuous release and reincarceration compounds the stressors of reintegrating into society, such as judicial concern for growing criminal records. Two key issues that act to facilitate this 'revolving door' are the age of criminal responsibility, and disincentivization of prisoners to work towards self-improvement.

---

[64] Harding, David J et al, 'Short- and Long-Term Effects of Imprisonment on Future Felony Convictions and Prison Admissions' (2017) 114(42) *Proceedings of the National Academy of Sciences* <https://www.pnas.org/content/114/42/11103>.

[65] Audit Office of New South Wales, *New South Wales Auditor-General's Report Financial Audit, Volume Seven 2015, Law and Order Emergency Services* (Final Report, 24 November 2015) <https://www.audit.nsw.gov.au/sites/default/files/pdf-downloads/2015_Nov_Report_Volume_Seven_2015_Part_One_Law_and_Order.pdf>.

The current age of criminal responsibility in Australia is 10 years old. The benefits of increasing the age to 14 years old, (in line with international standards) will protect children from the traumatising impacts of incarceration.[66] However, experts argue that this legislation should work alongside complementary reforms that target education, family violence and other social services for children.

Furthermore, within Australian prisons, prisoners have no real incentive to undertake programs that encourage and empower personal changes and improvements. On release, prisoners are expected to reintegrate into society without any positive changes being made to the behaviour or psychology that resulted in their initial imprisonment.

In the past, remission was used to incentivise prisoners to make efforts to improve themselves and their skills. Remission refers to 'the reduction of the term of a prison sentence, usually due to good behaviour or conduct'.[67] It is a structured system with criteria that encourages good behaviour, self improvement and rehabilitation. Remission encourages prisoners to actively engage in programs and life within the prison in order to positively change their behaviour and psychology, motivated by a potential sentence reduction. This better equips them for reintegration into society. Despite the controversial nature of remission, it undeniably contributed to a reduction in recidivism.[68] Introducing a system of earned sentence reduction, like remission, would likely contribute to a reduction in recidivism.

3.1 Effect of Imprisonment on Recidivism

Research suggests that strict incarceration actually increases recidivism. Facilities that incorporate "cognitive-behavioural programs rooted in social learning theory" are the most effective at aiding in

---

[66] Gregor Ubas, 'The Age of Criminal Responsibility' (2000) 181 *Australian Institute of Criminology.*

[67] Justice Action, 'Remission' *Justice Action* (Web Page, 29 June 2012) <https://justiceaction.org.au/remission/>.

[68] John Clay, *Maconochie's Experiment* (John Murray Publishers Ltd, London, 2001) 249; Guy, G. Cherry, Claire E. Rossmark, *Maryland Diminution Credit System*, Department of Legislative Services, Office of Policy Analysis Annapolis, Maryland, December 2001; Alison Lawrence, *Cutting Corrections Cost, Earned Time Policies for State Prisoners*, National Conference of State Legislatures, July 2009; https://justiceaction.org.au/remission/.

resettlement.[69] In particular, it has been found that the use of imprisonment, rather than probation, increases the likelihood of recidivism in the first three years following release by approximately 19%.[70]

When an individual is imprisoned they lose their connection to mainstream society, not only through physical disconnection, but also by losing their responsibilities derived from employment, family, stability and routines. These structures are difficult to re-establish upon reintegration into society due to the stigma of being an ex-prisoner.

3.2 Overcrowding in prisons

Overcrowding and dire living conditions in prisons have significant negative implications on prisoners, and their ability to reintegrate into society upon release. Overcrowding is a result of a 'tough on crime' stance adopted in Australia which permeates through new legislation.[84]

Overcrowding is a significant issue as it undermines the ability of prisons to meet basic human rights in terms of food, accommodation, privacy, and access to communication outside prison through the use of phones and visitation. This is supported by the NSW Auditor-General's 2015 Report notes which identified that overcrowding has a negative impact on prisoners, and can lead to increased reoffending.[71] Overcrowding causes mental, emotional and physical stress for inmates living in poor conditions.[72] It decreases their ability to access proper health care and education opportunities, which are essential in reducing recidivism. Furthermore, limited privacy can heighten tension between inmates, resulting in an increased risk of violence, while a lack of attention from prison staff can lead to feelings of

---

[69] Sterbenz, Christina, 'Why Norway's Prison System Is so Successful', *Business Insider Australia* (Web Page, 12 December 2014) <https://www.businessinsider.com.au/why-norways-prison-system-is-so-successful-2014-12>.

[70] Bronwyn Naylor, 'The evidence is in: you can't link imprisonment to crime rates' *The Conversation* (Web Page, 23 April 2015) <https://theconversation.com/the-evidence-is-in-you-cant-link-imprisonment-to-crime-rates-40074>. [84] Irina Dunn, *Chalk and Cheese, Australian vs. Norwegian Prisons* (Final Report, 2017) <https://www.communityjusticecoalition.org/images/ChalkCheeseNorway.pdf>.

[71] Audit Office of New South Wales, *New South Wales Auditor-General's Report Financial Audit, Volume Seven 2015, Law and Order Emergency Services* (Final Report, 24 November 2015) <https://www.audit.nsw.gov.au/sites/default/files/pdf-downloads/2015_Nov_Report_Volume_Seven_2015_Part_One_Law_and_Order.pdf>.

[72] J García-Guerreo et al, 'Overcrowding in prisons and its impact on health' (2012) 14, *Rev Esp Sanid Penit* 106-113.

[87] Penal Reform International, 'Overcrowding', *Penal Reform International* (Web Page, 2013) <https://www.penalreform.org/issues/prison-conditions/key-facts/overcrowding/>.

neglect for those in the prison system.[87] Therefore, an important mechanism in reducing recidivism is to decrease the overcrowding of the prison system. This can be done through limiting the preference for incapacitation, and instead using alternative methods of punishment.

Moreover, improving the quality of the environment inside prisons is critical in reducing recidivism. This can be done through providing adequate rehabilitation programmes, educational and recreational activities, and employment projects that allow for easier community re-entry.[73] Due to overcrowding, these resources are scarcely limited and inadequately funded. Therefore, without a reduction in overcrowding, funding and resources should be directed to this area with the intention of reducing recidivism.

3.3 Connections between Imprisonment and Crime Rates

Recent increases in the use of imprisonment have not led to any stabilisation of the crime rate. Instead, it is argued that neoliberal societies have the highest imprisonment rates because they have social and economic policies that lead to 'exclusionary cultural attitudes' towards deviant fellow citizens. By contrast, European corporatist societies ('coordinated market economies') and Scandinavian social democratic societies recognise the need for offenders to engage in resocialisation, and view this as a responsibility for the community as a whole.

Links can also be made between a country's welfare system and rates of imprisonment: reduced welfare correlates with increased imprisonment. The association between increasingly punitive policies and the winding back of the welfare state in the USA and the UK is often noted. The punitive policies of the USA correlate with their high levels of income inequality, whilst Scandinavia ranks highest on social expenditure in Europe, and has the lowest levels of income inequality of Western countries.

Majoritarian two-party systems, it is argued, tend to give rise to adversarial and punitive law-and-order politics. By contrast, consensus-based models of decision making tend to prioritise compromise, making

---

[73] Friedrich Lösel, 'Counterblast: The Prison Overcrowding Crisis and Some Constructive Perspectives for Crime Policy' (Research Report, The Howard Journal No 5, December 2007) <https://onlinelibrary.wiley.com/doi/10.1111/j.1468-2311.2007.00497.x>.

oppositional correctional politics unlikely. Globally, there is support for a connection between rates of imprisonment and levels of social inequality, but no direct relationship between crime rates and imprisonment rates. There is therefore a pressing need for Australia to reconsider its current approach towards incarceration; through international comparison, it appears that investment into education, families, and communities would be far more beneficial than further funding prisons.

3.4 The 'Revolving Door' of Recidivism

Prison systems in the United Kingdom and Australia have also witnessed 'revolving door' offenders, who repeatedly offend, and therefore enter, leave, and re-enter incarceration.[74] Their criminal offences may not necessarily increase in severity over time, however previous offences may impact sentencing for re offenders, as judicial responses must consider criminal history.[75] As an individual's criminal history accumulates, so does their likelihood of returning to prison, and the likelihood of their sentences increasing over time.

This cycle of being released from, then re-entering prisons presumably compounds the stressors confronted upon prisoners' release. Offenders may have had limited opportunities to integrate into mainstream society, and are repeatedly confronted by the challenges of release. Indeed, 11% of jobseekers in 2011 were ex-prisoners, suggesting those released from prison struggle to reintegrate into mainstream society.[76]

The Norwegian approach of correction systems is often highly regarded because of its unique approach that is focused on "public health oriented re-integrative programs" and decreases recidivism.[92] The prisoners in Norway's Halden Prison have their own rooms, amenities such as flat screen TV's and personal bathrooms. Inmates have access to kitchen and libraries and are able to participate in a range of activities.

---

[74] HM Inspectorate of Prisons, 'Through the Prison Gate' (Thematic report and research, England and Wales, 2001) <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/08/Through-The-Prison-Gate-2001-ao. pdf>.

[75] Parliament of New South Wales, *Standing Committee on Law and Justice,* (Web Page) <https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=212#:~:text=The%20committee%20was%20established%20to,industrial%20relations%20and%20fair%20trading>.

[76] Joe Graffam, 'Disability and Employment: Improving Prospects for Ex-prisoners', *Deakin University Australia* (Powerpoint) <http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf>. [92] Rutger Bregman, *Humankind: A Hopeful History* (Bloomsbury, London, 2021) 328-331 [93] Ibid.

Bastøy warden, Tom Eberhardt succinctly summarises this approach as "*treat people like human beings and they act like human beings*".[93] This method is proven to be successful as the recidivism rate for prisoners is nearly 50% lower than offenders sentenced to community services or issued fines.

Recidivism is the result of complex interacting factors. One model that aims to address these factors is the reintegration model, which focuses on the various needs of offenders who are re-entering mainstream society. Issues to be addressed could include individuals' personal and social network, their basic living needs (including housing, education, and health), their finances, and substance abuse.[77]

3.5 Raising the Age of Incarceration

Raising the age of children being incarcerated is a topical issue that has been pushed as a vital primary prevention strategy to avert young people from entering the criminal justice system, at critical developmental stages.[95] The Australian Institute held a national webinar that included First Nations speakers from JusticeReinvest NSW and Change the Record, agreeing that there can be no beneficial long-term outcome from the incarceration of children. Given that the 'earlier a child becomes engaged with the criminal legal system, the more likely they are to return to it as they get older and into adulthood', this argument seems to be supported.[78] The incarceration of children places them in an extremely vulnerable position due to their lack of power and autonomy, their risk of exposure to violence and assault, and ultimately the trauma they may face as a result of this. This trauma can cause long-lasting harm to children unless informed trauma responses are invoked.[79]

One key issue involving the incarceration of children is the matter of potential police discretion failure and other forms of discrimination. First Nations children are more likely to be arrested and sentenced than non-

[77] Joe Graffam, 'Disability and Employment: Improving Prospects for Ex-prisoners', *Deakin University Australia* (Powerpoint) 10 <http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf>. [95] Julie Williams, et al, 'Raising the Age: Getting Children out of Prison', *The Australian Institute* (Web page, 8 September 2021) <https://australiainstitute.org.au/event/raising-the-age-getting-children-out-of-prison/>.

[78] 'Explainer; Raising the age', *Human Rights Law Centre* (Web Page, 20 March 2018) <https://www.hrlc.org.au/factsheets/2018/2/8/explainer-raising-the-age>.

[79] Julie Williams, et al, 'Raising the Age: Getting Children out of Prison', *The Australian Institute* (Web page, 8 September 2021) <https://australiainstitute.org.au/event/raising-the-age-getting-children-out-of-prison/>.

First Nations children, even when the crime is the same.[80] There has been a push for self-determination within First Nations communities, particularly since the COVID-19 pandemic. Health organisations run by First Nations community members have been highly successful and effective in managing outbreaks in First Nationscommunities, provoking discussion surrounding the possibility of a similar approach being utilised to assist in breaking the vicious cycle of recidivism.[81]

Raising the minimum age of criminal responsibility to 14 years old was one essential solution for system reforms, with proposed changes aiming to take children's situational factors into consideration to create a system that protects children, rather than exposing them to the prison system.[82]

Where the offence committed is not serious, alternative options of punishment should be considered as alternatives to imprisonment for young people. For example, at-risk youth who have committed crimes should be given the option to attend goal-focused rehabilitation centres, as highlighted in the Youth on Track model. This model demonstrates the need to provide youth with support from an early age, rather than introducing them to penal systems that enforce traditional views on punishment and discipline, furthering rates of recidivism.[83]

3.6 Earned Sentence Reduction

Incentives are ingrained in the structure of society, evidenced by political parties' concern with allowing a citizen to personally benefit from their efforts.[102] Thus, incentives provide motivation for people to improve their lives; without an incentive, people may not feel empowered to dedicate time and effort required for positive changes. In prisons, there is often little to no incentive to work hard and apply oneself. This can

---

[80] Ibid.

[81] Ibid.

[82] Ibid.

[83] Attorney General and Justice, Youth on Track, A model for early intervention with young people (Final Report, 16 February 2021) <https://www.youthontrack.justice.nsw.gov.au/Documents/a_model_for_early_intervention_website.pdf>.

[102] Liberal Party of Australia, 'Our plan', *Liberal* (Web page) <https://www.liberal.org.au/our-plan/lower-taxes>.

be problematic, as prisoners may not strive towards gaining skills that will benefit them when they rejoin society, thus placing them at risk of reoffending.

Imprisonment largely removes prisoners' personal autonomy, which can result in prisoners feeling a lack of control over their actions, goals, and lives. However, in society, personal autonomy is required to actively contribute to the community. This juxtaposition between imprisonment and mainstream society can make reintegration difficult. Greater personal autonomy is encouraged through earned sentence reductions as prisoners have the choice to engage in programs that change their behaviour, with the ultimate benefit being the release of the prisoner.[84]

Remission also provides an incentive for good behaviour such as cooperative and positive interactions within the prison system. Conversely, state intervention without remission is disempowering for prisoners and discourages personal growth and development. Indeed, remission has shown to promote significant physical and mental improvements in inmates, as well as a reduction in recidivism rates, demonstrating the need for introducing an earned sentence reduction system. [85]

3.7 Financial Considerations

There are several financial issues to examine when evaluating the cost of imprisonments. The Institute of Public Affairs recommends for research into a "more cost-effective approach to criminal justice" in light of the rapidly increasing costs of the criminal justice system.[86] In Australia, the government spent over $15 billion dollars in 2014-15 on criminal justice and this expense will continue to grow as the population of prisoners increases.[106] Recently, figures indicate that the Australian government spends nearly 4 billion dollars annually for the construction and operation of jails, or in other terms up to $300 per prisoner every

---

[84] Justice Action, 'Remission' *Justice Action* (Web Page, 29 June 2012) <https://justiceaction.org.au/remission/>.

[85] https://justiceaction.org.au/remission/; John Clay, *Maconochie's Experiment* (John Murray Publishers Ltd, London, 2001) 249; Guy, G. Cherry, Claire E. Rossmark, *Maryland Diminution Credit System*, Department of Legislative Services, Office of Policy Analysis Annapolis, Maryland, December 2001; Alison Lawrence, *Cutting Corrections Cost, Earned Time Policies for State Prisoners*, National Conference of State Legislatures, July 2009.

[86] Andrew Bushnell and David Wild, 'The use of prisons in Australia: Reform directions' (Report, December 2016) 1.

[106] Ibid.

day which equates to $110,000 per prisoner every year.[87] As Bushnell and Wild state, spending in this sector requires stronger scrutiny and implementation of economical strategies, by reconsidering the role of prisons.

---

[87] Jarrod Ball, 'Australia Pays   the Price forIncreasing Rates   ofImprisonment'(Web   Page,   July, 2019)

<https://www.ceda.com.au/NewsAndResources/Opinion/Economy/Australia-pays-the-price-for-increasing-rates-of-i#:~:text=According%20to%20the%20Productivity%20Commission,%24302%20per%20prisoner%20per%20day>.

4 Social Support

There is evidence to suggest that social support can reduce recidivism, as the facilitation of positive relationships can assist offenders in successfully reintegrating into society. Several studies highlight the ways in which social support can improve well-being and, ultimately, produce better health outcomes for the community.[88] For instance, through meaningful relationships, social support

(1) assists people in coping successfully with life's adversities and

(2) encourages people to pursue life opportunities for growth and development.[89]

Such outcomes may be more stressful through a unified approach from families and broader communities.[110]

Ideally, social support should involve a network of people who will care and assist prisoners upon their release. Different forms of social support (e.g., emotional, or informational) can assist individuals in successfully re-integrating into their community, therefore reducing the likelihood of recidivism.[90] This paper will discuss three principles of social support: a) identity and belonging, b) informational support, and c) affirmational support.

4.1 Identity and Belonging

A sense of identity and belonging are conducive to a sense of support and comfort, and can encourage individuals to pursue opportunities for growth in the absence of adversity. When people are supported by a social network, they are more likely to thrive[91]. Upon release, offenders experience a plethora of hardships (including financial, social, or professional struggles), and therefore require a strong support network in order to reintegrate into society and avoid reoffending. Importantly, these relationships should encourage positive changes, such as striving towards goals and avoiding activities that will result in recidivism.

---

[88] Feeney, Brook C and Collins, Nancy L, 'A New Look at Social Support: A Theoretical Perspective on Thriving Through Relationships' (2015) 19(2) SAGE Publications 113

[89] Ibid. [110]Ibid.

[90] Ibid

[91] Feeney, Brook C and Collins, Nancy L,'A New Look at Social Support: A Theoretical Perspective on Thriving Through Relationships' (2015) 19(2) *Sage Publications*, 113, 121.

4.1.1 Involvement in Community

A report from the Australian Institute of Criminology identified offender reintegration as a key aim of post-release services. [92] Similarly, the UNODC highlighted the importance of social reintegration when attempting to decrease recidivism rates.[93] There is therefore a need for programs that develop problem solving, communication and conflict resolution skills to assist offenders with the transition from prison to community. Engaging prisoners with volunteering and mentorship opportunities that promote responsibility is another strategy that should be considered, as these interventions can increase social support and quality of life for transitioning offenders.[94] Indeed, offenders who received re-entry support and peer mentorship had a lower recidivism rate than the comparison group who did not receive such additional help.

Given the overrepresentation of prisoners from socially disadvantaged areas, there is a need to improve social support in these areas.[116] Although incarceration does remove offenders who have committed serious offences from these areas, this short-term solution does not improve general community safety. Additionally, disadvantaged communities are also more susceptible to crime, as demonstrated through Zimbardo's Broken Windows Theory.[95] This spiral of disadvantage and crime creates both stigma and further socio-economic issues when released offenders return to the communities. Since these communities are ill-equipped to reintegrate ex-inmates, reoffending will likely occur.

Since prison is a sensitive social environment, with issues of privacy, overcrowding, and violence, the social life of a prisoner can be complicated.[96] Importantly, there may be limited positive social support for prisoners while they are incarcerated. Indeed, when incarcerated, offenders are likely to engage with

---

[92] Interventions for Prisoners Returning to the Community: A report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department. Dr Maria Borzycki Australian Institute of Criminology Canberra Feb 2005

[93] https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf

[94] https://journals-sagepub-com.simsrad.net.ocs.mq.edu.au/doi/pdf/10.1177/0093854820901562

[116] Vinson 1999

[95] Chicago: University of Chicago Press. Wilson, J. Q., and Kelling, G. L.The police and neighbourhood safety: Broken windows. Atlantic Monthly29–38. (1982, March).

[96] Nick De Viggiani, "Surviving Prison: Exploring Prison Social Life as a Determinant of Health" (2006) 2(2) *International Journal of Prisoner Health* 71.

criminals who have committed serious offences, and this could negatively impact their lives upon release.[97][98] Improving the environment within prison can help mitigate some of the difficulties that former inmates experience such as finding employment, lack of social support and mental health problems.

The nature of an inmate's social relationships can determine whether successful reintegration is possible or not. After years spent in prison, the limited contact and extensive isolation will have significant effects upon social support, resources and ability to find housing, employment and a reliable life outside of prison.[99] Means should be provided for prisoners to maintain contact with family and friends outside the prison environment, whether this be through visiting opportunities or through phones and computers.

4.1.2 Identity and Social Bonds

In 2020, researchers collaborating to understand recidivism from USA's RAND Corporation and Netherland's 'The Prison Project' research team investigated social issues associated with recidivism. The project identified that those who recidivate reported an increase in several social deficits: having no partner, alcohol/drug problem use, having no intention to vote, no organisational memberships, no family/partner core network and having no friends/others core network.[100] In attempting to predict re-confinement changes, this study recognised the mixed results relating to the importance of various social factors: within-person changes in positive social bonds did not predict concurrent changes in criminal activity, nor did marital status, or the quality of romantic relationship. However, having criminal peers did predict a higher post release self-reported offending.[101]

Contrary to the notion that incarceration initiates shifts in an individual's identity, there is a possibility for positive change for those who are incarcerated. Older age increased the odds of a positive turning point,

---

[97] Stefanski, Ron, "PrisonRecidivism: Causes and PossibleTreatments," *Occupy.com* (August [98] ,2019)<https://www.occupy.com/article/prison-recidivism-causes-and-possible-treatments#sthash.h47M2cNT.ouIixXgg.dpbs>

[99] Ibid 18

[100] Audrey Hickert et al, "Confinement as a Two-Stage Turning Point: Do Changes in Identity or Social Structure Predict Subsequent Changes in Criminal Activity? *" (2020) 59(1) Criminology, 58.

[101] https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9125.12262 p80

whereas greater prior imprisonment experiences decreased these odds. In particular, negative change was reported more when offenders had no family, partner or friends in their core networks, and no stable housing.[102]

4.1.3 Connections with Pets

In Queensland, where recidivism rates are around 60%, researchers are conducting a trial to study how dogs may affect inmates' emotional intelligence, and in turn, reduce recidivism.[103] Offenders tend to have lower emotional intelligence than the general population, on average. The theory behind the utilisation of dogs as a tool for improving emotional intelligence is that humans process the facial cues of humans and dogs in similar ways, and therefore learning to read behavioural cues of dogs could also improve the ability to recognise and process emotions in people. Early findings of this research suggest that these interactions do indeed help people to identify and respond to emotions of other people more appropriately.

4.2 Informational Support

Information support gives a person access to information to build social support. As such, the use of mentoring programs and technology can assist offenders in interacting with social support workers, obtaining necessary resources, networking with the outside community and implementing strategies for pursuing goals.

4.2.1 Peer Programs

Mentoring programs allow for prisoners who have recently been released to build support and trust with members of the community. For example, aftercare programmes, such as those that include training in life skills, or gender-sensitive programmes that connect female offenders with other female prisoners to help support each other,[104] are effective ways in which interpersonal skills and stability can be maintained in the wider community.

---

[102] https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9125.12262 p88

[103] http://keepitclever.com.au/?s=prison&post_type=post

[104] 'Introductory Handbook on Prevention of Recidivism and the Social Reintegration of Offenders' (2018) *Criminal Justice Handbook Series*.

Additionally, peer-based interventions have been shown to mitigate addiction cravings, increase self-efficacy, social support and quality of life, foster adherence to treatment and drug abstinence, and lower recidivism. [105] Results demonstrated that offenders receiving both standard re-entry services and peer mentorship experienced lower recidivism rates than those receiving standard re-entry services alone.

At the incarceration stage, peer-led mentor interventions were found to assist in reducing self-harm in a UK prison[106]. This model recognised the environmental, social, and cultural influences on mental health and wellbeing of prisoners inside prisons. Once offenders are released, Justice Action Mentoring projects aim to provide practical mentoring for people whose lives have been disrupted through the criminal justice system. This program places rehabilitation and reintegration at the forefront of the transition between prison and the community. Mentoring Handbook (May 2008).

4.2.2 Technology in Prisons: Computers in Cells

Prior to their release, prisoners may have had limited opportunities for positive social interactions within their facility. One possible solution to this issue is the circulation of digital technology in prisons. Technology can be used as a tool to connect prisoners with their families whilst also encouraging prisoners to participate in reintegration programs. In particular, the COVID-19 pandemic necessitated the use of online police services, courts and correction facilities. It also allowed for inmates to speak to family members, access education, telehealth and counselling online, which decreased costs and time for both participants and the justice system overall.[107]

---

[105] David Sells et al, 'Peer-mentored community re-entry reduces recidivism' (2020) 47(4) *Criminal Justice and Behaviour* 437.

[106] The effect of a peer-led problem-support mentor intervention on self-harm and violence in prison: An interrupted time series analysis using routinely collected prison data. Amanda E. Perry, Mitch G. Waterman, Veronica Dale, Keeley Moore. Allan House Open Access Published:January 15, 2021, eClinicalmedicine, The Lancet Discovery Science. https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370%2820%2930446-6/fulltext

[107] Brian A. Jackson, Michael J. D. Vermeer, Dulani Woods, Duren Banks, Sean E. Goodison, Joe Russo, Jeremy D. Barnum, Camille Gourdet, Lynn Langton, Michael G. Planty, Shoshana R. Shelton, Siara I. Sitar, and Amanda R. Witwer, 'How the Criminal Justice System's COVID-19 Response Has Provided Valuable Lessons for Broader Reform: Looking to the Future'. Santa Monica, CA: RAND Corporation, 2021. https://www.rand.org/pubs/research_briefs/RBA108-6.html

For example, in 2020, 600 tablets were distributed to prisoners in a program operating on a secure wi-fi network.[108] The program aimed to facilitate educational sessions, therapy and bank account management online, and enabled prisoners to communicate with family, lawyers, and other members of mainstream communities. Given that prisoners remain in their cells for up to 16 hours a day, this program aimed to ensure they had the opportunity to use their time constructively, while building necessary skills for release and rehabilitation. A key aspect of the program includes extended opportunities to access therapy, especially cognitive behavioural therapy which is designed to change prisoner's thought patterns. Having tablets ensures prisoners are able to access therapy on-demand.

While computers in cells have been allowed in ACT since 2008 managed by PrisonPC, inmates are unable to use them to make phone calls.[109] Part of the success of the in-cell tablet trial in NSW prisons was attributed to their ability to provide prisoners with more regular communication with personal contacts. The tablets provided prisoners with improved access to personalised services such as rehabilitation programs, behavioural courses and mental health support. These programs aid with reintegration and decrease the likelihood of re-offending for ex-offenders.[110]

Despite the success of these programs, there remains a lack of access to technology for inmates. In the current age, access to digital platforms and technology is essential in enabling communication with family, lawyers and courts, encouraging learning, education and professional skills, and in providing rehabilitation and reintegration programs.[111] The lack of access to digital technology in prisons has deepened the digital divide, denying offenders opportunities to gain education, employment and social skills that are vital in preventing re-offending and easing reintegration into the community.

---

[108] Jacqueline Maley, 'Prisoners to get tablet computers in cells in bid to cut reoffending rates', *Sydney Morning Herald* (online,10 March 2020)

[109] Bridget Fitzgerald, 'Tablet computers have kept prisoners in touch with family during COVID-19', *ABC News* (online, 21 November 2020) <https://www.abc.net.au/news/2020-11-21/tablet-computers-to-prisoners-during-covid-19/12895870>.

[110] Ibid.

[111] Penal Reform International, *Global Prison Trends 2021* (Report, May 2021).

4.3 Affirmational Support

Affirmational support involves utilising positive statements to discourage self-defeatist attitudes.[112]Specifically, self-help strategies are used to promote self-confidence and belief in one's abilities. This is an essential principle as offenders may experience feelings of inadequacy and helplessness after incarceration. Therefore, it is essential to provide prisoners with the support to ensure they are confident in their ability to get their lives back on track, whether in the workforce or through education.

Affirmational support programs foster a sense of self-respect for individuals within the criminal justice system. Having a low self-esteem has been found to contribute to offending and by extension, recidivism.[113] Therefore, cycles of criminal behaviour can often be mitigated by providing support networks. Without these support networks in place, offenders can fall into cycles of destructive behaviour and explosive violence known as humiliated fury, increasing rates of offending and recidivism.[135] One affirmational support program is Criminon, a non-profit organisation that provides basic life skills (e.g. communication, habit breaking, etc.) and supportive rehabilitory help for currently and formerly incarcerated individuals.[114]

---

[112] Healthline, Positive Affirmations: Too Good to be True? https://www.healthline.com/health/mental-health/do-affirmations-work
[113] https://publishing.cdlib.org/ucpressebooks/view?docId=ft6c6006v5&chunk.id=d0e5821&toc.id=d0e5821&brand=ucpress
[135] Ibid.
[114] Criminon, "*Welcome to Criminon*", Criminon (Web Page, 2022), <https://www.criminon.org/>.

5 Housing After Release

Housing status after release is a key factor resulting in recidivism. The experience of prison complicates an offender's ability to successfully re-enter society because it reduces their ability to secure housing and work due to a lack of re-entry programs available.[137] The insecurity of future housing is seen in 10.5% of juvenile detainees finding it difficult to secure housing upon release,[138] and more than 50% of adults leaving incarceration expecting to be homeless or not knowing where they will stay upon release.[139] This has culminated in the fact that 2 out of 3 prisoners identifying as homeless will offend again within a year.[140]

The existing programs in Australia, particularly NSW, combine residential living for prisoners while aiming to provide them with some assistance to become self-sufficient, and address employment, mental health and substance abuse issues. Two examples of post release housing solutions are the Rainbow Lodge Program, as well as the Community Restoratives Centres (CRC) Housing-first Transitional Reintegration Program. From the limited participants in both of these programs, a recidivism rate as low as 12% was observed after 24 months in the CRC's program,[141] and 15% in the Rainbow Lodge Program.[142] However, more initiatives must be implemented to increase the number of programs available to support prisoners and provide housing options post-release.

Furthermore, the USA's RAND report found that when given stable housing 91% had maintained this housing status after 6 months and 74% a further 6 months. Within the first year only 14% had been handed new felony charges.[143] Most programs in NSW are based around the 'criminogenic needs' model

---

[137] Vivienne Chin and Yvon Dandurand, *December 1, 2018 AUTHORS Vivienne Chin, Prof. Yvon Dandurand YEARS 2018 POLICIES Corrections INTRODUCTORY HANDBOOK on the PREVENTION of RECIDIVISM and the SOCIAL REINTEGRATION of OFFENDERS* (United Nations Office on Drugs and Crime, 2018) <https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf>.

[138]lt/files/inline-files/submission - inquiry into the adequacy of youth diversionary programs in nshttps://www.nswmentalhealthcommission.com.au/sites/defauw.pdf

[139] Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. and Thomas, S. (2021) Exiting prison with complex support needs: the role of housing assistance, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne.

[140] Bowpitt, Graham, "Homeless: more than a third of people leaving prison say they have nowhere to go", *The Conversation* (Web Page, November 4, 2019),

<https://theconversation.com/homeless-more-than-a-third-of-people-leaving-prison-say-they-have-nowhere-to-go-124948>.

141 Mindy Sotiri and Alex Faraguna, 'Homelessness in Ex-Prisoner Populations: A CRC Submission for FACS', (Research Report, Community Restorative Centre, 2016).

142
     Rainbow Lodge

143 https://www.rand.org/blog/rand-review/2020/02/supportive-housing-can-help-keep-people-with-mental.html

that prioritises short-term intervention based on the Risk Needs Responsivity (RNR) model for rehabilitation.[115] This model however, fails to properly acknowledge the role that housing plays in reducing crime and re-imprisonment.

Housing insecurity and the lack of re-entry programs often results in offenders becoming homeless, resulting in them re-offending and ending up back in prison unable to break the cycle. Current programs have proven that stable housing is essential to breaking entrenched cycles of involvement in the prison system,[116] and further research corroborates this fact.[146]

5.1 Current Housing Environment for Australian Offenders After Release

The current housing environment for offenders after their release from prison is unstable and commonly results in prisoners living in emergency or short-term housing, or being homeless.[117] The current housing environment for adult and juvenile prisoners reflects this unstable nature.

Unstable and limited housing conditions are a key element that contributes to the current high recidivism rates. More than 50% of prisoners' being released from prison in Australia are either homeless or expected to be homeless, having nowhere to stay upon their release. This makes it extremely hard for reintegration back into society creating an imprisonment-homelessness cycle within this group of individuals. Housing assistance post release is crucial when it comes to lowering the rate of recidivism. It has been agreed upon

115 https://apo.org.au/sites/default/files/resource-files/2020-02/apo-nid274951.pdf

116 Hutchinson, D. (2018) 'The Rainbow Lodge Program – A Quiet Achiever for over 50 Years', The Glebe Society Inc,Online.https://www.glebesociety.org.au/socialhistory/the-rainbow-lodge-program-a-quiet-achiever-for-over-50-years/. 146 Baldry, E., McDonnell, D., Maplestone, P. and Peeters, M. (2006) 'Ex-Prisoners, Homelessness and the State in Australia, Australian and New Zealand Journal of Criminology, 29(1), 20-33.

117 Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. and Thomas, S. (2021) Exiting prison with complex support needs: the role of housing assistance, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne.

by scholars that for ex-prisoners' to successfully integrate socially back into society, suitable housing options provided upon release are imperative.[118]

At present, NSW Justice provides a 12-week residential model providing suitable housing for ex-prisoners'. However, it is argued that this 12-week time frame is inadequate to support the complex needs of an individual coming out of prison and to successfully break the cycle of recidivism. Some suggest that NSW justice should instead revise the timeframe of this program to support ex- prisoner's beyond 12 weeks. [119]

5.1.1 Adult Prisoners

The Australian Housing and Urban Research Institute (AHURI) reports that more than half of adult prisoners exiting Australian prisons either expect to be homeless or do not know where they will be staying when they are released. In 2018, it was reported that 44% of released offenders were expected to be in short-term or emergency accommodation, while 2% expected to be sleeping rough, and 8% did not know how they would be housed.[120]

Additionally, upon release, prisoners also face individual obstacles such as employability, substance abuse, mental health histories and strength of family ties, as well as systematic barriers such as, public housing restrictions, discrimination and a lack of access.[121] The AHURI notes that in 2018 40% of prisoners had been diagnosed at some point with a mental health condition, 29% of prison entrants had a disability or chronic health condition, and 33% of prison entrants were previously homeless.[122] Ultimately these barriers to housing can create a high risk of residential instability which can perpetuate the

probability of homelessness after release.[123]

[118] Baldry, E., McDonnell, D., Maplestone, P. and Peeters, M. (2006) 'Ex-Prisoners, Homelessness and the State in Australia, Australian and New Zealand Journal of Criminology, 29(1), 20-33.

[119] https://apo.org.au/sites/default/files/resource-files/2020-02/apo-nid274951.pdf

[120] *Ibid*.

[121] Jocelyn Fontaine, *Examining Housing as a Pathway to Successful Reentry: A Demonstration Design Process* (Urban Institute, November 15, 2013).

[122] Ibid (n 36).

[123] Ibid.

The effect of a lack of housing opportunities also extends to affecting children of prisoners. The Australian Law Reform Commission[124] refers to research conducted by Cunneen et al and Wood[125] noting that: Imprisonment of a parent can result in children having to relocate or having to enter into the care of the state—research confirms that these children are much less likely to complete secondary school and are more likely to become homeless, unemployed and come in contact with the criminal justice system. The social cost of imprisonment can also be seen through the inability of prison to reform or rehabilitate prisoners and in itself-reproductive nature: in NSW more than half of current prisoners have previously been imprisoned.[126]

The necessity of permanent and long term stable housing is evident in research that communicates that supportive housing reduces the rate of rearrest and reincarceration whilst providing a safe space for individuals who are affected by long term attachment health and addiction issues.[157] There is consensus that stable housing is also essential to breaking entrenched cycles of poverty and interaction with the criminal justice system,[127] and people who do not have stable accommodation following their release are far more likely to reoffend and return to prison.[159]

5.1.2 Juvenile Prisoners

The unstable nature of securing housing for adult offenders will also affect juvenile offenders. It was reported by an inquiry into the adequacy of youth diversionary programs in NSW by the Mental Health Commission of NSW in 2018 that despite a case manager working with a young offender to plan for their

---

[124] Australian Law Reform Commission

[125] Chris Cunneen et al, Penal Culture and Hyperincarceration: The Revival of the Prison (Routledge, 2016) 16. See also William R Wood, 'Justice Reinvestment in Australia' (2014) 9(1) Victims & Offenders 100, 108.
[126] Ibid.

[157] Ibid.

[127] Hutchinson, D. (2018) 'The Rainbow Lodge Program – A Quiet Achiever for over 50 Years', The Glebe Society Inc,Online.https://www.glebesociety.org.au/socialhistory/the-rainbowlodge-program-a-quiet-achiever-for-over-50-years/. [159] Baldry, E., McDonnell, D., Maplestone, P. and Peeters, M. (2006) 'Ex-Prisoners, Homelessness and the State in Australia, Australian and New Zealand Journal of Criminology, 29(1), 20-33.

reintegration into the community, 10.5% of juvenile detainees who had previously been released from custody report difficulty finding accommodation within six months of being released.[128]

The effect of poor reintegration opportunities for juvenile offenders as well as ongoing housing insecurity results in recidivism rates with more than 1 in 10 children who appear in the Children's Court ending up in an adult prison within 8 years and more than 60% of young adults being reconvicted within 10 years.[129]Subsequently, there must be more supportive housing services to assist young people to properly reintegrate into society and reduce community re-offending. This in turn will reduce the risk of juveniles being in the adult criminal justice system, reducing the cost of crime and making communities safer.

5.2 Current Housing Programs for Australian Prisoners

The current programs available for housing of adult prisoners upon release are differentiated across Australian States. The issue of homelessness and lack of stable accommodation is more prominent in NSW when compared to Victoria, given the scarcity of public housing and an unaffordable housing market.[130] The Australian Institute of Criminology's 2018 literature review recognised that transitional and housing support services can potentially reduce recidivism for ex-prisoners, which in turn increased community safety and reduced costs in the criminal justice system.[131] Despite supported housing initiatives being resource-intensive, existing evidence suggests these initiatives to be more cost-effective than imprisonment.[132]

The current housing programs available which combine residential living for prisoners and addressing employment, mental health and drug/substance abuse issues include:

---

[128] **lt/files/inline-files/submission_-**
_inquiry_into_the_adequacy_of_youth_diversionary_programs_in_nshttp
s://www.nswmentalhealthcommission.com.au/sites/defauw.pdf
[129] Ibid.
[130] Baldry, Eileen & Mcdonnell, Desmond & Maplestone, Peter. (2006). Ex-Prisoners, Homelessness and the State in Australia. Australian and New Zealand Journal of Criminology. 39. 10.1375/acri.39.1.20.
[131] https://www.aic.gov.au/sites/default/files/2020-05/rr07_supported_housing_300418_0.pdf
[132] Ibid

5.2.1 Residential Programs

The objective of residential programs is to assist prisoners in the transition from custody to the wider community. Examples of residential programs include halfway houses, transition centres, resettlement units and pre-release centres. As individuals released from custody suffer high risk of homelessness, residential programs can provide people leaving custody accommodation and therapeutic programs, which aids their transition back into society.[133] These programs allow interactions between offenders and family members and potential employers as well.

5.2.1.1 Rainbow Lodge Program

The Rainbow Lodge Program is a non-for-profit organisation in New South Wales that provides residential housing programs and other supportive services to 'male Corrective Services clients assessed with having high needs, a strong risk of re-offending and homelessness'.[134] To be admitted to the Rainbow Lodge Program, recipients must be 26 years and over, be high or medium/high risk of reoffending and at least 3 months on parole supervision.

Structure of Program

The program is divided into two phases, the residential and outreach phases. The residential phase provides residents accommodation at the Lodge for 12 weeks maximum, where clients are provided services and assistance to support their needs and goals. The outreach phase occurs after the initial 12 weeks and invites clients to remain in contact through the program for another 24 months, focusing on preventing recidivism and homelessness and assisting clients in maintaining their independent accommodation and healthy wellbeing.

Aims and Capabilities of the Program

The program aims to provide support for up to 40 men in the full time residential program and 35 men through the outreach program assisting their transition into the community, by:

- Providing immediate temporary supportive accommodation for those exiting prison

---

[133] https://ndarc.med.unsw.edu.au/sites/default/files/ndarc/resources/NDARC%20Technical%20Report%20No%20335. pdf .

[134] Karen Heseltine and Rick Sarre, Prison-Based Correctional Rehabilitation: *An Overview of Intensive Interventions for Moderate to High-Risk Of enders*. (Australian Institute of Criminology, 2011).

- Delivering a range of trauma informed strengths-based case-management and activities such as lessons on budgeting, cooking and nutrition, counselling and therapeutic groups, ● Providing assistance to access medical, mental health and dental services, ● Providing referrals to other support and advocacy services.

Effectiveness of the Program

The Rainbow Lodge Program released their Annual Report in 2019 providing an assessment of a sample size of 39 recipients of the program. From the 39 recipients, all were recorded to have an existing mental health issue, 51 per cent have acquired brain injuries or impairments, and 69 per cent were identified as First Nations Peoples . Of the 39 recipients, 72 per cent had completed the residential program. The housing outcomes of the recipients were that 39 per cent had entered into community housing, 15 percent returned to jail, 10 percent became homeless, 8 percent went to rehab, 15 percent went to boarding homes, NSW housing or obtained temporary housing. [135]

5.2.1.2 Community Restorative Centre

The Community Restorative Centre (CRC), provides specialist transitional and reintegration support programs in the Sydney Metropolitan and Hunter Regions. The CRC aims to break cycles of homelessness, poverty and general involvement in the justice system.

Structure and Capabilities of Programs/Services

The CRC provides a number of services including short term and intensive programs which support short and medium Term Support. In addition, CRC is able to work with up to 50 men each year on release from prison who are looking to reside in an inner west boarding house. This is shorter term but intensive support. There are 14 ITS workers across NSW (providing short term support) to men and women on parole. This project works with up to 560 clients each year. All of these clients are on parole.

The short terms project works with people for 12 weeks only and must operate using a community corrections case-plan. The short-term nature of the support means that it is not possible to organise

---

[135] https://img1.wsimg.com/blobby/go/d0569dbd-06f4-45cd-8459-8a42e786bbc3/downloads/2019%20RAINBOW%20LODG E%20REPORT%202x.pdf?ver=1634518721957

accommodation. In order to form partnerships and obtain nomination rights with community and social housing providers, support organisations need to be able to offer ongoing, long-term support. As such, the intensive program no longer exists at all for men leaving custody in the Sydney Metropolitan Region.[136]

Effectiveness of Programs/Services

In 2016, the CRC reported on participants who undertook intensive, housing-first, transitional reintegration programs between 2008 and 2013 in the Sydney Metropolitan and Hunter Regions. 387 clients were tracked over a twelve month period post-release and 313 clients over a 24 month period. Of the 387 clients in the 12 month period, 26% were re-incarcerated in that period, 148 of those 387 clients completed the whole program with a decreased re-incarceration rate of 7%. Over the 24 month period, 34% of the 313 participants were re-incarcerated and of the 132 participants who completed the program only a 12% recidivism rate was observed.[137]

5.3 International Approaches to Housing Programs

The interface between poor assistance for people with mental health problems ending up in prison instead of supported housing was addressed by the USA RAND report.[138] It concluded that based on Los Angeles jails study: prisoners with mental illness cost over an additional $10,000 pa: that at least 61% of prisoners would be appropriate for diversion; and urged for inmates to be diverted into supportive housing or community treatment programs, noting that jails are not designed as treatment centres or assistance long term.[139] RAND found that diversion programs for people with severe mental illness to avoid incarceration is important,[140] and since 2015, the US has diverted more than 2,300 people from jail.[141] Furthermore, when released prisoners were moved firstly to supportive housing, the report found that 91% after 6 months, and

---

[136] https://www.crcnsw.org.au/wp-content/uploads/2016/11/CRC_FACS_Submission_Homelesssness_2016.pdf

[137] Mindy Sotiri and Alex Faraguna, 'Homelessness in Ex-Prisoner Populations: A CRC Submission for FACS', (Research Report, Community Restorative Centre, 2016).

[138] https://www.rand.org/blog/rand-review/2020/02/supportive-housing-can-help-keep-people-with-mental.html

[139] Ibid https://www.rand.org/blog/2021/07/investing-in-social-change-lessons-learned-from-foundation.html

[140] https://www.rand.org/multimedia/video/2021/07/26/meeting-the-needs-of-the-mental-health-population-in-the-LA-county-j ail-system.html

[141] https://www.rand.org/blog/rand-review/2020/02/supportive-housing-can-help-keep-people-with-mental.html

74% after a year had maintained stable housing, with about 14% returning to jail with new convictions after a year. This was claimed as a community 'victory'.

Research claims to be unclear about the effect of processes of desistance in recidivism, and points to justice system impact before incarceration:

> *'Despite the tremendous growth of research on recidivism and desistance, we have much to learn about the factors that shape recidivism and the processes of desistance and prisoner reentry. Of particular importance and relevance now is the role that front end criminal case processing plays. Given research on the importance of pretrial detention and diversion in shaping these trajectories, far more attention needs to be devoted to better understanding what it is about these experiences that seems to fundamentally alter how offenders criminally behave in the short- and long-term.'[142]*

However this USA literature review readily recognised that globally, homelessness is considered a '*strong predictor of criminal justice contact and sanction'*, and especially for those with mental health and other chronic issues:

> *'Previous research suggests, however, that if social services were made available to address many of the chronic problems that recidivists face, such as homelessness, substance abuse, and mental health issues, and in the process provide housing stability, decreased reliance on drugs and alcohol, and improved mental and physical health.. former prisoners' odds of successful reentry would be greatly improved.'[143]*

It quoted a leading USA organisation, the National Health Care for the Homeless Council's national survey that found:*'54% of those who had been homeless indicated that they had spent some time in correctional facilities at some point in their lives'*, and '*Inmates with a history of homelessness were*

---

[142] Recidivism, Desistance, and Reentry:A Brief Review of the Literature. Sandra Susan Smith, Department of Sociology University of California-Berkeley. The Regents of the University of California., 2015, http://www.antoniocasella.eu/nume/SMITH_Recidivism.Desistance_2015.pdf

[143] Recidivism, Desistance, and Reentry:A Brief Review of the Literature. Sandra Susan Smith, Department of Sociology University of California-Berkeley. The Regents of the University of California., 2015, http://www.antoniocasella.eu/nume/SMITH_Recidivism.Desistance_2015.pdf page 3

more likely than their housed counterparts to be arrested, they spent more time in jail and prison, and they were more likely to be rearrested'.[144] Neighbourhoods need to be supported for their 'collective efficacy' that has both direct and indirect societal benefits towards the common good and on individual's criminal activity. Alternatively, '*by cycling large numbers of men in and out of communities, jails, and prisons, the criminal justice system likely exacerbates the community's social disorganization by constantly destabilizing its population, weakening ties among residents'.*[145]

In 2020, an Australian Parliamentary inquiry into Homelessness quoted the Victorian Ombudsman in 2015 who presented similar homeless rate as the USA:

> '*Prisons as first resort. It is widely acknowledged that significant numbers of persons leaving custody exit to homelessness. Conversely approximately 35 per cent of male prisoners are recorded as being homeless four weeks prior to entering custody with the number of women even higher at 52 per cent (Victorian Ombudsman 2015). With the number of people entering the justice system, both as sentenced persons or remandees, continuing to increase across Australia, and new prisons being built across the country, the number of persons exiting to homelessness will continue to rise.'*[146]

The submission delineated the issue, and concluded by strongly urged for reinvesting away from more prison infrastructure, and diverting funding into social supported housing solutions to reduce recidivism:

---

[144] Recidivism, Desistance, and Reentry:A Brief Review of the Literature. Sandra Susan Smith, Department of Sociology University of California-Berkeley. The Regents of the University of California., 2015, http://www.antoniocasella.eu/nume/SMITH_Recidivism.Desistance_2015.pdf page 3

[145] Recidivism, Desistance, and Reentry:A Brief Review of the Literature. Sandra Susan Smith, Department of Sociology University of California-Berkeley. The Regents of the University of California., 2015, http://www.antoniocasella.eu/nume/SMITH_Recidivism.Desistance_2015.pdf page 6

[146] Inquiry into homelessness in Australia Submission 77, Parliament of Australia: Inquiry into Homelessness Submission by the Australian Community Support Organisation, 12 June 2020, www.aph.gov.au… page 3

'persons in contact with the criminal justice system are members of the Australian community who face significant additional barriers to accessing housing and who require pathways to housing accompanied by other types of complex support…

persons with offending histories require judgement free flexible housing models that provides a focus on skills development and network building as well as support to secure and then maintain, long-term housing.

ACSO strongly supports consideration of justice reinvestment solutions which would look at investment in housing solutions which divert persons from continued contact with the criminal justice system providing outcomes in reducing prison populations where in turn savings realised through such outcomes are "reinvested" into further solutions to manage complex and challenging behaviours in the community.[147]

This echoes the call from the NSW Community Restorative Centre (CRC) in 2016, which reported offering long term support to 160 men released each year, made the criticism that there *'is no longer any long term transitional or reintegration support for men leaving prison in the Inner Sydney Metropolitan Region'*. The CRC criticised failure to address homelessness was in disregard of GHSH reforms that set recidivists as a priority group for housing:

'What is also clear is that not only does the experience of homelessness significantly increase the risk of imprisonment,…. imprisonment itself increases the likelihood of homelessness…
Across the whole of NSW there are only 50 beds available specifically for people who are homeless immediately on release from prison. The absence of housing increases risk of re-offending and has implications not just for those individuals who are desperate to find a pathway out of the criminal

[147] Inquiry into homelessness in Australia Submission 77, Parliament of Australia: Inquiry into Homelessness Submission by the Australian Community Support Organisation, 12 June 2020, www.aph.gov.au… page 7

justice system but are unable to because of chronic homelessness and poverty, but also for the broader community with regard to crime and safety.' [148]

Founded in 1951, with its accommodation service began in 1985, the CRC's latest Annual Report did not state numbers of clients engaged (noting under $9 mil in current assets, and $4 mil in staff costs), claimed its efficacy as saving the taxpayer millions:

> *'The evaluation found that people leaving prison and receiving CRC support experienced a significant reduction in criminal justice system contact relative to a comparison cohort. The findings showed that CRC support had a dramatic impact on clients' trajectories, significantly reducing their contact with the criminal justice system (including time in custody and rates of reoffending). Following CRC intervention, the number of days in custody fell by 65.8 per cent, the number of new custody episodes fell by 62.6 per cent and the number of proven offences fell by 62.1 per cent. The analysis found that there are significant social and economic benefits to CRC programs, including savings to the criminal justice system of millions of dollars each year.'* [149]

6 Financial Stability, Skills & Education

Financial instability is a risk factor related to recidivism. Financial support systems for those in prison and post-incarceration are limited due to their inadequate funding, lack of availability, and accessibility. This has substantially affected the financial stability of individuals after imprisonment and in effect contributes to recidivism rates, suggesting the need for government funding and services to improve the ex-prisoner's quality of life. Furthermore, research indicates that inmates who participate in correctional education programs have a 43 percent lower chance of recidivating than those who did not.[150] This translates to a reduction in the risk of recidivating by 13 per cent.[183] Also, programs delivered in prisons assist prisoners to develop life and relationship skills that play a crucial role in reducing recidivism. Through prisoner

---

[148] Homelessness in Ex-Prisoner Populations: A CRC Submission forFACS, Mindy Sotiri and Alex Faraguna https://www.crcnsw.org.au/wp-content/uploads/2016/11/CRC_FACS_Submission_Homelesssness_2016.pdf p1

[149] Community Restorative Centre Annual Report, 2020-2021, https://www.crcnsw.org.au/wp-content/uploads/2021/11/CRC-Annual-Report-2020-2021.pdf

[150] Lois M Davis, Higher Education Programs in Prison: What We Know Now and What We Should Focus on Going Forward (2019) <https://www.rand.org/pubs/perspectives/PE342.html>.

[183] Ibis.

engagement with programs, volunteering and the community, new, useful and relevant skills are developed, as well as trust. This can lead to better employment opportunities and outcomes for ex-prisoners and thus reduced levels of recidivism. Therefore, it is essential to address systemic issues including employment and social exclusion that relate to an ex-prisoner's financial instability. Otherwise, inaction may greatly exacerbate the recidivism rate.

6.1 Financial stability after imprisonment

The most damaging factor to an offender's ability to re-enter society and avoid crime may be the stigma of the label "ex-prisoner". Although an offender's status as an "ex-prisoner" interferes with his or her attempts to exercise his or her legal rights, access services, and secure housing, perhaps the most serious consequence is its impact on the probability of employment and income.

Within the last five years, two significant Australian reports have further researched the implications of financial stress for detainees in prison. In 2018 Financial Counselling Australia, the National peak body released "Double Punishment – How People in Prison Pay Twice" and in 2021, the Thriving

Communities Partnership released Phase 1 of "Fostering Financial Stability for People in Prison Project". These two reports identified:

- The lack of identification of a detainee's financial hardship whilst in prison, including lack of priority given by detainee themselves;
- The lack of consistent professional support offered to detainees for financial hardship;
- The consequent financial stress detainees and their families suffer whilst in prison, often leading to greater financial hardship at release;
- The lack of financial capability training during various stages of being in prison; and
- The increased likelihood of recidivism if the detainee leaves prison without being in a financially
  stable position.[151]

---

[151]

https://mail.google.com/mail/u/0/#label/Recidivism/FMfcgzGmvTvCdMzWjnCzQxlnXjdBGQjq?projector=1&messagePartId=0.1 [185] Ibid

In particular, Care, a community organisation in Canberra which provides free and confidential support and assistance to people living on low to moderate incomes or who are experiencing financial difficulty, has given a number of suggests in this area relating to the Alexander Maconochie Centre in Canberra, these include;

- Better identification of a detainee's financial hardship on entry into prison

- Greater awareness of supports and options available to mitigate the risk of debt increasing while in prison and to reduce the financial hardship where possible

- Greater access to face-to-face individual financial counselling to resolve financial difficulties whilst in prison; and

- Access to financial capability and education programs to develop financial skills to manage every-day living[185]

6.1.1 Government support

Post-incarceration, inmates are provided with a $280 Crisis Payment from the government. This amount has remained stagnant despite factors such as quality of life, economic inflation, and other living factors differing between decades and states. Considering the increased rate of incarceration over time, recidivism policies must be contextualised within the effectiveness of government services, and financial aid. Increased funding for job training, education, and drug treatment programs are essential in improving the financial stability of post-incarceration individuals and consequently lowering recidivism.

6.1.2 Education within Prisons

A 2016 case study from Western Australia's prisoner dataset conducted by Giles, recognised the usefulness of prison study in reducing recidivism and improving ex-prisoner's quality of life, post-release.[152] Giles' case study recognised that ex-prisoners who acquire skills and education within prison, are less likely to commit further serious offences in the future. Subsequently, increasing access to classes and providing educational programs, results in the decreasing rates of re-offending. Therefore, higher education contributes to better employment opportunities for ex-prisoners.[187] Mandatory participation for prisoners in

[152] Giles M 2016. Study in prison reduces recidivism and welfare dependence: A case study from Western Australia 2005–2010. *Trends & issues in crime and criminal justice* no. 514. Canberra: Australian Institute of Criminology. https://www.aic.gov.au/publications/tandi/tandi514 [187] Ibid.

these programs can thus allow for smoother transition into their future workplace. Notably, the correlation between employment and reducing recidivism requires the cooperation of States and Territories governments. By improving the tracking of criminals through the prison system, criminal justice interventions can be properly assessed and the reporting of crime and recidivism can be standardised.

6.1.3 Debt

Debt is a significant contributor to financial stress and subsequent reoffending. Many individuals enter the prison system with pre-existing debt, which then acts as an additional stressor upon release. A 2014 report by the Victorian Sentencing Advisory Council cited the outcomes of a Queensland study of 121 detainees that "35% of participants with non-drug related debt had committed a crime in order to repay a debt" and recognized "ongoing debts may lead directly to re-offending". Justice Connect's 2016 Victorian-based report titled "Debt and Tenancy Legal Help for Prisoners" noted 85% and 43% of referrals to their face-to-face service in prison related to outstanding debt and infringement issues, respectively. This report confirmed common debts related to Housing, Centrelink, Australian Tax Office, utility providers, banks and phone companies.[153]

6.2 Employment after Prison

An example of a trust to support ex-offenders is Apex Charitable Trust, which recognised that '90% of people we help have multiple problems with complex needs arising from poverty, traumatic life events, mental health problems, drug and alcohol related needs and lack of support networks', and helps people get appropriate jobs or self employment.[154]

The compelling statistics were gathered in Australia, in 2015 36,000 people were in prison and cost the country $2.6 billion and in 2011, 11% of jobseekers were ex-prisoners.[155] Using a 5 year measurement period for recidivism, a national survey of employment services advised more funding for pre and post release skills in literacy, numeracy, and computer skills, as well as funding in anger and conflict coping

---

[153] https://mail.google.com/mail/u/0/#label/Recidivism/FMfcgzGmvTvCdMzWjnCzQxlnXjdBGQjq?projector=1&messagePartId=0.1

[154] https://www.apextrust.com/welcome

[155] http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf

strategies. The study identified the greatest employment barriers were: lack of education and skills, poor work history, criminal history,disability and housing.[156]

Lack of employment has been identified as one of the 'Central Eight' factors for criminal offending and reoffending.[157] This suggests addressing employability as a means of reintegration to society and reducing recidivism is important to overcoming the challenges of financial instability.

Re-entry programs within prisons are an important mechanism in also reducing recidivism and positively impacting society. This is because prison education programs can also reduce prisoner assaults and combat negative prison subculture, which correlates to a reduction in recidivism.[158] First, prisoners involved in vocational training throughout their term of incarceration are more likely to secure employment after release due to the increase of their employer-desired skills.[159] Second, prisoners that worked in prison throughout their incarceration were more employable due to demonstration of transferable skills.[195] Third, prisoners that attended accredited programmes to address offending behaviour and drug or alcohol use were more likely to be employed shortly after release because of their active commitment to personal betterment.[160]

However, barriers to re-entry such as having a criminal record, a lack of formal qualifications and interview formalities means that post-incarceration individuals have limited employment opportunities. Research demonstrates that a criminal record is a significant obstacle to finding work and greatly reduces one's earning potential.[161] For example, a felony record can bar an ex-prisoner from employment in licensed or

---

[156] http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf slide 24

[157] https://www.sciencedirect.com/book/9781422463291/the-psychology-of-criminal-conduct

[158] Farley, Helen Sara and Anne Pike, "Engaging Prisoners in Education: Reducing Risk and Recidivism" in *Advancing Corrections: Journal of the International Corrections and Prison Association* (2015) 65.

[159] Brunton-Smith, I. and Hopkins, K. (2014) "The impact of experience in prison on the employment status of longer-sentenced prisoners after release," London: Ministry of Justice. [195] Ibid.

[160] Ibid.

[161] Devah Pager, 'The Mark of a Criminal Record' (2003) 108(5) Northwestern University 75-937.

professional occupations, specifically jobs in healthcare, skilled trades, and in several states, public sector employment.[162]

Where post-incarceration individuals do find employment, they are oftentimes in low-skill and high labour jobs such as food service, maintenance, or manufacturing.[163] These jobs often provide limited employment benefits and no opportunity to grow in skill or capacity.[164] As a result of the stigma attached to the status of ex-prisoners, individuals often experience restrictions in working in public and private job sectors.[165] Post-incarceration, individuals are usually unable to obtain professional licences which allow them to advance their career, improve their salaries, and increase their job security.[166] The limited employment opportunities available and the restricted ability to gain benefit from meaningful work means that individuals are more likely to reoffend.

Discharge plans are another way to help prisoners when they are released to gain employment, skills and be stable self-sufficient members of the community.[167] This is specifically targeted towards young offenders however should also be used as a model for adult offenders. Many ex-prisoners have low levels of educational attainment and according to BJS data, more than two thirds of all state inmates did not receive a high-school diploma. [168] A discharge plan allows offenders to plan their education, training and employment up to 6 months prior to their release in order to develop a routine and connections within society. It was also mentioned that this plan should be a requirement for prisoners soon to be released and also a program should be maintained in the wider community as some struggle with self-discipline and making the wrong decisions. This program will allow prisoners to address their issues that led them to get

---

[162] Western, "The Labor Market Consequences Of Incarceration" (2001) 47(3) Crime & Delinquency

[163] Daniel Kuehn, *The Challenges of Prisoner Reentry: Facts and Figures* (The Urban Institute, May 28, 2008).

[164] Ibid.

[165] Harry Holzer, Steven Raphael and Michael A Stoll, *Employment Barriers Facing Ex-Offenders* (URBAN INSTITUTE REENTRY ROUNDTABLE, May 19, 2003) <https://www.urban.org/sites/default/files/publication/59416/410855-Employment-Barriers-Facing-Ex-Offenders.PDF>.

[166] Ibid.

[167] The Advocate for Children and Young People, "What Children and Young People in Juvenile Justice Centres Have to Say," The Advocate for Children and Young People (2019) <What children and young people in juvenile justice centres have to say>.

[168] U.S. Department Of Justice Office of Justice Programs, Education and Correctional Populations (2002) 1.

in trouble and reduce temptation. Therefore ex-prisoners or those about to be released will have the skills to start their life and be successful ultimately contributing to reducing rates of recidivism. Obstacles have also been observed with respect to the delivery of non-drug services to prisoners. For instance, a lack of clear accountability between prisons and education systems can influence [169] the quality of in-prison education, and result in curricula insufficiently targeted to the learning needs of offenders, and so incapable of producing optimal learning gains. Similarly, physical health gains can be lost if places in community treatment are not available upon release.

Small pockets of efforts have been made to redress the reality that prisoners who received no treatment nor job training while incarcerated in USA and to stop the 'revolving door', seeking to return prisoners as citizens by building on re-entry programs and reduce recidivism[170]. There is some focus on post release provision of computer technology training and providing web access for potential employer contact, recognising that 'The biggest disadvantage ex-offenders have is two-fold; they do not have computers and they do not have broadband access, so they're basically crippled'. [171] Non-for-profit Fortune Society provides basic computer skills on release, via the Prisoner Reentry Institute in New York.[172] Companies are embracing redressing employment inequities to help ex-prisoners look for and get hired, such as the *700 Million Jobs* initiative that extends across the USA.[173] Research is finding that while the recidivism rate within 5 years in the USA is nearly 80%, that 'people with jobs… almost never recidivate', and that employees are being retained at higher rates than those without criminal histories.[174] This initiative was started in Silicon Valley as 'a for-profit recruiting firm for people with a criminal record'[175] in for-profit

---

[169] Ibid.

[170] Eillie Anzilotti, "This New Documentary Shows the Struggle to Help People Coming Home from Prison," Fast Company (online, July 25, 2017) <https://www.fastcompany.com/40442693/this-new-documentary-shows-the-struggle-to-help-people-coming-home-from-pris on>.

[171] Chelsea Leposa, "Ex-Offenders Seek Training to Improve Computer Literacy," Technical.ly Philly (online, March 5, 2010) <https://technical.ly/philly/2010/03/05/ex-offenders-seek-training-to-improve-computer-literacy/>.

[172] Eillie Anzilotti, "This Course Helps Former Prisoners Learn the Tech They Missed in Jail," Fast Company (online, December 6, 2018) <https://www.fastcompany.com/90272675/this-course-helps-prisoners-catch-up-on-the-tech-advances-they-missed-in-prison>.

[173] https://www.70millionjobs.com/

[174] https://www.70millionjobs.com/page/good-for-business

[175] Jennifer Alsever, "How Tech Firms Are Embracing Ex-Prisoners," Yahoo Finance (online, 2018) <How Tech Firms Are Embracing Ex-Prisoners>.

technology firms, finding that of the 320 people trained, none recividated in 8 years.[176] The federal government tax credits, and partnerships in large manufacturing companies and retail stores that train and hire ex-offenders, say 'there are high rates of retention for the 'second hiring chance' population.[177]

With an unemployment rate as high as 27%, a long period of joblessness can mean that people fall back to old drug habits to ease the boredom or stress or out of monetary need.[178] With less than 4% of incarcerated people with a college degree in the USA, there are lots of stories of how hard it is to get a job after prison, with 'easier' or low paid jobs being taken up by others after the pandemic.[179] Finding employment soon after release can reduce recidivism, where Manhattan Institute found it was reduced by 20% for nonviolent offenders. This includes avoiding going back immediately to selling drugs, and instead conducting lots of interviews through the parole employment program, retraining to obtain a job.[180]

Rather than being confined in his cell for 23 hours a day for 10 months, a prisoner explained how in-prison education like San Quentin Prison's 'The last Mile' education and entrepreneurial program, can improve social reintegration - from learning basic mobile phone or computer skills, to specialising in programming code to work in Tech companies.[181][182][183] Also, charities like the Metcalf Foundation support released prisoners to get jobs as Silicon Valley programmers.[184]

A 2019 study in Queensland recognised that post-release computer literacy and access to technology is important and needed for employment and study. However, it concluded that there are significant barriers

---

[176] Ibid.

[177] https://www.cnbc.com/2021/05/07/manufacturers-push-to-give-workers-with-criminal-records-a-second-chance.html
[178] people-leaving-prison-have-a-hard-time-getting-jobs-the-pandemic-has-made-things-worse
[179] Ibid

[180] https://www.businessinsider.com.au/finding-job-after-prison-2017-7
[181] https://www.techrepublic.com/article/from-prison-to-programming-how-coding-can-help-inmates-find-a-path-out-of-crime/

[182] https://www.fastcompany.com/3038589/the-prison-coding-class-that-might-have-inmates-making-six-figures-on-their-release

[183] https://technical.ly/philly/2010/03/05/ex-offenders-seek-training-to-improve-computer-literacy/

[184] https://policerecordhub.ca/en/non-profit-helping-ex-convicts-land-jobs-silicon-valley-programmers-cnbc/

to technology use, knowledge and skills, including 'adequate income, stable housing, confidence, social connections who can support and help technology use, and good mental health.'

There are a few standout regional and urban programs that successfully engage sustained and intensive strategies to enhance employment of First Nations People sex-offenders after release from corrections, encourages personalised case-management for a minimum of one year, and transitional programs that begin pre-release and for several months post release to tackle any social disadvantage and employment issues.[185]

6.3 Education & Training

Programs that allow for prisoners to develop basic life and relationship skills as well as gain an education allows for an ease of transition from a restricted prison environment to normal everyday life within society.[186] Engaging prisoners with volunteering and education schemes to provide the chance to acquire new skills and encourage trust reduces reoffending.[187] It is important that the relationships developed with individuals within the community and their families are fostered as it will support the steps taken towards their education and skill development.

Lack of education is a known risk factor for recidivism among inmates. This can be improved by ensuring all people in prisons and psychiatric hospitals access tertiary courses across Australian universities. Notably, since financial difficulties are eased by providing HECS-HELP, the socioeconomic status of individuals will not bar potential students from pursuing higher education.

Digital literacy is considered to have a broad impact on women's experience of reintegration and employment. A Queensland study identified the importance of digital literacy for obtaining employment

---

[185] Strategies to enhance employment of Indigenous ex-offenders after release from correctional institutions Resource sheet no. 11 produced for the Closing the Gap Clearinghouse Joseph Graffam and Alison ShinkfieldMarch 2012 https://www.aihw.gov.au/getmedia/c0e0c765-b79e-4020-9bf7-f477f0853403/ctgc-rs11.pdf.aspx p14

[186] 'Introductory Handbook on Prevention of Recidivism and the Social Reintegration of Offenders' (2018) *Criminal Justice Handbook Series*.

[187] Ibid

and developing crucial life skills such as: Connecting socially, managing personal finances,accessing entertainment and engaging in parenting-related activities.[188] This project found that women ex-prisoners have a range of needs that can be met through engagement with technology, yet most did not know how to use the most basic functions of a smartphone . However, it found that participants were preoccupied with reintegration–juggling their complex life circumstances, and managing mental and physical health concerns–which in many cases implies they were not in a position to be seeking employment.[189]

CSNSW has already worked towards this by collaborating with the NSW State Library, to increase digital reading sources and online books within prison libraries. This included fiction sections, as well as non-fiction areas such as criminology, penology, forensic psychology, management and training.[190] This has thus far had a positive effect within NSW prisons, leading to an increase in reading during the COVID-19 pandemic.[191]

The USA RAND conducted a meta-analysis of 37 years of studies of correctional education programs in 2019 comprehensively arguing that due to low education attainment, there is 'solid evidence' of a cost-effective benefit of enabling any education and that included higher education programs in prison, as the Pell Grant Initiative demonstrated. Often the most disadvantaged people return to communities without secondary or higher education, increasing the stakes for employment to redress education and skills deficits. In the USA in 2016, 30% of all prisoners had not completed high school - despite high (79%) interest from prisoners, only 1 in 5 were studying any formal credential.[192] The positive impact of participating in any education program was inclusive of a variety of instruction models, whether in-person, in combination to

[188] Understanding the post-release technology experiences of women ex-prisoners: Do they have the access and literacies to support employment and study? p 49

[189] https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/87daf927-1546-4027-a4ac-7fe2b87f1d1_1/davis-women-ex-prisoners-full-report.pdf 50

[190] Department of Communities & Justice, 'Prison library staff celebrated as inmate reading books' (Media Release, NSW Government, 13 May 2021).

[191] Ibid.

[192] Lois M Davis, Higher Education Programs in Prison: What We Know Now and What We Should Focus on Going Forward
(2019) <https://www.rand.org/pubs/perspectives/PE342.html>.

computer instruction, or computer-only programs, while incarcerated had a massive effect on reducing recidivism.

Key findings were that all levels of education were beneficial in reducing recidivism, where 'Correctional education improves inmates' chances of not returning to prison' where: Inmates who participated in correctional education programs had a 43% lower odds of recidivating than those who did not. This translates to a reduction in the risk of recidivating by 13 percentage points. It may improve their chances of obtaining employment after release. The odds of obtaining employment post-release among inmates who participated in correctional education was 13% higher than the odds for those who did not participate in correctional education. Inmates exposed to computer-assisted instruction learned slightly more in reading and substantially more in maths in the same amount of instructional time.

Providing correctional education can be cost-effective when it comes to reducing recidivism.[193]

Correctional Education includes university courses ('college' or post secondary or vocational training) and when the type of instructional delivery method of education programs was considered, RAND concluded that to reduce recidivism, there was 'a statistically significant effect for programs that use certified teachers', and, that it was best to use education programs that connected to the community outside:

'Programs with a post release component provide continuity in support that can assist inmates as they continue on in education and/or enter the workforce in the months immediately after they are released. Although we are limited in our ability to classify programs and to establish causality, the findings here provide suggestive evidence that correctional education may be most effective in preventing recidivism when the program connects inmates with the community outside the correctional facility.'

---

[193] Lois M Davis et al,Evaluatingthe Effectiveness of CorrectionalEducation (RAND Corporation, 2013) <https://www.rand.org/pubs/research_reports/RR266.html>.

Also, the cost-effectiveness of providing education was considered to provide greater potential cost savings three-years post reincarceration, with education making the clear contributory difference to recidivism of 12.9%.[194]

The RAND report also emphasised providing a continuum of education opportunities, as part of a effective program delivery for prisoners to wisely and cost-effectively address the multifaceted problem of USA's mass incarceration:

'In addition, policymakers might want to consider such issues as the right balance between programs that lead to college degrees and those that lead to industry-recognized credentials, and how to provide a continuum of education opportunities for individuals who are incarcerated.'[195]

In 2018 meta-analysis, RAND recognised a core focus is the design and delivery of education. It examined the benefits of all levels and types of education. Including the potential benefit of computer-assisted instruction, it found no statistically significance between the methods of instruction, but stating it was beneficial overall due to being able to be self paced and supervised by a tutor or instructor, expectation is that newer technologies will show even more benefit:

'Students exposed to computer-assisted instruction relative to traditional instruction learned very slightly more in reading in the same amount of instructional time and substantially more in mathematics. It is worth noting that, since the publication of these four studies, the capability and utility of instructional technology has progressed substantially (U.S. Department of Education, 2010), which suggests that the effects of the newer technologies may potentially outstrip those found in the studies examined here.'[196]

Calculating a 'break-even point', a cost effective program would need to reduce 3 year reincarceration by 1.9 - 2.6 %, and this meta-analysis identified that benefit of prisoner participation for the range of education programs to be 13% to the prison system. This is just one of the costs, as reducing reincarceration via building 'Human capital… which, in turn, improves their chances of continuing education/training upon

---

[194] https://www.rand.org/pubs/research_reports/RR266.html P 37
[195] Davis, Higher Education Programs in Prison https://www.rand.org/pubs/perspectives/PE342.html p11
[196] Ibid.

release and then finding gainful employment',[197] is expected to provide other 'financial and emotional costs to victims of crime and to the criminal justice system as a whole, which could be much more substantial than our estimates.'[198]

While these are 'truly encouraging'[199] results for achieving recidivism post release, achieving high school was greatest at 0.7, the recidivism odds for postsecondary education was 0.49 as compared to vocational education of 0.64, with one study showing employment success for 66% of adult male inmates.[200] Despite inadequate data sources, the overall meta-analysis data is encouraging vocational and academic education that also resulted in improving employment, supporting themselves at 15 months post release by 0.9% points,[201] adding an odds ratio of 1.13 i.e. 13% higher than as compared to those obtaining employment post release without receiving a correctional education.[202] It encouraged further study on issues like - the benefits of what programs to what kind of student, the effect of peer tutors compared to credentialed instructors, and self-study or computer-based learning. It concluded to state policy implications as investing in well-designed evaluations and realise:

'Our study demonstrates that correctional education improves the chances that inmates who are released from prison will not return and may improve their chances of post release employment. Our findings are stable even when we limit our analyses to those studies with more rigorous research designs, and we find a notable effect across all levels of education, from adult basic education and GED programs to postsecondary and vocational education programs. This is important, because the academic needs of inmates are heterogenous. Further, our cost analysis suggests that correctional education programs can be cost-effective. And as noted by Gaes (2008), correctional education is a form of intervention that can affect almost every offender compared with other types of rehabilitative services provided within

---

197 Ibid.
198 Ibid.
199 Ibid.
200 Ibid.
201 Ibid.
202 Ibid.

prisons.'[203]

In 2016, a longitudinal study conducted on prisoners in Western Australia over 5 years, reported on the welfare and recidivism outcomes of during incarceration.[204] The study investigated whether prisoners had chosen to study, whether they had successfully completed a course, the number of courses successfully completed, and whether or not prisoners up-skill in prison.[205] The results revealed that prisoners who had upskilled and who had participated in an increased number of successful classes were less likely to reoffend in relation to increased offence seriousness and spent shorter time on welfare in the immediate post release period. It emphasised the significance of prisoner's choosing to study, when their most serious offence type was an economic crime; that non-First Nations male prisoners was related to its successful completion; and non-First Nations Peoples or those from rural WA categorised as default or economic crime offences affected their 'upskilling', and were more likely to upskill when within that profile, when they also had had fewer prison terms and longer sentences.[206] Younger prisoners between 18-25 years were less inclined to study.[207] The study explored humanitarian issues but in the context of prisoners and societal cost return as 'human capital', stating that:

'[...] longer term, intergenerational welfare looms for an increasing number of disenfranchised, unskilled and unemployed workers, including ex-prisoners who are further disadvantaged by having a criminal record [...] Demonstrates how studying in prison can lead to better labour market outcomes and reduced recidivism'.[208]

The study used hazard rates for participation in education and training, successfully class attendances (various forms of vocational training), 'upskilling' study, recidivism measures, duration between offences, welfare dependence risk, duration of welfare income support.[209] Socio-demographic factors are important,

---

[203] Ibid.

[204] Margaret Giles and Jacqui Whale, Welfare and Recidivism Outcomes of In-Prison Education and Training (Criminology Research Grants, May 2016) <https://www.aic.gov.au/sites/default/files/2020-05/33-1213-FinalReport.pdf>.

[205] Ibid.

[206] Ibid.

[207] Ibid.

[208] Ibid.

[209] Ibid.

where females (rather than males), and First Nations prisoners were less likely to successfully complete all classes, as were those serving longer and greater number of prison terms.[210] Reporting to the Criminology Research Advisory Council, this grant-funded study summarised that indigeneity, age, gender, offence seriousness, and pre-incarceration residential location were predictor variables.[211] The study acknowledged how costly it was to have 4,000 WA prisoners, with double -8,000 - in the annual turnover, costing in 2013 $120,00 pa, let alone the other costs (eg policing, community property damage, insurance premiums, loss of lives and trauma/harm to victims of crime, welfare dependence) - essentially arguing a fiscal justification to educate and upskill prisoners, of what is a justice imperative:

'Reducing recidivism alone can therefore bring about huge cost savings to the government and the community [...] Reduce demand on the public purse, as well as promote more productive lives'.[248]

6.3.1 Improving education for young people in custody in Victoria

Young people often have poor experiences with education which sometimes leads them to a life of crime because they believe they aren't worthy of doing something else. Education allows for an aspect of rehabilitation to be achieved and empowers young people to build their skills and confidence to do something meaningful.[212] However, it is important that the educational link is maintained once they are released from custody, as well as connections between Parkville College and DJCS to further support this. By improving education for young people in Victoria it allows them to understand the ramifications of their actions and obtain a better outline of how to improve their future upon release.

6.4 Technology in Prison Cells

While it is commendable that computers be installed in prison cells, it is of concern that the use of digital technology to support rehabilitation is expanding in-prison services via portals and applications,[213] and

---

[210] Ibid.

[211] Ibid.

[248] Ibid.

[212] Associate Professor Julie White Professor Kitty te Riele Dr Tim Corcoran Dr Alison Baker https://www.vu.edu.au/sites/default/files/Improving-educational-connection-for-young-people-in-custody.pdf

[213] https://www.parliament.nsw.gov.au/ladocs/other/14001/Department%20of%20Communities%20and%20Justice%20-%20Managing%20Growth%20in%20NSW%20Prison%20Population.pdf p3

these programs are not backed by evidence of program efficacy evaluations, e.g. JHFMH's 'Reduce Adult Reoffending.[214] While there has been no evidence or overwhelming criticism of by BOSCAR of 'zero' the lack of efficacy of its only externally evaluated domestic violence program within the EQUIPS program suite (ie BOSCAR concluded there was 'no evidence of a treatment effect for those who start DVEQUIPS within 12 months of referral', and despite various flaws, including a likely skewed selection of small referrals of low to moderate offenders, and/or small number of completers), [215] what we witness is this unsubstantiated and heavily funded in-prison program suite now being expanded onto their inhouse digital platform.[216]

There is a recent focus on Corrective Services NSW - Premier's Priority to use of digital technology for 'In cell technology' and AVL .[217] The plan is to gradually use in-cell tablets and 'greater use of audio-visual-link' with 'improved inmate contact and connection with family and friends and increased access to psychological services and programs', noting that in cell technology can improve rehabilitation outcomes by providing more 'productive time in cell'. The expected outcomes are to provide: 'video conferencing messaging, pre approved contacts, additional secure websites, learning systems including State Library and audio books and a trial of Macquarie University 'Mind spot' cognitive behavioural therapy online'.[218] The in cell technology has been trialled in two centres (John Maroney and Dillwynia Correctional Centres), and deployment commenced in 2021. While AVL is likely to be embraced to enabling 'maintain positive social networks in the community, and to reduce 'reoffending by reintegration outcomes', there is no evaluation of what may be anticipated to significantly augment this other than assuming relying on families maintaining contact is sufficient[219]. Psychological and specialist services are directed to children who have experienced trauma, and for which the P&SS program has

[214] https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-10/Department%20of%20Communities%20and%20Justice_0.pdf

[215] https://www.bocsar.nsw.gov.au/Publications/CJB/2018-Report-Evaluation-of-the-EQUIPS-Domestic-Abuse-CJB211.pdf p1

[216] https://www.parliament.nsw.gov.au/ladocs/other/14001/Department%20of%20Communities%20and%20Justice%20-%20Managing%20Growth%20in%20NSW%20Prison%20Population.pdf p 3

[217] https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-10/Department%20of%20Communities%20and%20Justice_0.pdf

[218] Ibid p 8

[219] Ibid

received 'independent evaluation' to demonstrated outcomes[220] - yet no mention is made of specialist support for adults, or people incarcerated. Nor is there a means by which the highly costly EQUIPS program may be evaluated for its value-added benefit, over investing directly in the community from which the offender came to assist in reintegration and adjustment support pre and post release.

There is mention of LiViT (Live, Virtual, Therapeutic) that is a digital platform for CSNSW to load their programs onto 57 Community Corrections sites, to allow access to: psychologists without the need/cost of their travel; and since April 2020, the 'Therapeutic Access Portal (TAP) was opened to provide information to offenders, their families and community about criminogenic programs. TAP is aimed at 'increased delivery of programs and services to medium to high risk offenders, to reduce anxiety and increase program readiness', and so 'improve post program maintenance'.[221] It presumes that not only will people who are released have technology skills, access to technological devices, access to internet services, but that these will be provided as evidence based programs evaluated as successful and of equitable quality to that in the community. However, no mention is made of cost, funding and providing independent program evaluation, of who is producing the programs or rehabilitation, and who is funding it? Another glaringly significant disadvantage to prisoners is ineligibility for the Medicare system. The most disadvantaged are obstructed from equitable and independent services.

There is mention for Youth Justice to 'provide greater access to digital technologies to deliver support and resources' that are responsive to their identified needs and preferences, but has to plan to 'identify funding to develop digital resources'.[222] This smacks of commercialisation of rather than investment in youth justice, for which the government has not made any reference to allocating funds. This 'greater access' remains a vague statement and where details of expected outcomes essentially focus on developing the

---

[220] Ibid p2

[221] Ibid p9

[222] https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-10/Department%20of%20Communities%20and%20Justice_0.pdf p24

mental health and wellbeing of a 'compassionate workforce' of staff and including increasing Employee Assistance Programs.[223]

Technology in prisons should also focus on the provision of educational programs that enable offenders to obtain degrees, gain educational knowledge and digital skills that are now critical for many occupations and in daily life.[224] In Ireland's Mountjoy Prison, online access to courses through universities were introduced for inmates. Similar collaborations between prisons and academic institutions to organise online classes have also been implemented in the US and Thailand.[225] Using these international efforts as examples would aid Australian prisons in working with tertiary education providers to provide offenders with the types of skills and knowledge needed for certain jobs.

In 2020, tablets were provided to prisoners in order to encourage personal autonomy.[226] 600 tablets have been handed out to Dillwynia and John Morony prisons allowing inmates to access literacy, numeracy and cognitive behavioural therapy programs. It allows inmates to take responsibility for themselves, their education and rehabilitation. Cognitive behaviour therapy has also been designed to change prisoner thought patterns and has been effective in reducing recidivism.

However, despite initiatives to adapt available technology within prison systems, there are some practical challenges and issues. These include equity of technology to ensure all prisoners in all Australian prisons have access to digital resources and technology, particularly for those in remote areas, costs involved with the roll-out of technology in prisons, the provision of devices and sufficient internet and data, and potential limits on frequency and duration of calls, use of the internet and technological devices.[264] The need for increased availability of technology in prisons has been recognised as a growing global trend to ensure justice, fairness and rights of offenders in prison, and to decrease the likelihood of recidivism. As such, the

---

[223] Ibid

[224] Penal Reform International, Global Prison Trends 2021 (Report, May 2021).

[225] Penal Reform International, *Global Prison Trends 2021* (Report, May 2021). Ibid.

[226] Jacqueline Maley, march 2020 prisoners-to-get-tablet-computers-in-cells-in-bid-to-cut-reoffending-rates.

[264] Ibid.

provision of digital resources and technology in prisons is a vital area for reform that warrants further discussion.

7 Substance Abuse

A large proportion of prisoners released from prison that reoffend are directly linked to illicit drug offences. The link between offences committed for illegal drug use and the high rate of recidivism demonstrates inadequacies and the need for reform within the current ACT legislative and judicial management of drug-related offenders. Ultimately, substance abuse comes down to a personal decision to engage in illicit substances, this poses a complex issue to address. Thus, a decision to withdraw cannot be compelled, instead legislation should reflect the needs of the individual and support them through their rehabilitation.

Currently, high rates of mortality points to a sign of system failure. Several efforts across Australia and the rest of the world, such as the decriminalisation of drugs and the establishment of drug courts and drug programs as a pathway to rehabilitation, reiterate the importance of addressing substance abuse in order to reduce the rates of recidivism. The high drug-related mortality rate post-release is not only a sign of system failure but calls for better treatment post-release to smooth the transition and rehabilitation process.

7.1 Mortality Rates A Sign of System Failure

A coercive element to Alcohol/Drug (AOD) treatment is present in Australia, as compulsory treatment is permitted in custodial settings.[227] However, a 2007 report a discussion paper 'Compulsory Treatment in Australia On The Compulsory Treatment Of Individuals Dependent On Alcohol And/Or Other Drugs' prepared for the Australian National Council on Drugs revealed the failure of compulsory treatment is evidenced by the 'rare' aftercare treatment available, and the high rate of overdose, post release.[228]

There is a far higher rate of deaths among ex-prisoners during their first year after release from prison than deaths in custody. In 2007-2008 more than 400 ex-prisoners were reported to have died in the first year of release, of which 30% died in the first month. In 2011, the Australian Institute of Health & Welfare documented that approximately 50,000 prisoners are annually released, with 385,000 living in the

---

[227] http://www.atoda.org.au/wp-content/uploads/rp14_compulsory_treatment.pdf p141

[228] http://www.atoda.org.au/wp-content/uploads/rp14_compulsory_treatment.pdf p147

community, representing 1.8% of the Australian Population. Almost half were drug related yet, researchers Kinner et al. found that evidence based programs were not being widely implemented, concluding that 'interventions that target mental illness, chronic disease and injury prevention will be required as part of the solution'. Australian penal system is recognised as 'failing', with a 2-year recidivism rate of about 40%, requires urgent response to prisoner health and those recently released: for programs oriented to alternatives to incarceration, rehabilitation and education programs, better data on post release prisoner data, and the smooth reintegration of prisoners into society.[229]

7.2 Drug Courts for Rehabilitation

One reform that has been somewhat successful in Australia is the establishment of drug courts as an alternative to regular courts. Drug Courts aim to offer community or residential based rehabilitation, working with the community and justice agencies to achieve their goals. That said, the Drug Court is an expensive form of intervention and requires complementary alternative methods to sentencing such as rehabilitation programs that are to balance recidivism and the rehabilitation of an individual. Ultimately, ensuring that the Government is getting value for money out of its investment.

Drug Courts have since been established in NSW, Victoria, Queensland, South Australia, and Western Australia. The drug reform processes which can be undertaken in the ACT may follow a similar structure undertaken by NSW, with some modifications. NSW has implemented the NSW Drug Court, a specialist court, which takes referrals from the Local and District Courts of offenders who are dependent on drugs and who are considered to be eligible for a Drug Court program.[230] The NSW Drug Court is governed by the *Drug Court Act 1998* (NSW) and the *Drug Court Regulation 2015* (NSW) to provide long-term solutions to the cycle of drug use and crime.[231]

---

[229] Why are prisoners dying after they're released? Med J Aust 2011; 195 (2): 59. 18 July 2011 https://www.mja.com.au/journal/2011/195/2/why-are-prisoners-dying-after-theyre-released

[230] Drug Court New South Wales, 'What is the Drug Court of NSW?', *NSW Drug Court* (Web page, 07 July 2020) <https://www.drugcourt.nsw.gov.au/drug-court/about-us.html>.

[231] Ibid.

Weatherburn et al. (2020), conducted a study under the National Drug & Alcohol Research Centre and NSW Bureau of Crime Statistics and Research to evaluate the long-term effectiveness of the NSW Drug Court in reducing recidivism.[232] The study consisted of 604 Drug Court participants and 306 offenders deemed eligible for the program but not accepted into it.[271] It was concluded that offenders who participated in Drug Court programs took 22% longer to reoffend than the control group, which consisted of offenders who were referred to Drug Court but not accepted. Additionally, they were 17% less likely to reoffend. Further, indicating a link between the operation of these Courts, and the rate of recidivism in NSW.

However, it should be noted that the 17% lower reoffending rate only represents the time it takes for an offender participating in these Drug Court programs to commit an offence against the person. Furthermore, there was no difference between the Drug Court group and the group that was eligible for the Court but for which there was not a place in relation to time to the next offence of any kind, time to the next property offence or time to the next drug offence. Moreover, only about 40% of the group who commenced treatment completed it to the satisfaction of the Drug Court.

This means that offenders who participate in Drug Court programs will still engage in drug use after the completion of the program. For example, a study in Australia by Bell et al. (2006), found that heroin dependent offenders who suffered from chronic relapse, gradually returned to property or drug crimes after support, structure and surveillance provided by the Drug Court program was no longer a feature of their lives.

Undoubtedly, the results indicate a need for reform programs to have a goal of rehabilitation and not a strict focus on recidivism. Thus, in Victoria, the Law Institute of Victoria (LIV) in 2014 made submissions to the Victorian Attorney General,[233] requesting greater approaches to reform by implementing a multifaceted approach to drug offences and reducing recidivism by:
- Expansion of the Drug Court into Melbourne CBD and regional hubs.

---

[232] Don Weatherburna, Steve Yeong, Suzanne Poyntonb, Nikky Jones and Michael Farrell, 'The long-term effect of the NSW Drug Court on recidivism' (2020) (232). *NSW Bureau of Crime Statistics and Research*. [271] Ibid.
[233] Law Institute of Victoria, Submission to Victorian Attorney General, Parliament of Victoria, *Review Of Sentencing Options For Drug Related Offending* (2 November 2015).

- Expansion of the CISP program into the County Court jurisdiction.

- Better utilisation of the Residential Treatment conditions available on CCOs.

- Fast-tracking of CCO contravention hearings modelled on the HOPE program.

- The development of Drug Treatment Units at existing prisons and secure treatment facilities.[234]

Essentially, the LIV proposes that the Drug Court in conjunction with other diversion programs is required to further reduce recidivism. The LIV notes a number of current programs that have been effective at reducing recidivism. The Judy Lazarus Transition Centre has a 10.4 per cent rate of recidivism of attendees, compared to the general prison population at 44.1 per cent.[235]

The Centre uses a combination of supported case management, day release, work opportunities and family engagement to support a successful transition into community life. The Marngoneet Correctional Centre has also been effective for the rehabilitation of prisoners and provides prisoners with the right to use prisoner intranet portals available through a specially designed server and desktop system known as 'PrisonPC'.[236] The system provides direct access to library, educational, and legal services, and recreational content which has contributed effectively to a multifaceted approach for rehabilitation.

The Sentencing Advisory Council and LIV also note the effectiveness of the Drug Treatment Order in Victoria as an alternative to sentencing. The order involves the court imposing a sentence of up to two years' imprisonment but defers the term of imprisonment while the offender undergoes treatment and supervision.[237] The DTO is a rehabilitative process with the aim of reducing the level of criminal activity associated with drug or alcohol dependency.[277] The program requires greater reform but demonstrates an effective approach to employing alternative methods for sentencing and lowering recidivism rates.[238]

[234] Ibid.

[235] Ibid.

[236] Office of the Inspector of Custodial Services, *The Digital Divide: Access to digital technology for people in custody* (Report, February 2018).

[237] Sentencing Council https://www.sentencingcouncil.vic.gov.au/about-sentencing/drug-treatment-order

[277] Ibid (n 18).

[238] Ibid (n 18).

Therefore, the implementation of a Drug Court and alternative methods to sentencing including quasi rehabilitation-prison centres is required to reduce recidivism. There must be a balance between aiming to reduce recidivism and reforms intended to rehabilitate offenders.

7.3 Drug Programs and Interventions

The recidivism reduction impact of Drug Courts are a small fraction of recidivism. Further, treatment such as Drug treatment programs and interventions provide a better record in promoting recovery of people with co-occurring substance and mental health conditions than specialist mental health services.

Services should be readily accessible, effective and non-stigmatising.

7.3.1 Wandoo Rehabilitation

Such an example of these readily accessible, effective and non-stigmatising services is exemplified in Wandoo Rehabilitation Prison for women rehabilitation programs. The Prison successfully initiated a community based therapeutic program to prevent further drug use and recidivism within the community.[239] The program encourages participants to conquer psychological and emotional issues related to drug addiction.[240] Out of the 109 women who graduated from the program only one has returned to jail, highlighting the success the program has had thus far.[281] The Wandoo Rehabilitation program set a new standard for drug-related recidivism and should be applied further across the country.

7.3.2 Magistrates Early Referral Into Treatment (MERIT)

Another initiative, in New South Wales, that seeks to address substance abuse among offenders is the Magistrates Early Referral Into Treatment (MERIT), where treatment includes counselling and rehabilitation while on bail.[241] A study found that participants to the MERIT program resulted in 30% less chances of recidivism.[242] New South Wales also established the voluntary Connections Programme in 2007

---

[239] https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/07/Records-broken-at-Australian-first-drug-treatment-prison

[240] Ibid.

[281] Ibid.

[241] https://www.bocsar.nsw.gov.au/Publications/CJB/cjb131.pdf page 2

[242] https://pubmed.ncbi.nlm.nih.gov/20973855/

that offers care and treatment to patients with a background of substance abuse and can be accessed through all NSW Adult Correctional Centres. [243]

7.3.3. WHOS

Similarly, organisations such as WHOS, offer treatment and promote recovery to individuals with substance abuse issues through "abstinence, opioid reduction or opioid stabilisation".[244] WHOS utilises a Therapeutic Community approach that focuses on "self-help and mutual support" in terms of recovery.[245]

7.3.4 Alcohol Anonymous and Narcotics Anonymous

Additionally, the focus on self-help is also evidenced by other initiatives including Alcoholics Anonymous (AA) and Narcotics Anonymous (NA). Alcoholics Anonymous aims to promote recovery through group meetings where members can talk about how they have overcome substance abuse.[246]
There are 18, 000 AA members in Australia alone.[247]

Membership starts when an individual claims to want to stop drinking.[248] AA utilises a Twelve Step program which include acceptance of the substance abuse problem and atoning for one's shortcomings.[249] Narcotics Anonymous follows a similar approach, using group therapy as a way to promote rehabilitation.[250]

Similar to AA, membership to NA requires an individual to want to stop using drugs.[251] What these programs have in common is the agency and willingness of individuals in addressing their own substance abuse issues. As such, these drug interventions across Australia have shown success in reducing the risk of recidivism.

---

[243] https://bmjopen.bmj.com/content/bmjopen/9/7/e030546.full.pdf page 2
[244] https://whos.com.au/about-whos/ para 2
[245] https://whos.com.au/about-whos/what-is-tc/
[246] https://aa.org.au/new-to-aa/frequently-asked-questions/
[247] https://aa.org.au/new-to-aa/what-is-aa/
[248] https://aa.org.au/new-to-aa/frequently-asked-questions/
[249] https://aa.org.au/members/three-legacies/twelve-steps/
[250] https://www.na.org.au/multi/faqs/
[251] https://www.na.org.au/multi/faqs/

7.3.5 Opiate substitution treatment (OST)

In Australia, 55% of prison entrants have a history of injecting drug use (IDU).[252] Despite intensive efforts to limit the supply of drugs in prisons, IDU still occurs and presents inherent risks such as Hepatitis C.[294] Furthermore, there are a disproportionate number of ex-prisoners that die due to drug

overdoses or return to custody later in life.[295]

Evidence has shown opiate substitution treatment (OST) to be a viable solution to addressing IDU, particularly within the prison system. Those who receive in-prison OST are more likely to receive OST post-release and reduce the risk of infection or mortality.[253] These results are consistent with a study done in the US that found in-prison counselling in addition to OST found greater retention of community drug treatment.[254]

This particular intervention is more likely to have a measurable benefit to the public and criminal justice benefits but the treatment needs to be retained.[298] Most effective drug treatments and programs respond to individual needs, start in prison and continue post-release. Hence, Australia should take stronger steps towards creating tailored programs rather than broad re-entry strategies that do more harm than good.

7.4 Decriminalisation of Drugs

As exemplified above, drug treatment programs and services have proven successful in aiding and promoting the recovery of people with co-occurring substance abuse.

That said, Portugal has taken the rehabilitative and health based approach even further beyond drug courts and have decriminalised drug use and possession. The country's approach in treating drug use as a health issue, rather than a criminal issue, has significantly reduced recidivism.

---

[252] https://creidu.edu.au/system/policy_document/2/pdf/Policy_Brief_Kinner_PDF.pdf

[294] Ibid (para 2). [295] Ibid.

[253] Ibid (para 5).

[254] Ibid.

[298] Ibid.

Portugal introduced a new law in 2001, *Law 30/2000*, decriminalising personal use and possession of drugs. Drug-related offences were at the time the most common offence in Portugal.[255] The intent of the new law was to destigmatise the need for help and thereby encourage treatment. In the immediate years following the new legislation, statistics show varying numbers regarding number of people using drugs, drug related deaths, encounters with police and people referred to Dissuasion of Drug Addiction (Comissıes para a Dissuaso da ToxicodependÍncia - "CDT"). However, the numbers should be interpreted with caution since the destigmatization of reporting drug use might increase willingness to report.

Below are three variables measured between the years 1999 or 2001 and 2003 or 2005:[256]●

"Changes in lifetime prevalence of drug use among students aged 16-18":

- ○ Increase in any drug from 12.3% to 17.7%.
- ○ Increase in cannabis from 9.4% to 15.1%.
- ○ Decrease in heroin from 2.5% to 1.8%.
- "Changes in drug-related death, 1999-2003":
  - ○ Decrease in opiates from 350 to 98.
  - ○ Increase in other drugs from 19 to 54.
  - ○ Decrease in total from 369 to 152.
- "Pattern of drugs for which people were referred to CDTs, 2001-2005":
  - ○ Increase in cannabis from 47% to 65%.
  - ○ Decrease in heroin from 33% to 15%.
  - ○ Increase in cocaine from 5% to 6%.

Regarding drug related incarceration, the proportion of people incarcerated due to drug offences has fallen by almost 50 percent since 2001. This comes as no surprise due to the new legislation. The number of people arrested for trafficking of drugs has seen little change, suggesting no change in drug trends since

---

[255] Transform Drug Policy Foundation, *Drug Decriminalization in Portugal: Setting the Record Straigh*t (Transform Drug Policy Foundation, 2014) <https://transformdrugs.org/assets/files/PDFs/Drug-decriminalisation-in-Portugal-setting-the-record-straight.pdf>.
[256] Caitlin Hughes, Alex Stevens and Wales South, *The Effects of Decriminalization of Drug Use in Portugal* (2007) <https://kar.kent.ac.uk/13325/1/BFDPP_BP_14_EffectsOfDecriminalisation_EN.pdf.pdf>.

the legislation was introduced. [257] Furthermore, Portugal has a relatively high prison population in comparison to the general population in the country. With an overcrowded prison population (107% in 2017; p. 75)[258] and no adequate report on the recidivism rate, Portugal's drug decriminalisation has not resulted in any significant reduction in crime, rather it has forced the problem onto the health and welfare in the country. Unfortunately, this area has seen a significant budget reduction since 2009, following the global financial crisis.[259]

7.5 Promoting Rehabilitative Processes

Stronger steps must be taken to integrate the UNODC's diversionary and rehabilitative processes. Justice Action also believes offenders should have greater access to Drug Courts for more balanced outcomes. Ultimately, high levels of incarceration by the needlessly strict criminalisation of drugs can be relieved by Australia better diverting offenders by decriminalising certain substances. We encourage your feedback and advice on these matters.

---

[257] Hannah Laqueur, "Uses and Abuses of Drug Decriminalization in Portugal" (2015) 40(03) *Law & Social Inquiry* 746.
[258] Silvia Gomes et al, "Trends and Challenges in the Portuguese Penitentiary System: From Law to Practice" [2018] Research Gate 61 <https://www.researchgate.net/publication/332154196_Trends_and_challenges_in_the_Portuguese_penitentiary_system_from_law_to_practice>.
[259] Transform Drug Policy Foundation, *Drug Decriminalization in Portugal: Setting the Record Straigh*t (Transform Drug Policy Foundation, 2014) <https://transformdrugs.org/assets/files/PDFs/Drug-decriminalisation-in-Portugal-setting-the-record-straight.pdf>.

8 Antisocial Habit Changes

People develop ways of responding to situations that disturb others and can break the law. These often become habitual and can be subject to change depending on the nature of the person and the behaviour. The serious anti-social behaviours which are concerning and are predeterminers for recidivism include domestic violence, sexual offences and theft. These behaviours are commonly formed in childhood and adolescence and continue into adulthood whereby an individual is raised and exposed to an environment of inadequate parenting styles, criminality, substance use and aggressive behaviours.[260] The majority of offenders face significant social adaptation issues, such as stigmatisation and ostracism from family and community members, as well as the resulting negative impact on their ability to find work or housing, return to formal education, or build (or rebuild) individual and social capital.

They risk being trapped in a vicious cycle of unsuccessful social integration, reoffending, reconviction, and social rejection unless they receive assistance to address these difficulties. Offenders' rehabilitation and effective reintegration into society should thus be among the primary goals of criminal justice systems. To address anti-social behaviours in Australia, there is a need to establish a focus on programs and strategies which focus on rehabilitation and reduce recidivism. Institutional programs and assistance-based transition programs, which have been implemented in many countries, can be endorsed to address anti-social behaviours.

8.1 What is Anti-Social Behaviour?

Anti-social behaviour is defined as acts that create concern within the community. It may include socially unacceptable, severely disturbing or illegal activities. The NSW Department of Community and Justice has defined antisocial behaviours into three categories:

- The first category is the minor and moderate anti-social behaviour, which involves activities which disturb the peace, comfort or privacy of tenants or neighbours.
- The second category is serious anti-social behaviour, this involves activities that severely disturb people where they place the safety or security of tenants or neighbours at risk.

---

[260] Cannon, Andrew, Doley, Rebekah, Ferguson, Claire, & Brooks, Nathan (2012) Antisocial personality disorder and therapeutic justice court programs. *Journal of Judicial Administration*, *22*(2), pp. 99-115.

- The last category is the severe illegal behaviour, this poses a risk to safety of people or property and can result in criminal charges or convictions.

We are concerned with anti-social behaviour insofar as it can function as a predictor of recidivism, specifically, recidivism regarding "serious crimes.'' Accordingly, we are concerned with antisocial behaviours that can reasonably be described as "serious'' such as: domestic violence, sexual offences and theft. We argue that not all behaviours that might be described as anti-social are relevant for our purposes of reducing recidivism because it is undesirable to assume that all antisocial behaviours indicate a propensity to recidivate. Thus, we exclude "minor socially unacceptable behaviours, for example swearing and noisy behaviour and restrict the term 'antisocial behaviour' to encompass only serious criminal acts'' [261] such as those identified above.

Our goal is in this section is fourfold: to identify which behaviours may be classified as i) antisocial and ii) a predictor of recidivism; to identify what motivates such behaviours; to identify the programmes which will most likely change such behaviours; and to identify which programmes already in existence can implement the principles of successful anti-social behaviour change.

8.2 What Motivates Anti-Social Behaviour

The focus here is on anti-social behaviours that encourage a greater likelihood of recidivism. Not all anti-social behaviours are detrimental to a person's wellbeing, with many behavioural responses occurring as a result of individual circumstances rather than ingrained physiological responses that have been cultivated over a period of time.

8.2.1 Cognitive Behavioural Therapy Approach[262]

Cognitive Behavioural Therapy (CBT) can be utilised in desistance-based rehabilitative approaches to support individuals at a psychological level. It focuses on getting patients to apply personal responsibility

---

[261] https://www.aic.gov.au/publications/rip/rip5

[262] Daryl G Kroner and Annie K Yessine, "Changing Risk Factors That Impact Recidivism: In Search of Mechanisms of Change." (2013) 37(5) *Law and Human Behavior* 321.

to their behaviour by identifying and understanding the consequences of their actions and consequently developing coping strategies to mitigate destructive behaviours and their triggers.

CBT has been shown to be a powerful crime reduction intervention. A survey published in the College of Policing in the United Kingdom succinctly summarises this impact as follows:

"A meta-analysis of outcomes from all 58 studies in Review 1 showed a statistically significant reduction in reoffending of 25% amongst participants who received CBT compared to those who did not. The meta-analysis, containing 8 studies, from Review 2 showed a similar statistically significant reduction in general (23%) and violent (28%) reoffending among those who underwent CBT."[263]

Even the development and evaluation agency of the United States Department of Justice, the National Institute of Justice praises the effectiveness of CBT:

". . . even high-risk behaviour did not reduce the therapy's effectiveness. For example, some of the greatest effects were among more serious offenders. It may be that the therapy's enabling, self-help approach is more effective in engaging typically resistant clients, that it increases their participation and therefore the benefits of participation. The therapy is more effective in reducing further criminal behaviour when clients simultaneously receive other support, such as supervision, employment,
education and training, and other mental health counselling."[264]

The Community Justice Coalition "Cost of Inaction Paper" (2016) found that the majority of participants within the behavioural change program were "violence free or almost violence free two years after completing the CBT program."[265] Furthermore, collaboration between prisoners, corrections, service providers and mental health professionals will effectively implement interventions and assist individuals' reintegration with the community.

---

[263] https://whatworks.college.police.uk/toolkit/Pages/Intervention.aspx?InterventionID=32

[264] https://nij.ojp.gov/topics/articles/preventing-future-crime-cognitive-behavioral-therapy

[265] Community Justice Coalition, '*Counting the Cost of inaction: Failure to Deliver Prisoner Domestic Violence Counselling*" (October 2017).

The cycle of recidivism within the carceral system is also tied to failures in effective service delivery within prisons. The UK prisoner newspaper, 'InsideTime'[266] circulated a Lancet Psychiatry report on the failure of psychological interventions to reduce recidivism, stating that compared to those who did not participate, the effect on those who did participate in courses that led to reducing reoffending were 'too small to be significant', and many previous studies were 'too small or insufficiently thorough'. Out of 6,345 studies reviewed, only 14 were judged to be reliable enough for the 2021 meta-analysis published in 'Lancet Psychiatry'[267]. However it made the finding that voluntary participation post release for 'therapeutic communities' impressively achieved 42% recidivism.

The form of delivery of CBT is an essential factor. Community-based therapists develop trusting relationships independent of the prison management interests. Prison psychologists have an apparent conflict of interest, are seen as untrustworthy, and are told what is useful for prisoner interests. Computers in cells with the import model of CBT allows voluntary engagement, trust, continuity of service during prisoner movements and upon release. This internet counselling is cheaper, paid centrally by governments, and is statistically more effective than face to face.

8.2.2 Specialised Psychological Treatment

A meta-analysis from 2019 examined 70 studies and over 55,000 individuals in psychological offence treatment and recidivism rates.[268] The paper is published in the "Clinical Psychology Review" by researchers from the University of Kent in the UK and University of Saskatchewan in Canada. All studies included were conducted in English speaking countries between 1980 and 2010. The results show a significant decrease in recidivism after psychological treatment for all measured types of crimes. This

---

[266] 'Courses make little difference to reoffending rate', published in 'InsideTime: the National Newspaper for Prisoners & Detainees', 26/09/2021, https://insidetime.org/courses-make-little-difference-to-reoffending-rate-study/

[267] 'Effectiveness of psychological interventions in prison to reduce recidivism: a systematic review and meta-analysis of randomised controlled trials' Gabrielle Beaudry, Rongqin Yu, Amanda E Perry, Prof Seena Fazel, . 'The Lancet Psychiatry', September 2021, https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(21)00170-X/fulltext

[268] Theresa A Gannon et al, 'Does Specialized Psychological Treatment for Offending Reduce Recidivism? A Meta-Analysis Examining Staff and Program Variables as Predictors of Treatment Effectiveness' (2019) 73 *Clinical Psychology Review*. https://doi.org/10.1016/j.cpr.2019.10175 2

suggests that specialised psychological treatment is beneficial in decreasing recidivism, but only when conducted with qualified clinicians in the program.

- **Sexual Offending:** With an average follow up time of 76.2 months (SD= 34.2), sexual recidivism was 9.5% for treated and 14.1% for untreated individuals (unweighted means). Through this, it suggests that there has been an absolute decrease in recidivism of 4.6% and a relative decrease of 32.6%.

- **Domestic Violence:** Over an average 62-month follow-up, domestic violence recidivism was 15.5% (SD = 8.4) for individuals who received treat-ment and 24.2% (SD = 16.0) for untreated comparisons (unweighted means). This represents an absolute decrease in recidivism of 8.7% and a relative decrease of 36.0%.

- **Violence:** Over an average follow-up of 25.0 months (SD = 15.1), general violence recidivism was 29.0% for treated and 38.3% for untreated individuals (unweighted means; absolute decrease 9.3%; relative decrease 24.3%).

- **Non-Offense Specific Recidivism: Any Violent Recidivism:** Across programs, overall average follow up time of 65.4 months (SD = 35.3), general violence recidivism was 14.4% for treated and 21.6% for untreated individuals(unweighted means), corresponding to an absolute decrease in recidivism of 7.2% and relative decrease of 33.3%.

- **Any Recidivism:** Across all program types, over an average 62.4 month (SD = 35.1) follow-up, any general recidivism was 30.0% for treated individuals and 37.7% for untreated comparisons(unweighted means), corresponding to absolute and relative recidivism decreases of 7.7% and 20.4% respectively.

It should be noted, that programs for sexual and domestic violence had better outcomes with a consistent and qualified psychologist facilitator than without; however the meta-analysis indicated that a qualified clinician is not always present. Additionally, it is more beneficial to have the supervision of a qualified psychologist.

8.2.3 Risk Needs Responsivity Model

In NSW, almost all projects funded through Corrective Services NSW are based on a 'criminogenic needs' model that prioritises short-term interventions based on the Risk-Needs Responsivity (RNR) model of offender rehabilitation that prioritises short-term interventions. [269] According to the RNR model, there are eight 'criminogenic needs' that predict recidivism. The 'Big Four' are said to be the most salient personality traits, in terms of their predictive value, and most amenable to change through cognitive behavioural therapy interventions. These include a history of antisocial behaviour, an antisocial personality, antisocial attitudes or thinking, and antisocial associates. The remaining four factors which make up the central eight are considered to have a moderate effect on reoffending and include family and marital circumstances, substance abuse, a lack of prosocial leisure and recreation, and low levels of education and employment.[270] This increasingly narrow approach to 'what works' in reducing people reoffending specifically fails to acknowledge the central role of housing in reducing crime, reimprisonment and enhancing community integration.

At the moment, the Risk-Need-Responsibility approach is utilised by mental health professionals to provide specialised care to prisoners who are on parole or have been released in the community. A Risk-Need-Responsibility approach to combat recidivism has been proven to worsen rather than mitigate the anti-social behaviours that contribute to reoffending. RNR focuses on avoidance goals and behaviour that needs to be avoided or suppressed.

8.2.4 Good Lives Model (GLM)

The Good Lives Model (GLM) applies CBT and 'provides a systematic, comprehensive framework for designing offender treatment and management.' [271] [272] GLM is strength-based and takes a pro-social approach to treatment. It is premised on the idea the program builds the strengths and capabilities of

---

[269] Andrews and Bonta, 'Education and employment ' (2010) 23(1) *Australia In* 2.

[270] Ibid.

[271] Willis, Gwenda & Ward, Tony. (2013). The Good Lives Model: Does It Work? Preliminary Evidence. What Works in Offender Rehabilitation: An Evidence-Based Approach to Assessment and Treatment. 305-317. [272] .1002/9781118320655.ch17.

offenders to reduce their risk of offending. It focuses on the offender's particular interests, abilities and aspirations.

The GLM approach however doesn't expressly explain why offenders are found to lack scope in the primary goods they seek. But GLM teaches offenders the skills or how to access opportunities to attain primary goods through prosocial methods not antisocial methods.[273] Furthermore, this approach allows for offenders to be better prepared to lead a life that isn't focused around crime to survive and change their behaviour, reducing the likelihood of re-offending.[274] Thus, greater focus upon prosocial approach goals (rather than avoidance goals) connected to the offenders' basic survival in the community is expected to be a more effective rehabilitative strategy. Providing offenders opportunities for engaging in rewarding, action-oriented activities reinforces both their motivation and self-efficacy for reaching

prosocial goals.[275]

With GLM's focus on goods fulfilment, it addresses an individual's internal capacity for change and also external resources and opportunities, such as employment; thus, contributing to reducing recidivism amongst ex-prisoners. Furthermore, academia in the United States reaffirms how CBT can be a solution to reduce reoffending, as it can change a person's thinking for the better, even amongst prisoners exhibiting high-risk behaviour.[276]

According to the GLM there are two primary routes that lead to the onset of offending: direct and indirect.[277] The direct pathway is implicated when an offender actively attempts (often implicitly) to satisfy primary goods through his or her offending behaviour.[278]Such primary goods include:

---

[273] Serin, Ralph C. and Caleb D. Lloyd, "Examining The Process Of Offender Change: The Transition To Crime Desistance" (2009) 15(4) *Psychology, Crime & Law;* Melanie Schwartz, Sophie Russell, Eileen Baldry, David Brown, Chris Cunneen, Julie Stubbs, *Obstacles to Effective Support of People Released from Prison: Wisdom from the Field* (Rethinking Community Sanctions Project, UNSW, 2020).

[274] Ibid

[275] Ibid .

[276] https://www.ojp.gov/pdffiles1/nij/229888.pdf

[277] https://onlinelibrary.wiley.com/doi/full/10.1111/j.1468-2311.2010.00611_3.x

[278] https://ccoso.org/sites/default/files/import/Ward---Gannon-2006.pdf

- Excellence in play (being good at something);

- Excellence in work (including mastery experiences);

- Excellence in agency (being in control and the ability to be able to get things accomplished);

- Inner peace (freedom from emotional turmoil and stress);

- Friendship (having intimate, romantic and family relationships).

There is a growing body of research that has incorporated principles of the GLM into interventions. These studies suggest that the adoption of the GLM enhances treatment engagement and positive therapeutic relationships, as well as the promotion of longer-term desistance from offending,[279][280][281][282][326][283][284][285][286][329][330][287][288]while other research studies have offered support for the GLM's underlying assumptions. [332][289]

The GLM has demonstrated preliminary effectiveness in addressing key limitations of the risk management approach to offender rehabilitation, more specifically through enhancing treatment engagement, fostering

---

[279] Gannon, T. A., King, T., Miles, H., Lockerbie, L., & Willis, G. M. (2011). Good lives sexual offender treatment for mentally disordered offenders. British Journal of Forensic Practice, 13, 153-168

[280] Harkins, L., Flak, V. E., Beech, A., & Woodhams, J. (in press). Evaluation of a community-based sex offender treatment program using a Good Lives Model approach. Sexual Abuse: A Journal of Research and Treatment

[281] Lindsay, W. R., Ward, T., Morgan, T., & Wilson, I. (2007). Self-regulation of sex offending, future pathways and theGood Lives Model: Applications and problems. Journal of Sexual Aggression,13,3750

[282] Marshall, W. L., Marshall, L. E., Serran, G. A., & O'Brien, M. D. (2011). Rehabilitating sexual offenders: A strength-based approach. Washington, DC: American Psychological Association

[283] Simons, D. A., McCullar, B., & Tyler, C. (2006, September). Evaluation of the Good Lives Model approach to treatment planning. Paper presented at the 25th Annual Association for the Treatment of Sexual Abusers Research and Treatment Conference.

[284] Ware, J., & Bright, D. A. (2008). Evolution of a treatment programme for sex offenders: Changes to the NSWCustody-Based Intensive Treatment (CUBIT). Psychiatry, Psychology and Law,15,340349

[285] Whitehead, P. R., Ward, T., & Collie, R. M. (2007). Time for a change: Applying the Good Lives Model of rehabilitation to a high-risk violent offender. International Journal of Offender Therapy and Comparative Criminology,51,578598.

[286] https://www.researchgate.net/publication/272483702_Practising_the_Good_Lives_Model_GLM

[330] https://doi.org/10.1080/14999011003635647

[287] Willis, G. M., & Grace, R. C. (2008). The quality of community reintegration planning for child molesters: effects onsexual recidivism. Sexual Abuse: A Journal of Research and Treatment,20, 218240

[288] Willis, G.M., Yates, P.M., Gannon, T.A. and Ward, T. (in press) How to integrate the Good

Lives Model into treatment programs for sexual offending: An introduction and

overview, Sexual Abuse: A Journal of Research & Treatment

[289] Yates, P.M. and Ward, T. (2008) Good lives, self-regulation, and risk management: An integrated model of sexual offender assessment and treatment, Sexual Abuse in Australia and New Zealand: An Interdisciplinary Journal, 1: 3−20. [334] https://dro.deakin.edu.au/eserv/DU:30034141/ward-offenderrehabilitation-2013.pdf

desistance, and paying increased attention to environmental contexts. Moreover, a growing body of research supports the GLM's underlying assumptions of offenders.[334]

8.2.5 Prisoner Engagement

Prisoner engagement is vital in addressing the rates of recidivism. Inmates must have an individualised care plan to meet their needs. This approach is achieved through a desistance based rehabilitative approach, which empowers and engages with the prisoner. By highlighting their goals and pathways to achieving this, remand rates and re-offending rates will decrease. Desistance is understood as ending criminal participation voluntarily, and when applied to individualised rehabilitation, the inmate has a sense of hope and support, which positively impacts their decision making skills, as they are less likely to commit crimes when supported.[290]

---

[290] Ibid.

8.2.6 Engagement with Community and Civil Society

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)[291] is the most important and recent set of international standards on what is generally accepted as good principles and practice in the treatment of prisoners and prison management clearly establishing that meaningful rehabilitation programmes in prisons are vital to reducing recidivism. The Nelson Mandela Rules also emphasise that, in accordance with the individual treatment needs of offenders, prison administrations and other competent authorities should provide education, training, work, treatment, and other forms of assistance to support the social reintegration of prisoners into society.

All jurisdictions have expressed their commitment to provide transition (or reintegration or re-entry) services using a throughcare model of service delivery based on offender case management. All agree that inter-agency cooperation and collaboration with non-governmental organisations (NGOs) are essential to achieving this goal. Surprisingly, not all jurisdictions placed a strong emphasis on 'restorative' policy efforts aimed at improving criminal accountability and responsibility, as well as ensuring that victims of crime have a direct role in the rehabilitation and reintegration process. The more common areas of employment and training opportunities that bridge custody and community were endorsed by jurisdictions, although policy on the nature of reintegrative and transitional programmes varied. Transitional programmes dealing with social assistance, mental health difficulties, and alcohol and other drug use received less focus.[292]

The United Nations Office on Drugs and Crime provided a handbook on preventing recidivism and socially reintegrating offenders.[293] See: Prevention of Recidivism and the Social Reintegration of Offenders - UN office on Drugs and Crime.[294] The handbook provided for:

- Treatment interventions that can inspire offenders to change and support them through the change process by reducing ambivalence towards change or by enhancing an offender's self-esteem and confidence.

---

[291] United Nations: Office on Drugs and Crime. 2021. *Nelson Mandela Rules.* [online] Available at: https://www.unodc.org/unodc/en/justice-and-prison-reform/NMRules.html
[292] Ibid

[293] 'Introductory Handbook on Prevention of Recidivism and the Social Reintegration of Offenders' (2018) *Criminal Justice Handbook Series*.
[294] 'Introductory Handbook on Prevention of Recidivism and the Social Reintegration of Offenders' (2018) *Criminal Justice Handbook Series*.

- Interventions to increase offenders' confidence in their ability to carry out a specific task (self efficacy) and to help offenders confront their feelings associated with change (distress, fear of the unknown, fear of failure etc.)

- Restorative justice programmes where prisoners are encouraged to acknowledge their behaviour and make amends.

- Development of cognitive-behavioural programmes that can be delivered in prisons or in the community (while offenders are on probation or conditional release).

- Relapse prevention therapy, often used in cases involving addictions, teaches coping strategies for maintaining changed behaviour, involving changing attitudes, social environments, physical environments and avoiding certain triggers of addictive behaviour.

- Establishing well-thought-out communications and community relations to foster engagement with offenders and maintain community support.

- Programs for developing basic life and relationship skills to help offenders acquire problem solving, communication and conflict resolution skills to ease the transition from a restricted prison environment to everyday life.

- Engaging prisoners with volunteering and educational schemes to provide the chance to acquire new skills and encourage trust and responsibility.

8.2.7 The Canadian Cognitive Skills Training Program[295]

The Cognitive Skills Training program is a 36-session program that aims to alter faulty thinking patterns that trigger poor strategies to make decisions, enhance problem solving skills and goal-setting behaviour. The program seeks to prepare individuals for life outside prison when they are released. Overall, out of the 4,072 offenders, 44.5% of individuals who completed the program were readmitted during the first year under community supervision, compared to 50.1% of individuals who did not receive the program. Therefore, there was a 11.2% reduction in readmissions associated with program completion.

Another salient finding of the cognitive skills training program was the relatively successful outcomes observed for offenders who completed the program in community settings. Thus, offenders who completed

---

[295] https://www.csc-scc.gc.ca/005/008/092/r41e_e.pdf

Cognitive Skills Training in the community were readmitted at a rate of 30.5% - a drop of close to 40%. Moreover, it was recorded that a 66.3% decrease of official reconviction for graduates of community-based programs. Although low-risk cases were more beneficial from institutional programs, programs delivered in the community resulted in positive effects on recidivism for both low-risk and high-risk offenders. Intensive programming in community settings may greatly assist community staff in their efforts to limit recidivism"

8.2.8 Connections Program

The Connections Programme (CP), based in NSW, is a state-wide, voluntary public-sector intervention programme that provides comprehensive pre-release planning and post-release support for adults in prison who have a history of substance use. [296]

CP is a social equity and social inclusion initiative that provides coordinated care to reintegrate people back into their communities. The program's goals are to promote participants' engagement with a variety of health and social services in order to improve their health, prevent drug-related mortality, and lower the rate of re-entry into custody. CP's core idea is that everyone has the ability to grow and learn, and that a practical and persistent aggressive approach can facilitate positive changes and participant participation.[297]

Current Recipients

CP is provided to prisoners before their release from prison who have extensive criminal histories with multiple incarcerations. Participants of the program often tend to have complex medical and social situations, with drug dependence issues.

---

[296] Stephen Ward, 'The Connections Program: A NSW integrated approach to care and engagement for prisoners with a history of illicit drug use'(2016) 14(1) *HIV Australia* 32-34.

[297] https://www.afao.org.au/article/connections-program-nsw-integrated-approach-care-engagement prisoners-history-illicit-drug-use/ .

Current Capabilities

Receives funding from the NSW Health Government which has provided coordinated state-wide comprehensive pre- and post-release assistance to approximately 800 adults leaving custody each year.

Connection programs are available at all Adult Correctional Centres. The program is able to provide each participant with a participants are provided with a comprehensive assessment four weeks prior to release and a release plan is then developed in collaboration with the participant to meet their identified health and welfare needs.

The program has the capabilities to provide catered services to patients depending on the level of assistance required by the prisoner. Prisoners who only require minimal assistance will use the program to receive telephone contact and direction. Whereas, prisoners with more complex issues will require more extensive support: CP employees will attend appointments with participants in order to advocate or support, especially at initial appointments and during crisis intervention. The program also provides participants with access to a case manager in the community if needed.

Effectiveness (Expected Outcome vs Actual Outcome)

The CP has been effective in reducing the rate of recidivism. From data collected in December 2015, only 9% of prisoners who were released from custody managed to stay in the community for two years or more before returning to detention prior to participating in Connections. This is compared to 33% (1,712) of participants of the CP, who at the two-year evaluation had remained in the community.[298]

Further, from participants who completed the program, over 87% of respondents (2,435) reported being better prepared for release and 86% (2,395) reported having an easier transition to the community as a result of Connections.

---

[298] https://www.afao.org.au/article/connections-program-nsw-integrated-approach-care-engagement-prisoners-history-illicit-dr ug-use/

8.2.9 Violence Prevention Program

In South Australia, the Violence Prevention Program has utilised a Risk-Need-Responsibility model, however, it has been ineffective with no reported difference in behaviour between those who did or did not undertake the program.

Violence Prevention Program in South Australia

The Violence Prevention Program[299] has been used in South Australia since 2006, using the Risk-Need-Responsibility model to incorporate social learning and cognitive behaviour, to rehabilitate individuals. VPP includes relapse and prevention strategies such as mindfulness, Dialectical Behavioural Therapy, and Acceptance and Commitment Therapy. It also addresses how to cope with stressful emotions and situations, alcohol and drug use, communication skills. It was found that nearly half of all people in prison in Australia have committed violent offences,[300] emphasising the need for this program. Participants in the VPP attend three, 2.5-hr group sessions per week with each group comprising approximately 12 participants. In addition, 1-hr individual sessions are offered on an as required basis, with most participants attending about 10 individual sessions across the 9-month program. Overall, participants receive approximately 250 hr of therapeutic intervention (group and individual work combined) during the program. Participants must attend regularly and any more than a few absences without a genuine reason will generally lead to removal from the group. Facilitators are tertiary qualified and are, most commonly, qualified Social workers or Registered Psychologists; a small number of program facilitators possess degrees in criminology, social sciences, or drama therapy. Under the VPP, recidivism was defined "as any conviction for a new offence following release from prison that resulted in a sanction administered by correctional services." [301]

---

[299] Mercer, Gene et al, "The Violence Prevention Program In South Australia: A Recidivism And Cost–Benefit Analysis Pilot Study" [2021] Criminal Justice and Behavior
[300] https://www.pc.gov.au/research/ongoing/report-on-government-services/2019/justice
[301]
https://www.researchgate.net/publication/353881723_The_Violence_Prevention_Program_in_South_Australia_A_Recidivism_and_Cost-Benefit_Analysis_Pilot_Study

Current Recipients

VPP is offered to men only whose crimes have been violent, but not sexual violence or violence towards and intimate partner. VPP is a high-intensity criminogenic program for sentenced male individuals who have been assessed as at "moderate" or "high" risk of violent reoffending on the Violence Risk Scale (VRS; Wong & Gordon, 2006). A score between 36 and 50 on the VRS places individuals in the moderate risk category while a score of 51 or greater indicates high risk.

Current Capabilities

The study looked into 92 men who participated in the program whilst incarcerated. The total cost to operate the program for the entire cohort over 3 years was $1.76 million (AUD). However, taxpayer and community investment in the program yielded a positive return, with a $1.13 (AUD) benefit over a 3.8 year observation.

Effectiveness (Expected Outcome vs Actual Outcome)

Individuals who participated in this program were less likely to engage in violent recidivism. Greatest effect in First Nations Peoples. But there was no difference in overall rates of reoffending, just the kinds of recidivism were less severe and violent. The data and analysis undertaken by Mercer et al (2019) concluded that those who engaged in the program were less likely to reoffend than those who didn't, was not supported. But it was supported that a lower rate of violent recidivism was recorded, possibly due to the strategies taught in the program. Program participants recorded fewer reconvictions post release than a matched group who did not receive the program (30.9% compared with 39.5%), although this difference was not statistically significant. In relation to violent recidivism, however, there were significantly fewer convictions among program participants (14.8% compared with 33.3% in the comparison group).

8.2.10 Prison to Pooch Approach

Furthermore, the Prison to Pooch approach is being trialled in Queensland and uses dogs to increase emotional intelligence. [302] According to Dr Lauren Humby from the University of Queensland, the preliminary studies suggest that introducing this program would allow prisoners to improve their emotional

---

[302] https://usq.edu.au/news/2020/09/puppies-prisons
[348] http://keepitclever.com.au/?s=prison&post_type=post.

intelligence and respond to the emotional prompts appropriately read cues in people. Yet to yield substantial results, it is unclear whether this approach will successfully reduce recidivism. Therefore, while mechanisms exist to facilitate a smooth reintegration into society, it is necessary to explore desistance rehabilitation to effectively reduce the rates of recidivism in Australia.[348]

8.2.11 'What's Your Plan?' Program

As explored in the Crime and Justice Bulletin for October 2021[303] the "What's Your Plan? Program" there was no evidence that there was any impact from the program on breaches of ADVO or DV-related charges. "This does not imply that a program like WYP aimed at enabling self-directed behavioural changes and overcoming behavioural barriers would not be effective within a suite of other programs, supports and resources." By observing the difference in those who were allocated and those who were not in the WYP program it was noted that small differences in the percentages of offence. Differences were larger when comparing those that were offered and received the WYP program with those not allocated

to the program but none of these differences were statistically significant at conventional levels.[304]

8.2.12 Structural Problems of Practices

The programs discussed above demonstrate that the NSW approach through programs such as the Connections Program reflect an 'in-prison' model that reserves control to the NSW government of how services are delivered, as well as setting the 'operational priorities' in relation to diversionary programs and, especially for needs of detainees/prisoner access to specialist and acute psychologist services. [305]

NSWCS have correctly identified that their prisons are largely punitive and coercive and abusive, that rehabilitation largely happens outside the prison walls, and that the vicious cycle of recidivism is increasing. However, reducing recidivism in NSW has focused on developing products without sufficient consideration of evidence-based research, that has underscored the vital importance of the individual but of the social and structural milieu one comes from and returns to that does predict recidivism. Instead of

---

[303] https://www.bocsar.nsw.gov.au/Publications/CJB/2021-Report-Whats-Your-Plan-ADVO-CJB242.pdf
[304] Ibid.
[305] Evaluation of a domestic violence treatment program

calling on research evidence and program expertise, what we see in NSW is that the EQUIPS in-prison program has been found to be unsuccessful.

This is due to the focus on assessment only of base literacy/numeracy rather than the teaching professional provision of established higher education and skill development that is already designed to put people ahead in the employment market; the focus on criminogenic factors that is about within-individual change and does none to little to provide transitional stability or direct assistance for accommodation or drug and alcohol assistance, nor adjustment to the social and structural challenges that the person faces once released.

Fundamentally, NSW has ignored the significance of various forms of community-based support and funding that has long been known to work in preventing incarceration in the first place to reduce population that then becomes a greater recidivism risk, and then, in reducing recidivism for prisoners after their release. Released, the disadvantages of the precursors to incarceration, the damaging effects of incarceration are most likely to simply dig a deeper hole, or reverse and prevent further damage.

<u>8.2.12.1 Good Lives Model</u>

The Community Justice Coalition believes that the Good Lives Model would be more effective than the Risk-Need-Responsibility approach in combating such complex medical and social issues faced by prisoners. The Good Lives Model is focused on using positive action and prosocial behaviours rather than antisocial behaviours to create progress. While there are some flaws in this approach, it remains holistically more beneficial to individuals and the community at large. This was illustrated through the Canadian cognitive skills training which reduced the readmittance rate of offenders by over 30%. This is a vast difference to the programs implemented by their Australian counterparts and demonstrates how shifting to the Goods Lives Model would improve the rates of rehabilitation amongst Australian prisoners.[306]

How Prisoner Engagement can be Achieved

This can be perceived through promoting the accessibility of training, education, technology for example computers, as well as lengthened visitation through online facilities (Zoom) as these factors increase the

---

[306] Shadd Maruna, "Elements of Successful Desistance Signalling" (2012) 11(1) *Criminology & Public Policy* 73.

quality of life for the inmate. Having access to seeing their family reminds them of their goals, further strengthening their mental and emotional well being.[307] It is necessary to prioritise face-to-face engagement, as this is valuable in developing strong rapport with offenders and ensuring continued engagement with recidivism programs. Through the NSW BOCSAR 'Crime and Justice' bulletin, it can be seen that prisons should focus on rehabilitation and engagement with offenders, rather than enforcing compliance.[308]

The Benefits of Prisoner Engagement

Addressing the needs of prisoners is vital when focusing on decreasing rates of recidivism, as their engagement within the facility significantly contributes to their actions post-release. The Community Justice Coalition's 'Cost of Inaction' Paper highlighted a study that found that the "online provision of educational programs" was associated with a 36% reduction in recidivism.[309] Additionally, juvenile offenders need positive role models that they respect and those that do not exude authoritarian characteristics. The significance of understanding the power dynamic within prisons, is crucial when examining reoffending, as inmates feel stigmatised by law enforcement, in addition to feeling further criminalised when in prison. Therefore, examining and implementing positive prisoner engagement directly correlates with the reduction of recidivism.

8.2.12.2 Risk Needs Assessments in Prisons

In many prisons, there is a divide between security and treatment objectives. Custody concerns take priority over all other objectives, and effective programming cannot occur in an institution that is not safe and secure. However, many staff members have only a superficial knowledge of the principles and science behind Risk Needs Assessment (RNA) tools. RNA tools are used to inform important decisions related to custody levels, prioritisation for programming, and eligibility for parole. They work alongside the risk

---

[307] Emma Wincup, "Living 'Good Lives': Using Mentoring to Support Desistance and Recovery" (2018) 27(1) *Addiction Research & Theory* 37.

[308] New South Wales Bureau of Crime Statistics and Research, *Social impact investment and recidivism: A field experiment with high-risk parolees* (Report No. 234, October 2020).

[309] Community Justice Coalition, '*Counting the Cost of Inaction: Failure to Deliver Prisoner Domestic Violence Counselling*' (July 2017).

needs responsivity model to make decisions around recidivism reduction programs and which individuals are released on parole.

At the moment, this model is being used in Australian prison systems and due to its poor implementation fails to mitigate the effects of problematic behaviours and recidivism. Staff members sometimes lack the training necessary to work with inmates when conducting assessments. Staff members might not have the skills to circumvent barriers related to gender, culture, or language, and this can be detrimental to assessment effectiveness and reproduce inequalities. Also, staff might not consistently score the same inmate the same way, which could negatively affect the performance of the tool and resulting programming decisions.

Furthermore there are a few operational challenges that have prevented the program's delivery. Workshop participants argued that the lack of a taxonomy of correctional programs and processes, as well as standards and common terminology, can make it challenging to determine whether programs have been implemented with fidelity and why some programs might be achieving better outcomes than others[310]. Therefore the risk needs assessment exposes the flaws within the Australian prison system, and highlights how the failure to adequately assess the behaviour of individuals incarcerated within the prison can materially contribute to increased rates of recidivism due to operational delays.

[310] Identifying High-Priority Needs for Using Evidence-Based Practices by Joe Russo, Michael J. D. Vermeer, Dulani Woods, Brian A. Jackson, RAND Corporation

9 Post-Release Services

There is an important difference between 'rehabilitation' (program oriented to address individual defects or deficits) and 'reintegration'- which is about the facets of needs and resources for people living in a context, beyond the prison walls [311]. The efforts taken to reduce recidivism extend beyond the confines of prison, and far into the community where offenders are more or less required to learn social integration again. In that sense, this section provides an overall discussion of a collection of academic sources that outline the reduction of recidivism rates through the implementation of aftercare programs. Aftercare programs are those which prepare offenders for successful social reintegration during and after prison, and aims to close the gap between their lives during incarceration and that after incarceration.[312]

9.1 Aftercare: The Traditional Approach

Research suggests that decreases in recidivism may occur when an offender is subject to rehabilitative treatment in the community alongside supervision control.[313] Surveillance is a traditional approach to aftercare and should be proportionate to risk, as reimprisonment for parole violations has been shown to produce little benefit.

Research has shown that properly enforced, less intensive, and more traditional supervision can improve re-offending outcomes relative to unenforced supervision.[314] Assisting an offender to manage their behaviour and comply with societal norms is a critical element of traditional community supervision with community corrections officers often having to manage dual roles of an 'enforcer' and a 'social worker'.[315]

---

[311] Disability and Employment: Improving Prospects for Ex-prisoners. Professor Joe Graffam, Deakin University, 2015. http://dea.conferenceworks.com.au/wp-content/uploads/sites/20/2016/08/2.15-Jenny-Crosbie.pdf p11

[312] Australian Government Attorney-General's Department, 'Interventions for Prisoners Returning to the Community: A report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department' (2005) <https://www.aic.gov.au/sites/default/files/2020-05/interventions-for-prisoners-returning-to-the-community.pdf >.

[313] Ibid, 22.

[314] Ibid.

[315] Ibid.

9.2 Conditional Release

Indeterminate sentencing may fail to reduce recidivism but risk becoming an instrument of social aggression and weaken the basic principle of individual liberty regarding post sentence detention or preventative restraint of offenders.[316]

9.3 Case Management

A case manager (or case management team) can link offenders to their required services and treatments, can monitor progress and report this to the appropriate authorities (or adopt the surveillance function themselves), and can ensure that treatment and support continues from custody to community. Case managers may also take responsibility for linking offenders to informal networks and other forms of unstructured community support.

A traditional approach to case management involves community correctional staff commencing work with offenders pre-release, and non-correctional providers delivering case management.[317]

9.4 Aftercare: Supporting Community Reintegration

Throughcare, or a continuum of care, is a model of support that provides after custody support easing community reintegration, maintaining in-prison rehabilitation gains which ultimately minimises the risk of recidivism.[318] Aftercare is the post-release, community component, ensuring continuing support.[365] Aftercare addresses the challenges that result from the complex social factors and the means of addressing these challenges can be found in social institutions including law enforcement, prisons and courts. Other stakeholders identified in delivery of services and support for prisoners transitioning in to the community are:

- Local businesses and industry

---

[316] Theresa A Gannon et al, "Does Specialized Psychological Treatment for Offending Reduce Recidivism? A Meta-Analysis Examining Staff and Program Variables as Predictors of Treatment Effectiveness" (2019) 73 *Clinical Psychology Review* 101752.

[317] Ibid n 247.

[318] Australian Government Attorney-General's Department, 'Interventions for Prisoners Returning to the Community: A report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department' (2005), 27. [365] Ibid.

- Non-custodial (community) corrections

- Members of the community where offenders return

- Voluntary and faith-based organisations (who can assist with community reintegration)

- Non-correctional government agencies such as health and education administers[319]

Additional aspects that fall under the category of aftercare include discussions on supervision of prisoners on parole and the conditional release of offenders. These aspects pose varying effects on reducing recidivism.[320] If individuals are monitored and mentored throughout their release period, they are likely to feel supported and informed in terms of the ramifications of their decisions.

9.5 Offender Reintegration Interventions

Various programs have been implemented by researchers and practitioners that address post-release unemployment, post-release accommodation, the misuse of drugs and alcohol and the psychological and social effects of imprisonment such as institutionalisation. Whilst there are various methods, these programs all share a common ground this includes the focus on recognising the need to establish strong formalised partnerships between all agencies involved in addressing those challenges.

Key features of new correctional approaches and the principle of effective correctional programming is the careful evaluation of the implementation of the programs. The evaluation enables for delivery of the programs to be refined. Features included in making the implementation of the program's smoother includes:

- Allocation of a lead agency

- Adequate resources including training for staff; and

- Implementing new ways in which offenders are aware of rights and obligations. [321]

---

[319] Clear, T.R. and Cadora, E. 2002 Community Justice, Thomson Wadsworth, Belmont, CA.

[320] Australian Government Attorney-General's Department, 'Interventions for Prisoners Returning to the Community: A report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department' (2005), 27.

[321] https://www.aic.gov.au/sites/default/files/2020-05/interventions-for-prisoners-returning-to-the-community.pdf

9.6 Interventions For Prisoners Returning To The Community

In a report titled; "Interventions for Prisoners Returning to the Community" from 2005 "Researchers and practitioners have implemented innovative programs that variously address post-release unemployment, post-release accommodation, alcohol and other drug misuse, and the psychological and social effects of prison, such as institutionalisation."[322] All these post release services share common features, such as an acknowledgment that the focus of the intervention is probably only part of a wider network of challenges; or recognising the need to establish strong formalised partnerships between all agencies involved in addressing those challenges. When the report was released post-release and throughcare initiatives were at various stages of implementation in Australian and international jurisdictions.

The reintegrative needs of released offenders are complex and can stem from socio-economic disadvantage that both pre-date and flow on from imprisonment. By adopting this perspective to the causes of crime, the task of reducing reoffending becomes one of promoting post-release adjustment by ameliorating disadvantages. Currently, in NSW, the Initial Transitional Service adopts this approach by housing those leaving correctional services for 12 weeks while also offering target programs to their specific needs in the best possible attempt to support their reintegration into the community. [323]

It was also found that "Community safety is improved if offenders do not go on to commit new crimes after they have served a term of imprisonment. If those same prisoners then also go on to productively contribute to their communities, those communities benefit doubly, through decreased rates of crime and through increased social and economic capacity."[324]

The report also looks into what it calls the three levels at which innovative approaches to corrections can be viewed. The first being that the philosophy that informs corrections, which relates to methods that are used to achieve those aims. With the example, "the traditional approach is offender-oriented, aiming to alter offender behaviour through an adversarial justice system that generally ignores an individual's broader

---

[322] https://www.aic.gov.au/sites/default/files/2020-05/interventions-for-prisoners-returning-to-the-community.pdf
[323] http://www.housingplus.com.au/support-services/post-release-support/
[324] https://www.aic.gov.au/sites/default/files/2020-05/interventions-for-prisoners-returning-to-the-community.pdf

social context." [325] The second being community oriented responses with this ethos seeing the focus shift to the community to which offenders return to build capacity and utilising community resources to assist in the reintegration. And finally specific programs that are delivered within new operational frameworks. This has given rise to a set of principles that research shows will bring about positive changes to offenders' behaviours.[326]

From the Scottish Report on; "What Works to Reduce Reoffending: A Summary of the Evidence;" it was found that there is strong evidence that provision of practical support in prison is unlikely to have a lasting impact on the risk of reoffending unless it continues upon release. Therefore aftercare should form part of a comprehensive intervention package that includes sequenced and appropriate goals, employment is a long term not realistic in the short term with more pressing matters.[327]

A meta-analysis of young adults who had and had not received aftercare was conducted in 2013, with the findings showing that it was effective in reducing reoffending in young people, but the study authors expected that there was a large variance in the effectiveness when considering type of aftercare received, the quality of the implementation and the age & assessed risk level of the participant.[328]

[325] Ibid

[326] Ibid

[327] https://www.gov.scot/publications/works-reduce-reoffending-summary-evidence/pages/3/

[328] James, C., Stams, G.J.J.M., Asscher, J.J., De Roo, A.K., van der Laan, P.H. (2013) Aftercare programs for reducing recidivism among juvenile and young adult offenders: A meta-analytic review, Clinical Psychology Review, 33(2), 263-274.

RECIDIVISM POLICY IN AUSTRALIA & GLOBALLY
10 Australian Recidivism Policies

In Australia, rates of incarceration are at an all-time high, leading to increased taxpayer costs and pressure on the criminal justice system. The cost of crime was estimated in 2017 as $19 billion (Fraud is the most costly crime, followed by violent crime; homicide, assault and sexual assault, and burglary). However, the Australian Institute of Criminology estimated the total bill of the Australian society to be $32 billion (including all fiscal effects on society i.e. medical, costs to victims, lost productivity, and the intangible costs). That was $1,600 per person annually, and 5% of GDP.

The Australian Institute of Criminology concluded that the cost difference between crime and the real costs of our current system to society is what will motivate Australians. This has allowed for the increased growing costs on taxpayers, costing Australian taxpayers $5.2 billion in 2019-20, or more than $330 per prisoner per day on average.[329]

Furthermore, The Institute of Public Affairs notes that the cost of criminal justice is sharply rising alongside rising prison numbers, necessitating investigation and the implementation of "more cost-effective approaches to criminal justice." In 2014-15 the cost of incarcerating one prisoner amounted to $300 per day or $110,00 per year. Annually this adds up to a $1.8 billion cost to incarcerate the entire population of nonviolent offenders and a further "$4 billion each year on the construction and operation of prisons."[330]

10.1 Australian Capital Territory

The ACT Government invested over $132 million in 2020 to ensure a 25% reduction in recidivism by 2025. Repeated criminal offending has a substantial impact on the ACT, increasing the number of victims, which leads to greater financial and social costs. Conversely, a reduction in offending means a safer and more

---

[329] Australian Government Productivity Commission 'Australia's prison dilemma', (Research paper , Parliament of Australia, October 2021).

[330] https://ipa.org.au/wp-content/uploads/2016/12/IPAReport-Criminal-Justice-1122016-1.pdf

inclusive community. The ACT's justice reinvestment approach has been in development over the last four years, in conjunction with academia, community and government. In 2017 to 2018 the Productivity Commission found that 44.2% of prisoners were re-incarcerated within 2 years. 2018-19, 42.4% of adults released from prison were resentenced and returned to prison in the ACT[331]. From 2019 2020, the recidivism rate fell slightly to 37.1%[379]. The ACT crude imprisonment rate declined from 216.0 in 2019 to 164.4 in 2021[332]. In order to achieve the target goal of a 25% reduction in the rate of recidivism, the initial percentage of 42.4% would have to decrease to 31.7%, a reduction of 146 detainees not reoffending for two years upon release[333]. This goal of reducing recidivism by 25 percent by 2025 aims to be achieved by focusing on 7 key areas:

1. Reducing the over-representation of First Nations Peoples in custody
2. Responding to justice housing needs
3. Supporting people with substance use disorders in the justice system
4. Supporting people living with a mental illness or disability in the justice system
5. Supporting detainee reintegration
6. Developing community capacity
7. Responding to women in the justice system

This is expanded on in the 'Reducing Recidivism Plan'. More information on the political context of the ACT is expressed in this paper. Currently, the ACT Standing Committee on Justice and Community Safety is inquiring further into this matter and is welcoming submissions.

The Plan details the ACT Government's justice reinvestment initiative, 'Building Communities Not Prisons.' It is the view that, as a progressive and innovative society, we cannot keep building larger prisons hoping that this will effectively combat the issue of the increasing number of offenders and rising imprisonment rates. This strategy focuses on First Nations Peoples, housing, alcohol and other drug services, mental health and disability, reintegration, developing community capacity, and women.

---

[331] https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/justice
[379] Ibid.
[332] (ABS Table 41, Crude Imprisonment Rate)
[333] https://justice.act.gov.au/sites/default/files/2020-08/Plan%20-%20RR25by25%20-%20Plan%20for%20printing%20-%20w eb-%20%20Final_0.PDF

Furthermore, the focus is on ensuring we use prisons correctly by developing smarter, more cost-effective alternatives that improve criminal justice outcomes.

10.1.1 Effectiveness of Current Plan

Recent data from the Australian Bureau of Statistics (ABS) highlights that the reduction of recidivism rates plan implemented by the ACT government has been increasingly effective over recent years.[334]

- From 30th of June 2020 to 30th of June 2021, total prisoners in the ACT decreased for the third successive year, down by 16% to 379. This was the largest annual decrease, both proportionally and numerically for any state or territory within Australia.
- Imprisonment rate decreased by 16%, down from 135 to 113 per 100,000 adult population.
- Male prisoners decreased by 14% to 354. Female prisoners decreased by 46% to 21.
- First Nations prisoners decreased by 16% to 98.
- Prisoners with prior imprisonment decreased by 16% to 294. Prisoners without prior imprisonment decreased by 21% to 80.

Current policies in the ACT focus on the prevention of crime rather than the structural issues that drive offenders to reoffend and contribute to recidivism rates. Evidently, these policies do not adequately address the prevention of recidivism.

Rehabilitation for existing offenders remains the focus, rather than structural change to prevent crime. The Australian Capital Territory (ACT) had the most explicit statement on diversion and articulation of levels of crime prevention; "Primary prevention programs are based on early intervention and prevention to respond to issues or problems before they escalate. In the ACT the work of the Child and Family Centres, and specific initiatives like the Family Support Program and Schools as Communities are examples".[335]

---

[334] https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release
[335] https://www.communityservices.act.gov.au/__data/assets/pdf_file/0009/337590/Blueprint_for_Youth_Justice_in_the_ACT_2012-22.pdfh

10.1.2 Current Initiatives and Limitations

- SHINE for Kids is a charity that supports children with incarcerated parents throughout New South Wales, Victoria, Queensland and the ACT. As well as providing support, it facilitates contact with parents, and conducts research into the impact of and possible interventions for parental incarceration.

- In 2012, the ACT Health Directorate funded SHINE for Kids to complete a study into the health and wellbeing requirements of children with incarcerated parents in the ACT, and to make recommendations to address shortfalls.

- The Institute of Child Protection Studies was commissioned to conduct the study, completed in 2013. This study sought to inform policy by directly engaging children in discussions about their parents' incarceration, providing a unique perspective on the problem. Sixteen children participated in the qualitative, exploratory study. The primary research provided some corrections policy direction for the ACT where little existed. It identified challenges for children regarding homelessness, a lack of educational support, barriers to accessing assistance, and emotional/financial stress, among others[336].

- In response to these challenges, a range of interventions were recommended, including more flexible visiting arrangements, a wider range of activities, varied contact modalities such as Skype, more consistent provision of information to children, and housing assistance.

- Policy research on crime prevention has been limited. One policy study found that all councils had adopted Crime Prevention Through Environmental Design (CPTED); however, there has been little analysis of their effectiveness, and they often focus on secondary rather than primary prevention.

- One of the main challenges ex prisoners face is securing employment once they are released from prison. Obstacles to employment include having a criminal record, lack of formal qualifications and even a lack of appropriate clothes to wear to a job interview. A criminal record can even be an obstacle for volunteer positions that require a Working with Vulnerable People Card - ACT has not found programs to address this issue.

---

[336] Vicky Saunders and Morag McArthur, "Children Of Prisoners: Exploring The Needs Of Children And Young People Who Have A Parent Incarcerated In The ACT."

- Affordable housing is another issue and one that the ACT has failed to properly address. ACT is one of the most expensive regions to rent within Australia.

- The ACT is a small jurisdiction, which lends itself to a unique set of challenges. Parole conditions often confine former detainees to their own state of territory, making a fresh start difficult for Canberra residents.

- The implementation of computers in cells provides a promising opportunity to expand prisoner's access to services that reduce the likelihood of re-offending. In Alexander Maconochie Centre, ACT this is enabled through the Computers in Cells programs which gives prisoners access to a limited number of websites. A Justice Action report indicates that in-cell computers were mainly used in this facility for communication via email and education[337]. This however does not represent the full potential of in-cell technology. The Justice Action report recommends the prison 'whitelist' certain websites allowing prisoners access to websites with pre-selected domains. This could allow for expanded access to various forms of online mental health services, substance abuse and behavioural change services, crisis support, family and relationship support and general services with the aim of preparing prisoners for reintegration into society. Despite the potential of in-cell technology there has been no form of continuous consultation with prisoners and relevant committees to monitor the ongoing impact of the Computers in Cells program, limiting opportunities for improvement.

10.1.3 Aboriginal and Torres Strait Islander Prisoners

A quarter of the prisoners in the Alexander Maconochie Centre are Aboriginal and Torres Strait Islander individuals, despite making up only 2 percent of the population.[338]

- According to the Australian Bureau of Statistics, when Canberra's human rights-based prison opened in 2008, there were 25 Aboriginal and Torres Strait Islander prisoners, a figure that has steadily increased to 116 in 2020.

---

[337] https://communityjusticecoalition.org/images/pdf_files/ACTComputersCellsRpt.pdf

[338] Ian Bushnell, "ACT Government Needs to Reconcile Indigenous Incarceration Rate," *The RiotACT* (May 31, 2021) <https://the-riotact.com/act-government-needs-to-reconcile-indigenous-incarceration-rate/465547>.

- The 279 percent increase in Aboriginal and Torres Strait Islander incarceration in the ACT over the last decade is also five times higher than the national increase of 59 percent.

- More than 90 percent of Aboriginal and Torres Strait Islander detainees have been previously incarcerated, compared to 75 percent for non-Aboriginal and Torres Strait Islander detainees.

- A ministerial briefing in 2021 noted the ACT had the highest increase of Aboriginal and Torres Strait Islander detainees since 2009-10 of any jurisdiction in Australia.

10.2 New South Wales

The target of reducing adult offending within NSW is 5% by 2023. Previously in 2015, then NSW Premier Mike Baird named it a priority to reduce the adult re-offending rate by 5% by the end of 2019.[339]The State Plan to reduce recidivism by 5% in 4 years has become, in fact, an increase of 8% over that period despite $330 million[340] being allocated to funding this endeavour. Current aims also include reducing domestic violence reoffending by 25% through assisting the development of new skills and prosocial strategies, addressing factors contributing to offending behaviour, providing a safe and prosocial CS environment, building community and cultural connection and support, and ensuring individuals are accountable and responsible for their behaviour.[341] In 2017-2018, 50.8% of prisoners went back to either a correctional centre or prison while from 2018-2019, it was found that 50.6% of prisoners had returned[342]. However, from 2019 to 2020, there has been a clear decrease in recidivism where 49.9% of prisoners were sent back to correctional centres/prisons.

Announced in 2016, the NSW *Better Prisons* aim was to provide more efficiency, accountability and 'a greater focus on inmate rehabilitation' in tandem with a departmental wide 'Reducing Reoffending' program; by upgrading to private sector and dormitory style *rapid build,* expanding to the two new maximum security prisons, and 3 new minimum security prisons; reducing overcrowding by removing double and triple up beds; and assessing 'core skills' of 98% of inmates (with greater than 6 months sentences) in a claim for a new model of TAFE & BSI Learning to achieve NSW government targets on

[339] https://www.smh.com.au/national/nsw/mike-baird-tears-up-barry-ofarrells-state-plan-to-sharpen-focus-on-performance-201_50913-gjlcyd.html

[340] https://www.smh.com.au/national/nsw/criminal-re-offending-at-a-new-high-despite-330-million-announced-to-fight-it-20190425-p51h7x.html

[341] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending.html

[342] https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/justice

literacy, numeracy and vocational training. [343]

Particular attention was for inmates at high risk of reoffending. The main focus was towards two vulnerable groups - women who are parents, and those with a serious mental illness. This could be made possible with highly skilled staff as agents of change; by motivating inmates for rehabilitation, receiving rehabilitative skills and knowledge; and people exiting prison receiving social support to assist rehabilitation and their integration back into the community.[344] The *Reducing Offending Program* (ROP) initiative is to 'support offenders' in two locations, including pre and 'possibly' post release support for up to 1 year via a funded partnership of volunteer mentoring services (service 5) provided by the Australian Red Cross.[345]

Serious offenders are referred to 'best practice' therapeutic programs while in custody or under community supervision. However there is limited information available on the efficacy and delivery of these programs. The vagueness of these programs raises practical issues for their implementation and success. State-wide delivery of services for inmate disability is based at Long Bay CC.[346] It refers to a psychological assessment and the provision of psychological services specifically for those with a disability, and providing pre-release planning assistance for those on NDIS.[347] For alcohol and drug treatment, an intensive program is offered at John Moroney CC rolling out 6-8 monthly formats of varying duration.[348]

The 'guiding principles' of the Desistance Strategy is a rudimentary four page policy roadmap that broadly refers to 'we will' be devising new policies and programs, and diversionary programs[349]. Like the other

---

[343] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/correctional-centres/better-prisons.html
[344] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending.html
[345] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/community-corrections/parole/funded-partnerships-initiative--fpi-/se rvice-5--volunteer-mentoring-service.html.html
[346] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending/initiatives-to-support-offenders/specialist-supp ort/services-for-inmates-with-a-disability.html
[347] Ibid
[348] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending/initiatives-to-support-offenders/specialist-supp ort/alcohol-and-drug-treatment.html
[349] The Strategy for supporting Aboriginnal Offenders to desist from re-offending

ROP plans, it has no details of funding, delivery, state nor centre targets, nor any evaluation strategy despite stating there is a 'paucity of evidence-based research' to guide CSNSW rehabilitation, where desistance strategy is 'encouraging individuals to take responsibility for their actions'[350].

ROP initiatives under employment recognised the benefit of nationally recognised qualifications, referring to 'work, education and vocational training'. This permits inmates to study part time while engaged in Corrective Services Industries (CSI), as well as 'full time intensive education programs' presumably within the CSI commercial business units and service industries. If eligible, this can also be through a traineeship or apprenticeship[351].

Unresolved issues that detrimentally affect prisoners include: convenience and confidentiality concerns, concerns into the future of price accessibility, the volume, quality and drop-out unreliability of the system/host service. It has been concluded that teleconferencing use resulted in the 'very limited' uptake by prison institutions of video-conferencing, access to lawyers during lockdowns; the lack of research evidence, and its use was reported in Australia since 2007 and in NSW since 2009[352][353].

10.2.1 EQUIPS Psychological Programs

Thus, part of the funding has gone towards supporting key programs, such the EQUIPS programs suite, which allow eligible offenders in the Foundation, Aggression, Addiction and Domestic and Family Violence programs to continue to target criminogenic factors contributing to the offender's behaviour with a focus on rehabilitation.[354]

https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending/initiatives-to-support-offenders/specialist-suppor t/aboriginal-and-torres-strait-offenders.html

[350] Ibid

[351] https://correctiveservices.dcj.nsw.gov.au/csnsw-home/reducing-re-offending/initiatives-to-support-offenders/employment-a nd-training.html

[352] Legal assistance by video conferencing: what is known? Suzie Forell, Meg Laufer and Erol Digiusto Justice Issues Paper

[353] November 2011

http://www.lawfoundation.net.au/ljf/site/articleIDs/B0A936D88AF64726CA25796600008A3A/$file/JI15_Videoconferencin g_web.pdf p2, 3 & 18

[354] https://plan4womenssafety.dss.gov.au/initiative/premiers-priority-to-reduce-domestic-violence-reoffending/

This program has subsequently been prioritised to ensure that Correctional Services could supervise DV offenders. Similarly, another branch of the EQUIPS program is the ENGAGE-Crime-Prevention program, which is a court referral program to support services for inmates who are involved in DV.

Substantial amount of public funding has gone into the NSWCS EQUIPS programs which have been operating for over 13 years.[355] However, in 2018, reviewing over a decade of this program's development, an 'unbiased' estimate by BOSCAR concluded that there was: '*no evidence of a treatment effect.*'[356]

Furthermore, what is concerning is that the failure identified by BOSCAR of the EQUIPS program continues to be a main driver. This is despite the dearth of evidence of efficacy above zero even within a favourable skewed and small sample, and very poor evaluation and research output. Consequently, it is impossible to empirically endorse the continuation of the unevaluated and unsupported evidence base of the EQUIPS suite of programs that have been funded as a main program since 2008 based on the in-prison model delivered face to face to relatively small cohorts, let alone their expansion by replicating onto a digital platform.

However, while Community Corrections supervision of DV offenders was prioritised, this amounts to unevaluated programs continuing to be controlled and absorbing public funding despite corrections based programs failing to establish any independent, evidence-based efficacy.

Furthermore, In 2017 the NSW Audit office examined CSNSW 'EQUIPS program' in prisons[357] and found gross failures in delivery and any robust program evaluation. It had reviewed moderate and high intensity programs that aim to reduce reoffending by addressing addiction, violence, domestic abuse, sex offending and general offending - the target issues that CSNSW EQUIPS program was to provide. It heavily criticised CSNSW for failing to collect and act on information about program delivery and dearth of conclusive research on program efficacy, and despite an additional $237 million to redress

---

[355] https://www.bocsar.nsw.gov.au/Publications/CJB/2018-Report-Evaluation-of-the-EQUIPS-Domestic-Abuse-CJB211.pdf p1
[356] Ibid
[357] https://web-archive.cloud.audit.nsw.gov.au/publications/latest-reports/therapeutic-programs-in-prisons.html

reoffending.[358]

Furthermore, in a neoliberal and corporatizing milieu, creating fiscally lucrative program products is overriding the fundamental priority of what will drive down recidivism - the interventions that are fundamentally beneficial to prisoners to avert re-incarceration. Decades ago, researchers pointed to community-based programs rather than inhouse or in-prison programs, yet we continue to see NSWCS persist in developing at great fiscal expense, its internal programs and maintain internal control.

10.2.2 Cultural Change

Improvement is required within prison systems to build a supportive environment focused on rehabilitation and reintegration. Initiatives such as the Five Minute Intervention approach will be rolled out in NSW prisons to encourage staff to foster positive relationships and healthy interactions with those
in custody. [359]

10.2.3 Computers in Cells

This initiative focuses on improving access to digital technology and services to enable regular connection between offenders, their families and social services. As a way of encouraging productivity, devices such as tablets provide opportunities to build valuable skills and knowledge. There is a recent focus on the Corrective Services NSW Premier's priority to use digital technology for 'in cell technology' and Audio-Visual Links (AVL).[360] The plan is to gradually use in-cell tablets to provide 'greater use of audio-visual-link' and 'improved inmate contact and connection with family and friends.[361] This in cell technology was trialled in two centres (John Maroney and Dillwynia Correctional
Centres[362]), and deployment commenced in 2021 extending to the whole prison system for every prisoner.

---

[358] https://www.audit.nsw.gov.au/our-work/reports/therapeutic-programs-in-prison

[359] NSW Government, "Reducing Recidivism in the Prison Population," *NSW Government* (2021)
<https://www.nsw.gov.au/premiers-priorities/reducing-recidivism-prison-population>.

[360] https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-10/Department%20of%20Communities%20and%20Justice_0.pd

[361] Tablet Computers have kept prisoners in touch with family during Covid-19

[362] https://www.smh.com.au/politics/nsw/prisoners-to-get-tablet-computers-in-cells-in-bid-to-cut-reoffending-rates-20200309p548b0.html

According to the NSW Department of Justice the tablets run on a secure network with limited access to outside services.[363] While the computers in cells had a positive response by the Department of Justice, A clear shortcoming is present with only plans to 'expand over time to include video conferencing and secure messaging with pre approved contacts, additional secure websites, learning systems including collections of books from State Library and audio books and a trial of Macquarie University 'Mind spot' cognitive behaviour therapy online.' [364] Future deployment of this needs to see the devices as a unrestricted Information & Communication tool rather than a limiting transactional device, defined by the constraints of only one-on-one social interactions and use of an intranet instead of an internet.

Possible future unrestricted Information & Communication devices benefit prisoners more by creating greater access to websites beyond Corrective Services NSW and allows for prisoners to interact with trusted mainstream services. This is aligned with the Norwegian Import Model, where incarcerated people have access to all services as if they were non-incarcerated citizens.[365] In Norwegian prisons, prisoners retain a number of rights and freedoms as well as being given access to education, training, skill-building and therapeutic services. In addition in prisons such as Bastoy and Halden, prisoners are afforded a degree of privacy, personal responsibility and can occasionally even maintain work outside of the prison, helping to promote connection to community and economic independence. Ultimately, this model of incarceration aims to prepare prisoners for reintegration in society whilst genuinely rehabilitating them guided by the notion that criminality is a failure of social integration and thus punitive measures are ineffectual in reducing recidivism. This prison model has helped produce one of the lowest rates of recidivism in the world, 20%[366], which limits adjacent issues such as overcrowding, lack of funding and anti-social behaviour.

---

[363] https://dcj.nsw.gov.au/news-and-media/media-releases/2021/covid-sparks-digital-revolution-in-nsw-prisons.html
[364] https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-10/Department%20of%20Communities%20and%20Justice_0.pdf
[365] https://www.communityjusticecoalition.org/images/ChalkCheeseNorway.pdf
[366] https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf

10.2.4 Forced Medication

In October of 2020, there was a consultation held by the Kirby Institute that had the aim of defining and developing an 'Optimal Treatment Model for people with psychosis who are leaving custody'. Attached is the prior research done on the phenomenon, Prison-Induced Psychosis, completed prior to the consultation.[367] During this consultation three papers[415] [368] [369] [370] were discussed with the Kirby Institute suggesting that the research papers interlink to prove the increased rate of criminal offending in those with diagnoses of psychosis in an attempt to justify medicating vulnerable individuals.

The three papers show no effort at addressing consumer engagement, interest in post-release social reintegration or concern with therapeutic outcomes. Additionally the term "treatment" was used in a broad and undefined manner but implied it should constitute medication via monthly injection regardless of the consumer's wishes, given that this is conventional for diagnoses of psychosis. They also did not consider the bodily autonomy of individuals, did not disclose whether the individuals were informed of the long-term consequences of the treatment or if the right to refuse medication. The papers claim only a cause and effect approach; that medication leads to lower recidivism rates; but offer nothing about the mechanism in which it takes place or any external factors. Justice Action in response to the Kirby

Institute consultation advocated for change as seen in this document.[418]

10.2.5 Social Impact Bond

Social Impact Bonds are a mechanism that has been used by the NSW government in an attempt to create more effective innovative rehabilitation programs and reduce the rates of recidivism.[371] Social Impact Bonds use 'private investments to address public concerns' by investing private capital into not-for-profit companies which provide services to users at little cost. [372] When these outcomes are achieved the government subsidises the cost of the service and pays the service provider and investor for their

---

[367] Prison-Induced Psychosis (Public) [415]
https://pubmed.ncbi.nlm.nih.gov/32667664/
[368] https://pubmed.ncbi.nlm.nih.gov/30762501/
[369] https://journals.sagepub.com/doi/abs/10.1177/0093854820964834
[370] 0 Survival MANUAL
[371] https://drive.google.com/file/d/1xiKztEksEJuzhcdv9jUw7Uc0TEEtpmFl/view?usp=sharing
[372] oads/Social%20Impact%20Bonds%20and%20Recidivism.pdf

contribution.[373]

The Social Impact Bond (SIB) strategy was given to On TRACC (Transition, Reintegration, and Community Connection) program. While a study by the NSW Bureau of Crime Statistics and Research claimed that this investment was ineffective and the company refused to deliver the services and did not reduce recidivism, the reasons were more complex.[374] There was insufficient preparation, no linking to existing services or the other social, environmental and psychological concerns that surround an individual's reoffending.[423] Corrective Services itself focuses on parole supervision and coercion which undermines its ability to get trust and support people on release.[424]

10.2.6 Budget Allocations

In 2020-21, the Stronger Communities Cluster invested 2020-21 State Outcome Budget highlights $2.9 billion ($2.5 billion recurrent expenses and $405.1 million capital expenditure) in this Outcome[71], including:

- $108.8 million in 2020-21 ($451.8 million across four years) to support the continuation of programs including the Strategy to Reduce Reoffending and the Electronic Monitoring of Sex Offenders.
- $18.6 million ($3.4 million recurrent expenditure and $15.2 million capital) over four years for body scanners for correctional centres.
- $9.9 million in 2020-21 to improve Youth Justice security infrastructure, invest in information technology enhancements and deliver priority reforms in response to the Shearer report to improve centre safety for staff and detainees.

---

[373] Ibid

[374] https://www.bocsar.nsw.gov.au/Publications/CJB/2020-Social-impact-investment-and-recidivism-CJB234.pdf [423]https://docs.google.com/document/d/1k7xeS1cz4bCcevj3-Aoz0HgN3ItYhsIPrfEuaIt3Qbc/edit?usp=sharing [424] Ibid.

- $8.6 million in 2020-21 to continue flagship programs to divert young people away from the criminal justice system including early intervention scheme 'Youth on Track' and diversion scheme 'A Place to Go'.

10.3 South Australia

On August 11 2006, the South Australian State government unveiled their strategic policy report to reduce recidivism by 10% by 2020.[375] This plan states that the *Report on Government Services (2015)*[376] noted that 46% of all offenders in South Australia return to correctional services, either through community corrections or prisons within two years. making the 2020 target 41.4%. In a paper released by the Australian Government Productivity Commission in 2021, South Australia had recorded an 8 per cent reduction in the level of recidivism by 2019-20 (prisoners released in 2017-18),[377] a historic low of 42.3%[378] and "appears on track to achieve its target".[379]

The "10 by 20" plan employed 6 key strategies that have been broken down into 36 recommendations. The first 1 to 9 strategize a successful return to the community, recommendations 10 to 13 are related to employment and industry, recommendations 14 to 21 prioritise target cohorts, 22 to 28 are related to First Nations offenders, 29 to 32 connect to DCS agency and Staff Response and the final 33 to 36 recommendations relate to partnerships and collaborations[380].

10.4 Tasmania

In 2011 the Tasmanian Corrective Services announced a ten year strategic plan, for the whole of Corrective Services in Tasmania, incorporating both the Tasmania Prison Service and Community Corrections. "*Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2020*" had 7 goals with the first being ; "to reduce re-offending by providing rehabilitation and reintegration services to

---

[375] https://www.corrections.sa.gov.au/__data/assets/pdf_file/0003/27795/10-by-20-Strategic-Policy-Panel-Report.pdf
[376] https://www.pc.gov.au/research/ongoing/report-on-government-services/2015/justice
[377] (SCRGSP 2021b, table CA.4) https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/justice
[378] https://www.corrections.sa.gov.au/__data/assets/pdf_file/0008/584549/10by20-Progress-Report-2021-Update.pdf
[379] https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf (page 80)
[380] https://www.corrections.sa.gov.au/__data/assets/pdf_file/0003/27795/10-by-20-Strategic-Policy-Panel-Report.pdf

address issues which contribute to offending."[381] Though it can be observed the rate of returning to prison within 2 years jumped from 39.9% in 2014-2015 to 47.1% in 2019-2020.[382]

[381] https://stors.tas.gov.au/au-7-0092-00738
[382] https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/justice

11 International Recidivism policies

Comparing recidivism rates worldwide comes with many challenges, largely due to a lack of available data and differing measurements and definitions of recidivism. A 2014 systematic review of the 20 countries with the largest prison populations found that only two countries reported repeat offending rates[383]. A later 2019 study reviewing the recidivism rates of the 50 countries with the largest prison populations found that 10 reported the recidivism rates for prisoners, with a two-year conviction rate the most commonly reported outcome[384].

Reconviction is strictly defined as re-arrested and re-convicted for a crime. Although different measurements, reconviction and recidivism rates are an accurate measurement of a country or states' correctional facilities effectiveness in rehabilitation and reintegrating a detainee back into society. Spanning the two year period of 2014-2015, Australia recorded a reconviction rate of 53.00%. Australia's most comparable nation; New Zealand, recorded a 2 year reconviction rate of 61.00%. Canada had a 2 year reconviction rate of 35% in 2014 - 2015. France projected a reconviction rate of 40.00% and
Denmark in 2005-2007, a 29.00% reconviction rate, and Norway a 20.00% rate.[385]

A 2019 systematic review found that Norway had the lowest two-year reconviction rate at 20%, while Denmark had the highest at 63%[386]. Also, from the available data, Oregon (USA) had the lowest two-year recidivism rate at 14%, while Australia had the highest at 45%.[437] This illuminates the current failures in Australia's criminal justice system in relation to the rehabilitation and reintegration of individuals and suggests we look to other jurisdictions for promising practices.

---

[383] Seena Fazel and Achim Wolf, 'A Systematic Review of Criminal Recidivism Rates Worldwide: Current Difficulties and Recommendations for Best Practice' (2015) 10(6) *PLoS ONE*, 1.

[384] Denis Yuhkenko, Shivpriya Sridhar and Seena Fazel, 'A systematic review of criminal recidivism rates worldwide: 3-year update' (2019) 4(28) *Wellcome Open Research*, 1.

[385] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6743246.3/

[386] Denis Yuhkenko, Shivpriya Sridhar and Seena Fazel, 'A systematic review of criminal recidivism rates worldwide: 3-year update' (2019) 4(28) *Wellcome Open Research*, 1. [437] Ibid.

11.1 Norway

Norway has consistently ranked number one in nearly every metric judging a successful correctional system with a recidivism rate of approximately 20%, largely due to a rigorous series of reforms in the early 1990s.[387] Norway, like many other Scandinavian countries, has a unique approach to prison with a particular emphasis on rehabilitation. Rather than enforcing punishment, Norway prioritises comfort, healing and inclusivity. However, this nurturing environment and its holistic programs, such as yoga and silent retreats within the prison, come at a high price, with a place at Halden maximum security prison costing £98,000 per year.[439] However, this is a worthy investment as the prison population continues to shrink.

Former prisoners are gaining the necessary skills in order to contribute to private enterprise and business ownership, and society more broadly. Additionally, the training offered in Norwegian prisons is also to enforce the structure of a work day, providing a sense of normality and helping them prepare for a new life on the outside. Many inmates will be released from Halden Prison as fully qualified mechanics, carpenters and chefs.[440] There is a strong emphasis on education too, with a variety of diplomas and qualifications available.

Norway's correctional services recently oversaw a progeressive reform, eliminating life sentences.[441] This has provided detainees direction, often leaving prison with increased optimism and aspiration, a stark contrast from Australian prisoners post-release. This has also increased economic contribution and labour participation, with a 40% increase in prisoner employment rates post-release.

Training requirements for Norwegian correctional officers is a lot more comprehensive in contrast to other European countries. For instance, training to become a prison officer in Norway will take 2-3 years, where

---

[387] Denis Yuhkenko, Shivpriya Sridhar and Seena Fazel, 'A systematic review of criminal recidivism rates worldwide: 3-year update' (2019) 4(28) *Wellcome Open Research*, 1.

[439] criminals into good neighbours', *BBC* (online, 7 July 2019)

Emma Jane Kirby, 'How Norway turns

<https://www.bbc.com/news/stories-48885846> [440]

Ibid. [441]

Ibid.

[442]

Emma Jane Kirby, 'How Norway turnscriminals into good neighbours', *BBC* (online, 7 July 2019)

<https://www.bbc.com/news/stories-48885846>

in the UK the maximum length of the training program is 12 weeks. This is largely due to the fact that correctional officers in Norway are trained to serve as mentors and role models for prisoners.[442] They are fully integrated as officers and prisoners eat together, play sports together, and do leisure activities together, enabling the officers to build a close connection with prisoners and motivate them.[388]

Following the significant reforms, Norway's recidivism rate fell 20% after two years and about 25% after five years, demonstrating the success of the model. Norway has been highly influential with other jurisdictions looking to the country's humane approach as best practice. In 2015, a group of North Dakota legislators, judicial branch members and prison officials visited Norway to learn and implement its ethos of rehabilitation, which is a stark contrast to the US' emphasis on punishment and revenge.[389]Following this visit, the North Dakota Department of Corrections and Rehabilitation made significant changes particularly to its staff training to focus on dynamic security, a philosophy that emphasises personal choice and humane treatment, ultimately lowering rates of violence.[390] Changes to accommodation and the implementation of more holistic services and training programs were also among reforms.

11.2 United Kingdom

In 2016, the *An Inspection of Through the Gate Resettlement Services for Short-Term Prisoners* report reviewed it's 'Through the Gate' flagship policy and referred to lowering expectations to reduce reoffending due to difficulties of success, and the most challenging issues being enduring mental illness and addictions, and the difficulty to obtain accommodation.

The Inspectorate report made several criticisms including the lack of resettlement targets; prisoner release before needs having been met and planning not being proactive and timely; staff conveyed a lack of hope and likelihood of failure to prisoners; and that the Community Rehabilitation Companies (CRC's) failures to deliver support lacked innovation and was 'pedestrian at best' - as hampered by ineffective early

---

[388] Ibid.

[389] Cinnamon Janzer, 'North Dakota Reforms its Prisons, Norwegian Style', *US News* (online, 22 February 2019) <https://www.usnews.com/news/best-states/articles/2019-02-22/inspired-by-norways-approach-north-dakota-reforms-its-prisons>
[390] Ibid.

screening, and responsible and accountable rehabilitation[391]. It noted that the division between resettlement and prison staff was a barrier for what are often complex needs, not enough help or preparation prison activities, insufficient base assistance (like set up bank accounts, debt assistance, accommodation, job search, lack of mentor follow through, poor cross-resettlement organisational communication (included avoidable obvious problems resulting in the poor management of risk) [392].

Furthermore, Northern Ireland introduced the Personal Progression System in 2008 with the aim of providing pathways to employment for prisoners and support mechanisms after their release.[448] Employability assessments of individual prisoners are carried out. These help to develop resettlement plans that seek to ensure prisoner reintegration after their release. Private and public agencies and voluntary and community agencies can provide different kinds of support to prisoners once they have been released. Employers who are willing to hire ex-prisoners are greatly beneficial to the process.

Between the years 2014-15, Northern Ireland saw a 37% reconviction rate; from 2015-16, England and Wales saw a 48% reconviction rate, and Scotland showed a 37% reconviction rate within the same years. On the other hand, European countries such as the Netherlands during 2013 showed a reconviction rate of 35%. This highlights how most central European prison systems are more well handled and effective when compared to the system followed in the UK, which is consequently the same system followed in Australia.

The UK system operates in a very similar way to the Australian system, where public opinion states the prison system is "too soft on crime", and that there must be more punitive measures taken against crime.[393] Consequently, the traditional prison system remains, and thus around 60% of those who are released go on to reoffend within a two-year period, while operating at a capacity of 104%. This high reoffending rate

---

[391] https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2016/09/Through-the-Gate.pdf p 3-10, & p 47
[392] https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2016/09/Through-the-Gate.pdf P20 - 37
[448] *Progression Regime Policy Framework 2021.*
[393] AnvarSarygulov, "Nina Hodžić: The Sad Irony ofPrisons in the UK," *Bright Blue* (January 25, 2021) <https://www.google.com/url?q=https://www.brightblue.org.uk/the-sad-irony-of-prisons-in-the-uk/&sa=D&source=docs&ust=1635736981158000&usg=AOvVaw2qfLaXK65LUUXmv_mlQvpA> .

costs Britain approximately 15 billion pounds annually, with no positive result coming from these expenditures.

Community-Based Sex Offender Treatment

Recent studies surrounding the short-term effectiveness of community-based treatment programs for sex offenders within the U.K. find that the majority of offenders who complete this treatment demonstrate improvements in both their pro-offending attitudes (such as victim empathy, deficits and cognitive distortions that relate to attitudes, and beliefs that minimize and justify offending behaviour) and in their socio-affective functioning (such as self-esteem issues and emotional loneliness)[394].

11.3 Canada

The Counter-Point Program is delivered to released offenders in Canada. The Counter-Point Program uses cognitive-behavioural principles of intervention, offenders were provided with skills to identify, challenge and promote engagement into society through altering antisocial attitudes and it is linked with 4 steps to changing behaviours. Specific techniques used throughout the intervention included self-monitoring, self-management, perspective-taking, generic problem-solving skills, sequential and structured learning, prosocial modelling, role play, rehearsal, and effective reinforcement and disapproval. In addition, offenders completed homework for every session.

The goal of the homework is to apply the skills learned to "real life" events and situations. Cognitive behavioural therapy (CBT) is the best example of the treatment based approach, as it directly uses theoretical methods of implementation taken from psychology, which have yielded positive results on a broad spectrum of patients

---

[394] Mandeville-Norden, R., Beech, A. R., & Hayes, E. (2008). Examining the effectiveness of a U.K. community-based sexual offender treatment program for child molesters. Psychology, Crime and Law, 14, 493-512

Therein, it is possible that this treatment can be administered both inside and outside of prison (e.g. while offenders are on parole, or conditional release), in order to gradually deter the offender from an environment that is inherently criminogenic.

Furthermore, this principle states that intervention programs should first identify behaviours that are highly correlated with criminal conduct and then attempt to address these delinquent behaviours.

11.4 Prison SMART (Europe)

Prison SMART is an internationally renowned rehabilitation program that effectively transforms mindsets, attitudes and behaviours of offenders.[395] The holistic program prioritises rehabilitation, with a focused effort on reducing violence and aggression, improved physical and mental health, better relationships and reduced substance abuse. This aims to transform valuable human resources and strengthen these for the well-being of the individual and society. The Prison SMART Program also aims to improve professional excellence and stress management in correctional staff.

The Program provides support to hedge the risk of recidivism and offers prisoners agency on their path to rehabilitation and improvement.

11.5 Switzerland

Switzerland's heroin assisted treatment program demonstrates effective drug treatment as a crime prevention measure itself, having important implications for policies aiming to reduce recidivism. In a multi-year trial, property crime in the region reduced by 90%, highlighting the effectiveness of heroin treatment as a measure of crime prevention.[396] At the beginning of the trial, 69.9% of participants had been

---

[395] Prison SMART Europe, *Stress Management and Rehabilitation Training For prisoners and prison personnel* <https://iahv.dk/documents/prisonsmart.pdf> 15.
[396] Uwe Verthein et al, 'Long-term effects of heroin-assisted treatment in Germany' (2008) 103(6) *Addiction* 960, 960–966.

involved in crime in the last 30 days, which dropped to 23.4% after 12 months.[397] A German trial of heroin assisted treatment also yielded successful results.

11.6 United States of America

The United States of America has the highest rate of incarceration in the world, with 716 inmates per 100,000 persons.[398] This high incarceration rate is likely caused by the United States' emphasis on imprisonment and punishment, rather than rehabilitation, as the primary approach to crime control.[399]Despite having the highest incarceration rate, the US recidivism rate appears to be lower than Australia's recidivism rate. An analysis conducted by the Pew Charitable Trusts found that amongst prisoners released in 2012 across 23 US states, 32% returned to prison within two years of their release.[400] On the other hand, in 2014, Australia had a two-year re-imprisonment rate of 45%.[401]

However, there are difficulties with reliably comparing recidivism rates between the two countries. Firstly, the US prison system is more complex, having three different levels of prisons: Federal, State and County. Federal prisons largely incarcerate people for immigration and drug offences, with a small portion (7 to 8%) for violent offences.[402] A majority of inmates in State prisons are incarcerated for violent offences and serve shorter sentences than those in Federal prisons.[403] County jails are operated by the local government or county, and hold people serving short sentences (less than a year), and those pending

[397] Ibid.

[398] Carolyn W Deady, *Incarceration and Recidivism: Lessons from Abroad* (Report, March 2014) 1 <http://www.antoniocasella.eu/nume/Deady_march2014.pdf>.

[399] Ibid; Emily Widra and Tiana Herring, *States of Incarceration: The Global Context 2021* (Report, September 2021) <https://www.prisonpolicy.org/global/2021.html>.

[400] Adam Gelb and Tracy Velázquez, 'The Changing State of Recidivism: Fewer People Going Back to Prison', *PEW* (Article, 1 August 2018) <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/08/01/the-changing-state-of-recidivism-fewer-people-goin g-back-to-prison> cited in Denis Yukhnenko, Shivpriya Sridhar and Seena Fazel, 'A systematic review of criminal recidivism rates worldwide: 3-year update' (Research Note Version 3, Wellcome Open Research, 1 February 2021) 8 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6743246.3/pdf/wellcomeopenres-4-17992.pdf>.

[401] Productivity Commission, Australian Government, *Report on Government Services 2018* (25 January 2018) <https://www.pc.gov.au/research/ongoing/report-on-government-services/2018/justice#attachtables> cited in Yukhnenko, Sridhar and Fazel (n 441) 7.

[402] Leonard A Sipes Jr, 'Why The Substantial Difference Between State and Federal Prison Recidivism?', *Crime in America* (Article, 25 April 2017) <https://www.crimeinamerica.net/why-the-substantial-difference-between-state-and-federal-prison-recidivism/>.

[403] Ibid.

trial.[404] Therefore, <mark>recidivism rates would vary greatly depending on whether the data is from Federal, State or County prisons</mark>.

Secondly, different measurements and definitions of recidivism are used in the US. For example, recidivism rates are often calculated based on a 3-year period.[461] Additionally, recidivism rates are sometimes based on the rate of re-arrest or re-conviction, rather than re-imprisonment. Therefore, it is difficult to determine an overall, average rate of a recidivism in the US that is consistent with Australia's measurement of recidivism and is thus directly comparable to Australia's recidivism rates.

Nevertheless, recidivism rates in the United States are high. For example, Delaware has the highest recidivism rate (64.5%) out of the States, followed by Alaska (63.2%) and Arkansas (58.21%).[462] Moreover, a study found that re-arrest rates after one year were 44% but rose to 83% at 9 years post release.[405]

In order to reduce recidivism, the US government has introduced a number of initiatives to support imprisoned individuals reintegrate into society. In 2003, the US government introduced the Serious and Violent Offender Reentry Initiative (SVORI), which provided $100 million in funding for employment, education, housing, and health services for people who have been released from prison.[406] Similarly, the Second Chance Act (SCA), which was introduced in 2008, provided funding to state/local governments and non-government organisations to provide services to recently released individuals.[465] However, although the SVORI and SCA have many benefits, such as increasing employment prospects and

[404] Aaron Larson, 'What is the Difference Between Jail and Prison', *Expert Law* (Article, 8 May 2018) <https://www.expertlaw.com/library/criminal-law/what-difference-between-jail-and-prison>.

[461] 'Recidivism Rates by State 2022', *World Population Review* (Article, 2022) <https://worldpopulationreview.com/state-rankings/recidivism-rates-by-state>.

[462] Ibid.

[405] Yukhnenko, Sridhar and Fazel (n 441) 8.

[406] National Institute of Justice, NIJ Journal Issue No 269, US Department of Justice, *Study Raises Questions About Psychological Effects of Solitary Confinement* (March 2012) 19 <https://www.ojp.gov/pdffiles1/nij/237720.pdf>.

[465] National Institute of Justice, 'NIJ Evaluations of the Second Chance Act', *NIJ* (Article, 26 April 2022) <https://nij.ojp.gov/topics/articles/nij-evaluations-second-chance-act>.

reducing re-arrests, studies have found that these initiatives do not reduce re-imprisonment

rates.[407]Programs Federal Prisons

Programs State Prisons

The Angel Program

Source	Summary
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6743246.	- Federal and state statistics on: - Rearrest

Source	Summary
3/pdf/wellcomeopenres-4-17992.pdf	- Reconviction - Reimprisonment - (all spanning a variety of lapsed years and by a number of different researchers)
https://www-tandfonline-com.wwwproxy1.library.unsw.edu.au/doi/pdf/10.1080/15564886.2013.860934?needAccess=true	- Availability (or lack) of access to interventive treatment services - Recent legislation has opened up the possibility of wider implementation of programs aimed at reducing rates of recidivism (such as substance abuse treatment programs) - However, research has shown that fewer than 10% of inmates are able to access these services each day which compromises their effectiveness

---

[407] Pamela K Lattimore et al, *Prisoner Reentry Services: What Worked for SVORI Evaluation Participants?* (Final Report No 238214, February 2012) <https://www.ojp.gov/pdffiles1/nij/grants/238214.pdf>; Ronald D'Amico and Hui Kim, *Evaluation of Seven Second Chance Act Adult Demonstration Programs: Impact Findings at 30 Months* (Final Report No 251702, March 2018) <https://www.spra.com/wordpress2/wp-content/uploads/2018/06/Evaluation-of-Seven-Second-Chance-Act-Adult-Demonstration-Programs.pdf>.

https://www.prisonpolicy.org/global/2021.html	- The USA has the highest prison population per capita in the world - Not due to having the highest rates of crime but rather by the mechanisms which favour incarceration as the primary approach to crime control - Could be interesting the look at recidivism policies in states which have the greatest rates of incarceration at over 200 more prisoners per capita than the national average (Louisiana, Mississippi, Georgia, Arkansaw, Alabama, Kentucky)
https://www-emerald-com.wwwproxy1.library.unsw.edu.au/insight/content/doi/10.1108/JCP-11-2019-051/full/pdf	- Highlights that a lot of people have prolonged jail time because of the lengthy wait times associated with pre-trial - processes This in turn has been shown to be a factor which contributes to recidivism - This is furthered by the fact that 47% of people who are detained under financial bond are unable to make bail - Individuals unable to make bond are unlikely to be free of financial stress once released, which is another factor contributing to recidivism -
Why The Substantial Difference Between State and Federal Prison Recidivism? | Crime in America.Net	- Federal Prison inmates are largely incarcerated for Immigration and drug offences. Only a small percentage 7-8% for violent offences - State Prisons largely house violent offenders - Federal prisoners have longer custodial sentences than State prisoners - Age at release is correlated to recidivism rates - State and Federal prison programs are similar

https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0130390&type=printable A Systematic Review of Criminal Recidivism Rates Worldwide: Current Difficulties and Recommendations for Best Practice	- Difficulty making comparisons between countries because of: - Different definitions - recidivism rates calculated based on rearrest, reoffending or reimprisonment. Some countries also include misdemeanours, traffic offences, etc in their recidivism data - This paper concluded that "international comparisons are currently not valid" - 2 year reimprisonment rate - 29% (for 2005-2010). Compared to Australia - 39% between 2009 and 2010 - 2 year reconviction rate - 36% (for 2005-2010)

https://d212y8ha88k086.cloudfront.net/manuscripts/17992/89caa61a-9952-416b-ae3d-243276a89553_14970_-_denis_yukhnenko_v3.pdf?doi=10.12688/wellcomeopenres.14970.3&numberOfBrowsableCollections=9&numberOfBrowsableInstitutionalCollections=0&numberOfBrowsableGateways=14 A systematic review of criminal recidivism rates worldwide: 3-year update	- Australia - Two-year reimprisonment rate in 2014-2015 - 45% (source: Australian Government, 2018) - USA (23 states) - Two-year reimprisonment rate in 2012 - 32% - USA (North Carolina) - Two-year reimprisonment rate in 2013 - 21% - USA (Oregon) - Two-year reimprisonment rate in 2014 - 14%
https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/rpr34s125yfup1217.pdf	Two-year reimprisonment rate in 2012 across 21 US states = 32.1% This statistic was based on a sample which excluded prisoners who were sentenced to less than 1 year
https://www.rand.org/pubs/research_reports/RR3232.html	"A recent initiative designed to tackle these issues is the Department of Health Services' Office of Diversion and Reentry's supportive housing program, which provides housing coupled with case management. This report presents early interim findings about this program. Researchers found six-month and 12-month housing stability rates of 91 percent and 74 percent, respectively. Of the cohort that had been placed in housing more than a year ago, 14 percent had new felony convictions."
https://www.ojp.gov/archives/ojp-blogs/2019/reducing-recidivism-released-offenders-improves-public-safety	"Among the awardees is the Detroit Rescue Mission Ministries, which provides food, housing, addiction treatment, job skills and gainful employment. Hope for Prisoners in Nevada works with local law enforcement mentors to provide long-term support to former inmates during the reintegration process. Programs at the Lower Brule Sioux Tribe in South Dakota will improve access to and delivery of services

	to offenders with co-occurring substance abuse and mental illness who are reentering communities post-incarceration."

https://nij.ojp.gov/topics/articles/reentry-research-nij-providing-robust-evidence-highstakes-decision-making	"The federal government has initiated comprehensive programs to assist jurisdictions in addressing the needs of individuals returning from incarceration. The Serious and Violent Offender Reentry Initiative (SVORI) in 2003 and the Second Chance Act (SCA) in 2008 provided support to state, local, and tribal governments to address common reentry barriers. These large federal initiatives were complemented by smaller programs facilitated by individual agencies that helped address specific reentry issues." "The evaluations found that SVORI programs helped reduce rearrests and lengthened the time to arrest; however, SVORI participation did not reduce reincarceration" https://www.ojp.gov/pdffiles1/nij/grants/238214.pdf "Evaluations of the SCA found that, like SVORI, it did not reduce reincarceration." It increased job placement and employment outcomes, but this did not seem to translate into recidivism reduction gains. https://www.spra.com/wordpress2/wp-content/uploads/2018/06/Evalua tion-of-Seven-Second-Chance-Act-Adult-Demonstration-Programs.pd f
https://nij.ojp.gov/topics/articles/nij-evaluations-second-chance-act	"The Second Chance Reauthorization Act of 2018 (Public Law 115-391) authorizes the provision of federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support and other services to individuals returning to the community from prison or jail. The Second Chance Act aims to reduce recidivism and enhance public safety by increasing reentry programming and improving outcomes for individuals returning to their families and communities."
https://nij.ojp.gov/topics/articles/serious-and-violent-offender-reentry-initiative-basics	"Funded by the U.S. Departments of Justice, Labor, Education, Housing and Urban Development, and Health and Human Services, SVORI provided $100 million in funding to improve the criminal justice, employment, education, health and housing outcomes for people returning to the community after prison."
http://www.antoniocasella.eu/nume/Deady_march2014.pdf	For other countries - recidivism rate does not significantly impact prison population rates - but not for the USA, "most likely because Americans are imprisoned for crimes that may not lead to prison sentences in other countries such as passing bad checks, minor

	drug offenses, and other non-violent crimes. Also, prisoners in the United States are often incarcerated for a lot longer than in other countries." Reform - Louisiana, Pennsylvania and 15 other states are currently taking part in the Justice Reinvestment Initiative, a data-driven program aimed at decreasing spending on corrections by reducing prison populations and increasing public safety, and saving taxpayers billions of dollars in the long run. State and local officials then decide how to reinvest a portion of the savings in programs that can decrease crime and improve public safety such as community-based treatment, probation, and prevention-oriented policing strategies. https://bja.ojp.gov/program/justice-reinvestment-initiative/overview?Program_ID=92

12 Youth and Juvenile Justice

12.1 The Youth Detention

The Australian Institute of Health and Welfare (AIHW) notes that in Australia, young people may be charged with a criminal offence if they are aged 10 or over. Further, involvement in crime tends to be highest in adolescence or early adulthood, and diminishes with age.[408] Thus, being labelled as the youth crime curve, which predicts desistance into adulthood. However, official interventions through detention or child protective services were associated with further involvement with the criminal justice system into adulthood. This can particularly have disastrous effects when the criminal justice system can intervene at ages as young as ten years old.

Consequently, in 2020, the Australian Government and AIHW reported on the Youth detention population.[409] The AIHW reported that in the 2020 June quarter, on an average night there were 798 young people in youth detention across Australia. Of the 798 young people reported to be in youth detention, 80% of detainees were aged 10-17 and the remaining were aged between 18-24. An estimate of 64% of the youth detainees were unsentenced and awaiting the outcome of their court matter or sentencing. The remaining 36% were serving a sentence. Just under half (48%) of all young people in detention were First Nations

---

[408] Age and Crime | Encyclopedia.com.
[409] https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2020/contents/summary

Peoples. The AIHW noted that the number of sentenced youth detainees in the 2020 June quarter is lower than the 2016 June quarter; 0.7 per 10,000 compared with 1.2 per 10,000 young people.[410]

12.2 Social Determinants of Health and Detention

The high level of First Nations youth in the criminal justice system has been attributed by the Department of Health and Ageing (DoHA) to social determinants of health.[411] These social determinants encompass 'economic, physical and social conditions such as ' housing, education, social networks and connections, racism, employment, and law enforcement and the legal and custodial system.'[412]

The absence, presence, and interaction of these social determinants 'influence both health outcomes and risk behaviours, including those that have a link to offending and involvement in the criminal justice system such as substance use and violence'.[413] For First Nations youth, key health factors that contribute to the high occurrence of contact with the criminal justice system are: alcohol and substance abuse, foetal alcohol spectrum disorder, mental health and emotional wellbeing, and hearing loss.[414]

A Federal Parliamentary Standing Committee investigated the link between health and juvenile justice, recognised nationally as well as specifically in NSW, that young people in custody experience multiple health problems, including mental illness and drug and alcohol abuse. Their poorer health and risk-taking behaviours mean that for these young people, there is an increased likelihood of developing chronic diseases.[415]

---

[410] Australian Institute Health and Welfare. Youth Detention in 2020. https://www.aihw.gov.au/getmedia/37646dc9-dc6f-4259-812d-1b2fc5ad4314/aihw-juv-135.pdf.aspx?inline=true.
[411] Department of Health and Ageing, submission 73, p. 3.
[412] Ibid.
[413]

[414] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter4 points 3-4
[415] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter4 points 3

12.3 Intergenerational Transmission of Crime

Children that are socialised by offending parents to detach from pro-social norms and values may be encouraged to engage in crime from an early age. There is a large amount of research regarding the impact of parental offending on a child's antisocial behaviour. In a study conducted in New South Wales, both maternal and paternal offending had large and adverse impacts on their children's developmental periods in early and middle childhood. Frequent offending was found to contribute to issues such as socio-economic disadvantage, mental illness and cognitive vulnerabilities for their children, which are also risk factors for youth engagement in crime. This can create accumulating and indirect risk factors.

12.4 First Nations Youths and Recidivism

In NSW, the high rate of children in remand 'can have a detrimental effect on their future life chances, and a higher number of young people are at high risk of cycling through the system, yet there was a tendency for children eligible for bail to be remanded in custody due to a lack of safe accommodation options[416]. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (Committee) stated that most young people under supervision were older than 16 years, however 14% of First Nationsyouth were under 13. The Committee acknowledged that:

> 'in general, juveniles who have adverse contact with the criminal justice system are more likely to have backgrounds of family dysfunction, negative social norms, drug and alcohol problems, poor health and poor education. However, Indigenous youth face additional misrepresentation issues in court proceedings.[417] '

The Law Council of Australia's submission to the Committee:

---

[416] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter7 point 121-125

[417] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter7 Point 85 - 87

"Aboriginal sentencing courts, youth courts, drug and alcohol courts and other 'therapeutic' or restorative justice mechanisms have been demonstrated to have a greater impact on recidivism, particularly among young people."[418]

The focus on recidivism and rehabilitation at the exit point instead of a 'revolving door' of recidivism that is about the entire justice system, which 'practically guarantees' young detainees service adult prison sentences.[419]

Recommendations from the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs on addressing Youth Recidivism

The Committee called for government locally based and culturally specific support and rehabilitation alongside skill development that linked young people to further education and employment opportunities. Through driving local leadership and community support, the cycle of intergenerational alcohol and substance abuse can be achieved.[420] The Committee, in Recommendation 27, also urged for appropriate options for youth granted bail to avoid unnecessary detention,[480] and the reduction of excessive driving fines that oftentimes result in interaction with the criminal justice system.[421]

Gino Vambuca from NIDAC commented on the need for continuing support services within the criminal justice system that recommended improving health, wellbeing and re-integration of youth. In-custody education and training are considered key to provide opportunities for youth detainees to re-engage in 'continued education and training' once they leave custody[422].

---

[418] Ibid Point 155- 160

[419] Ibid Point 213-217

[420] Ibid points 20-27

[480] Ibid Point 138

[421] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter7 point 153

[422] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter7 231

You have got to try and reduce the number of Indigenous people going in, but there will be a proportion who end up in prison, so you have to have programs that are appropriate for those people who are in prison now and who are going to come through regardless of what programs come into play between now and the next 10 or 20 years.[423]

Furthermore, it called for a family approach and in providing holistic preventative programs to deal with the history of trauma, abuse or mental health issues :

'*It is important that health issues are addressed the entire way through the criminal justice system, from youth at risk or in contact with police, to the courts, those in detention and post-release… this report refers to evidence that reducing recidivism would substantially reduce the number of Indigenous people in incarceration. Moreover, it is important to make sure that, when an Indigenous young person is leaving detention, there is a comprehensive package coordinated across government departments to assist them in moving back to communities[424].*

"Given that detention periods range from six months to one year or more, the government has a responsibility to provide adequate rehabilitative care and guidance during that time, and to prepare the transition back to communities."

While over-policing and the law enforcement agencies' poor cultural training and language barriers limits attempts at redressing First Nations youths in the criminal justice system, these can be indirectly addressed by diversionary program alternatives, adequate funding to enable the legal representation of youths, amendment to bail laws, improvement of court alternative resolutions, and provision of post-release accommodation and support.

---

[423] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter4 point 115-116

[424] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter4 Points 117 - 118

12.5 Example of Possible Support Programs

The NSW Post Release Support Program (PRSP) was favourably noted with comments on both its specific effects and diversion programs in general:

- 'While the statistical results on re-offending were not conclusive, the qualitative interviews among staff and offenders were 'overwhelmingly positive'

- Diversion programs were 'invaluable for enabling youths to gain insight into their behaviour through meeting face-to-face with their victims and admitting their errors to their community'.

- The return of individuals to detention that were in detention as youths demonstrated 'the acute need for effective rehabilitation programs', like the Te Whare Wakaahuru residential diversionary programs in New Zealand and Baund-a near the Clarence River in NSW .[425]

12.5.1 Child Protection Services

Children traversing child protection and youth justice systems are alternately referred to as "crossover", "dual order", "dual-jurisdiction", or "dually-involved" (Herz, Ryan, & Bilchik, 2010). Across Australia, children receiving statutory child protection services are at least twelve times more likely to offend and come under youth justice supervision (AIHW, 2018). Often described as a "care to custody pipeline", this over-representation peaks in youth detention centres, where at least one half of children are known to child protection (AIHW, 2018). These trends are mirrored internationally, including in the United States (Jonson-Reid & Barth, 2000; Ryan & Testa, 2005), the United Kingdom (Shaw, 2014; Taylor, 2006), Canada (Turpel-Lafond, 2009), and New Zealand (Centre for Social Research and Evaluation, 2010). The passage from child protection to youth justice services is a most concerning trajectory. Youth justice involvement—particularly that due to serious and violent crime—is associated with considerably detrimental outcomes, including early mortality and high likelihood of adult justice involvement (Lynch, Buckman, & Krenske, 2003; Tarolla, Wagner, Rabinowitz, & Tubman, 2002).

12.5.2 Peer Mentoring

Peer mentoring programs for youth in the criminal justice system have not been utilised as a primary prevention method. It may address risk factors associated with negative outcomes such as low achievement

---

[425] https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report/chapter7

in school, anti-social peers and lack of neighbourhood attachment. It may also seek to increase protective factors such as skills development, pro-social attitudes and social bonds that are fundamental to reducing recidivism. Some positive short-term outcomes have been identified, including reductions in offending behaviour, completion of juvenile justice orders, reductions in substance misuse, and increased participation in education, training and employment. This may be particularly important for First Nationsyouth, in regaining strong connections with First Nations Peoples communities and culture.[426]

An example of a mentoring program for Youth Juveniles is The Youth Justice Mentoring Scheme (YJMS) which began as an initiative in 2011 out of the work of the Sydney University Law Society's Indigenous Social Justice Subcommittee. SULS began by sending volunteers one day a week to Juniperina Juvenile

Points 219-230

Justice Centre in Lidcombe to run recreational activities with the all-female residents at the centre. The service intends to provide opportunities for young people in custody to redefine and develop their own positive and unique identities separate from the label of a juvenile prisoner. [427]

12.5.3 Youth Justice Conferencing

Only in the last couple of decades has Australia experimented with Youth Justice Conferencing to reduce youth reoffending. The typical participants are the convenor, a police officer (either the arresting officer or a representative), the offender (who, as a condition of attending, must admit to the offence), the victim(s), and supporters for the offender(s) and victim(s). The offender's supporters are typically parents, while victim supporters may be parents or partners. The process usually goes through an introduction, storytelling and agreement negotiation phase, which can include an apology and reparations. These processes usually utilise the emotions of the offender to encourage them to take accountability for their actions and show remorse. Allowing "for the resumption of normal social relations"[428] can have a large impact on a young

[426] 2006. *Mentoring and crime prevention: what is good practice?*. AICrime reduction matters no. 43. Canberra: Australian Institute of Criminology. https://www.aic.gov.au/publications/crm/crm43
[427] Sydney University Law Society. '*Youth Justice Mentoring Scheme*'
[428] Hennessey Hayes (2006) Apologies and Accounts in Youth Justice Conferencing: Reinterpreting Research Outcomes , Contemporary Justice Review, 9:4, 369-385

person and their decision to reoffend in the future. The Jesuit Social Services (JSS) is an organisation that runs in Victoria, New South Wales and the Northern Territory. The organisation advocates for policy changes in a number of areas including justice and

crime.[429]

13 First Nations Peoples Recidivism

13.1 Perspective of First Nations Peoples must be Elevated

The findings from a study conducted found that there is an awareness amongst remote First Nations communities of the complex issues associated with crime in their community along with what is required to be done about them. In order to understand and address First Nations Peoples crime and over-representation in the criminal justice system, the perspective of these communities must be elevated and communities empowered to identify and implement ecologically and culturally informed solutions that will work for them. Sociological theories of crime offer a more inclusive approach to understanding First Nations Peoples crime due to their central premise that society influences people to become criminals.

For instance, the *Royal Commission into Aboriginal Deaths in Custody (1991)* affirms that over-representation can be accounted for by underlying issues experienced by First Nations Peoples. This is a position resonant with criminological strain and stress theories, which suggest that criminality arises as a function of social deprivation and social disorganisation.[430]

Other sociological theories of crime that have been used to account for over-representation have included:

---

[429] Jesuit Social Services, *History* (Web Page 19 November 2021) <https://jss.org.au/about-us/history/> ,
[430] Crime and Indigenous People

- Labelling/social reaction theory (which views crime as an outcome of cultural and racial stereotypes);
- Social control theory (which views crime as an outcome of weakened societal bonds); and
- Conflict theory (which views crime as a function of societal conflict.[431]

To reduce high levels of recidivism in First Nations communities, they should take ownership of community-based programmes, as "all justice reinvestment initiatives depend on the commitment, participation and support of the communities in which they are implemented"(p.11). If justice reinvestment is to be successful, a First Nations Peoples research paradigm must be implemented, which seeks to systematically empower communities in developing a locally informed knowledge base about the causes of crime and potential solutions.

13.2 Neighbourhood and Environmental Design

The prevention of crime has been narrowly focused upon neighbourhood and environmental design initiatives such as the '*Crime Prevention Through Environmental Design.*' This is often delivered through local governments,[432] without addressing fundamental issues, for example, those related to the effects of colonisation and First Nations Peoples disadvantage. Additionally, since the mid-1980s policies became more punitive and imprisonment rates started to increase in Australia.[433]

14 Women in the Justice System

Women are the fastest growing group in the Australian prison system.[434] Research has shown that while women and men share risk factors in relation to reoffending, a range of other distinct factors have been

---

[431] Ibid

[432] Clancey, Garner, "A Partial History of Localised Crime Prevention in New South Wales, Australia" (2016) 28(2) Current Issues in Criminal Justice 191

[433] https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf (Tubex et al., 2016).

[434] Chris Trotter and Catherine Flynn, *Literature Review: Best Practice with Women Offenders*, Monash University Criminal Justice Research Consortium (2021) 11. [495] Ibid.

identified which highlight women's differing pathways to crime. The primary factors distinct to women are high levels of victimisation and subsequent trauma, higher levels of mental illness, and higher levels of substance abuse[495]. These need to be considered in order to effectively reduce recidivism among women and stop the current trend of a rapidly increasing female prison population.

The National Prisoner Health Data Collection (NPHDC) survey reported on Australian Women Prisoner's health and welfare (excluding NSW) in most jurisdictions. Findings highlight that women entering prison often come from disadvantaged backgrounds, with a history of substance use and mental health issues; some are pregnant or giving birth or live with their child in custody, and likely may not have support nor accommodation and employment on discharge.

Furthermore, 30% of women reported a disability/limitation (10% to a profound/severe level) in relation to employment/education/activities; 36% had a head injury (involving loss of Consciousness) and 15% reported symptoms from a previous head injury; 27% were at high risk of alcohol related harm; 61% used methamphetamine in the last year, and 16% reported using analgesics and 13% using tranquillisers; and 18% had a history of opioid substitution therapy.

A further, 48% reported fair/poor mental health on entry, and 40% were taking mental health-related medication; only 15% had been employed or studying; and while 57% had their own accommodation or rental agreement, 7% were sleeping rough or in non-conventional housing; 54% had at least one dependent child; in 2017, 114 women prisoners were pregnant when imprisoned, and 25% gave birth in custody; 36% were diagnosed with a chronic condition; 30/37 women reported mental health status as fair/very good, of which 3 said was worse on discharge, and 10 said was 'lot better', with 26/37 reporting low/moderate psychological distress on release, commonly due to social transition concerns; 72% had history of youth detention or adult prison, with 46% of adults in 2016-2017 returned to prison with a new sentence within 2 years.

Consequently, 17% were more likely to have a parent or carer in prison, and children were more likely to be involved in criminal justice system if their parents had been involved, and it is recognised that parental

imprisonment can be criminogenic, resulting in an intergenerational cycle of disadvantage, a known factor that contributes to increased criminal involvement within affected family members.[435].

It is evident that female offenders have specific needs that are often different to men, particularly in relation to family and relationship issues such as parenting, mental health, housing and drug use.[436]Services and programs targeting women should be holistic with a focus on the multiple issues female offenders face as these are often interconnected.[437] For example, the issue of housing for a woman may also be linked to an abusive partner, substance abuse or employment and therefore need to be addressed through an integrated approach. Family-focused interventions may be particularly effective for women, in particular programs that focus on relationships with non-criminal family members and children.[438]

14.1 Reducing Recidivism for Women Victims of Abuse

Consequently, the rising rate of imprisonment for women victims of abuse, illustrates that there is a stronger need to keep women from returning to prison and from initially being imprisoned in the first place. Undoubtedly, prison is inherently criminogenic, this means the best way to reduce recidivism is to employ strategies that can avoid the harm of imprisonment and reduce the rate of women returning to prison. Although there are some transition support services offered to women post-release; these services have been seen as inadequate as they do not meet the complex and interrelated needs of women and their children. Thus, the best way to reduce recidivism for women who have been victims of abuse is to use alternatives to imprisonment, which have been proven as more effective in reducing crime.

For example, a study in Britain measuring the cost and long term benefits of diversionary programs for women, found that every one euro invested in diversionary programs generated fourteen euros of social value for women, their children, victims and the community over a 10 year period. Furthermore it was

---

[435] The health and welfare of women in Australia's Prisons, November 2020
https://www.aihw.gov.au/getmedia/32d3a8dc-eb84-4a3b-90dc-79a1aba0efc6/aihw-phe-281.pdf.aspx?inline=true
[436] Chris Trotter and Catherine Flynn, *Literature Review: Best Practice with Women Offenders*, Monash University Criminal Justice Research Consortium (2021) 3.
[437] Ibid 4.
[438] Ibid 5.

found that: "*the adverse consequences for children of their mother's imprisonment carried a cost of more than seventeen million euros over a 10 year period.*"[439]

This study exemplifies the importance of diversionary programs; similarly, drawing on an Australian example, the Sisters Inside Special Circumstance Court Program assisted women to access housing, substance abuse and mental health services in lieu of imprisonment, achieved a 96% success rate in diverting women from prison. Further, 239 of the 240 women involved (30% of whom were First Nations women) did not reoffend, or had a reduced rate of offending, over the 3 year life of the project. This Program saved at least $250,000 in imprisonment costs alone.

14.2 First Nations Women

There is a consistent pattern indicating that incarcerated First Nations women have been victims of assault and sexual assault at some time in their lives.[440] There is also a strong relationship between incarceration and experiences of violence, drug and alcohol abuse, with First Nations women often entering custody with poor physical or mental health, and at higher risk of self harming when in prison and also soon after release from prison. As a consequence, the rate of First Nations women being imprisoned has increased most rapidly in Australia since 2000 [441] and "*Aboriginal and Torres Strait Islander women were 21.2 times more likely to be in prison than non-Indigenous women*". [442] Therefore, First Nations women experience extremely high rates of recidivism.

As part of a holistic strategy to respond to the circumstances of First Nations women,n consultations to identify solutions to address this situation, First Nations women emphasised not only addressing offending behaviours but also focusing on the importance of healing to address grief and trauma as a major priority. Strategies need to respond to the circumstances of First Nations women holistically, which seeks to not only address offending behaviours but also focus on healing the distress and grief experienced by many

---

[439] https://www.unodc.org/pdf/research/Cr_and_Vio_Car_E.pdf

[440] Social determinants and the health of Indigenous peoples in Australia – a human rights based approach. Workshop paper presented by Mr Darren Dick on behalf of Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner International Symposium on the Social Determinants of Indigenous Health, Adelaide, 29-30 April 2007

[441] Social determinants and the health of Indigenous peoples in Australia – a human rights based approach | Australian Human Rights Commission

[442] Disproportionate incarceration rate | ALRC

First Nations women and their communities. Sacred Site is a program that attempts to assist First Nations Peoples to understand their grief and loss in a holistic sense which includes the effects of colonisation. The program also aims to assist people working with First Nations people to understand issues of grief and loss.[443]

Aboriginal and First Nations people must overcome extraordinary hurdles in this country, but poor socio-economic support has held back countless generations of Aboriginal men and women. Aboriginal people are experiencing multiple intersecting factors of socio-economic disadvantage, one of the most destructive factors being institutionalised racism within the health system. A study conducted by the Deeble Institute found that Aboriginal peoples were over-represented in rates of discharge against medical advice (DAMA), which carries serious long-term implications for Aboriginal and Torres Strait Inlander's health and wellbeing.[505] These unsubstantiated discharges contribute to the higher rates of chronic diseases within Aboriginal communities and compound the distrust Indigenous people have towards the health system. This is a direct pathway to substance misuse and self-medication, which is a driving factor for the skewed Aborignal and Torres Strait Islander incarceration and recidivism rates.

The Australian Government and State Corrective Services have legislatively failed the Aboriginal and Torres Strait Islander people. Material change has been stagnant, and potential solutions have been undercapitalised. The first change that should be implemented is a more conducive assessment process where prisoners undergo a financial means test and an inspection on their living conditions and family/relationship dynamics. In conjunction with concentrated post-release services that provide financial stability, recidivism rates will undoubtedly decrease. This is especially important for Aboriginal and Torres Strait Islander women, where domestic abuse is more prevalent, contributing to the higher incarceration and recidivism rates and the continuation of abuse and trauma.

---

[443] https://humanrights.gov.au/about/news/speeches/social-determinants-and-health-indigenous-peoples-australia-human-rights [505] https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/ILB//2017/22.html