



# ***COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE***

## **‘MAKING OUR PRISONS WORK’**

### **AN INQUIRY INTO THE EFFICIENCY AND EFFECTIVENESS OF PRISONER EDUCATION, TRAINING AND EMPLOYMENT STRATEGIES**

#### **Report No. 6 in the 38<sup>th</sup> Parliament**

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## **‘MAKING OUR PRISONS WORK’ AN INQUIRY INTO THE EFFICIENCY AND EFFECTIVENESS OF PRISONER EDUCATION, TRAINING AND EMPLOYMENT STRATEGIES**

### **Report No. 6**

Presented by:  
**Mr A.P. O’Gorman, MLA**  
Laid on the Table of the Legislative Assembly  
on 25 November 2010



## COMMITTEE MEMBERS

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<b>Principal Research Officer</b>	Dr Brian Gordon,
<b>Research Officer</b>	Ms Jovita Hogan, BA (Hons)

## COMMITTEE ADDRESS

Community Development and Justice Standing Committee  
Legislative Assembly  
Parliament House  
Harvest Terrace  
PERTH WA 6000

Tel: (08) 9222 7494  
Fax: (08) 9222 7804  
Email: [lacdjsc@parliament.wa.gov.au](mailto:lacdjsc@parliament.wa.gov.au)  
Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



# TABLE OF CONTENTS

COMMITTEE MEMBERS .....	i
COMMITTEE STAFF.....	i
COMMITTEE ADDRESS .....	i
COMMITTEE’S FUNCTIONS AND POWERS .....	v
INQUIRY TERMS OF REFERENCE .....	vii
CHAIR’S FOREWORD.....	ix
ABBREVIATIONS AND ACRONYMS .....	xiii
GLOSSARY .....	xv
EXECUTIVE SUMMARY .....	xvii
FINDINGS.....	xxi
RECOMMENDATIONS.....	xxix
MINISTERIAL RESPONSE.....	xxxvii
<b>CHAPTER 1 THE DOLLARS AND SENSE OF IMPRISONMENT AND REHABILITATION .....</b>	<b>1</b>
1.1 THE COST OF OFFENDING TO THE COMMUNITY AND THE TAXPAYER .....	4
1.2 COST : BENEFIT OF CURRENT INTERVENTION STRATEGIES.....	6
<b>CHAPTER 2 THE NEED FOR BETTER INTEGRATION OF INFORMATION TECHNOLOGY/INFORMATION SYSTEMS.....</b>	<b>9</b>
2.1 DEPARTMENT OF CORRECTIVE SERVICES IT/IS .....	9
(a) Lack of systems integration.....	9
(b) Analytical capacity.....	11
2.2 INTEGRATED OFFENDER MANAGEMENT.....	12
<b>CHAPTER 3 VOCATIONAL EDUCATION REHABILITATION STRATEGIES .....</b>	<b>15</b>
3.1 THE SAVINGS TO THE COMMUNITY OF EFFECTIVE EMPLOYMENT AND VET .....	15
3.2 THE EDUCATION AND VOCATIONAL TRAINING UNIT.....	16
(a) Literacy and numeracy.....	17
(b) Apprenticeships.....	19
(c) Participation rates.....	21
3.3 THE CHALLENGES OF IMPLEMENTING A SUCCESSFUL VET STRATEGY .....	22
(a) The impact of overcrowding on VET facilities.....	23
(b) Resourcing .....	24
(c) Structural and psychological barriers to undertaking VET courses .....	25
(d) The impact of penal policy on VET .....	26
3.4 WORKING COLLABORATIVELY TO ACHIEVE INTEGRATION.....	28
(a) Working collaboratively externally.....	29
(b) Working collaboratively internally - integrating VET in WA prisons .....	30
<b>CHAPTER 4 RE-ENTRY .....</b>	<b>33</b>
4.1 RE-ENTRY .....	33
4.2 PRE AND POST RELEASE SUPPORT IN WESTERN AUSTRALIA .....	40
(a) Pre-release.....	40
(b) Post-release .....	44
4.3 RE-ENTRY STRATEGIES IN OTHER JURISDICTIONS .....	48
<b>CHAPTER 5 WOMEN IN A MALE CULTURE.....</b>	<b>57</b>
5.1 DIRECTOR OF WOMEN’S PRISONS.....	57
5.2 WOMEN IN PRISON .....	60
(a) Female prison numbers .....	60
(b) The social impact of the imprisonment of women .....	60
(c) Female work camps.....	62
<b>CHAPTER 6 THE GAPS IN POST RELEASE OUTCOMES BETWEEN ABORIGINAL AND NON ABORIGINAL OFFENDERS.....</b>	<b>65</b>
6.1 THE WESTERN AUSTRALIAN ABORIGINAL POPULATION.....	65
6.2 RATES OF ABORIGINAL IMPRISONMENT .....	66

6.3	THE ESTIMATED COST OF ABORIGINAL OVER REPRESENTATION .....	70
	(a) Cost of adult Aboriginal over representation .....	70
	(b) The cost of dealing with young Aboriginal offenders.....	71
6.4	ABORIGINAL RECIDIVISM RATES .....	72
	(a) Contributory factors to Aboriginal recidivism.....	73
<b>CHAPTER 7</b>	<b>RESPONDING TO ABORIGINAL RECIDIVISM.....</b>	<b>83</b>
7.1	THE GAP IN DCS POLICY AND ITS IMPLEMENTATION .....	83
7.2	THE IMPACT OF CORPORATE CULTURE .....	83
7.3	RESPONDING TO ABORIGINAL CULTURE .....	85
	(a) Family groupings .....	86
	(b) Involvement of elders.....	87
	(c) Aboriginal Visitors Scheme .....	89
7.4	CULTURALLY BASED PROGRAMS.....	90
	(a) Issues of accessibility.....	91
	(b) Access to programs regionally.....	92
7.5	THE WEST KIMBERLEY (DERBY) FACILITY .....	94
	(a) Linkage with Kimberley agencies.....	95
<b>CHAPTER 8</b>	<b>JUSTICE REINVESTMENT - A CHANGING DIRECTION .....</b>	<b>99</b>
8.1	THE CASE FOR AN ALTERNATIVE JUSTICE STRATEGY .....	99
	(a) The effectiveness of prison as a deterrent for repeat offenders.....	100
	(b) Recognising the need for prevention.....	101
8.2	JUSTICE REINVESTMENT .....	103
	(a) What is Justice Reinvestment?.....	103
	(b) How Justice Reinvestment works .....	105
8.3	JUSTICE REINVESTMENT - GOING FORWARD .....	108
<b>APPENDIX ONE</b>	<b>.....</b>	<b>115</b>
	SUBMISSIONS RECEIVED .....	115
<b>APPENDIX TWO</b>	<b>.....</b>	<b>117</b>
	HEARINGS .....	117
<b>APPENDIX THREE</b>	<b>.....</b>	<b>121</b>
	BRIEFINGS HELD .....	121
<b>APPENDIX FOUR</b>	<b>.....</b>	<b>123</b>
	DCS RE-ENTRY LINK PROGRAM.....	123



## **COMMITTEE'S FUNCTIONS AND POWERS**

The functions of the Committee are to review and report to the Assembly on: -

- (a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
- (b) annual reports of government departments laid on the Table of the House;
- (c) the adequacy of legislation and regulations within its jurisdiction; and
- (d) any matters referred to it by the Assembly including a bill, motion, petition, vote or expenditure, other financial matter, report or paper.

At the commencement of each Parliament and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. Annual reports of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and Joint Committee of the Assembly and Council. The Speaker will announce them to the Assembly at the next opportunity and arrange for them to be placed on the notice boards of the Assembly.



# INQUIRY TERMS OF REFERENCE

## **‘Making our prisons work’:**

An Inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies.

### **Inquiry Terms of Reference:**

That the Committee will examine and report by 25 November 2010 on:

- i) opportunities for work and the development of a workplace culture within WA prisons;
- ii) current rehabilitative programs and strategies in Western Australian prisons;
- iii) the impact of prison education and training programs on post-release outcomes and the data collection capacity within government to evaluate the effectiveness of existing programs;
- iv) the gaps in post release outcomes between Aboriginal and non-Aboriginal offenders;
- v) the legislative and community incentives and impediments to prisoner employment, education and training;
- vi) the integration of behaviour management, education and training strategies with real work opportunities;
- vii) the success of alternative strategies, nationally and internationally in reducing recidivism; and
- viii) any major issue that emerges that the Committee considers should be included in the Inquiry.



## CHAIR'S FOREWORD

This Report is the second and final Report of the Inquiry 'Making our Prisons Work'. The first Report focussed on prison employment and industries. This Report considers vocational education, post release support and, significantly, innovative strategies to better address the issue of Aboriginal recidivism.

As noted in the interim Report, the Committee has been struck by the high level of commitment in Department of Corrective Services (DCS) staff at all levels and would like to express its warm thanks to the Commissioner, the prison staff and the prisoners who contributed to the compilation of the two Reports through their willing engagement with the Inquiry.

The Committee was also impressed by the localised leadership shown in many of the facilities visited. The superintendents, particularly those at Boronia, Roebourne and Broome, impressed as being intelligent, compassionate, and energetic people who maintained a strong focus on the rehabilitation of the prisoners in their care.

However, while this report found that there are significant successes achieved by DCS, most notably in the area of vocational education and training, there are a number of critical deficiencies. These include:

- the failure to fully implement an Integrated Offender Management System despite several attempts. This is attributed to the lack of an integrated IT system and staff culture. However this failure means that there is a significant shortfall in the ability of DCS to provide adequate case management of prisoners;
- the termination of the role of 'Director of Women's Prisons'; this has had a negative impact on staffing, female prisoners, prison design and the adequacy of support; all of which are factors in the successful rehabilitation of female prisoners;
- the failure to adequately translate policy into practice when delivering Aboriginal rehabilitation programs and services.

In looking at the statistics, the Committee was surprised to learn that

- Aboriginal male adult recidivism is 70%
- Aboriginal female adult recidivism is 55%
- Aboriginal male juvenile recidivism is 80%
- Aboriginal female juvenile recidivism is 64%<sup>1</sup>

It was equally surprised to learn that the imprisonment rate of adult Aboriginals in Western Australia is 2,483 per 100,000. This compares with an average imprisonment rate of 175 per 100,000 for the population as a whole. The Aboriginal imprisonment rate is greater by a factor of 14 times.

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<sup>1</sup> The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services for Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009.

The cost of maintaining our correctional services represents an impost on every man woman and child in this state of \$229 per annum. Each prisoner costs approximately \$100,000 p.a. to keep in jail. The cost of recidivism to our community therefore is a large financial burden to both this state and to its people at a time when there is a need for budgetary constraint. Therefore, a reduction in the recidivism rate represents significant savings to the state.

Although Aboriginal recidivism rates are extraordinarily high, the problem of both Aboriginal imprisonment and recidivism is not considered to be primarily related to anything that DCS is doing or failing to do, but rather is attributable to a range of social, health and education factors in their communities, notably:

- high levels of alcohol and substance abuse and the lack of services;
- the lack of employment, with an unemployment rate 3 times higher than that of their non Aboriginal counterparts leading to a median household income that is half that of the rest of the community;
- very low levels of functional literacy; and
- child abuse and neglect nearly four times higher than in other communities.

For these reasons the justice system can only have limited impact on Aboriginal recidivism rates. What is acknowledged by many in the judiciary and other arms of the justice system is that the issue requires ‘a holistic approach drawing on the strengths of these communities at the same time as well as addressing the problems in health, education, and welfare.’<sup>2</sup>

This Report accordingly makes a strong recommendation that an alternative pilot strategy be adopted in a community where there is a high concentration of offenders. This strategy is generally known as Justice Reinvestment. Justice Reinvestment is a data-driven approach which seeks to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen communities. Part of the strategy is its focus on reducing re-offending by ex prisoners.

Justice Reinvestment is not just about tinkering around the edges of the justice system – it is about trying to prevent people from getting there in the first place; although it retains detention as a measure of last resort for dangerous and serious offenders.<sup>3</sup>

Because the success of Justice Reinvestment depends on the effectiveness of interagency collaboration this Report makes several recommendations in this respect.

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<sup>2</sup> Senate of the Parliament of Australia, ‘Senate Select Committee on Regional and Remote Indigenous Communities’, 2009. Available at: [http://www.aph.gov.au/Senate/committee/indig\\_ctte/reports/2009/report3/c04.htm](http://www.aph.gov.au/Senate/committee/indig_ctte/reports/2009/report3/c04.htm). Accessed on 4 August 2010.

<sup>3</sup> Senate of the Parliament of Australia, ‘Access to Justice, Chapter six’ Available [http://www.aph.gov.au/senate/committee/legcon\\_ctte/access\\_to\\_justice/report/index.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/access_to_justice/report/index.htm) Accessed 9 November 2010

I would like to thank my fellow Committee members Albert Jacob MLA, Hon Tom Stephens MLA, Margaret Quirk MLA, Ian Britza MLA, for their individual and collective contributions over the course of the Inquiry. Their insight and genuine interest in this difficult area enhanced the work of the Committee. I would also like to acknowledge the work of Hon Alannah MacTiernan who was the previous Chair of this Committee until her resignation from the Legislative Assembly on the 20 July 2010.

I would also like to thank very much Dr Brian Gordon our Principal Research Officer and Jovita Hogan who worked hard in the compiling of this Report, in organising our visits to the prisons and in sourcing the research evidence. Your enthusiasm for this Inquiry is much appreciated.

TONY O’GORMAN, MLA  
CHAIR





## **ABBREVIATIONS AND ACRONYMS**

AVS	Aboriginal Visitors Scheme
DCS	Department of Corrective Services
DTWD	Department of Training and Workforce Development
EVTU	Education and Vocational Training Unit
LLN	Language Literacy Numeracy
NSW	New South Wales
NSWDCS	New South Wales Department of Corrective Services
NT	Northern Territory
OIMS	Offender Integrated Management System
PAB	Public Affairs Branch
PEP	Prisoner Employment Program
POTC	Prison Officer Transfer Committee
QDCS	Queensland Department of Corrective Services
RTO	Registered Training Organisation
SCORE	Singapore Corporation of Rehabilitative Enterprises
SPS	Singapore Prison Service
TOMS	Total Offender Management System
VET	Vocational Education and Training
WA	Western Australia



## GLOSSARY

- Criminogenic:** Producing or tending to produce crime or criminality<sup>4</sup> e.g. alcohol.
- Aboriginal status:** A person identifying themselves as either an Aboriginal or Torres Strait person if they are accepted as such by an Aboriginal or Torres Strait Islander community.
- Offender:** An adult person subject to a current community based corrections service order (including bail supervision by Corrective Services).
- Prison:** A legally proclaimed prison or remand centre which holds adult prisoners, excluding police prisons or juvenile detention facilities.
- Prisoner:** A person with a court issued authority held in full time custody under the jurisdiction of an adult corrective service agency.
- Recidivism:** For the purposes of this Inquiry, recidivism is defined as re-incarceration within two years of release and does not include convictions involving other penal sanctions.
- Registered training organisation:** Providers and assessors of nationally recognised training. Only RTOs can issue nationally recognised qualifications.
- Substantive equality:** Treating people differently in order to cater for their needs to achieve equal outcomes.<sup>5</sup> Substantive equality takes into account:
- the effects of past discrimination and the differences in needs between groups and individuals to minimise unfair outcomes;
  - recognises that rights, entitlements, opportunities and access are not equally distributed throughout society; and
  - recognises that equal or the same application of rules to unequal groups can have unequal results.
- Throughcare:** The delivery of services in an integrated and seamless manner throughout a prisoner's sentence and on release to the community.
- Total Offender Management System:** An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to offenders in custody, to facilitate their effective management.

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<sup>4</sup> The American Heritage® Dictionary of the English Language, Fourth Edition Houghton Mifflin Company.

<sup>5</sup> Department of Corrective Services, Substantive Equality Policy, Western Australia, 2008, p1.



## EXECUTIVE SUMMARY

This Report is the second and final Report of the Inquiry 'Making our Prisons Work'. The first Report focussed on prison employment and industries. This Report considers vocational education, reintegration strategies, post release support and Aboriginal recidivism.

The Western Australian Department of Corrective Services (DCS) provides for the safe and secure containment of prisoners through the continued upgrading of its infrastructure and the use of technology. It continues to do so in the face a sharp increase in the prison muster in recent years. In parallel to protecting the community, DCS also seeks to provide meaningful rehabilitation for all offenders. However, the large numbers of people in prison and serving community sentences place a significant burden on the prison, probation services and the taxpayer.

This makes the issue of effective rehabilitation strategies a key issue.

DCS is a large government agency that has fewer third party stakeholder agencies interacting with it, in its daily operations, than many other agencies in government. While the Committee invited such external stakeholders as the Office of the Inspector of Custodial Services, and Outcare Inc. to testify, the Committee has been reliant on DCS's own testimony to a greater degree than is usually the case in such Inquiries.

Where the Committee secured third party testimony that testimony not infrequently highlighted significant differences between the policy position taken by DCS and the practice on the ground in the areas affecting women and Aboriginals in custody. This is consequential, given that the recidivism rate for the Aboriginal prison population is markedly higher than that of the non Aboriginal prisoner population. The Aboriginal recidivism rates are:

- Aboriginal male adult recidivism is 70%
- Aboriginal female adult recidivism is 55%
- Aboriginal male juvenile recidivism is 80%
- Aboriginal female juvenile recidivism is 64%

The prison muster is negatively impacted by this extraordinarily high rate of Aboriginal recidivism making effective rehabilitation strategies that target Aboriginal offenders the most likely to have a significant impact on prison numbers. This is because research shows that when the recidivism rate exceeds 70% [as it does with Aboriginal offenders] the impact on the prison population's size is quite disproportionate.<sup>6</sup>

Consequently, much of this report is reflective of factors that directly or indirectly touch on this issue.

Crime impacts the lives of victims, damages communities and the costs to society as a whole are significant. The cost of maintaining our prisons alone represents an impost on every man, woman

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<sup>6</sup> Briefing, Dr Don Weatherburn, Director NSW Bureau of Crime Statistics and Research (BOCSAR), 25 August 2010.

and child in the state of Western Australia of \$229 p.a. Effective rehabilitation strategies would substantially reduce this impost on tax payers. However the Committee found that there are a number of structural, systemic and community issues that impact on the effectiveness of rehabilitation strategies, including, amongst others:

- the significant increase in the prison muster in recent years that has restricted the accessibility of many rehabilitation initiatives;
- funding for Vocational Education and Training (VET) has not been maintained at the same per capita level as in the years prior to the rapid expansion of prison numbers, when costed in real terms;
- the success that DCS achieves is hampered by the low levels of prisoner literacy and numeracy which is combined with a lack of basic life skills; and
- the root cause of much of the Aboriginal juvenile crime rates and the high rates of adult Aboriginal recidivism lie in the entrenched social disadvantage resident in their communities.

With these issues in mind, the Committee has made a number of recommendations in this Report that it believes will enhance the effectiveness of rehabilitative strategies and the delivery of justice in Western Australia. In doing so the Committee is concerned that the extent to which these recommendations can be implemented will be restricted by the major systemic hurdles of silos, divided lines of accountability and responsibility and a lack of broader policy vision in DCS.

**Chapter One:** considers the significant financial as well as social value in implementing sound evidence based rehabilitation strategies designed to reduce the recidivism rate. Effective rehabilitation not only contributes to community safety by breaking the cycle of reoffending, but provides significant financial savings for the Government and taxpayer.

**Chapter Two:** In developing and extending rehabilitation strategies there is an increasing move across the world to adopt evidence based initiatives; that is strategies that are both framed by theory and informed by evaluated practice as being successful. To demonstrate evidence based outcomes in current practice requires good data collection and analysis. This chapter reviews the IT/IS systems in the Department of Corrective Services.

**Chapter Three:** International research has shown that a reduction in recidivism is best achieved through the integration of offender management programs, education, training and support both in prison and on the return of the prisoner to the community. This chapter reviews the work of the award winning Education and Vocational Training Unit in the Department of Corrective Services.

**Chapter Four:** Prisoner re-entry to the community has gained prominence of late as policy makers seek ways to reduce recidivism and increase public safety. The imperatives for, and the challenges of, re-entry are discussed in this chapter. Strategies currently employed in Western Australia are reviewed along with strategies operating in some overseas jurisdictions, notably the United States and Singapore.

**Chapter Five:** Despite a significant number of female employees the Department of Corrective Services is dominated by male employees at the senior management level. As such it is generally agreed by witnesses as having a male dominated culture. In optimising outcomes for both female staff and female prisoners a number of strategies at a policy level have been articulated. However the Committee has found that in practice there are significant shortcomings that impinge directly or indirectly on the efficiency and effectiveness of rehabilitation. The issues that have been identified form the substance of this chapter.

**Chapter Six:** The gross over representation of both Aboriginal adults and juveniles in the criminal justice system is the single biggest issue that confronts the criminal justice system of Western Australia. This chapter reviews some of the causal factors behind the extraordinarily high Aboriginal recidivism rate which contributes to such over representation and which is a major factor in the current high prison muster. It considers this in the context of the financial burden this imposes on Western Australia, together with the difficulties posed to the justice system.

**Chapter Seven:** Over the months of taking testimony, reviewing reports from the Office of The Inspector of Custodial Services, visiting a range of facilities both in the metropolitan and regional areas, and hearing from many members of senior staff from the Department of Corrective Services (DCS), the Committee was struck by a sense of a gap between espoused policy and practice within DCS in some areas, coexisting with a strong and genuine sense of endeavour in others as DCS sought to address the many issues faced in relation to Aboriginal offenders. This chapter examples some of these gaps.

**Chapter Eight:** In considering the many social and health issues facing the Aboriginal communities in Western Australia and the troubling recidivism rates of Aboriginal prisoners, the Committee was struck by the frequency with which it was reminded that the solution to both the offending and the re-offending rate is better found, wholly or in part, outside the prison system. This chapter considers the applicability of an alternative community based justice strategy known as 'Justice Reinvestment' in a Western Australian context, recognising that most offenders come from a small number of disadvantaged communities.





## FINDINGS

Page 5

### **Finding 1**

The cost of the total appropriations for the Department of Corrective Services represents an annual impost on every man, woman and child in the state of Western Australia of \$229.

Page 6

### **Finding 2**

The cost to the justice system of dealing with the 250 young people between the ages of 10 and 17 who had most contact with the justice system over their juvenile years is estimated by the Auditor General to be \$100 million - that is, approximately \$400,000 for each and every child in that group.

Page 8

### **Finding 3**

There are identifiable financial benefits to the Western Australian community flowing from education programs which reduce reoffending. The benefits to the taxpayer have been quantified at \$12,000 per offender through the reduction of the prisoner population.

Page 10

### **Finding 4**

The current information systems in the Department of Corrective Services are deficient and not fit for purpose. It will require a significant amount of human and financial resources to achieve a comprehensive integration of data sets.

Page 12

### **Finding 5**

The Department of Corrective Services' ability to analyse the effectiveness of its rehabilitative initiatives is impaired by its current lack of an integrated data management system. This impairs the organisation's ability to manage offenders adequately, the quality of available information and the subsequent reporting.

Page 14

**Finding 6**

There have been numerous projects to try to implement case management and unit management since the 1990s. To date these initiatives have met with limited success. While DCS is restarting its initiative, supported by ongoing communications, training, and the re-engineering of processes, one of the key barriers to it, anecdotally, is a lack of ownership at unit level. The full implementation is further impeded by the present lack of an integrated information technology and systems.

Page 16

**Finding 7**

Effective integrated employment, education and training strategies can lead to significant reductions in the rate of reoffending and significant marginal costs savings to the state. It has the potential to provide workers in response to current labour shortages.

Page 19

**Finding 8**

Poor literacy is one of the biggest educational issues facing the majority of the prison population. Recognising this, the Education and Vocational Training Unit invests a large proportion of its resources into teaching literacy and numeracy using a diversity of strategies to engage individual prisoners.

Page 20

**Finding 9**

The Education and Vocational Training Unit, offers full apprenticeship qualifications in prisons. The Department of Corrective Services in Western Australia is the first corrective service in Australia to undertake such an initiative. To date this has resulted in one apprentice completing their training. While it is still premature to say that this is a successful program it augers well for the future. However, a prerequisite for all apprenticeships is a level of literacy that many prisoners do not possess.

Page 22

**Finding 10**

The Committee found that the Education and Vocational Training Unit staff in the Department of Corrective Services are highly motivated and innovative in the approach. They have won the National Australian Training Initiative Award as a model of best practice in the vocational education and training sector (including TAFE and private training providers), National and State Vocational Training Excellence awards and received a High Commendation in the WA Premier's Awards.

Page 23

**Finding 11**

With all but one prison's muster currently in excess of its design capacity, access to education, and, in particular, full time education has become increasingly problematic. The result is that there are waiting lists and a reduced opportunity to participate, which negatively impacts post release outcomes.

Page 26

**Finding 12**

There are a number of structural and psychological barriers to prisoner participation in VET, including:

- short sentences may preclude participation;
- prevailing culture in some prison officers;
- the constraints imposed by the structured day and prison routine;
- prison work pays better; and
- waiting lists and the difficulty in accessing some courses.

Page 27

**Finding 13**

In prisons, as in the broader community, internet access and electronic communication have become vital to the pursuit of education and training. The withdrawal of access to personal computers outside of the few located within the education centres located in each facility negatively impacts vocational education and training outcomes.

Page 44

**Finding 14**

The Department of Corrective Services implements a range of pre-release strategies. Many of these are innovative, such as the Employment Expos and the DECCA initiative. However there are structural and resource impediments to the extension of core strategies across the prison system as a whole.

Page 47

**Finding 15**

Strong links have been found between homelessness and offending, with the experience of homelessness contributing to an increased likelihood of being imprisoned. Both DCS and Outcare, in partnership with the Department of Housing, are working to address this issue. However resources are limited and the supported accommodation available is generally short term.

Page 50

**Finding 16**

The Michigan Prisoner Re-entry Initiative (MPRI) provides a strategic approach to reducing recidivism through the integrated, collaborative delivery of programs, services, support and supervision. The transition from prison to community is underpinned by a highly structured case management plan for each prisoner commencing from the time of incarceration to eventual discharge to the community where aftercare is made available. This model has seen a reduction in recidivism of nearly 10% in the two years 2008 and 2009 combined.

Page 52

**Finding 17**

Employment prospects are enhanced when prisoners receive job training to meet the needs of the labour market. Engaging with the private sector in skills training for inmates, and in job placement upon release, plays a key role in successful re-entry.

Page 54

**Finding 18**

Prospects for successful re-entry are enhanced when offenders are encouraged to engage in pro-social behaviours such as restorative justice and community service work. This in turn engenders community acceptance of the offender and provides a more supportive environment.

Page 59

**Finding 19**

The position of 'Director of Women's Prisons' played a key role in raising the needs of women, both staff and prisoners in what is essentially a male domain. It resulted in effective changes to Bandyup, and it provided female representation on Prison Officer Transfer Committee. The role has notionally devolved to prison superintendents who have little time to meet this extended impost on their day. Its abolition is a cause of concern to stakeholders both internal and external.

Page 63

**Finding 20**

Women often come into prison with family responsibilities that require a significant effort to manage. While the Department of Corrective Services espouses a 'women centred' philosophy and has over the past decade sought to modify its management of female prisoners accordingly, there is a real concern that it has not gone far enough.

Page 69

**Finding 21**

The rate of imprisonment of Aboriginals in Western Australia is not only significantly higher than that of Australia as a whole, but it is also higher than that of African Americans in the United States, whose rate of incarceration is similarly disproportionately high.

The imprisonment rate of adult Aboriginals in Western Australia is 2,483 per 100,000. This compares with an average imprisonment rate of 175 per 100,000 for the Australian population as a whole.

Page 71

**Finding 22**

The cost to Western Australia of the current over representation of Aboriginals in the Western Australian justice system is put at \$941.9 million in 2005/06 by the Law Reform Commission of WA in their 'Cost Benefit Analysis.'

Page 72

**Finding 23**

The Auditor General's 2008 Report 'A Cost Benefit Analysis of Proactive Redirection Measures in the Juvenile Justice System' calculated the cost to the justice system of dealing with the 250 young people who had most contact with the justice system over their juvenile years - that is, between the ages of 10 and 17 was \$400,000 per juvenile.

Page 73

**Finding 24**

Compared to the recidivism rates of non Aboriginals, Western Australian Aboriginal recidivism rates are exceptionally high.

- Aboriginal male adult recidivism is 70%
- Aboriginal female adult recidivism is 55%
- Aboriginal male juvenile recidivism is 80%
- Aboriginal female juvenile recidivism is 64%

Page 80

**Finding 25**

The lack of a driver's licence is a significant contributory factor in the incarceration of Aboriginal prisoners. In many communities there are significant structural issues which contribute to these statistics. These include illiteracy, English as a second language and the requirement for supervised hours of driving by an adult who has many years of an unblemished driving record. In many communities there are few if any such adults.

Page 87

**Finding 26**

There are significant numbers of Aboriginal men from remote areas in prisons such as Casuarina and Acacia. Having a generic Aboriginal program does not necessarily recognise the diversity of family and sub cultural backgrounds.

Page 89

**Finding 27**

Both the Department of Corrective Services and external groups acknowledge and affirm the importance of Aboriginal elders or community figures being engaged to provide cultural and spiritual support to Aboriginal prisoners. However they are generally engaged on a volunteer basis.

Page 93

**Finding 28**

There are significant and unacceptable gaps between the espoused policy and the practice in a number of areas relating to the implementation of culturally sensitive Aboriginal strategies. This creates a two tiered prison system. These gaps are reflected in a largely dysfunctional Aboriginal Visitors Scheme, poor access to programs, and an anecdotal lack of cultural sensitivity on the part of some Departmental staff.

Page 95

**Finding 29**

The new West Kimberley prison facility located near Derby will house 120 men and 30 women. To significantly increase the prison muster in this facility would compromise the intended outcomes and cultural ethos.

Considerations based solely on cost have the potential to undermine the integrity of the facility.

Page 96

**Finding 30**

The value of community linkages in any successful post release strategy for offenders is broadly recognised within the Department of Corrective Services yet currently the West Kimberley facility has no identifiable strategy in place.

Page 108

**Finding 31**

The current justice system's response to crime, which has its sole focus on the offending individual, is failing where the individual comes from a highly dysfunctional community. This is evidenced by the high recidivism rates. Justice Reinvestment recognises that most offenders come from a small number of disadvantaged communities and it redirects money into crime prevention and community services in those communities. As such it responds both to the individual and to the causes of crime through a less centralised more localised approach to reduce offending. Such approaches have met with demonstrable success in some jurisdictions.

Page 108

**Finding 32**

The successful implementation of a Justice Reinvestment strategy relies on a multi-faceted approach based on accurate data collection, a commitment of governmental agencies to implement impactful policies, robust evaluation strategies implemented, and strong inter-agency cooperation and accountability of all those involved.

Page 112

**Finding 33**

There is a need to develop and maintain a more sophisticated performance measurement system for Justice Reinvestment, as a collaborative initiative, because of the difficulties experienced in measuring the effectiveness of such initiatives. Such performance measurements need to be aligned with incentives, reporting systems and the budgetary process.

Page 112

**Finding 34**

The collaborative nature of any Justice Reinvestment strategy demands that it has a mandate that is strongly supported at both a senior Ministerial and Executive level.



## RECOMMENDATIONS

Page 12

### **Recommendation 1**

The Minister for Corrective Services directs the Department of Corrective Services to undertake a 'Gap Analysis' to identify steps needing to be taken in moving from the current state of its data management system to what is required to meet the Department's operational and strategic goals. This analysis is to be completed in a timely manner so any needs identified can be budgeted for in the 2011/2012 budget cycle.

Page 14

### **Recommendation 2**

That specific KPIs be introduced into the Commissioner's performance agreement ensuring the effective operation of the offender management system. As this has been identified as requiring a whole of department approach, leadership and cultural change, the KPIs should reflect those aspects and reviewed annually.

Page 19

### **Recommendation 3**

The Committee supports the mandatory assessment of prisoners upon entry and recommends that the Minister for Corrective Services immediately mandate literacy and numeracy programs for all prisoners, regardless of length of sentence, location, and classification, who demonstrate low literacy levels.

Page 19

### **Recommendation 4**

In order to encourage participation in education and training programs, the Committee recommends that participation in these programs attract the same level of gratuity as for prison employment.

Page 22

**Recommendation 5**

That the formula for determining the levels and timing of funding for education and training programs should be calculated on the basis of securing universal access.

Page 28

**Recommendation 6**

The Committee recommends that:

- That the Department of Corrective Services expedites the development of a state wide area network for the education centre's computer system with personal computers reconfigured for prisoners with a suite of educational and information programs; and
- That the ratio of dumb terminals to prisoners be significantly improved.

Page 31

**Recommendation 7**

Recognising the proven effectiveness that an integrated approach to the provision of vocational education and training can have on recidivism rates, the Committee recommends that prison education facilities are increased in line with the increasing prison muster together with an increase in education staff. The Committee strongly recommends to the Treasurer that particular recognition be given to the resourcing needs of the Education and Vocational Training Unit in the Department of Corrective Services.

Page 31

**Recommendation 8**

The Committee recommends that consideration should be given to changing the prison regime to support prisoners working a conventional 8 hour working day, in education, vocational training or work programmes. This would foster a work ethic and encourage prisoners to obtain qualifications and marketable skills. It would also facilitate the better use of existing facilities.

Page 48

**Recommendation 9**

Recognising the strong links between homelessness and offending, the Committee recommends that an offer of supported transition accommodation for former prisoners be mandated for a six month period post release.

Page 52

**Recommendation 10**

That the Department of Corrective Services review all prison training programs to ensure they reflect contemporary industrial practice both in technology and work practices, and articulate with the demands of the contemporary labour market. It is strongly recommended that the measures taken be reported in the agency's Annual Report.

Page 55

**Recommendation 11**

The Committee recommends that the Minister for Corrective Services identify the formal measures that the Department of Corrective Services is taking in relation to restorative justice and community service initiatives. In addition, it is recommended that these initiatives become embedded in the operations of the Department and are reflected in the key performance indicators of the Commissioner.

Page 59

**Recommendation 12**

The Committee strongly recommends that the position of Director Women's Services be reinstated to provide a women specific approach and provide a female perspective to planning and human resources.

In the absence of the reinstatement of the position of a Director of Women's Services, the Commissioner be charged with formulating and implementing an approach focussed on the specific needs of women.

Page 59

**Recommendation 13**

The Committee recommends that:

- the Minister for Corrective Services identifies and improves the formal measures the Department of Corrective Services is currently taking to respond to the specific needs of women; and
- the responses to the specific needs of women be embedded in the operations of the department and reflected in the key performance indicators of the Commissioner.

Page 63

**Recommendation 14**

The Committee recommends that the Office of the Inspector of Custodial Services undertake a thematic audit into the implementation of the Department of Corrective Services' philosophy for the management of women prisoners, and whether the very distinctive needs of women as a group and, more particularly, Aboriginal female prisoners, are being adequately met.

Page 63

**Recommendation 15**

The Committee recommends the establishment of a female work camp in regional Western Australia to improve the range of services for women in regional prisons.

Page 80

**Recommendation 16**

The Committee recommends that the Minister for Police, the Attorney General and the Minister for Transport implement the recommendations made in the 'Wyatt Report' titled *Indigenous Licensing and Fine Default: A Clean Slate*, in particular with a view to address access and participation issues for Indigenous Western Australians in the licensing system.

The Government response to this report include a time frame for implementing the recommendations of the Wyatt report.

Page 87

**Recommendation 17**

The Committee recommends that the Department of Corrective Services positively considers ways to take into account any Aboriginal preference for 'group' as opposed to 'individual' within the framework of management strategies.

Page 89

**Recommendation 18**

The Committee recommends that the Department of Corrective Services (DCS) extends its engagement of Aboriginal elders and community leaders in the provision of cultural and spiritual support for Aboriginal prisoners through a formalised visiting program. It also recommends that DCS remunerates them for their time as is the practice in some overseas jurisdictions and the Northern Territory.

Page 93

**Recommendation 19**

That the Department of Corrective Services aggressively extends the development of cultural competence in its personnel, throughout its operations to facilitate the implementation of culturally relevant initiatives.

Page 94

**Recommendation 20**

That the Department of Corrective Services work with the Inspector of Custodial Services to identify and remove the barriers to the full participation of Aboriginal offenders in the delivery of its services, as well as in its treatment of Aboriginal offenders at all levels of its operations. The Department must apply substantive equality.

Page 97

**Recommendation 21**

The Committee strongly recommends that the Department of Corrective Services designs and implements a strategy for the new West Kimberley facility located at Derby that includes four major objectives as follows:

- Aboriginal offender programming be strengthened;
- local partnerships and relationships are considerably enhanced;
- the role for local Aboriginal communities in corrections be developed; and
- non government agencies that are expected to provide services are properly resourced to do so.

Page 109

**Recommendation 22**

The Committee recommends that as part of the implementation of the justice reinvestment strategies a mapping exercise be undertaken to identify those communities currently delivering the highest percentage of population to the prison system.

Page 112

**Recommendation 23**

The Committee recommends that the government initiates a properly funded, evidence based, collaborative Justice Reinvestment strategy in one metropolitan and one regional 'high stakes' community identified by the recommended mapping exercise, as a pilot, to be evaluated against adequate performance measures. This pilot would measure the effectiveness of the role of each of the individual participating agencies as well specific outcomes relating to the interagency collaboration on the ground.

**Recommendation 24**

The Committee recommends that government at the highest level charge a lead agency to establish the proposed pilot Justice Reinvestment strategy to:

- have an over arching responsibility for each of the agencies collaborating in the strategy insofar as their deliverables to the strategy are concerned; and
- have control and be accountable for the pooled Justice Reinvestment budget.





## **MINISTERIAL RESPONSE**

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Community Development and Justice Standing Committee directs that the Premier, the Treasurer, the Attorney General, the Minister for Corrective Services, the Minister for Police and the Minister Assisting the Minister for Transport report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.



# CHAPTER 1 THE DOLLARS AND SENSE OF IMPRISONMENT AND REHABILITATION

This Report is the second and final Report of the Inquiry “Making our Prisons work”. The first Report focussed on prison employment and industries. This Report considers vocational education, reintegration strategies, post release support and Aboriginal rehabilitation. It reports on the efficiency and effectiveness of these initiatives within the operational context and constraints of the Department of Corrective Services.<sup>7</sup>

Responding to crime is a significant financial impost on the state. As such it requires tough decisions concerning budgetary priorities, given the competing needs of health, education and other issues. In targeting and funding effective responses to crime it is important to know the size and nature of the problems faced by the Department of Corrective Services (DCS). Reducing re-offending by released prisoners is central to reducing crime and the consequential financial burden that crime places on both the justice system and society at large. A reduction in recidivism and therefore the prison population makes available additional funds for alternative priorities.

Western Australia currently has the highest imprisonment rate of any state in Australia and is second only to the Northern Territory, as reflected in the following table:

**Table 1.1 National imprisonment rates (per 100,000 adults)<sup>8</sup>**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
2003-04	161.4	95.1	179.0	202.5	124.1	126.2	73.7	515.6	150.2
2004-05	170.6	92.0	177.2	223.0	126.6	142.0	74.4	544.0	155.0
2005-06	173.4	93.7	177.0	222.9	128.8	136.1	76.0	546.4	156.4
2006-07	178.6	101.6	177.8	229.4	137.6	142.7	65.4	551.6	162.0
2007-08	179.5	103.2	168.7	234.6	149.6	142.5	68.3	562.2	162.6
2008-09	184.8	103.6	168.0	238.9	153.8	136.6	63.4	646.7	165.6

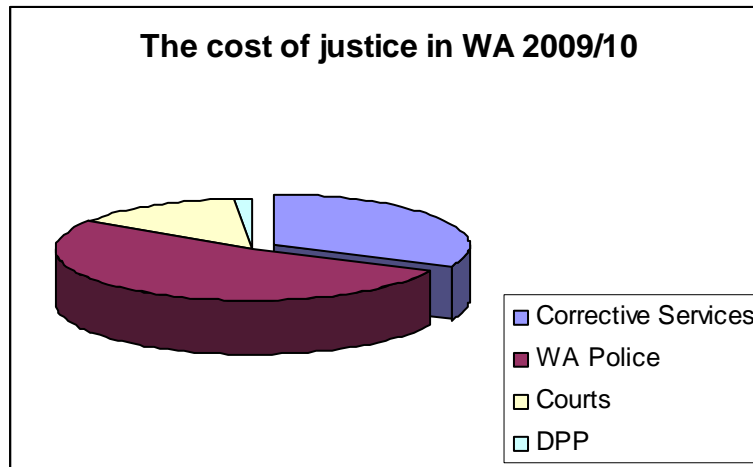
Cost is the corollary to prisoner numbers. The cost of the criminal justice system in Western Australia in the 2009/10 budget estimates was in excess of two billion dollars including expenditure on the Western Australia Police, the Courts, the Office of the Director of Public Prosecutions and Corrective Services.<sup>9</sup>

<sup>7</sup> In the course of the Inquiry the Committee received 17 submissions. These are listed in Appendix One. A total of 21 public hearings were conducted during the course of the Inquiry in which the Committee heard evidence from 45 witnesses. Witnesses who gave evidence to the Committee are detailed in Appendix Two. In addition to public hearings, the Committee had a number of site visits and briefings in Western Australia and in the Eastern States in relation to this Report. These are listed in Appendix Three.

<sup>8</sup> Crime and Justice Reform Committee, ‘Cost of Imprisonment Fact Sheet’, 2010. Available at: <http://www.crimeandjustice.org.au/?q=node/13>. Accessed on 20 April 2010.

<sup>9</sup> Department of Treasury and Finance, Government of Western Australia, *2009-10 Budget*, May 2010, p561, 699, 734, 757.

**Figure 1.1 Budget allocation for justice in Western Australia**



In recent years the prison population has been steadily increasing. This has placed significant operational pressures on DCS (figure 1.2). For example, with the exception of Boronia Pre-release Centre there is no facility in this State that does not significantly exceed its design capacity.<sup>10</sup>

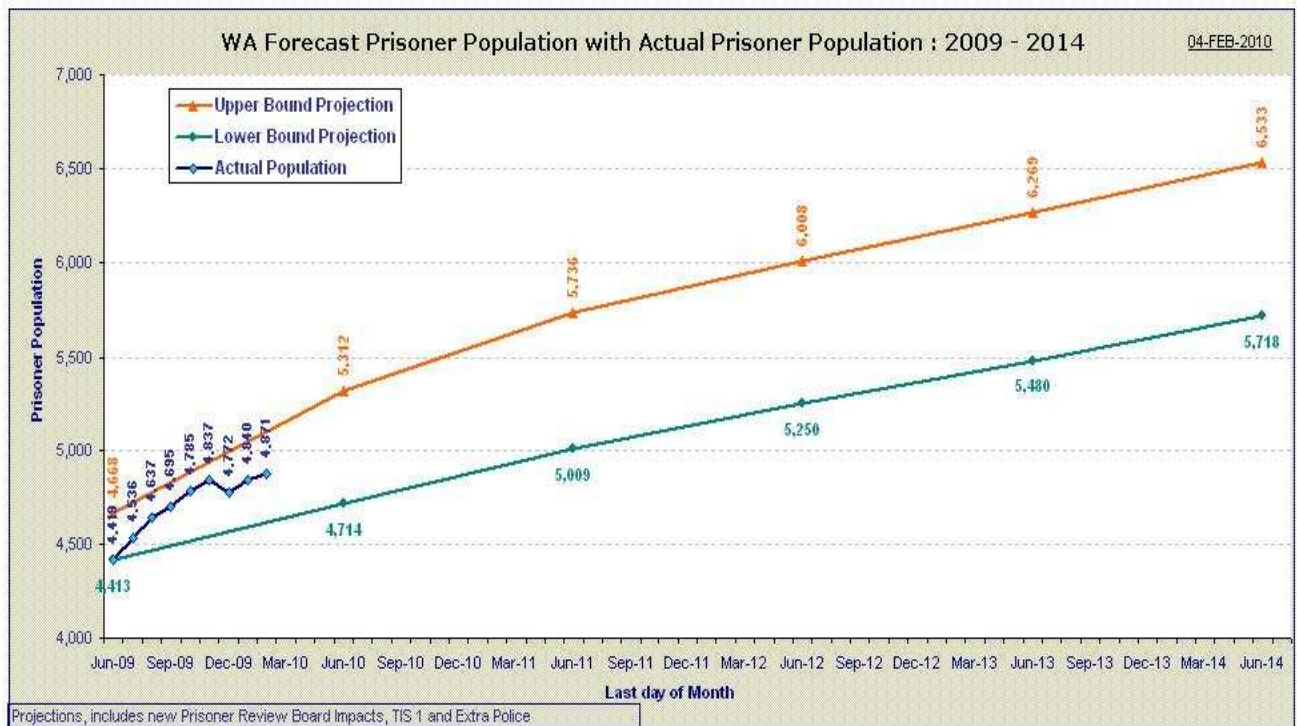
**Figure 1.2 Prisoner population**

Prison population 28 June 2007 was 3822 + 150 juveniles
Prison population 26 June 2008 was 3,787 + 167 juveniles
Prison population 25 June 2009 was 4,416 + 155 juveniles
Prisoner population 30 June 2010 was 4,772 + 157 juveniles

Based on current trends, it is projected that future budgets for DCS will steadily increase given the projections of future prisoner numbers, as outlined below in figure 1.3.

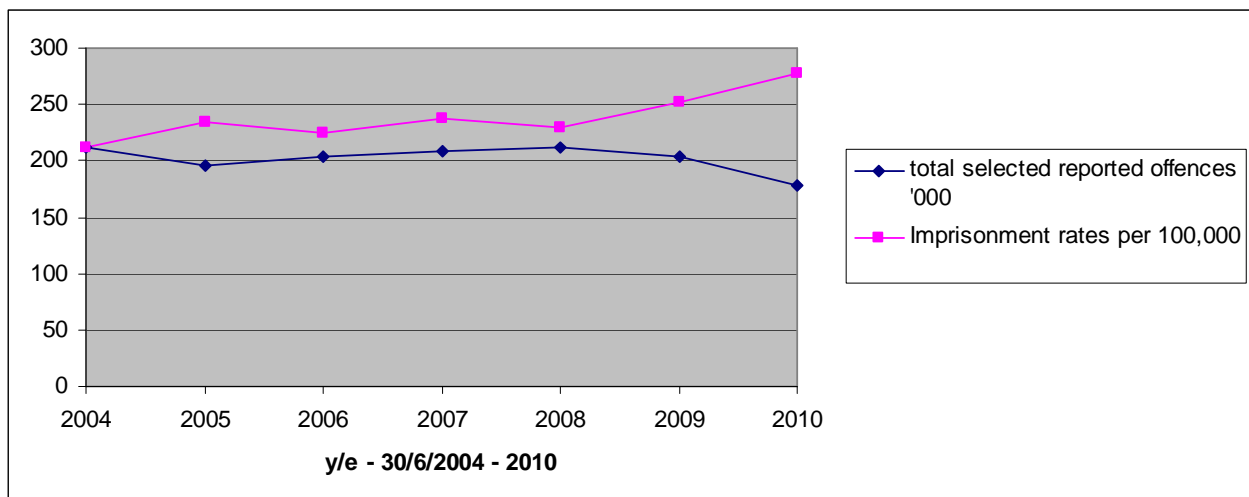
<sup>10</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p4.

**Figure 1.3 Forecast prisoner population**



An increase in crime is demonstrably not the key factor in the growth in the prison population. In fact the increasing rate of imprisonment exceeds the growth in the number of crimes as illustrated in figure 1.5 below.<sup>11</sup>

**Figure 1.4 Comparative reported offences: imprisonment rates**



<sup>11</sup> Source of selected reported offences: Western Australia Police, 'Annual Crime Statistics', Available at: <http://www.police.wa.gov.au/ABOUTUS/Statistics/CrimeStatistics/tabid/1219/Default.aspx> Accessed on 31 August 2010.

Recidivism rates and subsequent imprisonment play a significant role in the growth of our prison population. As is outlined later in this report, Aboriginal reimprisonment significantly exceeds the number of offenders entering prison for the first time. In a recently published paper, the NSW Bureau of Crime Statistics and Research (BOCSAR) commented on the lack of research into back end strategies that would reduce re-offending rates:

*This is unfortunate for three reasons. First, the rate of return to prison is high. In their longitudinal study of re-offending amongst NSW parolees, for example, Jones et al. (2006) found that 64 per cent were reconvicted of a further offence and 41 per cent were re-imprisoned within three years. Second, in NSW (and perhaps other States as well) the number of offenders entering prison on their first custodial sentence is actually lower than the number returning to prison. Third, the available evidence suggests that the benefits arising from increased imprisonment rates have been fairly modest.<sup>12</sup>*

## 1.1 The cost of offending to the community and the taxpayer

As BOCSAR highlighted in the above quote, identifying and implementing effective rehabilitation strategies would not only contribute to community safety by breaking the cycle of reoffending, but provide significant financial benefits for the government. The saving is illustrated in the following equation:

$$\text{Intervention cost saving} = \text{Cost of prison} - \text{Cost of rehabilitation strategy}$$

Western Australia has approximately 4,800 prisoners. It costs about \$100,000<sup>13</sup> a year in operational costs alone to keep each of them in jail. (Table 1.2) This represents an impost on every man, woman and child in the state of Western Australia of \$229 p.a.

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<sup>12</sup> NSW Bureau of Crime Statistics and Research, Prison populations and correctional outlays: The effect of reducing re-imprisonment, Weatherburn, D. et al, NSW, Australia, December 2009, p1.

<sup>13</sup> Report on Government Services 2010, Productivity Commission, Canberra, January 2010, 8.1 to 8.48.

**Table 1.2 Cost per prisoner per annum**

Budget Year	Amount \$'000	Average Daily Prisoner Numbers <sup>14</sup>	Cost Per Day Per Prisoner	Cost Per Annum
2009-2010	\$519,479 <sup>15</sup>	2009: 4402	\$273.17 <sup>16</sup>	\$99,707
2008-2009	\$508,833 <sup>17</sup>	2008: 3824	\$272.91 <sup>18</sup>	\$99,612
2007-2008	\$417,893 <sup>19</sup>	2007: 3774	\$285.68 <sup>20</sup>	\$104,273

**Finding 1**

The cost of the total appropriations for the Department of Corrective Services represents an annual impost on every man, woman and child in the state of Western Australia of \$229.

The recidivism rate<sup>21</sup> in Western Australia is 38.3% for the adult prison population as a whole.<sup>22</sup> By contrast, the rate for Aboriginal prisoners is approximately 70%.<sup>23</sup> Demonstrably the high levels of Aboriginal re-offending are very costly to society, both in economic and social terms.

<sup>14</sup> Australian Bureau of Statistics, Corrective Services Australia, No. 4512.0, December Quarter 2009, p11.

<sup>15</sup> Department of Treasury and Finance, Government of Western Australia, *2009-10 Budget Statements*, p757.

<sup>16</sup> Department of Corrective Services Annual Report 2009, p15.

<sup>17</sup> Department of Treasury and Finance, Government of Western Australia, *2008-09 Budget Statements*, p1025.

<sup>18</sup> Department of Corrective Services Annual Report 2007-08, p134.

<sup>19</sup> Department of Treasury and Finance, Government of Western Australia, *2007-08 Budget Statements*, p1059.

<sup>20</sup> Department of Corrective Services Annual Report 2006-07, p97.

<sup>21</sup> For the purposes of this Inquiry, recidivism is defined as re-incarceration within two years of release and does not include convictions involving other penal sanctions. However, the NSW Bureau of Crime Statistics and Research Question suggests that it is better to measure against rearrest rather than imprisonment as changing policies on imprisonment can impact apparent recidivism rates and therefore 'success'.

<sup>22</sup> Sentencing Advisory Council, 'Prisoners Released Who Return to Prison', June 2010. Available at: <http://www.sentencingcouncil.vic.gov.au/wps/wcm/connect/Sentencing+Council/Home/Sentencing+Statistics/Adult+Prisoners/Recidivism/SENTENCING++Prisoners+Released+Who+Return+to+Prison>. Accessed on 11 August 2010.

<sup>23</sup> Senate of the Parliament of Australia, 'Senate Select Committee on Regional and Remote Indigenous Communities', 2009. Available at: [http://www.aph.gov.au/Senate/committee/indig\\_ctte/reports/2009/report3/c04.htm](http://www.aph.gov.au/Senate/committee/indig_ctte/reports/2009/report3/c04.htm). Accessed on 4 August 2010.

In the case of juveniles, when the cost of multiple re-offending is also taken into account the costs to the system *per individual* are significantly greater. The Auditor General has assessed this at c. \$400,000 per juvenile between the ages of 10 and 17.<sup>24</sup>

### **Finding 2**

The cost to the justice system of dealing with the 250 young people between the ages of 10 and 17 who had most contact with the justice system over their juvenile years is estimated by the Auditor General to be \$100 million - that is, approximately \$400,000 for each and every child in that group.

Recognising the cost of the justice system, the Committee is of the view that there is great financial and social value in implementing sound evidence based rehabilitation strategies with the intention of reducing the recidivism rate. However, in trying to identify the net benefit of any given rehabilitation strategy, consideration has to be given to the effectiveness of the particular intervention in reducing reoffending, the monetary value of these reductions in re-offending, and the cost of the intervention.

## **1.2 Cost : Benefit of current intervention strategies**

While the financial benefits of effective rehabilitation strategies are easily inferred from the simple reduction in prisoner numbers, there are few studies, whether Australian or international, that clearly demonstrate that benefit when correlated to individual rehabilitation strategies. Two that do are:

1. Referring to a study undertaken by Washington State Institute for Public Policy, the Office of the Inspector of Custodial Services advised that:

*Recent meta-analysis showed that education programs reduce reoffending by an average of around seven percentage points (with a potential impact of up to 20% in some groups). This meta-analysis showed that with this level of effectiveness, education services were a very cost effective way of reducing prisoner populations, with marginal savings of around \$12,000 per participant.<sup>25</sup>*

2. In a study undertaken in the United Kingdom which, *inter alia*, considered whether rehabilitation strategies undertaken while in prison were a cost effective way of reducing re-offending, the Matrix Group concluded:

<sup>24</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>25</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p13.



***In respect to educational or vocational intervention undertaken in prison:***

*Programmes included basic education, prison-based vocational training, and support with finding employment post release, and prison industry employment and/or training.*

*Evidence base: 6 studies met the selection criteria. They included 7,623 individuals.*

*Cost of intervention: £27,109 per offender per year.*

*Value for money compared to prison per offender:*

*The following figures show the estimated net benefit from using this intervention instead of prison. They are based on the reduced chance of re-offending (taking into account the cost of the intervention) over an offender's post-release lifetime.*

- *Saving to the taxpayer £19,500*
- *Saving to society £67,000.<sup>26</sup>*

***In respect to behavioural intervention while in prison:***

*Prison combined with cognitive behavioural programmes designed to change thinking patterns and attitudes associated with offending.*

*Evidence base: One study met the selection criteria. It included 52 individuals.*

*Cost of intervention: £48,270 per young offender per year.*

*Value for money compared to prison per young offender:*

*The following figures show the estimated net benefit from using this intervention instead of prison. They are based on the reduced chance of re-offending (taking into account of the cost of the intervention) over an offender's post-release lifetime.*

- *Saving to the taxpayer Net benefit estimate*
- *not statistically significant*
- *Saving to taxpayer plus the saving from fewer victim costs £38,000.<sup>27</sup>*

***In respect to drug treatment programs undertaken while in prison:***

*Most interventions were therapeutic programmes in prison. Others were case management approaches and programmes preparing for parole release.*

<sup>26</sup> Matrix Knowledge Group, 'The economic case for and against prison', 2008. Available at: <http://www.matrixknowledge.com/wp-content/uploads/matrix-prison-report-dec-08-web.pdf>. Accessed on 22 June 2010.

<sup>27</sup> *ibid.*

*Evidence base: 13 studies met the selection criteria. They included 4,556 individuals.*

*Cost of intervention: £28,690 per offender per year.*

*Value for money compared to prison per offender:*

*The following figures show the estimated net benefit from using this intervention instead of prison. They are based on the reduced chance of re-offending (taking into account of the cost of the intervention) over an offender's post-release lifetime.*

- *Saving to the taxpayer £32,000*
- *Saving to society £116,500.<sup>28</sup>*

In summation, this study found significant savings were made to the taxpayer and the community as outlined below when compared to outcomes where there was no intervention:

**Table 1.3 Savings to society of rehabilitation strategies**

Strategy	Savings to taxpayer per offender	Savings to society per offender
VET	£19,500	£67,000
Behavioural intervention	statistically insignificant	£38,000
Drug treatment	£32,000	£116,500

### **Finding 3**

There are identifiable financial benefits to the Western Australian community flowing from education programs which reduce reoffending. The benefits to the taxpayer have been quantified at \$12,000 per offender through the reduction of the prisoner population.

<sup>28</sup> *ibid.*

## **CHAPTER 2 THE NEED FOR BETTER INTEGRATION OF INFORMATION TECHNOLOGY/INFORMATION SYSTEMS**

The expectation that better outcomes for offender management could be achieved when there is no integrated information management system is naive.

Improving information management practices is a key focus for many organisations, across both the public and private sectors. It is recognised that technology is only one element of this focus, but along with people, processes and content, it is a central facet. In terms of the overall operation of the Department of Corrective Services (DCS) and the individual strategies it supports, there are a range of key performance indicators which reflect accountability for the quantity and quality of outcomes.

Critically, for outcome accountability to be reported, there is a need to link baseline data to individual strategies ensuring that the success, or otherwise, of those individual strategies can be clearly identified by reliable evaluation data. This grows in importance as in developing and extending rehabilitation strategies there is an increasing move across the world to adopt evidence based initiatives; that is initiatives that are both framed by theory and informed by evaluated practice as being successful. This requires good data collection and analysis.

In NSW, the Committee heard how in the year 2000 there were 1000 offender programs being conducted (many were variations on a theme). Now NSWDCS focuses on a core group of programs that are seen to work. The Assistant Commissioner Offender Services advised the Committee that: 'All programs need a sound theoretical base and a sound evidence base. This requires that they are framed by theory, and have characteristics that research has established are necessary for interventions to be effective in reducing the risk of reoffending.'<sup>29</sup>

Secondly good data management and information technology/information systems (IT/IS) are central to effective Integrated Offender Management (IOM). Such a system links together all the information known about an offender, makes that data available in real time to any authorized officer anywhere else in the justice system and, thirdly, an integrated IT/IS facilitates the implementation of individual case management.

### **2.1 Department of Corrective Services IT/IS**

#### **(a) Lack of systems integration**

In Western Australia there is currently no single IT offender management system. There are three major and a number of lesser systems operated by DCS. The primary system is the Total Offender Management System (TOMS) which has been in place for c.15 years.<sup>30</sup>

Another, and non-integrated component, is C-BIS which is the community based information system and it sits to one side while handling everything to do with community corrections.<sup>31</sup>

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<sup>29</sup> Briefing Mr Luke Grant Assistant Commissioner Offender Services NSW Department of Corrective Services, 25 August 2010.

<sup>30</sup> Ms Angela Dominish, Department of Corrective Services, Electronic Mail, 8 September 2010.

In all there are three major systems whose roles were described to the Committee as follows:

1. The TOMS offender system contains information on adult prisoners and juvenile detainees or youth detainees;
2. C-BIS is the community corrections information system. It contains information on adult community corrections offenders; and
3. IFS which contains the juvenile offenders in an interim field system.<sup>32</sup>

As one DCS officer remarked 'TOMS should more correctly be known as POMS, the partial offender management system.' DCS recognises that there are in fact a number of existing deficiencies in the present system which it has begun to review. Some of these are:

1. The need to upgrade the existing offender management system, even as it is recognised as being reasonably robust<sup>33</sup>; and
2. The need to develop better integration if tangible outcomes are to be achieved. There is a need for one ID for each offender with respect to their management plan, and where they are in terms of the prison system or the community system.<sup>34</sup>

In the face of inherited legacy systems, to achieve the required upgrade in what ever form it might take, there is a need for additional IT/IS resources which are not currently budgeted.<sup>35</sup>

#### **Finding 4**

The current information systems in the Department of Corrective Services are deficient and not fit for purpose. It will require a significant amount of human and financial resources to achieve a comprehensive integration of data sets.

Although DCS is currently looking at the way forward in terms of the integration of data management systems, it is recognised that this will also involve changing both 'the way they do

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<sup>31</sup> *ibid.*

<sup>32</sup> Ms Angela Dominish, Director, Strategic and Executive Services, Department of Corrective Services, *Transcript of Evidence*, 18 August 2010, p1.

<sup>33</sup> *ibid*, p2-3.

<sup>34</sup> *ibid*, p8.

<sup>35</sup> Mr Ian D'Mello, Manager, Performance and Statistics, Department of Corrective Services, *Transcript of Evidence*, 18 August 2010, p2.

business' and how that is subsequently recorded. As with all change management they see this as involving a culture change.<sup>36</sup>

## **(b) Analytical capacity**

One of the most significant challenges in determining the effectiveness of program, VET and employment strategies is the lack of robust research evidence on impacts and outcomes. There is a dearth of tracking data comparing the lives of those ex prisoners who have undertaken and completed programs, VET and employment initiatives, in the various Western Australian corrective facilities, and those who have not.

Data currently captured by DCS is restricted to the percentage of eligible prisoners in employment, education and offender programs, and the average hours each prisoner is engaged in such activities. Much more is required of the privately operated Acacia Prison. For example, performance indicators set require the Acacia Prison contractor to:

- *Clearly define the extent to which any employment activity contributes to reparation.*
- *Set a target in the percentage of prisoner work time allocated to each of various components of reparation.*
- *Not only maximise the use of prisoner labour contributing to internal cost savings but also maximise that for activities of benefit to the community.*
- *Stipulate a percentage of work time to be spent assisting the community and actively liaison with community groups to promote their use of prisoner work and other activities.*<sup>37</sup>

The Office of the Inspector of Custodial Services is critical of the limited data collection by DCS and says it is inadequate to properly inform DCS of service outcomes.<sup>38</sup>

DCS advises that while it is aware of the issue and is moving to address it, it is in the early stages and is a 'work in progress'. In respect to education and training, DCS is currently looking at the data structures. This will enable it to run performance indicators, key outcome indicators like recidivism, with a view to assessing the efficacy of some of the education and vocational training programs in terms of prisoners returning to prison. However this is a work in progress at the moment and no completion date was indicated to the Committee.<sup>39 40</sup>

<sup>36</sup> Ms Angela Dominish, Director, Strategic and Executive Services, Department of Corrective Services, *Transcript of Evidence*, 18 August 2010, p9.

<sup>37</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p13.

<sup>38</sup> *ibid*, p13-14.

<sup>39</sup> Mr Ian D'Mello, Manager, Performance and Statistics, Department of Corrective Services, *Transcript of Evidence*, 18 August 2010, p3.

<sup>40</sup> *ibid*, p6.

The Office of the Inspector of Custodial Services confirmed that DCS is unable to disaggregate reoffending data to identify if the training delivered at a particular prison is effective.<sup>41</sup>

In a broader context the gaps in the information systems makes research on a corrections system highly problematic. It is the Committee's view that the parlous state of systemic knowledge on the effectiveness of specific measures impedes improvement.

### **Finding 5**

The Department of Corrective Services' ability to analyse the effectiveness of its rehabilitative initiatives is impaired by its current lack of an integrated data management system. This impairs the organisation's ability to manage offenders adequately, the quality of available information and the subsequent reporting.

### **Recommendation 1**

The Minister for Corrective Services directs the Department of Corrective Services to undertake a 'Gap Analysis' to identify steps needing to be taken in moving from the current state of its data management system to what is required to meet the Department's operational and strategic goals. This analysis is to be completed in a timely manner so any needs identified can be budgeted for in the 2011/2012 budget cycle.

## **2.2 Integrated offender management**

In Western Australia DCS is in the early stages of introducing an integrated offender management (IOM) system. Some other states, such as Queensland, which have already implemented IOM, it is also known as 'Throughcare'. While the terms can be used synonymously:

*a significant difference is that IOM, as DCS is defining it, does not just relate to prisoners (i.e. those in custody) it relates to offenders (those in custody and/or in the community), that is the integrated (holistic) management (throughcare) is premised on the offender, his/her sentence responsibilities and the associated criminogenic and reintegration needs throughout their engagement with the Department.*<sup>42</sup>

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<sup>41</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p14.

<sup>42</sup> Ms Angela Dominish, Department of Corrective Services, Electronic Mail, 3 September 2010, attachment.

The aim of IOM is in essence is to provide ‘the integrated service delivery framework that defines what we will do when we say we manage offenders throughout their engagement with the Department.’<sup>43</sup>

In particular, IOM is a framework that provides for the seamless, coordinated and integrated management of adult offenders and young people in custody or on community dispositions which operates throughout an offender’s engagement with the Department. The success of IOM will partially rest on an effective, integrated, IT/IS.

Each offender’s characteristics will vary and an offender’s engagement with the Department is determined by the legal conditions imposed by the judicial system. For these reasons an offender’s management is individualised. In fact the foundation of the IOM framework is case management. The goal of case management is to make a positive difference through the integrated and tailored individual management of offenders. Case management involves administering the requirements of the legal conditions imposed by the judicial system and ensuring compliance with those requirements whilst aiming to reduce recidivism, encourage social reintegration, and enhance public safety.<sup>44</sup>

The reform journey that DCS is embarking on ‘will comprise a change management strategy which will include ongoing communications, training, re-engineering of processes as required, modifications to role as required etc.’<sup>45</sup> However the attempt to introduce an effective case management system has had a faltering history in the past.

The problem is exacerbated by prison rosters which are contributing to a significantly reduced meaningful outcome.<sup>46</sup> For instance where there are 12-hour shifts, with staff working three days and then taking a significant amount of time off, a prisoner can be moved from one unit to another unit and may not see their case manager for long periods of time. They may also be moved between prisons on a regular basis, particularly if they are a regional prisoner and so might have 16 to 20 case managers over the period of their sentence.<sup>47</sup>

The reform journey is in the pilot stage. Evidence suggests that ‘it has hit a number of walls in regard to trying to work out how they will do it in a prison setting.’<sup>48</sup> One of the advised issues is that ‘the intention is confusing and it is certainly not owned at the unit level’.<sup>49</sup> However where

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<sup>43</sup>        ibid.

<sup>44</sup>        ibid.

<sup>45</sup>        ibid.

<sup>46</sup>        Mr John Acres, Director of Operations, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p12.

<sup>47</sup>        ibid.

<sup>48</sup>        ibid.

<sup>49</sup>        ibid.

there is individual leadership on case management there is a much stronger outcome. This was instanced at Karnet and the Women's Services Directorate before it was disbanded.<sup>50 51</sup>

In the absence of leadership, and adequate induction training, there can be no successful implementation of case management and it becomes a meaningless 'tick box' exercise:

*It is a process. That is what it is at the moment. It is about filling in documents and ticking boxes and "I have done this process". The meaningful engagement is really not there.<sup>52</sup>*

### **Finding 6**

There have been numerous projects to try to implement case management and unit management since the 1990s. To date these initiatives have met with limited success. While DCS is restarting its initiative, supported by ongoing communications, training, and the re-engineering of processes, one of the key barriers to it, anecdotally, is a lack of ownership at unit level. The full implementation is further impeded by the present lack of an integrated information technology and systems.

### **Recommendation 2**

That specific KPIs be introduced into the Commissioner's performance agreement ensuring the effective operation of the offender management system. As this has been identified as requiring a whole of department approach, leadership and cultural change, the KPIs should reflect those aspects and reviewed annually.

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<sup>50</sup> *ibid.*

<sup>51</sup> Prof Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010.

<sup>52</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p12.



## CHAPTER 3 VOCATIONAL EDUCATION REHABILITATION STRATEGIES

Employment, education and training are recognised as being among the most significant rehabilitative activities undertaken in prisons in terms of the positive effect on reoffending. The United Kingdom report on ‘Reducing Re-Offending by Ex-Prisoners’ states that ‘prisoners participating in education are three times less likely to be reconvicted.’<sup>53</sup>

Across the country the Committee was advised that by a significant majority adult offenders faced distinct handicaps in literacy and numeracy levels when compared to the rest of the population. Even though most offenders were stated as having attended school to year ten, for many their functional literacy level was equivalent to that of a seven year old. Additionally, adult offenders also have higher rates of mental illness and poorer employment records than adults in the general population.

Perhaps because of such initial disadvantages faced by many inmates, the value of targeted vocational education and training (VET) strategies is well established in supporting the reintegration of offenders back into their community and reducing recidivism. This is most effective when undertaken in conjunction with good offender induction, risk needs assessment, and transition programs.

This chapter reviews some of the operational challenges faced, the processes undertaken and the successes achieved by the Education and Vocational Training Unit (EVTU) in the Department of Corrective Services (DCS).

Some of the issues touched on in this chapter have been more thoroughly canvassed in the Committee’s interim Report of June 2010.

### 3.1 The savings to the community of effective employment and VET

The cost benefit of investing in an effective prisoner literacy and vocational education strategy has been demonstrated in many studies, in respect to achieving a reduction in reoffending rates and supporting the reintegration of offenders into society.<sup>54</sup> Prisoner employment, education and training have long been linked to post-release outcomes.<sup>55</sup> As previously noted, a recent meta analysis showed a reduction in reoffending of c. 7% ‘with marginal savings of around \$12,000 per participant.’<sup>56</sup>

However the efficacy of VET strategies is dependant on a range of interconnecting factors, including:

- that pre-release there is effective integration between appropriate education, training and employment;
- that post release there are jobs for the prisoners to access; or

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<sup>53</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p9.

<sup>54</sup> Submission No. 12 from Outcare Inc., March 2010, p9.

<sup>55</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p12- 13.

<sup>56</sup> *ibid.*

- that prisoners can continue education and training once released.<sup>57</sup>

### **Finding 7**

Effective integrated employment, education and training strategies can lead to significant reductions in the rate of reoffending and significant marginal costs savings to the state. It has the potential to provide workers in response to current labour shortages.

## **3.2 The Education and Vocational Training Unit**

Along with work programs, corrections based vocational education and training programs form a major rehabilitation component in Western Australia's rehabilitation system. The Education and Vocational Training Unit (EVTU) operates within the Offender Services Directorate to provide an education and vocational training service for adult prisoners. EVTU received funding of \$8.1 million in 2009/10 and a staffing establishment 80.5 Full Time Equivalent positions. An additional pool of approximately 200 casual teaching staff is employed throughout the year.<sup>58</sup>

In 2000, EVTU became a nationally registered training organisation. At that time it was decided to expand its role into the offender workplace areas throughout the prison.

Subsequently, the EVTU was presented with three separate awards in recognition of the manner in which it successfully provided educational services to offenders. The first was the 2004 Access and Equity Award at the Western Australian Department of Education and Training, Training Excellence Awards. Subsequently, it won the National Australian Training Initiative Award as a model of best practice in the VET sector (including TAFE and private training providers), National and State Vocational Training Excellence Awards and received a High Commendation in the WA Premier's Awards. Most recently its Labour Market Skills Program was a finalist for the 2006 Premier's Award for Jobs and Economic Development<sup>59</sup> for its training of prisoners specifically in industries where there are skills shortages. It achieved this through partnerships with industries, including construction, hospitality and agriculture, securing employment for prisoners on release from prison.<sup>60</sup>

EVTU also operates a specialist registered training organisation, Auswest Specialist Education and Training Services (ASETS) which provides accredited training. Through this registered training organisation, vocational training in the form of apprenticeships and TAFE certificates are made available to prisoners. Courses undertaken are both portable and nationally recognised outside of prison. The availability of course and certificates is somewhat dependent upon the type

<sup>57</sup> *ibid.*

<sup>58</sup> *ibid.*, p2.

<sup>59</sup> 2006 Premier's Awards for Excellence in Public Sector Management, Government of Western Australia. Available at [www.premiersawards.dpc.wa.gov.au/documents/Profile06\\_web.pdf](http://www.premiersawards.dpc.wa.gov.au/documents/Profile06_web.pdf)

<sup>60</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 23 March 2010, p1.

of prison (maximum, medium or minimum security) within which the offender is housed with maximum security prisoners having no access to heavy machinery courses for example.

EVTU adopts a two tiered approach to education and training:

- In ‘Tier One’, DCS delivers adult basic education in language, literacy and numeracy as a registered training organisation (RTO). This strategy is firstly about engaging prisoners who had, historically, opted not to participate in education programs. It then seeks to enhance their opportunity in life through further education and training.
- In ‘Tier Two’, DCS chooses partners to deliver industry specific certificated training.

Using this approach DCS does not need to require TAFE or other partners to change the way they would deliver their material.

The three forms of education and training opportunities include:

- Basic education - such as addressing identified literacy and numeracy gaps;
- Vocational skills training - such as TAFE accredited courses and Australian Quality Training Framework recognised units of competency; and
- Advanced education - such as participation in secondary and tertiary education courses.

### **(a) Literacy and numeracy**

The Committee is struck by the impediments that the majority of prisoners face through poor literacy. The following testimony highlighted the way in which poor literacy affects the individual prisoner.

*Literacy is one of the biggest issues. People get letters and do not understand them so throw them in the bin. They get fine notices and throw them in the bin. So I would love to see it basically that as soon as you walk through the door you have to be enrolled in a literacy class and an alcohol management class, no ifs, buts or whats—you just do it.<sup>61</sup>*

While TAFE is engaged by DCS to undertake higher level training qualifications in prisons, along with the vocational training and the traineeships, DCS undertake the literacy programs. This approach releases DCS from the constraints that the TAFE colleges have on the number of people in the class and the period for which they are enrolled in the class. It also over comes administrative problems, namely that if prisoners have been previously enrolled in a TAFE class they cannot be enrolled again.<sup>62 63</sup>

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<sup>61</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p10-11.

<sup>62</sup> Ms Christine Laird, Managing Director Education and Vocational Training, Department of Corrective Services, *Transcript of Evidence*, 19 January 2010, p12.

The effectiveness of teaching literacy is, in part, dependent on the the variety of teaching practices.<sup>64</sup> In this respect DCS have adopted a range of approaches including classroom style, the use of IT packages and on site vocational workshops. Their literacy strategy accords with nationally accredited training even though the content is customised and is in line with the qualifications that are available in TAFE colleges. Some, for instance ‘Hands on Learning’, have had state and national recognition. This is an integrated program with a literacy person in the vocational workshop, working side by side with a prisoner.<sup>65</sup>

Additionally, EVTU ‘do quite extensive educational assessments of individual prisoners to work out their particular deficits and to work towards the model of filling those deficits.’<sup>66</sup> They have recently commenced to identify prisoners who have a literacy problem but who are not engaged with any literacy strategy. They then seek to determine a way of engaging them, bearing in mind that VET is voluntary.<sup>67</sup>

The priority need in this area is so great that the Office of the Inspector of Custodial Services summed it up by saying: ‘many education centres focus much of their resources simply on base literacy and numeracy.’<sup>68</sup>

The issue is further compounded by the levels of gratuities payable for education. The regulations say that prisoners employed in prison industry can attend education and training for three days a week and suffer no penalty; they are to receive their normal weekly wage. What this means is that at most prisons, full time students receive a grade three gratuity. To receive a higher grade as a full time student, they usually have to also be the cleaner for the centre or be designated by the Education Centre as an offender that is of valuable assistance to the Centre (assist with tutoring, helps education staff with setting up rooms or, helps with other chores) However, most students are part time students- they enrol and participate and have to take time away from work to do that. This is precarious because it depends on a sympathetic work shop officer. The Committee was advised that this was acceptable if there is no real pressing work (the usual situation) but if there are commercial deadlines to be met then things get difficult for the student. In these cases the officer may decide to try and keep the offender/worker that is attending education a few days a week at the low gratuity rate and/or can refuse to consider that prisoner for a higher gratuity in the shop regardless of the time they have been employed in that workshop. Anecdotally they may be threatened with the loss of their prison employment if they keep attending classes multiple times a week. As one officer noted “When all you have is what you get paid, which is pretty much the case for the vast majority of offenders, those kinds of threats are very powerful.”

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<sup>63</sup> ibid.

<sup>64</sup> Loudon, W. et al., ‘In teachers hands’, 2005. Available at: [http://www.dest.gov.au/NR/rdonlyres/2CE61B9C-C20B-4529-964B-5953311E5738/10110/In\\_Teachers\\_Hands\\_FINAL\\_for\\_web.pdf](http://www.dest.gov.au/NR/rdonlyres/2CE61B9C-C20B-4529-964B-5953311E5738/10110/In_Teachers_Hands_FINAL_for_web.pdf). Accessed on 10 September 2010.

<sup>65</sup> Ms Christine Laird, Managing Director Education and Vocational Training, Department of Corrective Services, *Transcript of Evidence*, 19 January 2010, p12.

<sup>66</sup> ibid, p13.

<sup>67</sup> ibid, p13-14.

<sup>68</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p7.

**Finding 8**

Poor literacy is one of the biggest educational issues facing the majority of the prison population. Recognising this, the Education and Vocational Training Unit invests a large proportion of its resources into teaching literacy and numeracy using a diversity of strategies to engage individual prisoners.

**Recommendation 3**

The Committee supports the mandatory assessment of prisoners upon entry and recommends that the Minister for Corrective Services immediately mandate literacy and numeracy programs for all prisoners, regardless of length of sentence, location, and classification, who demonstrate low literacy levels.

**Recommendation 4**

In order to encourage participation in education and training programs, the Committee recommends that participation in these programs attract the same level of gratuity as for prison employment.

**(b) Apprenticeships**

In common with trends in other parts of Australia, the Department of Corrective Services in Western Australia seeks to align accredited VET courses and training qualifications with particular industries and employers needs.<sup>69</sup>

As outlined in this Committee's interim June 2010 Report there is strong evidence that a well structured strategy that lifts prisoners' general education, and instils basic work disciplines reduces recidivism. Recognising this, the EVTU has actively promoted VET as a vehicle for addressing the educational needs and requirements of offenders.

While the EVTU run a large range of TAFE certificated courses through its own registered training organisation as outlined, it is also working with individual training councils to provide apprenticeships in selected industries. It offers Traineeships (certificate II level qualifications or

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<sup>69</sup> Dawe, S, 'Introduction', in Dawe, S. (ed.), *Vocational Education and Training for Adult Prisoners and Offenders in Australia*, NCVER, Adelaide, 2007, p13.

the first year of an apprenticeship) in around 16 different industry areas.<sup>70</sup> The provision of full apprenticeships is more complex, requiring prison industries to be compared with external industries in terms of the types of equipment used, the complexity of processes, production timelines and standards.<sup>71</sup> Therefore, while apprenticeships are the ‘gold standard’ of training in prisons, they are as yet only available to a relatively small number of inmates. This is also due to a number of factors including the limited sentences most prisoners serve, the difficulties in getting the courses recognised by the various industry bodies, and the lack of appropriate resources.<sup>72</sup>

Western Australia is unique in its drive to have full apprenticeship qualifications available in prison and is actively seeking to extend the range of qualifications it is able to offer inmates.

*The DCS sought professional opinions from industry and various Registered Training Organisations to assess where we stood. We are approved to run horticultural apprenticeships at certain sites and we are currently waiting the final decision in cabinetmaking. All correspondence so far looks towards a positive outcome. WA is the first to have full Apprenticeship qualifications in prisons.*<sup>73</sup>

In extending the industry training on offer, DCS consults with the Department of Training and Workforce Development, ApprentiCentre and the relevant industry body. For example in horticulture it is the Primary Industry Training Council - there are different Industry Training Councils for different industries.<sup>74</sup>

From January 2010 to the end of October EVTU enrolled 20 Pre-Apprenticeships with 20 full qualification completions. It also inducted 192 enrolled Traineeships with 121 full qualification completions and had 5 enrolled Apprenticeships and with 1 full qualification completion.

### **Finding 9**

The Education and Vocational Training Unit, offers full apprenticeship qualifications in prisons. The Department of Corrective Services in Western Australia is the first corrective service in Australia to undertake such an initiative. To date this has resulted in one apprentice completing their training. While it is still premature to say that this is a successful program it augers well for the future. However, a prerequisite for all apprenticeships is a level of literacy that many prisoners do not possess.

<sup>70</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 5 March 2010, p1.

<sup>71</sup> *ibid.*

<sup>72</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p14.

<sup>73</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 5 March 2010, p1.

<sup>74</sup> *ibid.*

**(c) Participation rates**

Education and training in Western Australian prisons is undertaken voluntarily and courses can be taken in conjunction with any court mandated courses or programs. Prisoners are paid gratuities for both study and work during the term of their imprisonment.

Participation rates in Western Australia are historically strong when compared with other states and territories. In the five years from 2001 to 2005, 52% of prisoners were enrolled in training in Western Australia compared to a national average of 45%.<sup>75</sup>

In 2008 prisoners in Western Australia achieved a completion rate of 68.1%, compared to an average of 77.6% for all vocational students across the State. The completion rate for prisoners, in the view of the Department of Training and Workforce Development (DTWD), is a strong result considering the barriers to completion.<sup>76</sup>

The DTWD also cite a National Centre for Vocational Education Research (NCVER) report into education and training for adult prisoners in Australia which highlighted the fact that Western Australia has led the way in overcoming common problems that block provision of employment based training in prisons. Western Australia also has a higher than average percentage of prisoner population in training programs (52% compared to an average of about 45% nationally).<sup>77</sup>

Participation is largely affected by the degree to which sought after courses can be accessed. Overcrowding has limited the physical and human capacity to adequately meet the needs of prisoners; many having to transfer to another prison to even access a course.

For instance, in the course of the inquiry, the Committee visited the education and training facilities at Casuarina Prison where 34% of prisoners are enrolled in education units. There are some 150 students per week attending the education centre, which is at capacity. It has a waiting list for classes of 2-3 months; yet, the Committee was advised that staff conduct 30-40 interviews a week with inmates interested in doing a course.

The art classes at Casuarina have a waiting list of four months. Due to the high muster and the demand for the classes, there are no longer any places for full time students (4 days pw). Instead there are two blocks of students attending for two days each per week, with each cohort going for 4 months.

In evidence the Department of Corrective Services advised that the EVTU could not meet current demands for its services.<sup>78</sup> DCS went on to say:

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<sup>75</sup> Submission No. 5 from Department of Training and Workforce Development, 16 February 2010, p3.

<sup>76</sup> *ibid.*

<sup>77</sup> *ibid.*, p3-4.

<sup>78</sup> Mr Ian Clark, Superintendent Hakea Prison, Department of Corrective Services, *Transcript of Evidence*, 19 January 2010, p10.

*It is the same with education and training; 30 per cent of the current population are engaged in education and vocational training and we have waiting lists at this point in time because the facilities that we have just cannot meet the need of the training that is being offered.<sup>79</sup>*

Apart from restrictions in terms of class sizes and availability of infrastructure, the need for DCS to reduce expenditure and cover day to day staff absences also impacts on the delivery of education and training. On occasion security staff are taken from the education and employment sections and seconded elsewhere resulting in programs not running.<sup>80</sup>

### **Finding 10**

The Committee found that the Education and Vocational Training Unit staff in the Department of Corrective Services are highly motivated and innovative in the approach. They have won the National Australian Training Initiative Award as a model of best practice in the vocational education and training sector (including TAFE and private training providers), National and State Vocational Training Excellence awards and received a High Commendation in the WA Premier's Awards.

### **Recommendation 5**

That the formula for determining the levels and timing of funding for education and training programs should be calculated on the basis of securing universal access.

## **3.3 The challenges of implementing a successful VET strategy**

The difficulties faced by DCS in achieving significant outcomes with VET and related strategies are two fold.

The first challenge lies in the educational and employment profile of the average prisoner. Approximately 70% of prisoners require adult literacy and numeracy tuition and most do not have a sustainable work history of any kind due to their lack of skills.<sup>81</sup>

<sup>79</sup> Ms Christine Laird, Managing Director Education and Vocational Training Department of Corrective Services, *Transcript of Evidence*, 19 January 2010, p10.

<sup>80</sup> Ms Jackie Tang, Deputy Commissioner, Offender Manger and Professional Development, Department of Corrective Services, *Transcript of Evidence*, 23 September 2009, p22.

<sup>81</sup> Mr Ray Chavez, Department of Corrective Services, Electronic Mail, 19 April 2010, p1. and Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p4.



The second challenge lies in a number of structural factors that hinder a prisoner's full participation in VET including:

- the impact of overcrowding on VET facilities;
- the under resourcing of regional areas;
- the capping of available Commonwealth funding;
- the structural and psychological barriers to undertaking VET courses; and
- penal policy.

These are further discussed in this section.

### **(a) The impact of overcrowding on VET facilities**

VET in Western Australia is undertaken in the context of the recent rapid increase in the prison population. In the absence of expanded facilities, the same supporting facilities and physical resources are required to accommodate the increased numbers. The opportunities for inmates to participate in self-improvement and rehabilitative programs, such as vocational education and training are consequently curtailed.<sup>82</sup>

The government's response to the rapidly growing prison muster has seen a focus on creating space for additional beds without increasing the employment and education facilities in parallel. This, the Office of the Inspector of Custodial Services suggests, has a Catch 22 impact on prison numbers affecting, as it does, re-entry and therefore recidivism. This is as a consequence of sleeping facilities being expanded without a commensurate increase in complementary infrastructure thereby creating a reduced opportunity for constructive activities.<sup>83</sup> For some prisons this has meant the discontinuance of full time studies and significant waiting lists for VET.<sup>84</sup>

#### **Finding 11**

With all but one prison's muster currently in excess of its design capacity, access to education, and, in particular, full time education has become increasingly problematic. The result is that there are waiting lists and a reduced opportunity to participate, which negatively impacts post release outcomes.

<sup>82</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p4., p12.

<sup>83</sup> Mr Tim Connolly, Director, Case Management and Prisoner Employment, Department of Corrective Services, *Transcript of Evidence*, 10 March 2010, p3.

<sup>84</sup> Submission No. 12 from Outcare Inc., March 2010, p17 and Ms Christine Laird, Managing Director Education and Vocational Training, Department of Corrective Services, *Transcript of Evidence*, 19 January 2010, p10.

**(b) Resourcing**

Research shows an inverse relationship between rates of recidivism and level of education; that is the higher the education level, the less likely the person is to be rearrested or imprisoned. In fact, educational programs have been shown to reduce rates of recidivism by nearly 25 percent.<sup>85</sup> Thus, education and training for adult prisoners can make a significant difference to successful post-offending employment outcomes and reduce the risk of re-offending.

However the Committee heard on numerous occasions, as outlined in this chapter, that the demand for education and training needs within prison far exceeds the supply. The longstanding issue is centred on a shortfall in resources and was highlighted to the Committee by the former Inspector of Custodial Services, Professor Harding.<sup>86 87</sup> This shortfall occurs despite an internationally acknowledged need for constructive activity for prisoners.<sup>88</sup>

A report on the role of education and training in prison to work transition has profiled those prisoners who are less likely to be studying and those most likely to be studying (Table 3.1):<sup>89</sup>

**Table 3.1 Characteristics of prisoners more or less likely to study**

<b>Less likely to be studying</b>	<b>More likely to be studying</b>
are males	have children
are Australian born	have education above year 10
attended government secondary schooling	have worked in the five years prior to the current prison term
have prior prison sentences	have already completed a trade qualification and/or completed another educational qualification

In regional areas the resourcing issues become more critical. It is broadly acknowledged that Aboriginal prisoners are most likely to be at the worst end of the education and skills profile, with low literacy rates and little or no training or skills development prior to prison. While a very large proportion of Aboriginal offenders are accommodated in metropolitan facilities, the Goldfields prison and those to the north of state are overwhelmingly made up of Aboriginal offenders. As the former Assistant Commissioner Aboriginal Justice in DCS put it, ‘I suppose the regional prisons

<sup>85</sup> Coylewright Jeremy, *New Strategies for Prisoner Rehabilitation in the American Criminal Justice System: Prisoner Facilitated Mediation*, Journal of Health Care Law & Policy, vol.7:2:395 2004, p403.

<sup>86</sup> Professor Richard Harding, Consultant, *Transcript of Evidence*, 17 March 2010, p5.

<sup>87</sup> Despite the criticism, statistic gathered in 2008 indicated that Western Australia fared better than other states with an average of around 52% of the prison population enrolled in education and training compared with a national average of 45%. *Vocation Education and Training for Adult Prisoners and Offenders in Australia*, NCVER 2007, p119.

<sup>88</sup> Professor Richard Harding, Consultant, *Transcript of Evidence*, 17 March 2010, p2.

<sup>89</sup> Australian National Training Authority, *To train or not to train*, NCVER, South Australia, 2004, p7.

could be considered Aboriginal prisons'. Yet these prisons, because of geography, scarce resources and staff, have underdeveloped VET opportunities.<sup>90</sup>

The Inspector of Custodial Services is of the view that the aforementioned Aboriginal prisons do not have the internal infrastructure to support extensive vocational skills or employment based initiatives.<sup>91</sup>

Another area where inadequate resources are impacting prisoner's ability to access education programs is that of transport. In the course of the Inquiry the Committee was made aware in several of its visits to different prison facilities of the need for appropriate vehicles to give prisoners access to community based programs. In one example, that of work camps, because of a lack of such transport the prisoners were unable to attend since the partial attendance of some would have left others in the work camp unsecured. In another facility the numbers wishing to access such programs were restricted to the capacity of the limited transport options available.

### **(c) Structural and psychological barriers to undertaking VET courses**

While participation in VET is voluntary, there are a number of structural and psychological barriers to prisoner participation in VET including:

- short sentences may preclude participation;
- prevailing culture in some prison officers;
- constraints imposed by the structured day and prison routine;
- prison work pays better; and
- waiting lists and the difficulty in accessing some courses.

Expanding on these points the Committee noted that:

*Barriers to undertaking or completing VET courses include the need for prisoners to undertake offending behaviour programs and their desire to earn money through paid prison work. Other factors were short sentences (under 12 months) and long waiting lists for courses, being transferred to another centre without much notice or being released early. There also exists, amongst some custodial staff, the view that prisons are primarily places of correction, not training. These barriers can be overcome by arranging for courses to be held at times that did not conflict with behaviour management courses or paid work opportunities, through consultation with sentencing and releasing authorities, and through cultural and structural change.*<sup>92</sup>

A significant structural barrier to prisoner participation is the unavailability of a particular course:

*Education, training, industries and external work opportunities are not evenly spread across the prison estate. As a result, the training, work experience, and to a lesser extent education that a prisoner starts in one prison may not be able to be continued when that*

<sup>90</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p10-11.

<sup>91</sup> *ibid*, p7.

<sup>92</sup> Australian Institute of Criminology, 'Reducing recidivism through vocational education and training programs', 2008. Available at: <http://www.aic.gov.au/publications/current%20series/crm/61-80/crm065.aspx>. Accessed on 12 April 2010.

*prisoner is transferred or moves to a work camp. This is a common problem in many jurisdictions and accounts for some of the incomplete units of competency and traineeships delivered by the Department each year... Further, what may be of most value to a prisoner may not be available to them.*<sup>93</sup>

### **Finding 12**

There are a number of structural and psychological barriers to prisoner participation in VET, including:

- short sentences may preclude participation;
- prevailing culture in some prison officers;
- the constraints imposed by the structured day and prison routine;
- prison work pays better; and
- waiting lists and the difficulty in accessing some courses.

### **(d) The impact of penal policy on VET**

Penal policy inevitably impacts on the delivery of VET strategies in prison facilities. This was captured in a 2005 review of the operation of VET across twelve Western Australian prisons that highlighted:

- *At an operational level, VET delivery remains secondary to the main purpose of prison systems in securing offenders and ensuring community safety.*
- *Prison-based VET delivery operates within a wider system which means that VET is open to socio-political trends and economic pressures that impact upon the timing, delivery and presence or otherwise of certain VET programs.*
- *VET delivery operates in a piecemeal way, given the operational and funding constraints, and the wide diversity of prisons and types of prisoners.*
- *Individual prison programs can operate in isolation of what is occurring in other prisons, making the management of pathways highly problematic for individual prisoners.*<sup>94</sup>

The issue of access to personal computers well illustrates how, at an operational level, VET delivery remains secondary to the main purpose of prison systems, i.e. the securing of offenders and ensuring community safety. In the past year DCS has withdrawn the opportunity for prisoners to have their own personal computers (PCs). It did this for security considerations.<sup>95</sup>

<sup>93</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p10-11.

<sup>94</sup> NCVER, Vocational education and training provision and recidivism in Queensland correctional institutions, 2005, p15. Available at: <http://www.business.uq.edu.au/download/attachments/6553737/ncver-prison.pdf>. Accessed on 9 September 2010.

<sup>95</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 20 April 2010, p1.

In the twenty first century where education is delivered in electronic modules, the withdrawal of computer access has a significant impact on the delivery of VET in its many dimensions. It also puts additional pressure on the limited number of PCs in the education centres. EVTU's budget has not increased to enable more computers to be placed in education centres. The Committee is advised that in fact it is an area that has had funding reduced due to the government's efficiency dividend.<sup>96</sup>

The Office of the Inspector of Custodial Services believes that there were better options available to the management of the risk posed by PCs held by prisoners. In addition 'internet access and electronic communication have become vital to the pursuit of education and training in contemporary society.'<sup>97</sup>

One approach is that recently adopted by the New South Wales Department of Corrective Services (NSWDCS). NSWDCS have completed a statewide secure network system with PCs reconfigured for prisoners with a suite of educational and information programs for such things as literacy and numeracy. Every offender has their own IT account and there is no provision for discs or USBs to be used. It is effectively an intranet. 1000 PCs have been built to the standard with no games. Dumb terminals<sup>98</sup> have revolutionised access to computer activity although at the moment PCs are excluded from cells. However, recognising that prisoners spend 16 hours a day in a cell there is a current project to scope 'in cell' access.

A similar approach is being initiated in Western Australia with the new prison facility at Derby to run a pilot.<sup>99</sup> However, 'this will cost money so we are [going forward] slowly, slowly.'<sup>100</sup>

### **Finding 13**

In prisons, as in the broader community, internet access and electronic communication have become vital to the pursuit of education and training. The withdrawal of access to personal computers outside of the few located within the education centres located in each facility negatively impacts vocational education and training outcomes.

<sup>96</sup> *ibid.*

<sup>97</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p18.

<sup>98</sup> A dumb terminal is a data terminal that does no independent processing, but relies on the computational resources of a computer to which it is connected over a dedicated circuit or through a network..

<sup>99</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 20 April 2010, p1.

<sup>100</sup> *ibid.*

### **Recommendation 6**

The Committee recommends that:

- That the Department of Corrective Services expedites the development of a state wide area network for the education centre's computer system with personal computers reconfigured for prisoners with a suite of educational and information programs; and
- That the ratio of dumb terminals to prisoners be significantly improved.

In the face of limited resources, DCS policy will, at times, also threaten the delivery of VET. During the course its inquiry the Committee became aware of what was known as the Adaptive Prison Routine (APR) Development Guidelines sent to Superintendents by the Commissioner for Custodial Services which suggests the type of restrictions that could be implemented to reduce overtime by custodial officers. The document suggests that once normal routine with no overtime is breached, services provided by the education area be reduced. Various other restrictions were then suggested until a full lock-down stage which allows visits, medical appointments, court attendance and the like.<sup>101</sup> While it is understood that this was subsequently modified it does highlight the operational realities faced by EVTU in its daily operations.

The Committee has since been advised that restrictions on overtime are significantly impacting the delivery of VET in a number of facilities such as those located at Bunbury, Karnet, Roebourne and Wooroloo.

In responding as to the reasons behind the staffing issue, DCS advised that the problem facing them has less to do with financial resources and more to do with the lead time in recruiting and training new staff.<sup>102</sup>

### **3.4 Working collaboratively to achieve integration**

Recidivism rates are affected by a broad range of individual factors including low education levels, physical and mental health, substance abuse, and employment skills. These many factors make it difficult to respond effectively to what is a complex policy issue and no single strategy will provide a solution. International research has shown that a reduction in recidivism is best achieved through the integration of offender management programs, education, training and support, both in prison and on the return of the prisoner to the community.<sup>103</sup> Such an approach means that more than one problem is addressed at a time and recognises the multiple problems

<sup>101</sup> Deputy Commissioner, Department of Corrective Services, Internal Memorandum, Adult Custodial Division 28 January 2010, to All Prison Superintendents.

<sup>102</sup> Mr Mark Kuzminski, Chief Finance Officer, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p4.

<sup>103</sup> Dawe, S., 'Introduction', in Dawe, S. (ed.), *Vocational Education and Training for Adult Prisoners and Offenders in Australia*, NCVET, Adelaide, 2007, p11.

most prisoners face. There is a particular need for such an integrated services approach to be taken with respect to Aboriginal prisoners.<sup>104</sup>

Working with scarce resources and operating in a complex setting, the EVTU has embraced a collaborative and integrated approach to the delivery of its services to achieve effective outcomes. It endeavours to work collaboratively externally with a diverse range of government and non government organisations and internally through the integration of education and training with prison industries, and in the context of a prisoner's sentence management.

### **(a) Working collaboratively externally**

At a time when there is a growing shortage of skilled labour required to meet the needs of industries, the Education and Vocational Training Unit (EVTU) works closely with a range of external partners in industry and education to optimise its education/training outcomes for prisoners upon release. This is outlined below:

*The Unit relies on strong partnerships with a variety of stakeholders both within prisons and the wider community. In 1997, management reviewed operational models for prisoner education and training in other Australian jurisdictions. The findings of this review produced a new model that drew on the best aspects from other jurisdictions across Australia. Key features of the Unit include becoming a registered training organisation, formalising relationships with TAFE Colleges into Memoranda of Understanding and allocations of profile hours from the State, establishing the New Apprenticeship within the prison system, accessing Federal Indigenous education and training monies and integrating education and training into prisons' operations State wide.*

*TAFE delivery in prisons is focussed on accrediting training at certificate II or higher. Lower level training in access and equity courses and certificate I, are predominately delivered through Department of Corrective Services because it is not constrained by class sizes, nominal hours and fees which can hamper innovation and flexible approaches to engagement of the multi-disadvantaged learner.*

*Delivery by external registered training organisations also takes place across the State. Delivery at certificate II and above is predominately undertaken by these external providers which enables prisoners to receive qualifications easily recognised by employers and having no link to a prison environment. Where ever possible one provider will provide delivery for a specific industry area across multiple prison sites. This strategy addresses the need for prisoners to be able to move across prisons throughout their sentences and complete nationally recognised qualifications whilst doing so. Anecdotal evidence shows that this strategy decreases the need for withdrawal because of transfers, assists with unit completions and establishes links with external providers who have particular content expertise.<sup>105</sup>*

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<sup>104</sup> Submission No. 2 from Office of the Inspector of Custodial Services, 11 February 2010, p15.

<sup>105</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 23 March 2010, p10.

**External Agencies**

*To assist the re-entry of prisoners back into the community the Unit has established a networking forum that is attended by external agencies who provide services to prisoners post release. A number of organisations were identified as having a brief to assist prisoners during the transitional phase of re-entering the community. The ‘Linking Offenders To Services’ (LOTS) forum endeavours to streamline service delivery to prisoners by providing links with services such as accommodation, support groups, further education and financial assistance. LOTS provides the framework for the development of a collaborative effort by the Department of Corrective Services, the Department of Education and Training (DET), Centrelink, not-for-profit agencies funded to work with ex-offenders, Job Network agencies, private and public training providers and other employers across many different industries, to establish a sustainable future for ex-prisoners returning to the community.*

**Employer Groups**

*Effective partnership arrangements between employer groups, the Department of Education and Training, Department of Corrective Services and group training agencies have been established to support prisoner re-entry to the world of work post release. These agencies provide employment linkages for ex-prisoners who have undertaken traineeships, other training or education in prison. This is achieved by placing and supporting ex-offenders into suitable apprenticeships, traineeships or employment. The Unit has partnerships with a small number of employers who are willing to recruit ex-prisoners and are known to understand the issues facing offenders re-entering the workforce. The Unit is planning to meet with employer groups to expand the current service and the number of options prisoners have to access the labour market.<sup>106</sup>*

**(b) Working collaboratively internally - integrating VET in WA prisons**

EVTU operates within the Offender Services Directorate to provide an education and vocational training service for adult prisoners. As such it is embedded within the structure of DCS and, by its nature is functionally entwined at many levels with the daily activities of that department, working across the internal silos to achieve its objectives. For example:

*The traditional inclusion of practical learning within VET aligns with the preferred learning style of many offenders, whether Indigenous or non-Indigenous. It underscores the premise that ‘most people learn best through practical, contextual experience’ (MTC Institute, 2003a & b) and so supports its applicability to the prison context and the new emphasis on VET that the Unit decided to undertake. The decision to accept the veracity of supporting research, in regard to VET and its relevance to the State’s prisoners, led to three major developments; the acceptance that education in prisons should necessarily include an increase in emphasis on vocational training, a concerted effort to move into prison offender work areas where many offenders spent the majority for their workday and where consequently, contextual learning was best provided and thirdly, the development of the prison workplace based Hands-on Learning Program (HOLP).<sup>107</sup>*

<sup>106</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 23 March 2010, p10.

<sup>107</sup> *ibid*, p5.



The appropriateness of this approach is further underscored by the educational profile of many inmates with their limited education. The introduction of VET offers opportunities for offenders to reduce this disadvantage and so supports their successful re-integration into the community. The impact of this approach on recidivism is evidenced in a large Queensland study of 1800 people which found that 32 percent of prisoners who did not participate in VET before their initial release returned to custody within two years, while only 23 percent of VET participants returned.<sup>108</sup>

**Recommendation 7**

Recognising the proven effectiveness that an integrated approach to the provision of vocational education and training can have on recidivism rates, the Committee recommends that prison education facilities are increased in line with the increasing prison muster together with an increase in education staff. The Committee strongly recommends to the Treasurer that particular recognition be given to the resourcing needs of the Education and Vocational Training Unit in the Department of Corrective Services.

**Recommendation 8**

The Committee recommends that consideration should be given to changing the prison regime to support prisoners working a conventional 8 hour working day, in education, vocational training or work programmes. This would foster a work ethic and encourage prisoners to obtain qualifications and marketable skills. It would also facilitate the better use of existing facilities.

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<sup>108</sup> Australian Institute of Criminology, 'Reducing recidivism through vocational education and training programs', 2008. Available at: <http://www.aic.gov.au/publications/current%20series/crm/61-80/crm065.aspx>. Accessed on 12 April 2010.



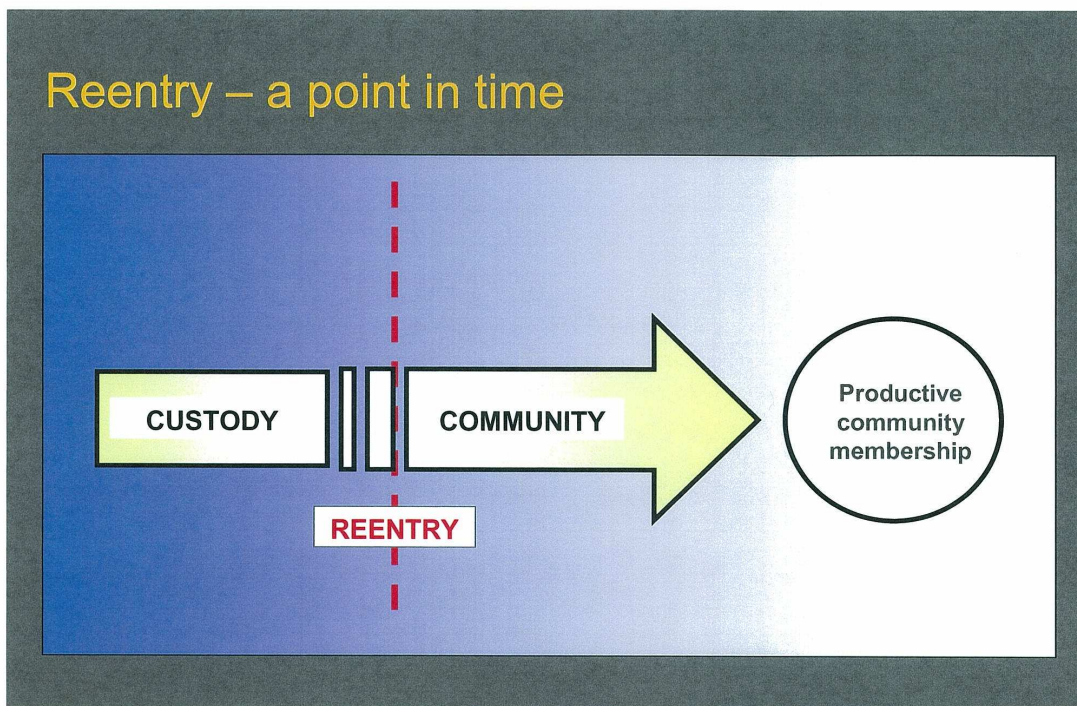
## CHAPTER 4 RE-ENTRY

### 4.1 Re-entry

As the cost of crime and the enforcement of justice continues to escalate, discussions surrounding re-entry and its purposes have become more prominent, with policymakers looking for better ways to reduce recidivism and to increase public safety. Managing a prisoner's return to the community can positively impact on the likelihood of reoffending. There are further economic benefits to the community if offenders not only cease to re-offend but go on to productively contribute to community life.<sup>109</sup>

Re-entry, or the process of transition from prison to the community, is often only thought of as being a single point in time as figure 4.1 illustrates:

**Figure 4.1 Re-entry - a point in time<sup>110</sup>**



However there is much research to support the notion that prisoners do better when provided with assistance to re-enter society pre and post release. Incentives to the taxpayer to providing such

<sup>109</sup> Australian Institute of Criminology, *Promoting Integration the Provision of Prisoner Post-release Services*, September 2003, p1.

<sup>110</sup> Australian Institute of Criminology, 'Prisoner reintegration post-release', Presentation for PNI workshop: 16<sup>th</sup> UN Crime Commission Vienna, 23-27 April, Available at: [www.aic.gov.au](http://www.aic.gov.au)

assistance include savings to the community in reduced crime as well as incarceration and supervision costs.

The Australian Institute of Criminology (AIC) has found that the best outcomes for returning prisoners arise when factors predisposing a person to criminal activity (criminogenic needs) are addressed and when physical and social needs are appropriately supported both in prison and post-release. Identified areas of need range from practical physical considerations (housing) to less tangible factors such as the fostering of social interactions that permit ex-offenders to give back to their communities. The AIC also advocate such programs as building parenting skills to minimise the probability of intergenerational offending.<sup>111</sup>

The notion that society should *enable* the reintegration of prisoners is not new. In 1963, in relation to re-integration strategies, the UK Advisory Council on the Treatment of Offenders advocated for effective aftercare for prisoners, and identified three key reasons to support effective aftercare:

- a humanitarian concern for all ex-prisoners;
- an acknowledgement that supervision at the close of a sentence may effect recidivism; and
- recognition that specialist systems of aftercare are needed for various classes of offenders.<sup>112</sup>

Effective re-entry management addresses not just the moment of re-entry but also the period leading up to and following release. There is increasing recognition worldwide that re-entry efforts should begin while offenders are still in custody and preparing for release. This process should be a continuum from pre-release to include the period of a prisoner's immediate transition back into the community. It might engage the provision of support services such as job search assistance, substance abuse counselling, and the like.<sup>113</sup> Therefore in this period offenders are exposed to a range of strategies to support their effective reintegration back to the community upon release.<sup>114</sup>

Such programs may include life skills acquisition, anger management programs, drug rehabilitation, vocational training, and work programs.<sup>115</sup>

Re-entry programming ideally will involve a comprehensive case management approach. Figure 4.2 represents this process:

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<sup>111</sup> Australian Institute of Criminology, *Promoting Integration the Provision of Prisoner Post-release Services*, September 2003, p2.

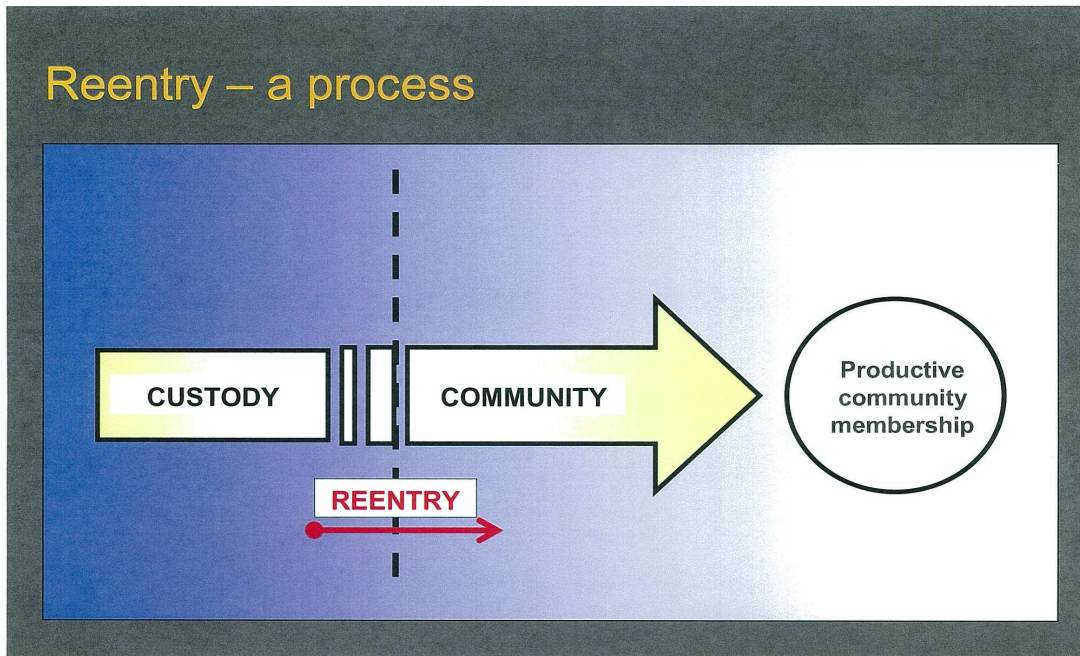
<sup>112</sup> The Development, Provision and Evaluation of Re-entry Services for Prisoners - USA, Israel, Katalin Kraszlan, Churchill Fellow 2009, The Winston Churchill Memorial Trust of Australia p4.

<sup>113</sup> Goebel, Kathy, 'Re-Entry and Corrections Education', *Focus on Basics: Connecting Research and Practice*, vol. 7, Issue D, August 2005, p9, and HM Prison Service, *Reducing Prisoner Reoffending*. Report by the Comptroller and Auditor General, HC 548 Session 2001-2002: 31 January 2002, p10.

<sup>114</sup> US Department of Justice, What is Re-entry, <http://www.re-entry.gov>, accessed 20 August 2010.

<sup>115</sup> *ibid.*

Figure 4.2 Re-entry - a process<sup>116</sup>



Although re-entry may be seen as a single point in time when an offender is released to the community, it is also a process, which in some jurisdictions covers a period of three months prior to release and six months post release, as is currently also the case in Western Australia.

**(i) The challenges of re-entry**

Changes in sentencing policy have led to many of inmates completing their full sentence in prison and being released with little or no support in the community because they are not subject to the reporting requirements associated with parole. Prisoners released without supervisory requirements are considered to be the most likely to reoffend as they are left with no obligation to report to community corrections staff once they leave prison.

The release phase is one of intense demands for prisoners. They may face pressures as they reunite with family, begin searching for employment, come into contact with previous acquaintances and the temptations of old habits.<sup>117</sup> Without sufficient support upon release, the cycle of offending and reoffending becomes increasingly difficult to break. This is especially true

<sup>116</sup> Australian Institute of Criminology, 'Prisoner reintegration post-release', Presentation for PNI workshop: 16<sup>th</sup> UN Crime Commission Vienna, 23-27 April, Available at: [www.aic.gov.au](http://www.aic.gov.au)

<sup>117</sup> Goebel, Kathy, 'Re-Entry and Corrections Education', *Focus on Basics: Connecting Research and Practice*, vol. 7, Issue D, August 2005, p10.

in relation to short term prisoners who may not be imprisoned long enough to have access to in-prison programs and who are generally not subject to any post-release supervision.<sup>118</sup>

It has been noted in the United States that ‘people getting out of prison, like soldiers returning from battle, often experience post-traumatic stress disorder and most are filled with fear and the numbness of alienation, rage and guilt.’<sup>119</sup>

Interviews with newly released ex-offenders have revealed their biggest fear to be ‘not making it’ and going back to prison. Many former inmates described themselves as being anxious and on edge and worried about a variety of factors that could cause problems including ‘hanging out with the wrong individuals, family problems, abstaining from drug and alcohol use as well as not knowing how they were going to support themselves.’<sup>120</sup>

Recent research of prisoner re-entry indicates that those who re-offend are more likely to be unemployed, to use drugs or abuse alcohol and to have extensive criminal histories.<sup>121</sup> A number of other studies investigating the correlation of unemployment and the incidence of arrest have found that being arrested reduces employment prospects by ten - twenty percent.<sup>122</sup> These results indicate that arrest does not reduce the desire for employment, but significantly reduces the prospects of finding employment.<sup>123</sup>

Early intervention is important with US studies revealing that prisoners are at greatest risk of reoffending during the early months of their release. Statistics indicate that nearly one-third (29.9%) of released prisoners in the United States are rearrested during the first six months of freedom.<sup>124</sup> In Western Australia, some 40% of prisoners are reconvicted within two years of release. However the vast majority of all failures occur within the first year after release.<sup>125</sup>

Unconditional releases - that is, inmates who are released with no community supervision after serving their full sentence - are growing both in absolute numbers and as a percent of total released offenders.<sup>126</sup> For instance Western Australian statistics, (Table 4.1) show that of the 3245

<sup>118</sup> Promoting Integration: The Provision of Prisoner Post-release Services, Australian Institute of Criminology Trends and Issues, No262, September 2003, p2.

<sup>119</sup> <http://www.criminologyresearchcouncil.gov.au/reports/ogilvie.pdf> p1.

<sup>120</sup> Edmund F. McGarrell et al, Applying Problem Solving Approaches to Issues of Inmate Re-Entry: The Indianapolis Pilot Project, Summary Report. February 2004, p7.

<sup>121</sup> Prisoner Re-entry and Community Policing: Strategies for Enhancing Public Safety, Urban Institute Justice Policy Centre, U.S. Department of Justice, March 2006, p10.

<sup>122</sup> Borland and Hunter, 2000, p. 136; Hunter and Gray, 2001, pp. 122-3

<sup>123</sup> Stephens, B.J. ‘The determinants of labour force status amongst indigenous Australians’, Available at: <http://www.uwa.edu.au>. Accessed on 8 November 2010.

<sup>124</sup> Prisoner Re-entry and Community Policing: Strategies for Enhancing Public Safety, Urban Institute Justice Policy Centre, U.S. Department of Justice, March 2006, p10.

<sup>125</sup> Submission No. 15 from Department of Corrective Services, p57.

<sup>126</sup> Transition from Custody to Community: Transitional Support for People Leaving Prison, Office of the Correctional Services Commissioner, Victoria, June 2001 p2.

prisoners released in 2009, 1729 (or 53%) were discharged in that category.<sup>127</sup> This percentage has increased by 25% since 2005 as exemplified below:

**Table 4.1 Custodial Exits**

Year ending	Discharged to unsupervised Freedom	Total Adult Discharges	% of prisoner released without supervision
31 Dec 2005	996	3,520	28%
31 Dec 2006	739	2,960	25%
31 Dec 2007	1,226	3,265	37.5%
31 Dec 2008	1,147	3,401	34%
31 Dec 2009	1,729	3,520	53%

The post-release management of offenders in Australia varies with jurisdictions. In general, offenders can be released on license or parole, on intensive supervision orders or on temporary release orders. Others are released into the community upon completion of their sentences on an unconditional basis. The responsibility for the management of offenders released with orders typically belongs to community correctional staff, while those released unconditionally have no reporting requirements.<sup>128</sup>

Significantly in terms of reintegrating with society, ex-prisoners have a lower earning potential due to a range of factors including fractured employment or lack of prior work experience and poor educational achievement. These factors, when coupled with the stigma of a prison sentence, further diminish earning potential. They are likely to be able to earn far more from crime.<sup>129</sup>

Despite these and other obstacles, there is strong evidence that well structured strategies that lift prisoners' general education, and instil basic work disciplines when integrated with pre and post release community and employment support, will reduce recidivism. Internationally, notably in Singapore and in some states in the United States of America, such integrated strategies have seen declines from 40%+ recidivism rates down to 25%. In particular this has occurred where there is a real focus on supporting prisoners upon their release into the community and also where there is a priority given to the development of workplace skills that are relevant to the workplace outside of the prison.

<sup>127</sup> Discharges in Period by Facility and Exit Type. Data provided by Department of Corrective Services.

<sup>128</sup> Australian Institute of Criminology, *Promoting Integration the Provision of Prisoner Post-release Services*, September 2003, p1.

<sup>129</sup> Re-entry and Prison Work Programs, Urban Institute Re-entry Roundtable, May 19-20, 2003 New York University Law School. p7.

**(ii) The value of pre and post release support strategies**

Research by the Australian Institute of Criminology has found that managing a prisoner's return to the community can positively impact on the likelihood of reoffending because of the many social, economic, physical, and psychological problems they confront when leaving prison.<sup>130</sup>

The incentives for the community in supporting successful re-entry are captured in a British Report as follows:

*Rather than draining community resources, safety and morale, prisoners who return to the community with support systems in place can become productive members of society, thus saving resources, strengthening family and community ties, and expanding the labour force and economy.*<sup>131</sup>

Factors such as increasing prison numbers, the financial cost when prisoners re-offend and the lost social and economic capacity to society are the push factors supporting the need for effective re-entry of prisoners back into society.

**(iii) Limitations of Western Australian pre-release strategies**

Research demonstrates that crime is correlated to a range of factors including:

- limited education;
- unemployment;
- drug and alcohol misuse;
- mental and physical health;
- attitudes and self-control; and
- institutionalisation and life-skills.<sup>132</sup>

Some of the above issues are addressed to a certain extent within the prison environment by way of targeted programs and courses, while basic skills are taught in pre-release facilities such as work-camps.<sup>133</sup>

However, as outlined in the previous chapter, evidence to the Committee suggests that the increased prison muster has made prison based courses more difficult to access with some having extensive waiting lists. The inability to access services has been acknowledged by the Department of Corrective Services.<sup>134</sup>

<sup>130</sup> Australian Institute of Criminology, AIC Crime Reduction Matters No. 33 5 May 2005.

<sup>131</sup> Goebel, Kathy, 'Re-Entry and Corrections Education', *Focus on Basics: Connecting Research and Practice*, vol. 7, Issue D, August 2005, p10.

<sup>132</sup> *Reducing re-offending by ex-prisoners*, Social Exclusion Unit, Office of the Deputy Prime Minister, London, 2002, p8.

<sup>133</sup> Ms Cathy Csaba, Manager Prison Industries, Department of Corrective Services, *Transcript of Evidence*, 26 May 2010, p7.

<sup>134</sup> Outcare is the Western Australia's largest provider of prisoner re-entry services, providing individual support for prisoners to assist in reintegration. and Submission No. 12 from Outcare Inc., March 2010, p9.



The type of training and employment opportunities available within the prison system itself are also limiting factors when considering successful re-entry. It has been suggested that, although the requirement to be engaged on a work activity may provide some restorative function, it also exists to occupy the time of the prisoners and keep an orderly muster, and is not necessarily commensurate with skilling a prisoner for re-entry.<sup>135</sup>

In evidence Outcare told of a prisoner who was given the task to keep a particular corridor clean. The prisoner spent half a day on this activity. This non-productive work, they stated, is not in keeping with the concept of a structured day and, given the known low literacy levels of the prison population, it would be more productive to focus on building these skills as well as providing prisoners with training that matches the demands of the labour market.<sup>136</sup>

Additionally, shorter term prisoners have fewer opportunities to acquire educational or work skills, receive treatment for their drug misuse, or undertake offending behaviour programmes as DCS concentrates their limited resources on the longer term.<sup>137</sup>

Gridlocks in the system also prevent some minimum security prisoners moving to the facility appropriate to their classification. There are many prisoners held in medium security prisons who, although categorised as minimum security, cannot access minimum security facilities and the associated activities that might be on offer such as work camps, and work or education release.

In giving evidence DCS advised the Committee that they are now in the process of developing a new assessment tool to identify the social exclusion factors that may be contributing to a prisoner's reoffending and that this, coupled with programmatic intervention programs should provide better outcomes.<sup>138</sup>

**(iv) Collaboration in re-entry**

It is widely accepted that the area of human services is one that calls for collaboration in response to complex problems requiring different inputs. Criminal justice falls within that realm. Response to the myriad of problems facing offenders post-release requires a multidisciplinary approach in service delivery. The achievement of outcomes goes beyond the capacity and remit of any one single agency to respond to. Rather, it requires communities to be involved in partnerships that provide a wide range of opportunities for offenders to return to the community as focal members who can be supported and become productive and useful members of society.<sup>139</sup>

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<sup>135</sup> Re-entry and Prison Work Programs, Urban Institute Re-entry Roundtable, May 19-20, 2003 New York University Law School, p3, and Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 10 February 2010, p2.

<sup>136</sup> Mr Peter Sirr, Chief Executive Officer, Outcare Inc, *Transcript of Evidence*, 10 March 2010, p4.

<sup>137</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p6.

<sup>138</sup> Ms Matilda Prowse, Acting Manager Non-Government Contracts, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p12.

<sup>139</sup> The Victim's Role in Offender Re-entry, Anne, K Seymour, American Probation and Parole Association, 2001, p2.

Collaboration and commitment in service delivery is considered to be the best foundation for service delivery to ex-offenders. The problem of a unilateral approach was highlighted by the United Kingdom report, *Reducing Prisoner Reoffending* which found that resettlement practices varied widely and that the extent and nature of resettlement work reflected governors' assessment of priorities.<sup>140</sup> That report called for an integrated multi-agency partnership in response to the issue of prisoner re-entry with prison governors accountable for: establishing effective working partnerships with other bodies that can assist in the successful resettlement of discharged prisoners.<sup>141</sup>

Further, the report recommended that resettlement needs be identified early and incorporated into a prisoner's sentence plan. These include identifying work needs both inside and outside prison, housing needs, and arrangements for maintaining family and community links.<sup>142</sup>

In Western Australia, DCS has recognised the need for collaboration in re-entry both within DCS itself as well as with other agencies:

*It is very much recognised in my area that there is a greater need to integrate the re-entry agenda into everything the department does. In an attempt to do that, my predecessor established the non-government agreements board, which is an internal board comprising the key people of each of the divisions within the department. They attend that board. We review the contracts we currently have. We look at new initiatives and new ideas for moving things forward. Obviously, the transitional manager has had a real impact on integrating re-entry into the overall prison system and raising the profile of service providers. They are just two examples of how we have attempted to break down some of those silos and engage with some of our colleagues throughout the department.*<sup>143</sup>

DCS also works with a number of external government agencies, in particular the Department of Housing.

## **4.2 Pre and post release support in Western Australia**

### **(a) Pre-release**

#### **(i) Individual management plans**

Individual Management Plans (IMP) were discussed in the first report of this Inquiry but in essence an IMP is constructed for all prisoners serving effective sentences of six months or more

<sup>140</sup> HM Prison Service, *Reducing Prisoner Reoffending*. Report by the Comptroller and Auditor General, HC 548 Session 2001-2002: 31 January 2002, p9.

<sup>141</sup> *ibid*, p10.

<sup>142</sup> *ibid*.

<sup>143</sup> Ms Matilda Prowse, Acting Manager Non-Government Contracts, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p14.

and is generally constructed within 28 days of sentencing.<sup>144</sup> The plans are subject to review on a six or twelve month cycle, depending upon the length of the individual prisoner's sentence.<sup>145</sup>

However, as outlined in earlier chapters, even if there is an assessed need, access to programs can be problematic. In practice some management plans are more comprehensive than others and the implementation of the IMP is impacted by resources, individual staff attitudes, and structural impediments, as outlined in a previous chapter.

Aside from the therapeutic programs that may be on offer, there is also a need for many prisoners to receive basic life skills training; particularly those skills in keeping with technology.<sup>146</sup> Providers of re-entry services are able to offer life skills training to offenders in need of such strategies whilst they are in prison.<sup>147</sup>

**(ii) Engaging the private sector in WA in re-entry**

A major example of collaboration is that existing between DCS at Roebourne Prison and Rio Tinto. As detailed in the first report of this Inquiry, Roebourne Prison operates a training facility at Decca Station. The aim of the initiative is to maximise employment outcomes for indigenous prisoners with a particular focus on delivering skills-training relevant to the mining sector.

Roebourne Prison is supported by Rio Tinto along with some smaller companies in the region such as Woodside and Metalcom. The Committee was advised that the recidivism rate for those prisoners released in the previous 18 months was 15%. Post placement support is provided by a DCS Employment Coordinator who maintains contact with employers and ex-offenders.<sup>148</sup>

Other links to employment for prisoners post-release are those provided by Outcare Inc (Outcare) who advocate with employers for ex-prisoners. They speak with prospective employers and encourage them to consider whether there is any relevance the offence may have to the type of employment in question.<sup>149</sup>

The Committee understands that Outcare formerly operated a 'second chance business register' in the 1990s which at its highest point had 50 employers willing to take former prisoners into their workforce.<sup>150</sup> Outcare are keen to see this re-established.<sup>151</sup>

<sup>144</sup> Prisoners serving a lesser sentence may have an IMP established at the discretion of the Manager of Assessments or delegate. Custodial Rule 18 Assessment and Sentence Management of Prisoners 8.7.2, p10, and Department of Corrective Services, Director General Rules, Adult Custodial Rule 18 Assessment and Sentence Management of Prisoners 8.7.1, p10.

<sup>145</sup> Department of Corrective Services, Director General Rules, Adult Custodial Rule 18 Assessment and Sentence Management of Prisoners 8.12.7, p14.

<sup>146</sup> Peter Sirr, Chief Executive Officer, Outcare, *Transcript of Evidence*, 8 September 2010, p2.

<sup>147</sup> Documentation provided to the Committee by the Department of Corrective Services Non Government Agreements Branch, September 2010.

<sup>148</sup> Briefing Roebourne Prison 11 May 2010.

<sup>149</sup> Mr Peter Henson, President, Outcare Inc, *Transcript of Evidence*, 10 March 2010, p5.

<sup>150</sup> Mr Peter Sirr, Chief Executive Officer, Outcare, *Transcript of Evidence*, 10 March 2010, p5.

The Department of Corrective Services (DCS) has also attempted to engage the private sector in its plans for the new West Kimberley facility in Derby. However, the Committee was advised that there has been little interest to date shown by companies in response to an offer by DCS to design facilities to best suit their particular training needs.<sup>152</sup>

**(iii) Service and employment expos**

DCS holds service and employment expos at various prisons to assist prisoners in making decisions regarding career employment choices post release. Typically these expos attract both government & non-government organisations to display their particular services and assistance to prisoners for consideration pre-release. As example, some of the participating organisations for an expo at Roebourne Prison included.<sup>153</sup>

- Medicare
- Child Support Agency
- Centrelink Karratha & Port. Hedland
- Pilbara Joblink
- Job Futures
- Bloodwood Tree Association
- Pilbara Mental Health & Drug Services
- Department of Transport
- Rio Tinto
- Ashburton Aboriginal Corporation
- Family Planning WA

**(iv) Re-entry link**

The Department of Corrective Services provide a re-entry link service to prisoners nearing release. The program is contracted by DCS to various organisations across the State which assist the prisoner in areas such as:

- dealing with matters relating to social exclusion;
- linking with family and community supports;
- linking with job networks;
- finding permanent accommodation; and
- developing life skills.<sup>154</sup>

Planning for release begins some months prior where prisoners are seen by a transitional manager based within the prison who then provides a referral to an appropriate service provider. The

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<sup>151</sup>      ibid, p7.

<sup>152</sup>      Ms Katy Kraszlan, Project Manager, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p16.

<sup>153</sup>      Briefing Roebourne Prison 11 May 2010.

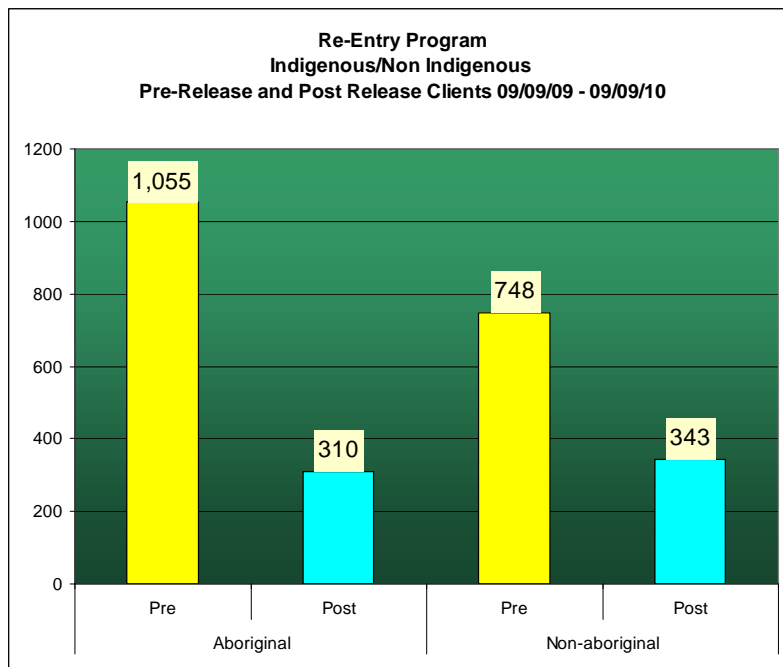
<sup>154</sup>      Documentation provided to the Committee by the Department of Corrective Services Non Government Agreements Branch, September 2010.

Committee was advised that funding for this area of offender services amounted to \$4.5 million per annum.<sup>155</sup>

Take up of the service is currently on a voluntary basis however the Committee was advised the modifications to the service, due to begin on 1 January, also now include a mandatory component where every prisoner is seen by the transitional manager prior to release.<sup>156</sup>

Unfortunately, as indicated in figure 4.3, the number of Indigenous offenders accessing re-entry services post-release is significantly less than that of non-Indigenous offenders. Figures provided by the Department of Corrective Services indicate that 29% of Indigenous offenders remain as clients post-release compared with to a retention rate of 46% for non-Indigenous offenders:

**Figure 4.3 Reentry Program Indigenous/non Indigenous**



**(v) Boronia - a model for pre-release**

Effective life skills programs can run within the prison setting, as demonstrated by Boronia, a pre-release centre for female prisoners. Recognising many prisoners are institutionalised and lack cognitive skills, they are taught meal preparation and cooking, budget planning, and time management. Much of what is done inside the facility is designed to mirror that of the outside world.<sup>157</sup>

<sup>155</sup> Mr Graeme Doyle, Assistant Commissioner, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p6, and Ms Matilda Prowse, Acting Manager Non Government Contracts, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p8.

<sup>156</sup> Ms Donna Hensman, Manager Service Agreements Procurement, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p11.

<sup>157</sup> Briefing, Boronia Pre-release Centre for Women, 27 July 2010.

Boronia engages external agencies to work with the inmates by way of career counselling and assisting with increasing their employability skills. Those agencies also provide practical help with job search techniques and resumes. Ex-offenders with children are also provided with links to a parenting support group currently operating in various setting throughout metropolitan area. Regional participants are provided with phone support.<sup>158</sup>

Boronia is recognised as being ‘best practice’ in terms of preparation for re-entry and there are elements of the new prison facility in Derby that are based on the Boronia model.<sup>159</sup>

Despite DCS recognising the value of pre-release support, the Committee learned of the difficulties in its provision. For instance, over the past 2-3 years, support services and personnel for prisoners have declined in some areas for economic and structural reasons. For example Roebourne Prison:

- has not attracted an Independent Prison Visitor for three years;
- the Aboriginal Visitors Scheme (AVS) has not had a provider presence for two years;
- the current Prison Support Officer (PSO) has been on sick leave for approximately four months; and
- the Women's Support Officer (WSO) has been on sick leave for approximately three months..<sup>160</sup>

#### **Finding 14**

The Department of Corrective Services implements a range of pre-release strategies. Many of these are innovative, such as the Employment Expos and the DECCA initiative. However there are structural and resource impediments to the extension of core strategies across the prison system as a whole.

### **(b) Post-release**

#### **(i) Integration of pre and post release support**

As previously outlined, practices in post release service delivery typically include assistance from multiple agencies in the provision of health, housing, education and employment. Government agencies providing service include Centrelink, Homeswest, the Department of Health and TAFE colleges. Advocacy services that assist former inmates in their contact with such agencies may be

<sup>158</sup> Briefing, Boronia Pre-release Centre for Women, 27 July 2010, and Ms Christine Ginbey, Director, Strategic Asset Services, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p7.

<sup>159</sup> Ms Katalin Kraszlan, Project Manager, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010 p2.

<sup>160</sup> Briefing Roebourne Prison 11 May 2010.

provided via third parties such as faith-based or not-for-profit organisations. These provide a single point of contact for assistance by way of referral and liaison.

The provisions of re-entry services depends upon the available support services and related community infrastructure. This is a broader government issue in terms of the availability of services in remote areas than DCS.<sup>161 162</sup> The non-government sector has also long been active in attempting to cater for prisoners upon release and referrals to these support agencies come by a variety of means (prisoners and/or their families, prison support staff, DCS staff or other agencies). However, the acceptance of assistance from any of the re-entry service providers is on a voluntary basis for any ex-offender being released on an unconditional basis.<sup>163</sup>

Community based support provides continuity in some aspects of rehabilitation as well as providing a sense of continuity and stability for the newly released prisoner as most agencies providing re-entry services are linked with the prisoner in the 3 months prior to release.

Such help may also include assisting individuals develop the skills and capacity to achieve attributes such as self efficacy, personal dignity and social esteem as well as to develop a coherent life plan. This type of assistance requires building a trusting relationship over a period of time.<sup>164</sup>

Service providers are not required to deliver all services in-house for their clients, but instead to identify the need and then co-ordinate the response accordingly. Outcare defined one of the benefits of their service as providing a single point of contact for ex-offenders to receive support and assistance with other service providers. It operates with a 'one door' approach which allows them to provide wrap around services from different providers.<sup>165</sup>

Providing holistic support for prisoner re-entry can be measured to a certain extent by comparing the reoffending rates gathered by Outcare:

*The model is very good. It does show success. The stats are showing around about a 40 to 41 per cent reoffending rate amongst the control group. Of those that attend our services, we more than halve that over a two-year period.... it is around 17.5% reoffend over two years rather than 41 per cent. There are massive economic savings in that alone in terms of prison beds. It is a very cost-effective way to deal with some of those issues.*<sup>166</sup>

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<sup>161</sup> Ms Matilda Prowse, Acting Manager Non-Government Contracts, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p10.

<sup>162</sup> *ibid*, p10-11.

<sup>163</sup> Re-Entry Link Providers and an overview of the program can be found in Appendix Four.

<sup>164</sup> Mr Peter SIRR, Chief Executive Officer, Outcare Inc., *Transcript of Evidence*, 10 March 2010, p2.

<sup>165</sup> *ibid*, p8.

<sup>166</sup> Mr Peter SIRR, Chief Executive Officer, Outcare Inc., *Transcript of Evidence*, 10 March 2010, p2-8.

Aside from referrals to counselling, drug and alcohol services and assistance with dealing with other government agencies, Outcare also provides practical support with general living and home skills, budget management and assistance with family issues.<sup>167</sup>

These measures of assistance are also mirrored to some extent by other support service providers. For instance Ruah Community Services provide a range of services for marginalised people with female prisoners being one of their target groups.<sup>168</sup> They too provide an individualised advocacy service which again encompasses re-entry strategies such as assistance with post-release accommodation and other services that may include employment and health needs.

Outcare say another advantage of programs run by non-government agencies is the continuity of care. There is the benefit of having the same person working with the prisoner both during their time in prison and also upon release into the community.<sup>169</sup> The importance of continuity of service pre and post release is recognised by DCS as being more likely to have a positive and enduring effect than the best service they can deliver in-house.<sup>170</sup>

**(ii) Housing needs**

Having sufficient housing stock available is one of the challenges faced by all service providers with the amount of housing stock available specifically for ex-offenders being fairly restricted. Outcare advised the Committee they had recently been able to increase the amount of beds available for their clients from 50 to 80 beds by entering into partnership with an affordable housing provider.<sup>171</sup> However the Committee was advised that that having housing needs addressed as an issue on its own was not sufficient, it needed the support of other measures to maximise a successful re-entry.<sup>172</sup>

It is difficult to determine what proportion of ex-prisoners is likely to experience homelessness and more accurate data is needed to better inform this question. Given that a large proportion of people leave prison without arranged accommodation or a clear idea how they will find accommodation, the problem of post-release accommodation is a serious issue. There are established linkages between homelessness and reoffending.<sup>173</sup> The importance of such accommodation to re-entry was explained to the Committee by Outcare:

<sup>167</sup> Outcare Incorporated, 'Community Support and Re-entry Services' Available at: <http://www.outcare.com.au/community.html>. Accessed on 28 July 2010.

<sup>168</sup> Ruah Community Services, 'Specialist Services' available at [http://www.ruah.com.au/page/specialist\\_services](http://www.ruah.com.au/page/specialist_services), Accessed on 28 July 2010.

<sup>169</sup> Submission No. 12 from Outcare Inc., March 2010, p27.

<sup>170</sup> Ms Christine Ginbey, Director Strategic Asset Services, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p7.

<sup>171</sup> Mr Peter Sirr, Chief Executive Officer, Outcare Inc., *Transcript of Evidence*, 8 September 2010, p6.

<sup>172</sup> *ibid*, p6-7.

<sup>173</sup> FaHCSIA, 'Ex-Prisoners, SAAP, Housing and Homelessness in Australia', 2010. Available at: [http://www.facsia.gov.au/sa/housing/pubs/homelessness/saap\\_er\\_publications/exprisoners/Documents/sec\\_exc\\_sum.htm](http://www.facsia.gov.au/sa/housing/pubs/homelessness/saap_er_publications/exprisoners/Documents/sec_exc_sum.htm). Accessed on 7 October 2010.



*It is very difficult to get these clients on emergency housing lists. It is very difficult to accept that they are going back into accommodation where they have come from where it is going to be problematic in terms of reoffending behaviour. The tendency of most of these clients, when they are faced with accommodation needs, is to go to their peers. Generally, their peers, as we know, are not a great influence on their lives, particularly around drug use and the offending that goes with that. Accommodation is a very under-resourced area in terms of people coming out of prison.<sup>174</sup>*

DCS have some limited supported accommodation in the Perth metropolitan area and parts of regional Western Australia, for people whose accommodation needs are not met on exit from prison including:

- short-term and emergency accommodation for up to three months;
- transitional accommodation for prisoner, mothers with babies, families and those with intellectual disabilities, for up to eight months; and
- long-term accommodation for single people for up to 18 months.<sup>175</sup>

DCS have recently entered into agreement with the Department of Housing to facilitate the movement of ex-offenders into Homeswest tenancies. A pilot program has been established that will see those ex-offenders who have identified employment upon release have access to more stable accommodation than has been the case in the past.<sup>176</sup>

In addition, there are a small number of NGOs providing housing for ex-offenders but these are, primarily, for short time periods with differing qualifying criteria, mostly requiring referral prior to leaving prison.

### **Finding 15**

Strong links have been found between homelessness and offending, with the experience of homelessness contributing to an increased likelihood of being imprisoned. Both DCS and Outcare, in partnership with the Department of Housing, are working to address this issue. However resources are limited and the supported accommodation available is generally short term.

<sup>174</sup> Mr Peter Sirr, Chief Executive Officer, Outcare Inc., *Transcript of Evidence*, 8 September 2010, p8-9.

<sup>175</sup> Documentation provided to the Committee by the Department of Corrective Services Non Government Agreements Branch, September 2010.

<sup>176</sup> Ms Matilda Prowse, Acting Manager Non-Government Contracts, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p14.

### **Recommendation 9**

Recognising the strong links between homelessness and offending, the Committee recommends that an offer of supported transition accommodation for former prisoners be mandated for a six month period post release.

## **4.3 Re-entry strategies in other jurisdictions**

Prisoners in all jurisdictions, face similar problems on re-entry. The enabling factors which assist in a successful re-entry - factors such as family support and the maintenance of essential relationships, continuity of support beginning in prison and when released, together with practical assistance with housing, employment are also common to all jurisdictions. It is how the issues are managed that will vary.

In some jurisdictions where re-entry services involve integrated partnerships which engage correctional authorities, those government agencies responsible for the delivery of welfare services, and non-government organisations. These models and strategies differ in degree from Western Australia and because of their positive outcomes some of the overseas models are discussed here.

### **(i) Michigan Prisoner Re-entry Initiative**

One such community based example operates in Michigan, USA. The State of Michigan has had considerable success with its 'Michigan Prisoner Re-entry Initiative'. (MPRI) The program is a state-wide strategic approach to reduce crime and is heavily promoted by the executive, with the Michigan Department of Corrections having a Re-entry Director reporting to the Governor. This strong mandate flows through to the community/counties. Each local community has developed a re-entry program with a local co-ordinator to administer the program at that level. This position is usually within a large social services agency and is seen as a way of keeping that role separate from that of a statutory employee and the associated obligations that may make the client uncomfortable or wary.<sup>177</sup>

The MPRI model involves a framework for decision making in the three phases of custody, release, and the community supervision/discharge process:<sup>178</sup> There are seven decision points in these steps.<sup>179</sup>

<sup>177</sup> Ms Katalin Kraszlan, Project Manager, Department of Corrective Services, *Transcript of Evidence*, 8 September 2010, p13.

<sup>178</sup> [http://www.michigan.gov/corrections/0,1607,7-119-9741\\_33218-105494--,00.html](http://www.michigan.gov/corrections/0,1607,7-119-9741_33218-105494--,00.html).Michigan, accessed 5 August 2010, and the MPRI Model, Michigan Prisoner Re-entry Initiative, Policy Statements and Recommendations January 2006, p7

**Phase One - Getting Ready:** The institutional phase describes actions, events and responsibilities that occur during the offender's term of imprisonment, from admission until the start of re-entry.

1. Assessment and classification: Measuring the offender's risks, needs and strengths.
2. Prisoner programming: Assignments to reduce risk, address need, and build on strengths.

**Phase Two - Going Home:** The transition to the community or re-entry phase begins approximately six months before the offender's target release date, and continues until their adjustment to community supervision has stabilized—e.g., six months after release from prison. In this phase, re-entry elements are made more specific and detailed.

3. Prisoner release preparation: Developing a strong, public safety conscious parole plan.
4. Release decision making: Improving parole release guidelines.

**Phase Three - Staying Home:** The community and discharge phase involves the transition to eventual discharge and begins when the offender has stabilized on community supervision and continues until their discharge from supervision. The final stage of the process is discharge of the offender and begins when the offender's sentence or official supervision ends. In this phase, it is the responsibility of the former inmate, human services providers, and the offender's network of community supports and mentors to assure continued success.

5. Supervision and services: Providing flexible and firm supervision and services.
6. Revocation and decision making: Using graduated sanctions to respond to behaviour.
7. Discharge and aftercare: Determining community responsibility to 'take over' the case.

Michigan's model begins when a prisoner is incarcerated with a transition accountability plan (TAP) defining the programs and treatments the individual may require being drawn up.

This is essentially a case management plan and is in some ways similar to the Individual Management Plan for prisoners in WA. However it is much more rigorous with defined responsibilities and outcomes for each stage of the sentence. The second phase focuses on housing and employment needs as the prisoner exits the facility as well as the provision of basic requirements such as clothing and hygiene kits. The third and final part of the program has a focus on 'staying home' where re-entry and community agencies continue to engage with the offender after the parole term has finished. The level of engagement and depth of contact is

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<sup>179</sup> The MPRI Model, Michigan Prisoner Re-entry Initiative, Policy Statements and Recommendations January 2006, p4.

determined by the level of risk of the individual reoffending. The State of Michigan sees this as the most cost effective method of targeting resources as it results in lower recidivism rates.<sup>180</sup>

Part of the preparation for release under the MPRI involves providing prisoners with opportunities to participate in work assignments and skill-building programs that correspond to the needs of the employment market. Practical work experience can be gained from participating in the ‘prison build’ program which provides housing for low income families through the use of prison labour. In addition prisoners can also learn skills in traditional industries such as metal work, meat processing, printing and textile work. The MPRI program links its participants to employers upon release. Importantly, the offenders are recognised as being valuable employees with some employers reportedly holding positions or changing work hours to suit their new recruits.<sup>181</sup>

Michigan’s re-entry initiative is built on a solid foundation of policy and principles and is said to be the best developed program in the United States. While there is currently a dearth of hard data supporting a full evaluation of the program, the key inferred measure of success since its inception is a reduction in prison numbers with the State of Michigan reporting a decline of 6.7% in 2009.<sup>182</sup> This figure follows on from a reduction of 3% in 2008.<sup>183</sup>

**Finding 16**

The Michigan Prisoner Re-entry Initiative (MPRI) provides a strategic approach to reducing recidivism through the integrated, collaborative delivery of programs, services, support and supervision. The transition from prison to community is underpinned by a highly structured case management plan for each prisoner commencing from the time of incarceration to eventual discharge to the community where aftercare is made available. This model has seen a reduction in recidivism of nearly 10% in the two years 2008 and 2009 combined.

**(ii) Engagement with the private sector**

Ex-offender employment is universally acknowledged as one of the critical factors in reducing recidivism. Those jurisdictions having favourable outcomes are paying particular attention to employment upon release.<sup>184</sup>

<sup>180</sup> Ms Katalin Kraszlan, Churchill Fellowship *To Study the Development, Provision and Evaluation of Re-entry Services for Prisoners – USA, Israel*, p32.

<sup>181</sup> *ibid*, p28.

<sup>182</sup> *ibid*, p17.

<sup>183</sup> Prison Count 2010, The PEW Centre on the States, p2.

<sup>184</sup> Ms Katalin Kraszlan, Churchill Fellowship *To Study the Development, Provision and Evaluation of Re-entry Services for Prisoners – USA, Israel*, pviii.

The US State of Georgia for instance instigated a ‘Take 5’ program where the Department of Corrections encouraged large corporations to employ 5 released prisoners. The concept behind this program was that these businesses were seen as leadership group among others and it was hoped that the initiative would encourage other businesses to employ ex-prisoners.<sup>185</sup> The program has seen a measure of success with 500 prisoners being employed as a result.<sup>186</sup>

Employment co-ordinators also link prisoners with employers in industries comparable to the jobs they had undertaken whilst in prison, with the fields of construction, hospitality and labouring being the most easily targeted.<sup>187</sup> As happens here in Western Australia, any trade skills learnt whilst in prison are transportable and trade certificates earned are recognised outside of the prison system.

In Michigan, a ‘Ready4Work’ program focuses on finding employment in the construction industry. The program involves restoring derelict houses which are then provided to disadvantaged families. One initiative in Saginaw County evolved from housing demolition activities where the salvaged products were then sold. A niche market in the form of a store has developed, for while some of the demolished product is more common, some of the items are period pieces. The shop is staffed entirely by former prisoners.<sup>188</sup>

In recognising that secure employment plays a vital role in successful reintegration, the Singapore Prison Service has a structured framework in place to prepare inmates for release into the workforce. The program is managed by the Singapore Prison Service and is implemented in collaboration with the Singapore Corporation of Rehabilitative Enterprises. The three key elements being:

- Ready for Work - inmates should be adequately prepared to enter the workforce;
- Work is Ready - jobs should be available to inmates prior to their release; and
- Secure and Sustain - that such employment should be sustained.<sup>189</sup>

Aside from basic work ethics taught within the prison environment, the Singapore model has active engagement with the private sector in skills training and job preparation. As noted in the first report of this Inquiry, the Singapore Prison Service has developed extensive relationships with industry for either the provision of prison labour within the prison, or the provision of labour and workshop space in prisons.<sup>190</sup> Both of these endeavours see inmates provided with skills training.

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<sup>185</sup>     ibid, p35.

<sup>186</sup>     ibid, p7.

<sup>187</sup>     ibid, p35.

<sup>188</sup>     ibid.

<sup>189</sup>     Preparing Inmates for Reintegration into the Workforce - The Singapore Experience, Singapore Corporation of Rehabilitative Enterprises (SCORE) p.2.

<sup>190</sup>     Parliament of Western Australia, *Making Our Prisons Work - Interim Report*, Legislative Assembly, Perth, 24 June 2010, p115-122.

### **Finding 17**

Employment prospects are enhanced when prisoners receive job training to meet the needs of the labour market. Engaging with the private sector in skills training for inmates, and in job placement upon release, plays a key role in successful re-entry.

### **Recommendation 10**

That the Department of Corrective Services review all prison training programs to ensure they reflect contemporary industrial practice both in technology and work practices, and articulate with the demands of the contemporary labour market. It is strongly recommended that the measures taken be reported in the agency's Annual Report.

### **(iii) Engaging with the community**

*It is suggested that the community is uniquely positioned to assist returning prisoners because it comprises their families, neighbours, former and prospective employers, all of whom have the potential to exert "social control," encouraging former prisoners to engage in pro-social behaviours and refrain from breaking the law.<sup>191</sup>*

Single agency approaches alone are not sufficient to stop prisoners reoffending. Interagency and community relationships are needed to share in the rehabilitation of offenders.<sup>192</sup> A strong network of support after release is needed to assist offenders in reintegrating and the wider community forms part of this group.

An effective communications strategy between the authorities and the community are considered integral to the success of any community based supported re-entry. Each of the jurisdictions highlighted in a research paper on re-entry services in the United States had a communications strategy which focussed on the premise that at some time most prisoners were going to leave prison and enter the community. Publications and newsletters informed the public on the number of prisoners being released into the community each year and also the high cost of incarceration.<sup>193</sup> Moreover, that the provision of re-entry services lessens the likelihood that these prisoners would re-offend. Extensive press coverage of successful programs and individuals was

<sup>191</sup> Prisoner Re-entry and Community Policing: Strategies for Enhancing Public Safety, Urban Institute Justice Policy Centre, U.S. Department of Justice, March 2006 p25.

<sup>192</sup> Submission No. 15 from Department of Corrective Services, February 2010, p8.

<sup>193</sup> Ms Katalin Kraszlan, Churchill Fellowship *To Study the Development, Provision and Evaluation of Re-entry Services for Prisoners – USA, Israel*, p18.

used to raise awareness of prisoner re-entry in the wider community.<sup>194</sup> There is no evidence to suggest that such a strategy exists in Western Australia.

Since 1997, the Ohio Department of Rehabilitation and Correction (ODRC) have increasingly incorporated the concept of restorative justice into much of its programming. Restorative justice is a way of seeing crime as more than breaking the law – it also causes harm to people, relationships, and the community. So a just response must address those harms as well.<sup>195</sup> Some of the most direct examples of ODRC programs that are guided by the restorative justice philosophy are community service, victim awareness programs, and Citizen Circles.<sup>196</sup> Ohio has adopted a restorative justice stance to send a message to the community that offenders are worthy of further support.<sup>197</sup>

As restorative justice involves repairing the harm caused by crime with offenders being seen to ‘do justice,’<sup>198</sup> authorities have implemented community service work by offenders as part of prison programming. The amount of work performed has increased steadily with a reported 5 million hours completed by inmates in the year 2000. Such activities include rehabilitation of low-income housing, training pilot and companion dogs, computer restoration for donation to schools, and the building of playgrounds in the community.<sup>199</sup>

The goal of community collaboration is one of relationship building and ODRC has implemented ‘Citizen Circles’ as a community strategy to facilitate re-entry. The Circles operate in such a way to help offenders understand that acceptance back into the community requires fulfilment of obligations on their part. The Circle, comprised of community members, the offender, and family members of the offender, assists in developing a re-entry plan that may involve substance/mental health services, educational needs, job planning and placement services, housing, mentoring, community services and restitution requirements, along with peer support groups.<sup>200</sup> The Circles are said to create a positive environment where the offender can focus on the future rather than on the past. Participation by offenders in the Citizen Circle is voluntary.

One of the more notable successes from engaging the wider community in the re-entry process is Singapore which gives primacy to the reintegration of prisoners into society and this is undertaken

<sup>194</sup> *ibid*, p18.

<sup>195</sup> Restorative Justice Online, ‘Available at: <http://www.restorativejustice.org/university-classroom/01introduction/tutorial-introduction-to-restorative-justice/lesson-1-definition>. Accessed on 28 September 2010.

<sup>196</sup> A Portrait of Prisoner Re-entry in Ohio, Vigne, N.G. et al. November 2003, p9.

<sup>197</sup> Wilkinson, Dr R.A, and Bucholtz, G.A., *Prison Reform through Offender Re-entry: A Partnership Between Courts and Corrections*, Unpublished Paper submitted to Pace Law School, Symposium on Prison Reform, October 2003.

<sup>198</sup> Australian Institute of Criminology, ‘Restorative Justice’, Available at: <http://www.aic.gov.au/events/seminars/2010/strang.aspx>. Accessed on 28 September 2010.

<sup>199</sup> Wilkinson, Dr R.A, and Bucholtz, G.A., *Prison Reform through Offender Re-entry: A Partnership Between Courts and Corrections*, Unpublished Paper submitted to Pace Law School, Symposium on Prison Reform, October 2003.

<sup>200</sup> The Ohio Plan for Productive Offender Re-entry and Recidivism Reduction, July 2002.

using a range of mechanism and facilitators. Singapore has experienced a decline in its recidivism rate of 41% to 26.5%<sup>201</sup> since 1999/2000 with much of the success attributed to a focus on re-entry strategies that occurred at that time.<sup>202</sup>

*Yellow Ribbon Project - Singapore*

The most visible evidence of community engagement in Singapore is the Yellow Ribbon Project. This initiative aims to create awareness of the need to give second chances to ex-offenders, generate acceptance of ex-offenders and their families in the community, and to inspire community action to support the rehabilitation and reintegration of ex-offenders into society. The project is managed by the CARE network<sup>203</sup> which comprises of both government and other agencies and is championed by the President of the Republic. The Project arranges community activities to generate awareness of the need to give prisoners a second chance and these may involve events such as wearing a yellow ribbon or participating in a communal fun run. The Project operates a registered charity and funds raised through endeavours are used by agencies for programmes dedicated to the rehabilitation and care of inmates.<sup>204</sup>

**Finding 18**

Prospects for successful re-entry are enhanced when offenders are encouraged to engage in pro-social behaviours such as restorative justice and community service work. This in turn engenders community acceptance of the offender and provides a more supportive environment.

<sup>201</sup> The cohort released in 2007 have a recidivism rate. [http://www.mha.gov.sg/news\\_details.aspx?nid=MTY4NA%3D%3D-PdGcIR39SZY%3D](http://www.mha.gov.sg/news_details.aspx?nid=MTY4NA%3D%3D-PdGcIR39SZY%3D)

<sup>202</sup> See Parliament of Western Australia, *Making Our Prisons Work - Interim Report*, Legislative Assembly, Perth, 24 June 2010, p115-122 for an account of the Singapore Prison Service and its relationship with industry.

<sup>203</sup> Ministry of Home Affairs (MHA), Ministry of Community Development, Youth & Sports (MCYS), Singapore Prison Service (SPS), Singapore Corporation of Rehabilitative Enterprises (SCORE), National Council of Social Service (NCSS), Industrial & Services Co-operative Society Ltd (ISCOS), Singapore After-Care Association (SACA), Singapore Anti-Narcotics Association (SANA).

<sup>204</sup> Yellow Ribbon Project, Available at: <http://www.carenetwork.org.sg/>. Accessed on 9 September 2010.



**Recommendation 11**

The Committee recommends that the Minister for Corrective Services identify the formal measures that the Department of Corrective Services is taking in relation to restorative justice and community service initiatives. In addition, it is recommended that these initiatives become embedded in the operations of the Department and are reflected in the key performance indicators of the Commissioner.



## CHAPTER 5 WOMEN IN A MALE CULTURE

The Department of Corrective Services (DCS) has established its philosophical approach to women, whether staff or prisoners, in a policy document titled: ‘Women’s Way Forward.’

*‘Women’s Way Forward’ has been developed to share what we know of women who come into contact with the Department and especially for those in custody. It documents the adoption of a new philosophy across the corrections system which will be based on a women centred approach, informed from a women’s perspective or worldview.<sup>205</sup>*

Despite having a significant number of female employees, it is generally agreed that DCS is a male dominated culture. As such it is generally agreed by witnesses as having a male dominated culture. In optimising outcomes for both female staff and female prisoners a number of strategies at a policy level have been articulated. However the Committee has found that in practice there are significant shortcomings that impinge directly or indirectly on the efficiency and effectiveness of rehabilitation. The issues that have been identified form the substance of this chapter.

### 5.1 Director of Women’s Prisons

An independent Report on the changes made since the 2001 Inspector of Custodial Services scathing report on Bandyup noted the establishment of a Directorate of Women’s Custodial Services which was set up to implement a woman centred approach to custody as embodied in the DCS policy document ‘Women’s Way Forward.’<sup>206</sup> The role of the Director of Women’s Prisons was, at core, a role that brought the needs of women in the prison system to the fore, whether in terms of prison design, operation, or staff needs. The role significantly impacted the effectiveness of the rehabilitation strategies that arose out of these and related issues. The role has now been abolished causing concern to some DCS staff and the Inspector of Custodial Services.<sup>207</sup> The role included that of advocacy and mentoring.

Responsibility for female prisoners now lies with individual superintendents, however the Committee was advised by several witnesses that it is not easy for them to take on the additional responsibilities involved due to their pre-existing workload. With the existing high numbers of prisoners there is a reported sense of having to crisis manage their facilities.<sup>208</sup>

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<sup>205</sup> Department of Corrective Services, *Women’s way forward*, June 2009, p2. Available at: [http://www.correctiveservices.wa.gov.au/\\_files/about-us/our-responsibilities/strategic-plan-women.pdf](http://www.correctiveservices.wa.gov.au/_files/about-us/our-responsibilities/strategic-plan-women.pdf). Accessed on 29 September 2010.

<sup>206</sup> International Centre for Prison Studies, *International profile of women’s prisons*, report prepared by, , University of London, April 2008, p14.

<sup>207</sup> Prof Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 17 September 2010, p3-4.

<sup>208</sup> Prof Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 17 September 2010, p4, and Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, , *Transcript of Evidence*, 16 September, p4.

The role was not abolished because of the need to meet the 3% efficiency dividend but appears to have been a philosophical decision.<sup>209</sup> As such, the abolition of the role reflects a gap between the espoused policy of developing a women centred approach and the practiced reality:

*When you read the department's own strategic women's plan it talks about "women centred" and how having a female perspective of that is so key to that, yet you have no female person representing that or driving that. The contradiction and the almost futile nature of having the position stands out from our perspective.*<sup>210</sup>

Yet, even in the short life of the role, its impact was substantial on female facilities:

*The position was only in existence for a relatively short period of time. Within those seven to eight years that it was around, it achieved mammoth amounts compared with how we found Bandyup. For example, when we did the first inspection there, in the three years that the position existed between that inspection and the subsequent one, the change was amazing. That was a demonstration to us about what happens when someone takes ownership.*<sup>211</sup>

The consequence of the abolition is reflected in the way female prisoners' needs are currently addressed:

*Do I think Boronia can cope with something of an expansion? Yes, I do, but it is certainly not what you would advocate. It is a sign that the planning has not really been there for the increased number of women prisoners. The number and proportion of women in prison have been increasing quite rapidly over many years. It was quite predictable that this would continue to be the case. Unfortunately, it is my view that in the past 12 months, although there has been a lot of focus on expanding prison beds, there has not been enough focus on the needs of women.*<sup>212</sup>

The lack of focus on the needs of women in the prison system was experienced at a broader level in respect to case management.

*A lot of the driver for case management and the renewal of case management and making it more meaningful from a prisoner and staff engagement perspective was coming out of the women services directorate before it was disbanded. Since then, I am not sure whether we are able to identify a champion for the notion within the department.*<sup>213</sup>

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<sup>209</sup> Mr Graeme Doyle, Assistant Commissioner Corporate Support, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p7.

<sup>210</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 16 September, p4.

<sup>211</sup> *ibid.*

<sup>212</sup> Prof Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 17 September 2010, p2.

<sup>213</sup> Mr John Acres, Director of Operations, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p12.

The position provided for role modelling in a way more senior roles do not, simply because it was a role that was seen to be readily accessible even by the newest prison officer.<sup>214</sup>

### **Finding 19**

The position of 'Director of Women's Prisons' played a key role in raising the needs of women, both staff and prisoners in what is essentially a male domain. It resulted in effective changes to Bandyup, and it provided female representation on Prison Officer Transfer Committee. The role has notionally devolved to prison superintendents who have little time to meet this extended impost on their day. Its abolition is a cause of concern to stakeholders both internal and external.

### **Recommendation 12**

The Committee strongly recommends that the position of Director Women's Services be reinstated to provide a women specific approach and provide a female perspective to planning and human resources.

In the absence of the reinstatement of the position of a Director of Women's Services, the Commissioner be charged with formulating and implementing an approach focussed on the specific needs of women.

### **Recommendation 13**

The Committee recommends that:

- the Minister for Corrective Services identifies and improves the formal measures the Department of Corrective Services is currently taking to respond to the specific needs of women; and
- the responses to the specific needs of women be embedded in the operations of the department and reflected in the key performance indicators of the Commissioner.

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<sup>214</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 16 September, p4.

## 5.2 Women in prison

The International Centre for Prison Studies found that female prisoners in Australia were, on average serving sentences that were 15 months shorter than male offenders. In respect to their management, it states that: ‘Strategies that address the needs of women in custody must be informed by an understanding that custody is not a woman’s life, rather it is one of a woman’s life experiences.’<sup>215</sup>

This means that services designed to address a woman’s needs in custody should not simply be focussed on her time in jail but be focussed on her life post release, and that needs to include her connections into the community.

### (a) Female prison numbers

The profile of women prisoners tends to differ from that of male offenders. Women prisoners are as often victims as offenders. They are seldom violent offenders and are viewed as generally posing little risk to public safety. Many are single mothers with dependent children with c. 50% diagnosed with a mental illness. In addition, 40% have been victims of non consensual sexual activity, often as young girls.<sup>216</sup>

In recent times the proportion of women to men has increased both in relative terms and in absolute numbers. They now number c. 9%<sup>217</sup> of the total prison population. The male population increased by 20 % in the past two years; whereas the female population went up by 47 per cent. Because of the comparatively low numbers of female offenders, combined with the fact that many, if not most, offences do not fall into the serious crime category; they have a lower profile in the public mind than their male counterparts.<sup>218</sup> In terms of juveniles a very high proportion of those in custody are Aboriginal females.<sup>219</sup>

### (b) The social impact of the imprisonment of women

There are broad social consequences that flow from the incarceration of women as many of them are mothers, whether single parents (60%<sup>220</sup>) or in a relationship. For mothers in prison there are intergenerational outcomes as her children’s lives are disrupted and reorganised. Therefore,

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<sup>215</sup> ibid.

<sup>216</sup> Report by the Anti Discrimination Commission Queensland, ‘Women in Prison’, 2006. Available at: [http://www.adcq.qld.gov.au/pubs/WIP\\_report.pdf](http://www.adcq.qld.gov.au/pubs/WIP_report.pdf). Accessed on 22 September 2010.

<sup>217</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September, p5.

<sup>218</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p2.

<sup>219</sup> ibid.

<sup>220</sup> Victorian Association for the Care and Resettlement of Offenders, ‘Children: Unintended victims of legal process’, 2006. Available at: [http://www.vacro.org.au/Children\\_Unintended\\_Victims/PDFs/Discussion\\_Paper.pdf](http://www.vacro.org.au/Children_Unintended_Victims/PDFs/Discussion_Paper.pdf). Accessed on 15 November 2010.

whether from the best interests of her children or the imprisoned mother, the promotion of family and community contacts is a key consideration against their future prospects.

In the past women in prison have been faced with a very highly structured male regime which was designed as much to address the security requirements of high risk prisoners as anything else. This major issue was addressed when, in 2001, the State Government recognised the problem and drove a culture change at Cabinet level which led to the establishment of the Boronia Pre-release Centre. The Boronia Pre-release Centre has since become the DCS flagship in its philosophical and individualised approach to managing offenders, while inculcating a sense of personal responsibility. The success of the Boronia model is evidenced in the low rate of recidivism of its inmates which, at 15%,<sup>221</sup> is the lowest in the country.

The Boronia Pre-release Centre offers a strongly integrated approach to program delivery in the areas of education, employment, health and parenting. This integration embraces community organisations in both pre and post release strategies that help to address the many issues arising out of individual backgrounds of social disadvantage. 'However, The Committee was advised that this self care model of prison accommodation with service provision designed to equip and empower women for re-entry into the community has yet to be extended throughout the state.'<sup>222</sup>

Although DCS has continued to respond to the needs of women offenders since the termination of the position of the Director Women's Prisons the evidence suggests that improvements are patchy. For example, DCS has moved to improve the number of women centred programs it offers, but the Office of the Inspector of Custodial Services believes that there are still significant shortcomings:

*There is some wider choice but some of the programs still are not female specific. They are the generic programs that are delivered across the board. There are a few more female-centric programs now but it is nowhere adequate.*<sup>223</sup>

While access to education has improved for female prisoners the same cannot be said for access to programs with a number only being available in the metropolitan area.<sup>224</sup>

In terms of accommodation, like most facilities, women's accommodation has been affected by double bunking. However there are many women who have to sleep on mattresses on the floor:

*I believe that last time we provided some figures on the distribution of women across the estate. Probably the most severe overcrowding has been at Bandyup. At the end of July, there were, I think, around 90 women sleeping on mattresses on the floor. Very recently, a mattress-inspection process was carried out and our understanding is that something like 140-odd mattresses were removed on the basis that they were mouldy, soiled or damaged. I think that indicates the difficulty that the system had got into. It had even got to the stage at Bandyup at which the prison had ordered or intended to order a machine to put plastic*

<sup>221</sup> Briefing Boronia Pre Release Centre 27 July 2010.

<sup>222</sup> Moloney, K.P., and Moller, L.F., 'Good practice for mental health programming for women in prison: Reframing the parameters', *Public Health*, vol. 123, no.6, 2009.

<sup>223</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September, p5.

<sup>224</sup> Mr John Acres, Director of Operations, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p5.

*covers on mattresses. That was apparently subsequently rescinded. The department is currently going through a process of redistributing the women, if I can put it that way.*<sup>225</sup>

There have been some upgrades to the facilities in the regions, but the Inspector of Custodial Services reports that they are still unsatisfactory for long term stays. This is compounded by the fact that in a number of prisons women are a small group in an essentially male domain.<sup>226</sup> This perspective was shared by the Committee when visiting Roebourne Regional Prison where, for instance, the women's section did not enjoy equal access to the facilities in the male zone.<sup>227</sup>

### **(c) Female work camps**

There has long been an argument supporting the idea of female work camps. It has been suggested to the Committee by staff at Bandyup, Boronia and Roebourne that female work camps would be a worthwhile addition to the options available for some prisoners. In Queensland there are female work camps. In looking at the Queensland model, it is clear that they would not necessarily need to follow the same format as those operating for men. The Commissioner for the Queensland Department of Corrective Services (QDCS) suggested that work camps act as an incentive, a critical component of prison life<sup>228</sup>. In fact QDCS consider that work camps are the apex of the steps a prisoner can take towards being trusted as they are interacting with the community.

Unlike Western Australia, QDCS work camps, while usually static, may be re-locatable in portable Dongas. There may be no fences. One example given was the work being undertaken at the Bowen airport. The work undertaken may be more broadly community based than is generally the case, for instance offenders may assist in maintaining the frail elderly's' gardens.

In a paper on the QDCS Warwick women's work camp, the authors note that the work camp:

*Seeks to empower the offender and give them an opportunity to feel accepted and be part of the community by encouraging participation in activities that they would not normally consider such as the Local Show Society and local charities.*<sup>229</sup>

However, although the issue has been raised in Western Australia, it has never developed into a firm proposal.<sup>230</sup>

<sup>225</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence* 15 September 2010, p2.

<sup>226</sup> *ibid*, p5-6.

<sup>227</sup> Briefing Roebourne Regional Prison May 2010.

<sup>228</sup> Briefing Mr Kelvin Anderson, Commissioner Corrective Services Queensland Dept Corrective Services 23 August 2010.

<sup>229</sup> Noordink, S. and Ward, F., 'Women's Community Custody Program Warwick Work Camp: Why it works', Paper presented at the Women in Corrections: Staff and clients conference, Adelaide, 2000.

<sup>230</sup> Mr Graeme Doyle, Assistant Commissioner Corporate Support, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p12.



**Finding 20**

Women often come into prison with family responsibilities that require a significant effort to manage. While the Department of Corrective Services espouses a 'women centred' philosophy and has over the past decade sought to modify its management of female prisoners accordingly, there is a real concern that it has not gone far enough.

**Recommendation 14**

The Committee recommends that the Office of the Inspector of Custodial Services undertake a thematic audit into the implementation of the Department of Corrective Services' philosophy for the management of women prisoners, and whether the very distinctive needs of women as a group and, more particularly, Aboriginal female prisoners, are being adequately met.

**Recommendation 15**

The Committee recommends the establishment of a female work camp in regional Western Australia to improve the range of services for women in regional prisons.



## **CHAPTER 6 THE GAPS IN POST RELEASE OUTCOMES BETWEEN ABORIGINAL AND NON ABORIGINAL OFFENDERS**

The gross over representation of Aboriginal adults and juveniles in the criminal justice system is the single biggest issue that confronts it today. This chapter reviews some of the causal factors behind the extraordinarily high Aboriginal recidivism rate which is a major contributor to the high prison muster. It considers this in the context of the financial burden imposed on the State, together with the difficulties posed to the justice system as to how to best address this issue.

Chief Justice Wayne Martin, in addressing the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, highlighted the extent of Aboriginal juvenile over-representation in Western Australia. The Chief Justice noted that WA has the highest rate of Aboriginal juveniles in detention and remand in the nation, with '8.11 per 1,000 on an average day. That compares to 6.1 in New South Wales, and 2.86 in the Northern Territory.'<sup>231</sup>

When the comparative size and rates of incarceration between Aboriginal and non Aboriginal populations are taken into account, the complexity of the problem is further highlighted.

### **6.1 The Western Australian Aboriginal population**

In the 2006 census, the estimated Aboriginal population in Western Australia was 77,900. This represents 15.1% of the Aboriginal population nationally, despite Aboriginals comprising only 3.8% of Western Australia's total population as summarised below.

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<sup>231</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/reps/commttee/R12899.pdf>. Accessed on 13 September 2010.

**Table 6.1 Estimated resident population, Indigenous Status - 2006<sup>232</sup>**

	2006			2006 Indigenous		
	Indigenous	Non-Indigenous	Total	Proportion of total Indigenous population	Proportion of state/territory population	Intercensal change 2001-2006
State/Territory	'000	'000	'000	%	%	%
<b>New South Wales</b>	148.2	6 669.0	6 817.2	28.7	2.2	9.9
<b>Victoria</b>	30.8	5 097.5	5 128.3	6.0	0.6	10.7
<b>Queensland</b>	146.4	3 945.1	4 091.5	28.3	3.6	16.3
<b>South Australia</b>	26.0	1 542.2	1 568.2	5.0	1.7	2.0
<b>Western Australia</b>	<b>77.9</b>	<b>1 981.1</b>	<b>2 059.0</b>	<b>15.1</b>	<b>3.8</b>	<b>18.2</b>
<b>Tasmania</b>	16.9	473.0	489.9	3.3	3.4	-2.8
<b>Northern Territory</b>	66.6	144.1	210.7	12.9	31.6	17.1
<b>Australian Capital Territory</b>	4.0	330.2	334.2	0.8	1.2	3.4
<b>Australia(b)</b>	<b>517.2</b>	<b>20 184.3</b>	<b>20 701.5</b>	<b>100.0</b>	<b>2.5</b>	<b>12.8</b>

Across virtually all key indicators for a populace's social being (e.g. health, life expectancy, child mortality, literacy, employment, income levels, and imprisonment) there are wide gaps between the Aboriginal population and that of the non Aboriginal population in WA.. In this context, the Commonwealth report *Overcoming Indigenous Disadvantage* notes that 'Poverty, unemployment, low levels of education and a lack of access to social services are all associated with high crime rates and high levels of imprisonment.'<sup>233</sup>

## 6.2 Rates of Aboriginal Imprisonment

As noted above, Aboriginal and Torres Strait Islander people are significantly over represented in the criminal justice system. Additionally their rate of incarceration has nearly doubled over the past twenty years despite the increasing investment made on the social and health issues<sup>234</sup>. The general trends in Western Australia are very interesting. While the number of Aboriginal prisoners as a proportion of the State's total prison population is decreasing from a high of 43% reducing to 39%, the increase in overall prisoner numbers means that there are more Aboriginal people in

<sup>232</sup> Extrapolated from Australian Bureau of Statistics, 4705.0 - Population Distribution, Aboriginal and Torres Strait Islander Australians, 2006, 2007.

<sup>233</sup> Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2009*, report prepared by Steering Committee for the Review of Government Service Provision, Commonwealth of Australia, Victoria, 2009, p27.

<sup>234</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 13 September 2010.

prison, that is to say, 39% of 4,705 is significantly more than 43% of 3 800.<sup>235</sup> The Inspector of Custodial Services noted that the Aboriginal prison muster has increased in absolute terms against a background of declining property offences and a relatively constant crime rate:

*For many years, the percentage was around 30 to 35 per cent of the population. That lasted all the way through really from the 1970s until the early 2000s. Then something quite remarkable happened between 2002 and 2005, when the prisoner population increased by a significant number—by around 30 per cent over a three year period. What went largely under the radar, I think, at that stage was that the vast majority of that increase was Aboriginal—80 per cent of the additional number in that period 2000 to 2005 were Aboriginal. It was difficult to understand that shift, partly because we were coming off such a high level of Aboriginal imprisonment already and partly because crime rates were not going up. The rate of crime against the person was relatively constant. The crime rate in terms of property offences was declining very significantly over that period. It was very difficult to understand what happened.<sup>236</sup>*

Where ethnicity is linked to poverty, certain ethnic groups are similarly overrepresented in their respective countries' jails. While there is some disagreement as to the causes of the disparities in the rates of imprisonment of racial minorities that result in their over representation in the criminal justice system, there is a general opinion that the causes are embedded in the operations of economic, social and criminal justice systems.<sup>237</sup>

Table 6.2 reflects the imprisonment rates in several countries, including Australia, based on poverty levels where that population segment has a correlation with ethnicity.

It is notable that the rate of imprisonment of Aboriginals in Western Australia is not only significantly higher than that of Australia as a whole, but it is also higher than that of African Americans in the United States.

<sup>235</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p2.

<sup>236</sup> *ibid.*

<sup>237</sup> Moreton's Musings: Canadian Law and Policy, 'Crime Race and Incarceration Rates', 2009. Available at: <http://jmortonmusings.blogspot.com/2009/11/crime-race-and-incarceration-rates.html>. Accessed on 13 April 2010.

**Table 6.2 Imprisonment rates by ethnicity where correlated with socio-economic status**

Country/state	Year of statistic	Incarceration rate per 100,000 of the population	Nation/state's population	Number of prisoners
<b>England based on ethnicity</b>	2008 <sup>238</sup>	<b>White 130 Black 680 Mixed 370 Asian 180 Chinese 50</b>		
<b>United States of America based on ethnicity</b>	2005 <sup>239</sup>	<b>White 412 Hispanics 742 Black 2,290</b>		
<b>Western Australia Based on overall population</b>	2010	<b>215</b>	2,259,500 <sup>240</sup>	Adults: 4,876 Juveniles: 179 Total: 5,055 <sup>241</sup>
<b>Western Australia Aboriginal</b>	2010	<b>Imprisonment rate for adult Aboriginals 2483</b>	77,900 <sup>242</sup>	Adult 1,935 Juveniles 127 Total 2,062
<b>Australia Based on overall population</b>	2009 <sup>243</sup>	<b>175</b>		
<b>Australia Aboriginal</b>	2009 <sup>244</sup>	<b>Imprisonment rate for adult Aboriginal 1,720</b>		

<sup>238</sup> Ministry of Justice, 'Statistics on Race and the Criminal Justice System 2007/8', 2008. Available at: <http://www.justice.gov.uk/publications/raceandcjs.htm>. Accessed on 13 April 2010.

<sup>239</sup> Mauer, M. & King, R., 'The Sentencing Project', 2007. Available at: [http://www.sentencingproject.org/doc/publications/rd\\_stateratesofincbyraceandethnicity.pdf](http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf). Accessed on 13 April 2010.

<sup>240</sup> Australian Bureau of Statistics, 3101.0 - Australian Demographic Statistics, Sep 2009.

<sup>241</sup> Department of Corrective Services Weekly Offender Statistics 25 March 2010.

<sup>242</sup> Australian Bureau of Statistics, 4705.0 - Population Distribution, Aboriginal and Torres Strait Islander Australians, 2006.

<sup>243</sup> Australian Bureau of Statistics, 4517.0 - Prisoners in Australia, 2009.

<sup>244</sup> Report on Government Services 2009, Corrective Services, 8.19 available at: <http://www.pc.gov.au/gsp/reports/rogs/2009>.

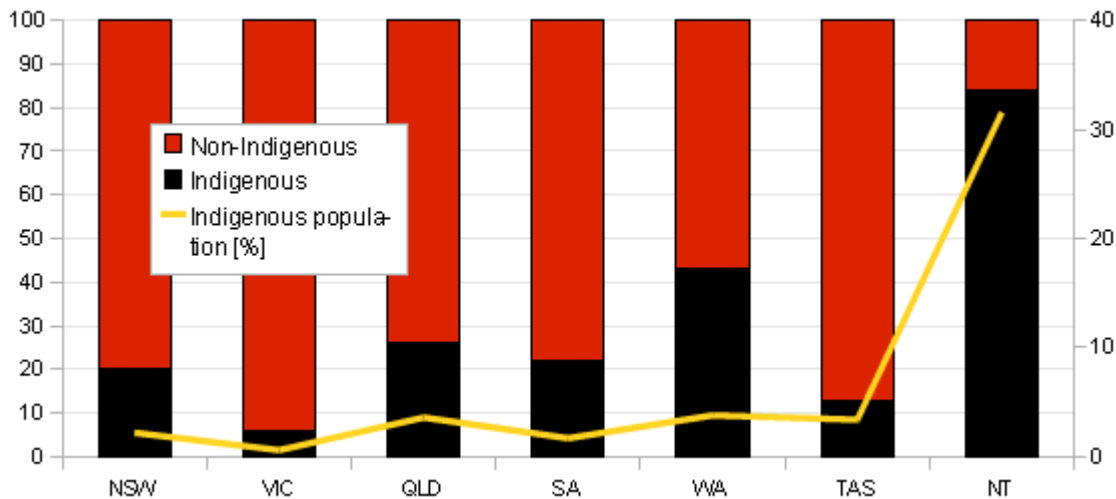
**Finding 21**

The rate of imprisonment of Aboriginals in Western Australia is not only significantly higher than that of Australia as a whole, but it is also higher than that of African Americans in the United States, whose rate of incarceration is similarly disproportionately high.

The imprisonment rate of adult Aboriginals in Western Australia is 2,483 per 100,000. This compares with an average imprisonment rate of 175 per 100,000 for the Australian population as a whole.

The rate of Aboriginal imprisonment relative to the Western Australian population is graphically illustrated in figure 6.1:

**Figure 6.1 Aboriginal imprisonment relative to their proportion of the Western Australian population**<sup>245</sup>



*The bar graphs show the percentage of Indigenous and non-Indigenous prisoners (left vertical axis). The yellow line indicates the percentage of Aboriginal people in the state's population (right axis)*

In a number of public forums over the past year, the Chief Justice has sought to highlight the the imprisonment rates of Aboriginals in Western Australia and Aboriginal juveniles in particular. In doing so he has characterised it as one of gross over-representation in the criminal justice system.

Between 2001 and 2008, the Aboriginal adult imprisonment rate in Australia rose by 37.5%.<sup>246</sup> Over the same period the non-Indigenous imprisonment rate rose by only 8%. The Committee noted the Report that stated that ‘Today Indigenous 10-17 year olds make up around 60% of all

<sup>245</sup> Creative Spirits, ‘Aboriginal prison rates’, Available at: <http://www.creativespirits.info/aboriginalculture/law/aboriginal-prison-rates.html>. Accessed on 13 September 2010.

<sup>246</sup> Australian Bureau of Statistics 2008.

juveniles in detention and are 28 times more likely to be detained than their non indigenous peers, according to the Australian Institute of Criminology.<sup>247</sup>

Indigenous male violent prisoners tend to:

- have extensive and repeated involvement with the criminal justice system;
- have lower levels of education;
- be released at the expiry of sentence rather than parole, meaning there is no supervision;
- be in prison, or be readmitted, for assault;
- serve shorter sentences;
- return to prison sooner; and
- spend less time on remand when not convicted.<sup>248</sup>

The Department of Corrective Services (DCS) acknowledges the precursor social circumstances that contribute to the high rate of Aboriginal offending and the negative impact of subsequent imprisonment on an individual's future contribution to the community. Imprisonment acts as a barrier to full participation in social and community involvement which further disengages them from the community.<sup>249</sup>

### 6.3 The estimated cost of Aboriginal over representation

#### (a) Cost of adult Aboriginal over representation

As Table 6.3 below indicates, the cost of Aboriginal over representation in Western Australia, in 2006 was estimated to be c. \$1 billion. In 2010 that figure would be significantly higher. Whatever the cause or causes of Aboriginal over representation in the prison system, any initiatives that made inroads into the disparity would achieve a significant reduction in the cost of crime in WA.

Table 6.3 shows the steps in the process of determining the estimated cost of Aboriginal over-representation in the Western Australian criminal justice system.<sup>250</sup>

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<sup>247</sup> House of Representatives, *True Justice*, report prepared by Georgie Oakeshott, About the House, Canberra, May 2010, p46.

<sup>248</sup> Australian Institute of Criminology, 'Reintegration of indigenous prisoners', 2008. Available at: <http://www.deakin.edu.au/hmnbs/psychology/research/ease/2008%20conference/files/Willis%20Matthew-%20Indigenous%20prisoners%20-.pdf>. Accessed on 4 August 2010.

<sup>249</sup> Submission No. 15 from Department of Corrective Services, March 2010 p39.

<sup>250</sup> Law Reform Commission of WA, 'Appendix C Cost Benefit Analysis – Aboriginal Courts', Available at: [http://www.lrc.justice.wa.gov.au/2publications/reports/ACL/FR/Appendix\\_C.pdf](http://www.lrc.justice.wa.gov.au/2publications/reports/ACL/FR/Appendix_C.pdf). Accessed on 1 September 2010.



**Table 6.3 Derivation of the costs of Aboriginal over-representation in Western Australia<sup>251</sup>**

Process	Parameters	Estimate WA
Step 1	Total annual cost of crime in Australia 2001/2002	\$31,780m
	State population as a proportion of Australian population	9.79%
	Total annual cost of crime in state in 2001/2002	\$3,111m
Step 2	Indigenous population as a proportion of state population as at June 30 2002	3.43%
	Cost of indigenous crime in state in 2001/2002 using indigenous population proportion	\$106.7m
Step 3	Indigenous distinct persons in state prison population as a proportion of all distinct persons in state prisons in 2002	41.08%
	Cost of indigenous crime in state in 2001/2002 using proportion of distinct persons in state prisons	\$1,278.0m
Step 4	Discount factor	0.75
	Adjusted cost of indigenous crime in state in 2001/2002	\$958m
Step 5	Cost of indigenous over-representation in criminal justice system in state in 2001/2002	\$851.3m
Step 6	Inflation adjustment	1.1064
	<b>Cost of indigenous over-representation in criminal justice system in state in 2005/2006</b>	<b>\$941.9m</b>

### **Finding 22**

The cost to Western Australia of the current over representation of Aboriginals in the Western Australian justice system is put at \$941.9 million in 2005/06 by the Law Reform Commission of WA in their 'Cost Benefit Analysis.'

### **(b) The cost of dealing with young Aboriginal offenders**

In 2008 the Auditor General's report 'A Cost Benefit Analysis of Proactive Redirection Measures in The Juvenile Justice System' identified groups of young people who had varying degrees of

<sup>251</sup> Law Reform Commission of WA, 'Appendix C Cost Benefit Analysis – Aboriginal Courts', Available at: [http://www.lrc.justice.wa.gov.au/2publications/reports/ACL/FR/Appendix\\_C.pdf](http://www.lrc.justice.wa.gov.au/2publications/reports/ACL/FR/Appendix_C.pdf). Accessed on 1 September 2010..

formal contact with police over a five year period. Of the group of about 1,000 young offenders who had more than 10 formal contacts with police over that period, 80% were male, 75% were indigenous, and 55% lived in regional Western Australia. In speaking to the Findings of the report the Chief Justice noted the particularly high cost to the justice system of recidivistic behaviour stating that:

*The Auditor General calculated the cost to the justice system of dealing with the 250 young people who had most contact with that justice system over their juvenile years - that is, between the ages of 10 and 17. He estimated that cost to be \$100 million - that is, approximately \$400,000 for each and every child in that group. The rates of return to custody to which I have already referred show that even expenditure at these extraordinary levels is spectacularly unsuccessful in discouraging young Aboriginal offenders from reoffending.*<sup>252</sup>

The Chief Justice later commented that for ‘\$400,000 we could send them to Geelong Grammar, put them up at a Perth hotel during the summer, send them to a Swiss finishing school and still have change.’<sup>253</sup>

### **Finding 23**

The Auditor General’s 2008 Report ‘A Cost Benefit Analysis of Proactive Redirection Measures in the Juvenile Justice System’ calculated the cost to the justice system of dealing with the 250 young people who had most contact with the justice system over their juvenile years - that is, between the ages of 10 and 17 was \$400,000 per juvenile.

## **6.4 Aboriginal recidivism rates**

Recidivism rates for the Aboriginal prison population are markedly higher than those for non Aboriginal prisoners. The pattern of recidivism or repeat offending contributes to the trend of increasing over-representation of Aboriginals in the prison system.

In particular:

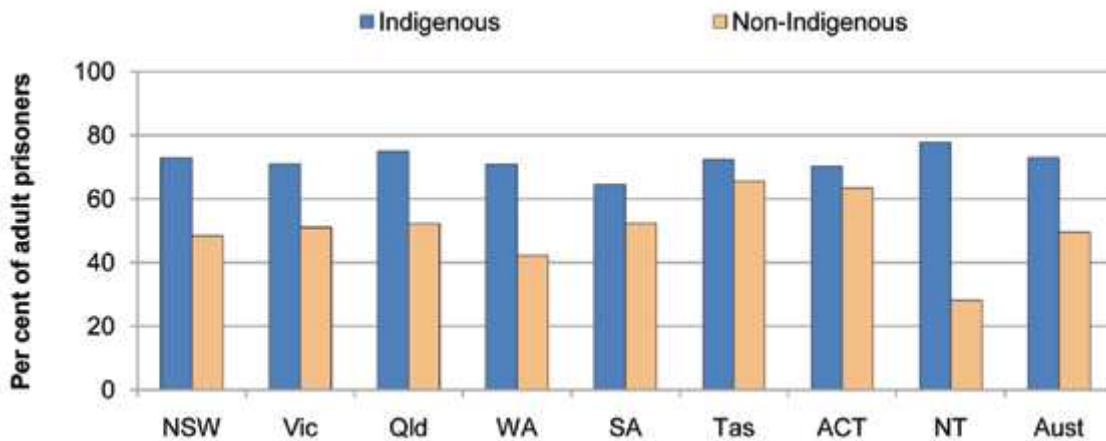
- Aboriginal male adult recidivism is 70%
- Aboriginal female adult recidivism is 55%
- Aboriginal male juvenile recidivism is 80%
- Aboriginal female juvenile recidivism is 64%<sup>254</sup>

<sup>252</sup> The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services of Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009.

<sup>253</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs’, 30 March 2010. Available at: <http://www.aph.gov.au/hansard/reprs/commtee/R12899.pdf>. Accessed on 5 August 2010.

As such Aboriginal recidivism makes a significantly higher contribution to the prevailing high rates of imprisonment in Western Australia than non Aboriginal recidivism, with the potential for significant cost savings if the issue was successfully addressed.

**Figure 6.2 Prisoners with known prior adult imprisonment, 30 June 2008<sup>255</sup>**



**Finding 24**

Compared to the recidivism rates of non Aboriginals, Western Australian Aboriginal recidivism rates are exceptionally high.

- Aboriginal male adult recidivism is 70%
- Aboriginal female adult recidivism is 55%
- Aboriginal male juvenile recidivism is 80%
- Aboriginal female juvenile recidivism is 64%

**(a) Contributory factors to Aboriginal recidivism**

The underlying causes for the high rates of recidivism, and those for offending for the first time, are fundamentally the same in each case. The issues are common across the country where there is

<sup>254</sup> The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services for Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009.

<sup>255</sup> The Steering Committee for the Review of Government Service Provision, *Overcoming Aboriginal Disadvantage*, 2009, p10:44. Available at: [http://www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0003/90129/key-indicators-2009.pdf](http://www.pc.gov.au/__data/assets/pdf_file/0003/90129/key-indicators-2009.pdf). Accessed on 2 March 2010.

entrenched Aboriginal social disadvantage. The contributing social factors that give rise to a population at risk were summarised by the Australian Institute of Criminology as follows:<sup>256</sup>

- high levels of alcohol and substance abuse and the lack of services;
- the lack of employment, with an unemployment rate 3 times higher than that of their non Aboriginal counterparts leading to a median household income that is half that of the rest of the community;
- low levels of functional education; and
- child abuse and neglect nearly four times higher than in other communities.

These social factors are compounded by health and mental health factors such as:

- a life expectancy 17 years lower than the non Aboriginal community with the infant mortality rate three times higher than the national average, or 15.2 deaths per 1,000 births compared to five per 1,000;<sup>257</sup>
- Aboriginal people are nearly twice as likely to be admitted to hospital than non-Aboriginal people; and
- Aboriginal people have much higher rates of infection for many contagious and potentially life threatening diseases.<sup>258</sup>

In 2009 the Senate Select Committee on Regional and Remote Indigenous Communities acknowledged the systemic nature of Aboriginal disadvantage that defines many of the subsequent issues with the justice system. In particular it recognised evidence from many sources demonstrating that the high level of Aboriginal incarceration has its roots in poverty, lack of education and other socioeconomic factors. In terms of Western Australia it also noted that the issue is ‘inextricably linked to health, housing, education and training and welfare problems in these communities.’ For these reasons it concluded that the justice system can only have limited impact on the recidivism rates and that what is required is ‘a holistic approach drawing on the strengths of these communities at the same time as well as addressing the problems in health, education, and welfare.’<sup>259</sup>

As with many programs designed to ‘cure’ Aboriginal issues, there is no one-size-fits-all solution. A program that works in Menindee might not work in Wilcannia at all, or vice versa. However, it is generally acknowledged that employment and Indigenous leadership would appear to be two crucial ingredients for a successful recipe.

<sup>256</sup> Australian Institute of Criminology, ‘Reintegration of Indigenous Prisoners’, 2008. Available at: <http://www.deakin.edu.au/hmnbs/psychology/research/ease/2008%20conference/files/Willis%20Matthew-%20Indigenous%20prisoners%20-.pdf>. Accessed on 16 September 2010.

<sup>257</sup> Better Health Channel, ‘Aboriginal Health Issues’, 2010. Available at: [http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Aboriginal\\_health\\_issues](http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Aboriginal_health_issues). Accessed on 16 September 2010.

<sup>258</sup> *ibid.*

<sup>259</sup> Senate of the Parliament of Australia, ‘Senate Select Committee on Regional and Remote Indigenous Communities’, 2009. Available at: [http://www.aph.gov.au/Senate/committee/indig\\_ctte/reports/2009/report3/c04.htm](http://www.aph.gov.au/Senate/committee/indig_ctte/reports/2009/report3/c04.htm). Accessed on 4 August 2010.

**(i) Housing**

Aboriginal social disadvantage is made worse by a prison record. Where an individual already possesses a low level of workplace skill and education, the addition of a custodial term to a person's history further diminishes their employability. As a consequence stable accommodation can also become hard to obtain as ex-prisoners generally do not have the financial means to secure private housing, and if eligible for priority public housing, they will still face significant periods on a wait list. This increases the chance of recidivism. Findings from a survey of 41 male Aboriginal prisoners at Adelaide Remand Centre, November 2005, revealed that 73% of Aboriginal prisoners expected to have no or insecure housing on release increasing the likelihood of re-offending.<sup>260</sup>

**(ii) Intergenerational offending cycle**

On reaching court, juvenile Aboriginals are three times as likely to be given a custodial sentence as non Aboriginal offenders.<sup>261</sup> The high rates of Aboriginal offending, sentencing and imprisonment, together with reoffending rates, affect families, communities, and individuals alike. Any reduction of offending and reoffending may help break the intergenerational offending cycle producing a compounded reduction in offending rates over a period of time.

**(iii) Employment**

One of the social factors contributing to the over-representation of Aboriginal people in the criminal justice system is the high unemployment rate. This is a factor in both the original offending behaviour and in reoffending. Many Aboriginal people who come from regional areas face the added difficulty of a lack of available work in the communities in which they live. In addition to this, there are structural barriers such as a lack of a driver's licence which is further discussed below. The Committee heard evidence that in the Pilbara, Rio Tinto is hiring Aboriginal prisoners from one of the west's most isolated jails, Roebourne Prison, and supports an innovative skills training program to facilitate this. However this is a small initiative in the face of the size of the problem.

**(iv) Driving offences**

Nationally, approximately 5.5% of Aboriginal offenders are in prison for traffic and vehicle regulatory offences.<sup>262</sup> In Western Australia as at 30 June 2010 the total Aboriginal adult prisoner population was 1,863 with 58 stated to be imprisoned for of driver's license offences as follows:

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<sup>260</sup> Krieg, A., 'Aboriginal incarceration: health and social impacts', 2006. Available at: [http://www.mja.com.au/public/issues/184\\_10\\_150506/kri10234\\_fm.pdf](http://www.mja.com.au/public/issues/184_10_150506/kri10234_fm.pdf). Accessed on 4 August 2010.

<sup>261</sup> Law Council of Australia, 'Submission To The House Of Representatives Standing Committee On Aboriginal And Torres Strait Islander Affairs', January 2010. Available at: [http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file\\_uuid=8667662C-1E4F-17FA-D20F-0ED118993E97&siteName=lca](http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=8667662C-1E4F-17FA-D20F-0ED118993E97&siteName=lca). Accessed on 17 June 2010.

<sup>262</sup> Australian Bureau of Statistics, 'Table 1 Prisoners, Indigenous status and sex by most serious offence/charge', 2009. Available at: <http://www.abs.gov.au/ausstats/abs@.nsf/cat/4517.0>. Accessed on 12 August 2010.

**Table 6.3 Adult Aboriginal Prisoners Held For Driver's Licensing Offences - 30th Jun 2010<sup>263</sup>**

Offence/charge description	Number of Adult Aboriginal prisoners charged with traffic offence
Never held Australian licence and is disqualified from holding or obtaining under section 49(3)(b).	2
No authority to drive cancelled-disqualification expired.	3
No authority to drive disqualified/suspended (other than fines suspension) under section 49(3)(c)	14
No Driver's Licence (Cancelled-Disqualification Expired)	1
No Driver's Licence (Disqualified from Holding or Obtaining)	7
No Driver's Licence (Never Held).	3
No Driver's Licence (Suspended)	2
NO MDL	23
NO MDL (SUSPENDED)	3
<b>TOTAL</b>	<b>58</b>

However these figures are the tip of the iceberg. In Roebourne prison alone with a muster of 189 the Committee was advised that 'We'd average around 80% of Aboriginal prisoners without licences (best guesstimate).'<sup>264</sup> When the Committee visited the Bungarin work camp the prisoners advised that amongst the twenty that were present there were very few who had ever held a licence.

In respect to the official figures as well as those where the lack of licenses is not listed as the primary offence, it was considered that part of the issue that has contributed to this groups incarceration is a lack of access to driver training and licensing combined with the low literacy levels of inmates. A lack of a licence, for instance, impacts on employability in many parts of Western Australia, and unemployment is a correlating factor in offending behaviour.

There are a number of structural issues that make it difficult for Aboriginal people to obtain a drivers licence including:

- the remoteness of many of the communities makes it extremely difficult for driver's licences to be obtained because of distances to licensing centres;
- because of the lack of alternative means of transport in the areas in which people live, young persons might be apprehended for driving without a licence before they are legally eligible to obtain a licence;
- being tested on road conditions that are outside of their experience, such as driving on freeways, or responding to traffic lights;
- for some, they are being asked questions in a language that might not be their first language about these driving conditions that they have never experienced;

<sup>263</sup> Ms Angie Dominish, Department of Corrective Services, Electronic Mail, 16 August 2010.

<sup>264</sup> Mr Brian Wilson, Department of Corrective Services, Electronic Mail, 12 August 2010, p1.

- low literacy levels; and
- there is also a requirement for ‘x’ number of supervised hours of driving by an adult who has ‘y’ years of an unblemished driving record. In some of these communities there are almost no people who meet that description.<sup>265</sup>

The Department of Corrective Services (DCS) provides limited driver education and training to offenders in custody and in the community and include:

- assessment and counselling regarding current license status;
- road law and driver theory tuition;
- issuing of permits and license;
- on the road driver training for minimum security prisoners; and
- proof of Age Cards, Birth Certificates.

*The Driver Training Program is offered to prisoners in custody first. We assess if they have any outstanding fines, suspensions or barriers to gaining a licence. Once they are able to gain a licence we provide road law instruction and literacy support towards gaining a learner's permit at each education centre. They can sit the learners permit in prison. Once they have the learner's permit we contract a driving school to take the prisoners, approved to be released during the day, for lessons. They can then sit the driving test and get the licence before release.*

*When the prisoner isn't allowed to leave the prison to undertake the driving lessons because for their security rating, we can have the lessons post release. We can offer the driving lessons through the main towns of Broome, Kalgoorlie, Roebourne and Albany as we have contractors there.<sup>266</sup>*

Table 5.4 contains a snapshot of the driver education training provided by Education and Vocational Training Unit (EVTU) during the period of 1.7.2009 to 30.6.2010, during which time 1597 applications were processed. The difficulties EVTU faces is highlighted by the fact that of these:

- 954 were identified as being eligible to make application or renew licences. This cohort may not be able to progress for such reasons as their security rating, or not able to pay learners permit or licence costs;
- 84 people obtained a learners permit;
- 149 obtained a Motor Drivers Licence; and

<sup>265</sup> Senate of the Parliament of Australia, ‘Senate Select Committee on Regional and Remote Indigenous Communities’, 2009. Available at: [http://www.aph.gov.au/Senate/committee/indig\\_ctte/reports/2009/report3/c04.htm](http://www.aph.gov.au/Senate/committee/indig_ctte/reports/2009/report3/c04.htm). Accessed on 4 August 2010, and The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs’, 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commttee/R12899.pdf>. Accessed on 5 August 2010.

<sup>266</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 8 February 2010, p1.

- of those not eligible, 478 had court-imposed suspensions and 165 had outstanding fines causing licence suspension.<sup>267</sup>

**Table 6.4 Drivers Education Statistics**

Driver Ed - Stats within date range						
Processed Between 01/07/2009 and 30/06/2010						
Location	Applied	Eligible	Not Eligible	Fines Susp	Obtained Learner's	Obtained MDL
Acacia Prison	299	164	114	21	18	32
Albany Regional Prison	400	244	101	55	20	16
Bandyup Women's Prison	57	34	17	6	1	5
Boronia Women's Pre-release Centre	67	44	14	9	1	0
Broome Regional Prison	46	18	18	10	0	2
Bunbury Regional Prison	43	29	8	6	2	2
Bunbury Regional Prison	56	24	26	6	1	12
Casuarina Prison	184	118	48	18	1	5
Community Justice Services (CJS)	15	8	6	1	3	2
Eastern Goldfields Regional Prison	43	31	12	0	6	2
Greenough Regional Prison	74	57	12	5	4	0
Hakea Prison	3	2	1	0	0	0
Karnet Prison Farm	90	55	31	4	2	32
Pardelup Prison Farm	6	4	1	1	0	2
Perth Milligan	17	10	6	1	3	6
Roebourne Regional Prison	15	13	1	1	5	4
Wheatbelt Work Camp	7	4	1	2	0	1
Wooroloo Prison Farm	175	95	61	19	17	26
<b>Totals:</b>	<b>1597</b>	<b>954</b>	<b>478</b>	<b>165</b>	<b>84</b>	<b>149</b>

The three major issues related to prisoners gaining their drivers' licences are adequate resourcing of training initiatives, prisoner literacy and the security classification of prisoners. EVTU addresses these as follows:

**Resourcing:** EVTU receives a finite resource budget from DCS that pays for the provision of driver education and training to each prison in the State. EVTU provides Drivers Licence assessment status, theory on road law and up to 8 free driving lessons.

Prisoners are required to fund \$68.30 for a Learner Permit application and other costs may include a log book fee of \$18.40 and licence fee of \$36.60.

**Literacy:** EVTU provides adult literacy support to each prisoner applying for driver education at the prison education centre

**Classification of Prisoners:** Driver education and training is currently delivered to prisoners who are within six months of parole, release or work release at each of the thirteen prisons throughout

<sup>267</sup> *ibid.*



the State. Because of the maximum or medium security status of prisons, prisoners at Acacia, Albany, Bandyup, Casuarina and Hakea are eligible to receive 'Driver Education and Training' theory practice and preparation *up to* a learner's permit. At all other prisons, prisoners are prepared for obtaining their Driver's Licence.

Those offenders who are not eligible to undertake driving lessons at secure prison sites are able to access the EVTU service in the community once released.<sup>268</sup>

These issues of literacy, security classification and lack of resources available were expanded on by several respondents to the Inquiry. In most cases, prisoners that are imprisoned for driving without a license are released back into the community without a valid driver's license. Additionally the fact that if they are under a court imposed driving suspension, they are then unable to obtain a license until after their release from prison. Anecdotally, evidence suggests that if this is the case then many don't bother obtaining a license on release and so drive whilst under suspension. This being the case Outcare proposed that 'if imprisoned for driving without a license they should have to undergo a rehabilitative intensive driver education program and be released with a provisional driver's license.'<sup>269</sup>

The issue connects with many of the disadvantages both social and community, that were outlined at the beginning of this section, not least employment. Outcare noted in its submission, 'there is a real need to focus on drivers licenses as most construction/industrial sites start really early in the morning or are in areas poorly serviced by public transport.'<sup>270</sup>

The necessary additional resourcing needed to provide driver training in prisons often falls to the initiative of the individual superintendents. For instance, in Roebourne, the prison superintendent has been working with the Australian Transport Group to develop a solution:

*we have been working on this and we have agreement with Australian Transport Group (under the banner of Fortescue Bus Lines in Karratha) to supply their driver trainer staff for 100 hours over a trial period to deliver practical driver training for eligible prisoners.<sup>271</sup>*

If successful they will seek Federal funding to extend the project.

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<sup>268</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 16 September 2010, attachment.

<sup>269</sup> Submission No. 12 from Outcare Inc., March 2010, p13.

<sup>270</sup> Briefing Mr Peter Sirr, CEO Outcare Inc., 30 April 2010.

<sup>271</sup> Mr Brian Wilson, Department of Corrective Services, Electronic Mail, 12 August 2010, p1.

**Finding 25**

The lack of a driver's licence is a significant contributory factor in the incarceration of Aboriginal prisoners. In many communities there are significant structural issues which contribute to these statistics. These include illiteracy, English as a second language and the requirement for supervised hours of driving by an adult who has many years of an unblemished driving record. In many communities there are few if any such adults.

Given the structural nature of the problem in the Kimberley and the Pilbara, different solutions have been proposed at different times. The Wyatt Report for instance suggests Remote Outreach Licensing Units being sent to deliver licence education and testing in regional and remote communities. That same report also recommends structural change and modification of legal requirements for licence requirements for those areas.<sup>272</sup> Other suggestions for change include licences valid for regional areas of Western Australia only and making changes to the process involving granting extraordinary licences to Aboriginal people.<sup>273</sup> For instance, by way of a partial solution, one respondent advised that former Attorney General, Hon Peter Foss, is reported to have expressed a strong desire to introduce a special licence for prisoners in remote communities.<sup>274</sup>

**Recommendation 16**

The Committee recommends that the Minister for Police, the Attorney General and the Minister for Transport implement the recommendations made in the 'Wyatt Report' titled *Indigenous Licensing and Fine Default: A Clean Slate*, in particular with a view to address access and participation issues for Indigenous Western Australians in the licensing system.

The Government response to this report include a time frame for implementing the recommendations of the Wyatt report.

<sup>272</sup> Committee to Explore the Effect of Motor Driver's Licence and Driving Laws on Remote Communities, *Indigenous Licensing and Fine Default: A Clean Slate*, Minister for Corrective Services, Western Australia, September 2007, p28.

<sup>273</sup> The Hon Wayne Martin, Chief Justice of Western Australia,, 'Community Legal Centres Association (WA)', May 2010. Available at: [http://www.supremecourt.wa.gov.au/publications/pdf/CLCA\\_Conference\\_20100623.pdf](http://www.supremecourt.wa.gov.au/publications/pdf/CLCA_Conference_20100623.pdf). Accessed on 20 September 2010.

<sup>274</sup> Mr Tim Connolly, Director, Case Management and Prisoner Employment, Department of Corrective Services, *Transcript of Evidence*, 10 March 2010, p12.

**(v) Drugs and alcohol**

It is widely recognised that alcohol and drug abuse is a significant factor in the offending cycle in Aboriginals. The Western Australian Network of Alcohol and other Drug Agencies (WANADA) submission to the *Inquiry into the adequacy and appropriateness of prevention and treatment services for alcohol and illicit drug problems in Western Australia* noted that:

- in mid 2001 between 37% and 52% of offenders in Australia reported that their offending was attributable to their drug problem (Makkai & Payne, 2003);
- during 2003-04 in Australia, it was estimated that 33% of young people in detention attributed their offending to drug and alcohol use (Prichard & Payne, 2003);
- in relation to juvenile offenders, an Australian study indicated that the use of drugs exacerbated offending, with 35% of Aboriginal and 29% of non Aboriginal youths attributing their offending to their drug use (Commonwealth of Australia, 2008);
- in Australia, 71% of youths had used one type of drug (including alcohol) regularly in the six months prior to detention, and 29% more than one drug regularly (Prichard & Payne, 2003); and
- it has been recognised that alcohol and other drug use is more than a symptom of Aboriginal incarceration, it is the principle cause (Pearson, 2007).<sup>275</sup>

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<sup>275</sup> Submission to the *Inquiry into the adequacy and appropriateness of prevention and treatment services for alcohol and illicit drug problems in Western Australia*, Legislative Assembly, Western Australia, 6 August 2009, p6-7.



## CHAPTER 7 RESPONDING TO ABORIGINAL RECIDIVISM

### 7.1 The gap in DCS policy and its implementation

Over the months of taking testimony, reviewing reports from the Office of The Inspector of Custodial Services, visiting a range of facilities both in the metropolitan and regional areas, and hearing from senior staff from the Department of Corrective Services (DCS), the Committee was struck by a sense of a gap between the espoused policy and practice within DCS in some areas, coexisting with a strong and genuine sense of endeavour in others as DCS sought to address the many issues they faced in relation to Aboriginal offenders. In an address to DCS at the Perth Convention Centre last year, the Chief Justice echoed this sentiment.<sup>276</sup>

In dealing with its Aboriginal prisoners, DCS is committed at a policy level to substantive equality.<sup>277</sup> However, as is reflected later in this chapter, this espoused policy founders at a number of points in practice.

Contributing to the difficulties DCS faces in effectively translating policy into practice are the structural constraints and operational limitations that it confronts as it tries to address the cultural and specific needs of Aboriginal offenders in its care. For example, in its visit to Bandyup Prison the Committee was advised that in recent months the number of criminogenic programs have tripled but that in respect to out of country Aboriginal inmates 'its incredibly difficult to deal with the significant cultural differences existing between the groups.'<sup>278</sup> It was seen to be like taking people from Germany and treating them in a French program in the South of France.

Importantly, many of these issues lie beyond the control of DCS, with the difficulty well summarised by one witness:

*To give the department its credit, it is trying to do a good thing. But it is very hard to address a lot of social issues when you are with the catcher's club at the back, sort of thing. Unless we do look at the way we treat offenders, then you will still keep building prisons because of the sort of social issues that are coming about and the stronger priority on law and order.*<sup>279</sup>

### 7.2 The impact of corporate culture

*Culture is a system of shared beliefs that determines how people act. It pervades every organisation and permeates down through each level. Naturally, it bears direct impact on the way the members behave and affects tremendously the organisation's efficacy.*<sup>280</sup>

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<sup>276</sup> The Hon. Wayne Martin Chief Justice, 'Corrective Services for Indigenous Offenders - Stopping the Revolving Door, 17 September 2009. Available at: [http://nitv.org.au/subsite/images/stories/momentum/pdf/corrective\\_services\\_for\\_indigenous\\_offenders-stopping\\_the\\_revolving\\_door.pdf](http://nitv.org.au/subsite/images/stories/momentum/pdf/corrective_services_for_indigenous_offenders-stopping_the_revolving_door.pdf). Accessed on 16 September 2010.

<sup>277</sup> Department of Corrective Services, *Substantive Equality Policy*, Western Australia, 2008, p1.

<sup>278</sup> Briefing Bandyup Women's Prison 27 April 2010.

<sup>279</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p10.

<sup>280</sup> Correctional Services Department Hong Kong, 'Promoting Desirable Prison Officer Culture and Behaviour', Paper presented at the 23<sup>rd</sup> APCCA.

Over the years DCS and its predecessor agency have experienced significant changes to their roles, notably the shifting role of prisons from being purely of a custodial nature to one of treatment, correction, education and rehabilitation. It may be argued that Corrective Services around the country now form part of a whole continuum of community organizations that address issues of public safety and social control. In more recent times these changes have demanded a more culturally appropriate response to the needs of the Aboriginal inmate population and more gender specific approaches in meeting the needs of female inmates. In respect to the Aboriginal offenders, the changes have been partly driven by an awareness that the ability to respond to their cultural needs correlates to some degree with their subsequent recidivism rate, a rate that is among the highest in the world.

But DCS, as a large organisation with its long history, has a strong corporate culture and strong cultures can work to impede responsiveness to change, and to dealing with complexity. This is because change initiatives will often struggle with years of habits, customs, unwritten ground rules, parochialism, and vested interests that go to make up its corporate culture.

DCS is no different in this respect to any other large organisation whether in the public or the private sector. In the case of DCS the problem of the corporate culture was evident in a number of issues. The Committee heard of many instances, whether in relation to case management, substantive equality for women, or developing effective Aboriginal strategies, where the policy was in place but nonetheless there existed large gaps in implementation due to culture. Some of these instances have been outlined in earlier chapters.

The status quo of the culture is supported by its operational structure. One witness described DCS as being, functionally, an old department with long established procedures that is highly siloed internally. The net effect is stated to impede the successful implementation of many new, agreed upon, initiatives.<sup>281</sup>

For example, DCS has sought to implement new approaches, in trying to be more responsive to the needs of its Aboriginal community. These approaches have variously included the Aboriginal Visitors Scheme, the introduction of traditional food into some prisons, the partial engagement of Aboriginal Elders, community representatives and the use of Aboriginal agencies. However the DCS corporate culture, anecdotally, affects the success of the design and implementation of some of these Aboriginal strategies in ways outlined throughout the chapter. The former Assistant Commissioner for Aboriginal Justice DCS, attributed the issue to a reluctance to change at an operational level:

*Without being insulting to the agency, it has some very old-fashioned processes: it is very convoluted and in a lot of ways it tends to deliver services targeted towards middle class, white Australia. Despite the fact that—I should not say most—depending on which figures you look at, roughly anywhere between 42 per cent and 48 per cent of people in prison are Aboriginal, and over 80 per cent of those are juveniles, there is a reluctance to change the way that it does business.<sup>282</sup>*

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<sup>281</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p3.

<sup>282</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p2.

This ‘reluctance to change the way it does business’ is seen to be because ‘other than the Aboriginal facilitation unit, the staff are not culturally attuned.’ In addition to the corporate culture impeding the implementation of some operational initiatives it has also been suggested that it inhibits the progress of systemic change.<sup>283</sup>

However, the Committee understands that the Corporate Executive in DCS is endeavouring to create a change culture; but the Western Australian Prison Officers Union argued that, despite their best endeavours, the increased prison muster with its compounding pressures on resources may act as yet another retardant to cultural change.<sup>284</sup>

### 7.3 Responding to Aboriginal culture

*Aboriginal Law is understood first and foremost from within the context of relationships. These relationships were formed in the Dreamtime even before conception. Relationships connect people within families, and groups, across relational social systems of blood, kin, skin, totem and moiety.*<sup>285</sup>

With the large proportion of Aboriginal prisoners making up the prison muster, Aboriginal culture and how it is taken into account is going to be a major factor in the successful implementation of rehabilitation strategies and programs. However the position is more complex because, in absolute terms, there is no single Aboriginal culture in a state as vast as Western Australia. There are, for instance, according to the Australian Institute of Aboriginal and Torres Strait Islander Studies ‘99 traditional language groups within five language regions in the State of Western Australia. Those five regions are the South West Region, the North West Region and the Kimberley Region; and part of each of the Desert and Fitzmaurice Regions.’<sup>286</sup>

Offending members of these population groups are not held in facilities close to their tribal lands but, due to the lack of local prison facilities, will often find themselves in metropolitan prisons. They are then known as ‘out of country’. The Office of the Inspector of Custodial Services reports that there are some 200 Aboriginal men in Casuarina Prison and around 120 prisoners in Acacia who are categorised in such a way.<sup>287</sup>

Out of country prisoners are not a homogenous group and so have varying needs in terms of culturally appropriate program delivery. Addressing their needs is made even more difficult by

<sup>283</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p2-9.

<sup>284</sup> Mr John Welch, Secretary, Western Australian Prison Officers Union, *Transcript of Evidence*, 21 April 2010, p8.

<sup>285</sup> Harathunian, C., ‘aboriginal law and spirituality defined within a specific clan perspective from within pan-aboriginal interpretations’, 1998. Available at: <http://www.aija.org.au/ac03/papers/CheriHarathunian.rtf>. Accessed on 23 September 2010.

<sup>286</sup> The Australasian Institute of Judicial Administration, ‘Aboriginal People in Western Australia’, Available at: <http://www.aija.org.au/index.php>. Accessed on 23 September 2010.

<sup>287</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p5.

moving them out of country.<sup>288</sup> There are, none-the-less, many issues that are common to all Aboriginal prisoners.

### (a) Family groupings

Despite the complexity that regional variations present there are many commonalities between the regional groups. One of these is the tendency to want to remain as part of their social and family grouping when in prison. As one prisoner commented, 'You need family support inside.'<sup>289</sup>

In their submission to the Committee, Outcare, quoting the National Indigenous Drug and Alcohol Committee, noted that:

*Aboriginal people who are incarcerated suffer from a loss of cultural identity and a disconnection from their family, which highlights the need for post-release programs focusing on reconnecting prisoners with family and community as a recidivism prevention strategy.*<sup>290</sup>

In essence out of country Aboriginals bring their support systems with them into prison through these groupings.<sup>291</sup> Individuals therefore may choose to remain in their family grouping even when it works to the individual's disadvantage. The Inspector of Custodial Services, using the example of Aboriginal women who, when offered the opportunity to transfer to Boronia, remarked that they did not want to go because they would feel out of place. He considered that part of the answer was 'a group recruitment ... rather than an individual recruitment.'<sup>292</sup>

The issue of family groupings impacts on service delivery in the prison system in Western Australia. This is no more so than where DCS might wish to tap into culturally relevant service providers from the regions from which many of these prisoners come.<sup>293</sup> This is an issue that the Office of the Inspector of Custodial Services has raised with DCS:

*We challenged the department. We have made a number of recommendations to the department that it should consider ways, for example, around this notion of earned supervision to take into account this preference for 'group' as opposed to 'individual'. The department has indicated that it is not supportive of that recommendation; it is too difficult. We recently challenged Acacia with a similar proposal, which it indicated some willingness to look at. This notion of the individual person's performance as opposed to the group is really timely. It does not cater for the cultural issues, particularly for the more traditional*

<sup>288</sup> Ms Natalie Gibson, Acting Deputy Inspector, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p5.

<sup>289</sup> Briefing Casuarina Prison 3 March 2010.

<sup>290</sup> Submission No. 12 from Outcare Inc., March 2010, p7.

<sup>291</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p5.

<sup>292</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p10.

<sup>293</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p5.



*Aboriginal group. Even if you looked at this group of Aboriginals who are on earned supervision, most of them would be Nyoongah or eastern states Aboriginals; they will not be your more remote and more cultural Aboriginals.*<sup>294</sup>

### **Finding 26**

There are significant numbers of Aboriginal men from remote areas in prisons such as Casuarina and Acacia. Having a generic Aboriginal program does not necessarily recognise the diversity of family and sub cultural backgrounds.

### **Recommendation 17**

The Committee recommends that the Department of Corrective Services positively considers ways to take into account any Aboriginal preference for 'group' as opposed to 'individual' within the framework of management strategies.

## **(b) Involvement of elders**

In the new facility currently under construction at Derby, significant consideration has been given to the cultural context of the prisoners. The cultural context would see the participation of elders or Aboriginal community leaders. The Kimberley Aboriginal Reference Group's initial recommendations to the Kimberley custodial plan, noted that Aboriginal elders are currently invited to sit on the bench in Magistrate Court hearings across the Kimberley and that those Aboriginal people who participate in such arrangements should be properly trained and remunerated.<sup>295</sup>

The engagement of elders in the provision of cultural and community support has proven successful in the Northern Territory (NT) where a funded 'Elders Visiting Program' has been developed in recognition of the importance of inmates maintaining connections to their community and as a key to the prospects of positive re-integration upon release.<sup>296</sup>

The NT Department of Justice explained the value of the program, not least in respect to the Aboriginal offender's reintegration into their community, post release, as follows:

<sup>294</sup> Mr John Acres, Director of Operations, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p5.

<sup>295</sup> The Kimberley Aboriginal Reference Group, Report titled 'the Kimberley custodial plan', Department of Justice, 2005, p8.

<sup>296</sup> 'Aboriginal Participation or Dreamtime', Available at: <http://sitebuilder.yodelaustralia.com.au/sites/5530/Eddie%20Cubillo.doc>. Accessed on 30 September 2010.

*The Elders Visiting Program also provides an important cultural link between Indigenous inmates and Corrections staff, advising staff on cultural and community issues that may impact on an inmate's behaviour or ability to address their offending. They keep the community informed on the offender's progress and also on prison processes such as attending funerals and conducting sorry business. They advise offenders on difficulties they are likely to face on their release and strive to assist and support them while they readjust back into their communities.*<sup>297</sup>

Consultation also takes place between the parties as to what reintegration options are available within the community upon release of the individual.<sup>298</sup>

In a similar vein, and in response to the Kimberley Aboriginal Reference Group Stage Two Report, the Department's West Kimberley Service Delivery model seeks to incorporate 'Spiritual and Cultural Programs (e.g. culture camps, elders)' as one of a number of service interventions addressing offending behaviour.<sup>299</sup>

While recognition is being given to the cultural and spiritual needs of Aboriginals in the new facility, given the sheer numbers of Aboriginal prisoners in other facilities and elsewhere, the question arises as to why the recognition of their needs in these other facilities is far more muted. In particular, why the engagement of Aboriginal elders and community leaders is not more regular and widespread. The Inspector of Custodial Services notes the cultural activity that takes place during NAIDOC week but suggests there are a lot of activities that could take place on an ongoing basis.<sup>300</sup>

In engaging elders or other Aboriginal figures and organisations to provide support to individual or groups of Aboriginal prisoners, the Inspector of Custodial Services recommended that the Canadian practice of remunerating the individuals for their time should be adopted as is also the practice in the NT 'Elders Visiting Program' outlined above. The Inspector considered that it is not realistic to ask individuals to give up their time on a regular basis without compensation. In part this is because there are a limited number of suitable Aboriginal people DCS can draw on. In part because the Aboriginal people 'are sick of being consulted.'<sup>301</sup>

*In my view, more can certainly be done but the government also has to understand that Aboriginal people cannot keep doing things for nothing.*<sup>302</sup>

<sup>297</sup> Department of Justice, 'Elders visiting program', 2009. Available at: [http://www.nt.gov.au/justice/corrservices/comm\\_partnerships/elders\\_visiting\\_program.shtml](http://www.nt.gov.au/justice/corrservices/comm_partnerships/elders_visiting_program.shtml). Accessed on 30 September 2010.

<sup>298</sup> *ibid.*

<sup>299</sup> Department of Corrective Services, Service Delivery Model – West Kimberley Prison, p1-2.

<sup>300</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p8.

<sup>301</sup> *ibid.*

<sup>302</sup> *ibid.*, p8-9.

**Finding 27**

Both the Department of Corrective Services and external groups acknowledge and affirm the importance of Aboriginal elders or community figures being engaged to provide cultural and spiritual support to Aboriginal prisoners. However they are generally engaged on a volunteer basis.

**Recommendation 18**

The Committee recommends that the Department of Corrective Services (DCS) extends its engagement of Aboriginal elders and community leaders in the provision of cultural and spiritual support for Aboriginal prisoners through a formalised visiting program. It also recommends that DCS remunerates them for their time as is the practice in some overseas jurisdictions and the Northern Territory.

**(c) Aboriginal Visitors Scheme**

The Aboriginal Visitors Scheme (AVS) is clear example of the gap between policy and practice as highlighted to the Committee. The AVS provides Aboriginal staff to visit Aboriginal people in prisons and detention centres throughout the State. They provide support and counselling but do not engage in financial, medical or legal matters. Such matters are referred as appropriate to relevant agencies.<sup>303</sup>

In responding to the death of a prisoner at Greenough Regional prison, DCS put out a media release highlighting this service. Yet the Committee was advised on its visit to Roebourne that the scheme has not operated there in two years and it has been suggested that it is currently not operational at a number of other regional prisons:<sup>304</sup>

*The Department does recognise in principle the importance of its AVS. For example, in a recent media release following the death in custody of a Greenough prisoner, it stated that the AVS would be available to provide support to other prisoners.*

*However, our reports have consistently pointed to major AVS service shortfalls across all four Aboriginal prisons. The August 2009 inspection of Greenough prison found that the AVS had not visited for over four months and had only had a limited presence prior to that.*

<sup>303</sup> Department of Corrective Services ‘Aboriginal Visitors Scheme’ 2010 Available at <http://www.correctiveservices.wa.gov.au/rehabilitation-services/aboriginal-visitors-scheme.aspx> Accessed on 30 September 2010.

<sup>304</sup> Briefing Roebourne Regional Prison May 2010.

*Unless things have changed very recently, there are still problems at Greenough. Roebourne Prison is even more poorly served, having had no AVS service for two years. Eastern Goldfields and Broome prisons have also faced long term problems. In response to a recent recommendation (Report 66, Recommendation 10) that there be adequate AVS services at Greenough the Department stated: 'The AVS is funded to provide an adequate level of service to Greenough however it is acknowledged that there are some local management issues to be resolved.' However, the virtual invisibility of AVS across the Aboriginal prisons indicates systemic failings and not just 'local management' issues. And if AVS funding is adequate, the results are not certainly evident on the ground in the prisons where it is arguably most needed.<sup>305</sup>*

The Inspector of Custodial Services' comments found confirmation in the Committee's visit to Broome, where the Committee was initially assured that Broome Prison had an AVS in operation. However closer inquiry revealed that the person charged with the task has been away due to poor health for a very considerable period of time. No replacement had been found.

## **7.4 Culturally based programs**

The Office of the Inspector of Custodial Services has observed that few prison based programs have proven successful in addressing the high recidivism rate of Aboriginals in Western Australia. It is argued that Aboriginal specific programs and services be developed in consultation with Aboriginal elders and relevant community organisations. The suite of programs should include those that address education and employment training, alcohol and drug problems, family violence and sex offending. These programs should be Aboriginal specific programs and services if the re-offending rate is to be reduced. In addition, such programs should be developed in consultation with Aboriginal elders, and relevant community organisations.<sup>306</sup>

As has been evidenced elsewhere, DCS is making significant efforts on a number of fronts to develop a more targeted approach to the needs of Aboriginals in custody. One such innovative approach that the committee noted on a visit to Casuarina is a new program which is run for Aboriginal prisoners who are 'out of country'. The aim of the program is to provide an opportunity for displaced offenders to reside and interact with others from the same geographical and cultural background and to provide activities and education that will support and reinforce their Aboriginal culture as part of Casuarina's existing structured day program.

Participants are selected by the Aboriginal co-ordinator of the program. The program runs for eight weeks and embraces a number of disciplines such as art, music, literacy and Aboriginal health. The program is still developmental and the Aboriginal prisoners will help shape its direction.

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<sup>305</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, Electronic Mail, 3 October 2010, p1.

<sup>306</sup> *ibid.*

However, in common with many other such initiatives, this initiative has no outcomes against which its success or otherwise can be measured.<sup>307</sup>

Other culturally based initiatives conducted by DCS include:

- the Aboriginal Environmental Health course;
- Deadly Tucker;
- Keep Your Culture Keep Your Job;
- Women's Stories;
- the Indigenous Cognitive Skills Program which was written by an Aboriginal Psychologist; and
- Indigenous story writing through Art.<sup>308</sup>

Other Indigenous specific courses include Certificate 1 & II Art –in Indigenous & Torres Strait Islander Cultural Arts and Certificate 1 Tourism (Aboriginal Indigenous Culture). DCS also seek to ensure that curriculum delivery to Aboriginal prisoners is culturally appropriate and sensitive to Indigenous learning styles.<sup>309</sup>

DCS have also piloted and rolled out a cognitive skills program 'Building on Aboriginal Skills' (BOAS) in Roebourne, Broome, Greenough and Eastern Goldfields prisons. This program will soon be rolled out across the State. The training of local prison officers to deliver the program will reduce the need to transfer Aboriginal prisoners to metropolitan prisons to complete cognitive skills programs.<sup>310</sup>

### **(a) Issues of accessibility**

The degree to which these and similar initiatives have proven efficacious in part depends on their accessibility. On not a few occasions the Committee was told that many programs were only run in certain facilities and to access them Aboriginal prisoners might need a transfer.<sup>311</sup> This often proved to be a significant barrier as it might take them out of country, increase their classification level or away from their family grouping.<sup>312</sup>

*It is a very difficult situation. Just take the example of some of the Aboriginal men in Broome who may be minimum security who are being told, "You really need to do a program. The only way you can do a program is to go down to Casuarina where we will put you in*

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<sup>307</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 18 August 2010, p9.

<sup>308</sup> Ms Christine Laird, Department of Corrective Services, Electronic Mail, 22 January 2010

<sup>309</sup> *ibid.*

<sup>310</sup> Submission No. 15 from Department of Corrective Services, March 2010 p25.

<sup>311</sup> Office of the Inspector of Custodial Services, Report of an Announced Inspection of Acacia Prison Report No 68 September 2010.

<sup>312</sup> Mr Graeme Doyle, Assistant Commissioner Corporate Support, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p9.

*maximum security and we'll put you in unit one", which is for displaced Aboriginal prisoners. This is a remarkably awful choice for somebody to have to face.*<sup>313</sup>

DCS acknowledged the issue is difficult when the prisoner requires offender-specific programs that are not available in their current location.<sup>314</sup> In response to these and other difficulties DCS has established the Aboriginal Program Facilitation Unit which has increased program hours from 2,500 in 2007/08 to over 12,000 in 2008/09. Program delivery to Aboriginal offenders increased in the period 2007/08 and 2008/09 by 61%. The major growth areas were 'addictions programs with a growth of 123%, violence program participation which grew by 163% and Aboriginal sex offending program participation grew by a staggering 483%.' In addition DCS have introduced a fly-in and fly-out service to deliver programs in the difficult to recruit prisons.<sup>315</sup> However there is some question on aspects of the Aboriginal Program Facilitation Unit. For instance the Committee has been advised that staffing numbers and the budget are not reflective of the percentage of Aboriginal people in prison with only eight people in the unit and a budget of \$500,000.<sup>316</sup>

## **(b) Access to programs regionally**

With its significantly larger prison population, the metropolitan area will always attract a greater share of resourcing. Regionally, program delivery is not only affected by scarce resourcing but also the substantial distances that have to be covered in achieving service delivery. Despite this, where Aboriginal prisoners are imprisoned 'in country' that advantage is seen to outweigh some of the lack of program availability by being in prison regionally. This is so despite the fact that for many Aboriginal prisoners the regional prison may still be hundreds of kilometres from their home.<sup>317</sup>

At some level programs such as those targeting substance abuse, violence, and those aimed at improving a prisoner's cognitive ability, are run across the state. However their availability is restricted by a number of factors:

- Firstly, the prisoner's security classification may be an issue. The way security assessment is currently undertaken would, in the Committee's understanding be biased against the Aboriginal offender. They may not have committed a serious crime but have been imprisoned three or four times, and therefore their rating will be maximum security. This prejudices their chances for access to programs.<sup>318</sup> As the Office of the Inspector of Custodial Services put it, '[Aboriginals] tend to come up higher in the

<sup>313</sup> Professor Neil Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 16 September 2010, p9.

<sup>314</sup> Mr Graeme Doyle, Assistant Commissioner Corporate Support, Department of Corrective Services, *Transcript of Evidence*, 22 September 2010, p9.

<sup>315</sup> Supplementary evidence provided at the Hearing 23 September 2009 'Offender Services Directorate input to Community Development and Justice Standing Committee.

<sup>316</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p8.

<sup>317</sup> Office of the Inspector of Custodial Services, *Inspection Standards for Aboriginal Prisoners*, 2008, p4.

<sup>318</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p2-3..

classification tool as a result of their more social systemic issues that are driving it more than the actual tool or any notion of classification itself.<sup>319</sup>

- Secondly, in the regions where DCS may only deliver minimal programs, those programs have to be delivered by a third party, but those third parties are not necessarily available to DCS.<sup>320</sup>
- Thirdly, the program may only be delivered at specific facilities which might take an Aboriginal prisoner further out of country.<sup>321</sup>

The Committee is also aware that bullying and racism have been found by the Office of the Inspector of Custodial Services to be an issue in the past in particular prison settings. However comments made in relation to the issue would indicate that such attitudes are individual rather than collective.<sup>322</sup> At a more concerning level, is the sense that there are systemic issues impeding the effective access to, and delivery of, programs for Aboriginals and as well as their treatment while in prison.

### **Finding 28**

There are significant and unacceptable gaps between the espoused policy and the practice in a number of areas relating to the implementation of culturally sensitive Aboriginal strategies. This creates a two tiered prison system. These gaps are reflected in a largely dysfunctional Aboriginal Visitors Scheme, poor access to programs, and an anecdotal lack of cultural sensitivity on the part of some Departmental staff.

### **Recommendation 19**

That the Department of Corrective Services aggressively extends the development of cultural competence in its personnel, throughout its operations to facilitate the implementation of culturally relevant initiatives.

<sup>319</sup> Mr John Acres, Director of Operations, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 15 September 2010, p3.

<sup>320</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p3.

<sup>321</sup> *ibid*, p9.

<sup>322</sup> Report into the Announced Inspection of Broome Regional Prison, Office of the Inspector of Custodial Services Report 46, October 2007 pii.

**Recommendation 20**

That the Department of Corrective Services work with the Inspector of Custodial Services to identify and remove the barriers to the full participation of Aboriginal offenders in the delivery of its services, as well as in its treatment of Aboriginal offenders at all levels of its operations. The Department must apply substantive equality.

**7.5 The West Kimberley (Derby) facility**

Possibly the most recent and the largest reflection of DCS's endeavour is the West Kimberley facility which is currently under construction at Derby. This has been designed in the knowledge that it will hold predominately Aboriginal offenders of both sexes. These offenders will be from the Kimberley region, both East and West. The design process included extensive consultation with representative groups to inform the cultural appropriateness of both the design of the building, its supporting facilities and the work practices within the facility. The consultation was undertaken, *inter alia*, through an independent 'Kimberley Aboriginal Reference Group' appointed by the then Minister for Justice in 2005.

*As an outcome, the new facility seeks to recruit far greater Aboriginal participation in its management and operation. The physical configuration of the prison is much more consistent with Aboriginal culture and tradition than more conventional prisons. Such an approach is welcome*<sup>323</sup>.

The Derby initiative recognises that up to 65% of Kimberley prisoners are held in facilities outside of the Kimberley and that more than 90% of these prisoners are Aboriginal. Accordingly DCS seeks through this new facility to reinforce and respect the retention of cultural identity for Aboriginal people in the region. This approach is seen to enhance the likely outcomes for the prisoner upon release. The understanding is that the more positive the environment, the more positive the program outcomes will be.<sup>324</sup>

Designing a regional prison from the ground up provides the opportunity to incorporate a new approach to the management of Aboriginal prisoners and mitigate some of the problems identified in this report. Any modification to the existing plans and philosophy for the Derby facility may have the effect of compromising its success.

In the new facility there is provision for double bunking, should it be required, but cells have been designed to accommodate two beds rather than bunk beds. On being told of the inbuilt provision for 'double bunking', the Committee expressed concern at the consequences of increasing the muster in

<sup>323</sup> Kimberley Aboriginal Reference Group, *Kimberley Custodial Plan*, 2005.

<sup>324</sup> Professor Richard William Harding, Consultant, *Transcript of Evidence*, 17 March 2010, p1 and Ms Katalin Kraszlan, Project Manager, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p2.



the prison beyond the initially planned muster of 150. It was advised that should this occur, then, as in New Zealand with a similar Maori facility, the cultural and planned focus was at risk:<sup>325</sup>

*In my view, when they (New Zealand DCS) moved to the bigger prisons, Spring Hill and Northland, which were 300 or 400, and they tried to keep that cultural component in the prisons, it was lost; it was too big. They had the building function, but as a prison with a cultural ethos, you could not take something that was designed for 70 and expand it to 350. We looked at those numbers. Because it is split, we have 120 men and 30 women, and our view was that with those numbers we could maintain that cultural ethos within the prison.*<sup>326</sup>

The Committee was also advised that although DCS had achieved c.\$20 million in cost savings during construction, Treasury did not permit those funds to be applied to increasing the work shop capacity to maximise training opportunities.<sup>327</sup>

However the Department of Treasury and Finance vigorously defended their decision stating:

*If there is a particular saving in a particular project, whether it be a Corrective Services project or others, we would argue that if there is money available, we should consider—when I say “we”, I mean the government collectively—where that money could be invested elsewhere to get benefits. The benefits in other investments might be greater than immediately proceeding with that development.*<sup>328</sup>

### **Finding 29**

The new West Kimberley prison facility located near Derby will house 120 men and 30 women. To significantly increase the prison muster in this facility would compromise the intended outcomes and cultural ethos.

Considerations based solely on cost have the potential to undermine the integrity of the facility.

### **(a) Linkage with Kimberley agencies**

DCS has demonstrated through its linkages with external agencies elsewhere in the State the critical relationship such linkages have in successful post release outcomes. No where is this better exemplified than Boronia. The value of such linkages is also acknowledged in respect to the Derby facility. However, while DCS held a positive perspective on its discussions with the Kimberley

<sup>325</sup> Ms Katalin Kraszlan, Project Manager, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p9.

<sup>326</sup> *ibid.*

<sup>327</sup> Ms Christine Ginbey, Director, Strategic Asset Services, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p4.

<sup>328</sup> Mr Anthony Kannis, Executive Director, Infrastructure and Finance Division, Department of Treasury and Finance, *Transcript of Evidence*, 22 September 2010, p11.

Aboriginal Law and Culture Centre (KALACC) this was not the impression that the Inspector of Custodial Services had in very recent discussions with that organisation:

*I am certainly not going to get involved in a case of who is right, but there is a very different view in KALACC about the level of engagement by the department from what the department has said in evidence to you. There need to be bridges built there, in my view.*<sup>329</sup>

The Committee has since confirmed with DCS that there has in fact been no meaningful communication between the two agencies for two years and that one of the issues is KALACC's need for some level of financial support for any role it might play.

On a more general note, the Committee understands that there is a level of caution on DCS's part in generating strong community links due to the risks that they pose to the security of the community or the safety of the offender.<sup>330</sup>

### **Finding 30**

The value of community linkages in any successful post release strategy for offenders is broadly recognised within the Department of Corrective Services yet currently the West Kimberley facility has no identifiable strategy in place.

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<sup>329</sup> Professor Neil Andrew Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 16 September 2010, p6.

<sup>330</sup> Professor Neil Andrew Morgan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, *Transcript of Evidence*, 16 September 2010, p8.

**Recommendation 21**

The Committee strongly recommends that the Department of Corrective Services designs and implements a strategy for the new West Kimberley facility located at Derby that includes four major objectives as follows:

- Aboriginal offender programming be strengthened;
- local partnerships and relationships are considerably enhanced;
- the role for local Aboriginal communities in corrections be developed; and
- non government agencies that are expected to provide services are properly resourced to do so.



## CHAPTER 8 JUSTICE REINVESTMENT - A CHANGING DIRECTION

*We've got a broken corrections system. Recidivism rates are too high and create too much of a financial burden on states without protecting public safety. My state and others are reinventing how we do business by employing justice reinvestment strategies that can put our taxpayers' dollars to better use.<sup>331</sup>*

### 8.1 The case for an alternative justice strategy

Previous chapters have highlighted:

- the gross over representation of both Aboriginal adults and juveniles as the single biggest issue that confronts the criminal justice system in Western Australia;
- the significant imposts on the taxpayer of the high Aboriginal rates of imprisonment;
- how the rate of crime against the person has been relatively constant and that the crime rate in terms of property offences has declined significantly over a period of significant growth in prisoner numbers; and
- the increasing prison muster with its associated costs reflects a policy of tougher sentencing and enforcement outcomes rather than sharply increasing rates of crime.

In giving consideration to an alternative justice strategy, the Committee acknowledges when considering alternative justice strategies that all governments have a duty to protect the public, and a key element of this is to provide sufficient prison places for the most dangerous, serious and persistent offenders.

However, in considering the many social and health issues facing the Aboriginal communities in Western Australia and the troubling recidivism rates of Aboriginal prisoners, the Committee was struck by the frequency with which it has been reminded that the solution to both the offending and the re-offending rate is better found, wholly or in part, outside the prison system.

For instance, in some cases it has been suggested that programs that treat offenders should run concurrently in their home communities if they are to be effective. In Queensland, the Department of Corrective Services, (QDCS), as elsewhere, runs programs targeted at ending family violence and drug and alcohol induced violence. The community based programs are delivered through their 'Probation and Parole' model, with stronger links with the courts and the judiciary. Unusually, in some locations, QDCS is prepared to run programs to the whole community rather than simply to the offenders that it supervises. QDCS advised the Committee that in their view this achieves stronger outcomes.<sup>332</sup> The premise underlying the QDCS approach is a well understood one. For instance, in discussing this issue, the previous Assistant Commissioner for Aboriginal Justice in DCS stated that:

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<sup>331</sup> Council of State Governments Justice Centre, 'The Strategy: How Justice Reinvestment Works', Available at: <http://www.justicereinvestment.org/strategy/provide>. Accessed on 1 October 2010.

<sup>332</sup> Briefing Mr Kelvin Anderson, Commissioner Corrective Services Queensland Dept Corrective Services 23 August 2010.

*I can understand that in the sense that it costs an awful lot of dollars to go out into the community. But I did not see much sense in doing cognitive behavioural changes or alcohol remedial action only to release them back into a community where there is still a high level of violence and alcohol consumption. To me, it was almost a waste of time. Unless you are actually working with the community to try to change that environment as well as the offender's environment, nothing is going to change.<sup>333</sup>*

This view is shared by many who have considered this problem in judicial and other circles. The Chief Justice, in commenting on the findings of General John Sanderson in his role as special adviser on Indigenous Affairs, considered that investing in behaviour modification strategies in the communities would provide a better return in terms of reduced crime than incarceration. The Chief Justice argues that, given the increasing rate of incarceration, there is a case for early intervention and prevention strategies that seek to address the sociological contributors to criminal behaviour. These contributing factors include lack of community supports, material disadvantage, increased incidence of poor physical and mental health, and low literacy rates.<sup>334</sup>

The tension faced when considering these calls for a diversion of funds from incarceration into the community lies in defining 'what is a balanced approach in determining an effective justice system'. The community at large expects that the system would be properly balanced between:

1. a justice model holding offenders responsible for their actions, ensuring the safety of the community and that punishment will deter future offending; and
2. a prevention model, which emphasises the need for behaviour modification hopefully leading to a diminution of crime and community based changes that reinforce rehabilitation.

In considering alternatives there is a question in the minds of some senior judiciary in this State as to the effectiveness of prison as a deterrent, and as to whether the solution for a significant section of the offending population is not better found in prevention. Chief Justice Martin has stated in respect to Aboriginal juvenile offenders 'a punitive response is simply not working.'<sup>335</sup>

### **(a) The effectiveness of prison as a deterrent for repeat offenders.**

Deterrence through prison sentences has long been regarded as the most effective tool in the armoury of crime prevention. The public has often demanded tougher and longer sentences in this

<sup>333</sup> Mr Neil Fong, former Assistant Commissioner for Aboriginal Justice, Department of Corrective Services, *Transcript of Evidence*, 11 August 2010, p6.

<sup>334</sup> The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services of Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009.

<sup>335</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.apf.gov.au/hansard/reprs/commtee/R12899.pdf>. Accessed on 5 August 2010.

belief, and around the world tougher prison sentences are almost a policy premise when developing a law and order strategy.<sup>336</sup>

However, the effectiveness of prison as a deterrent is called into question when:

- the high, if not worsening, recidivism rates for particular groups of offenders are examined;
- the increasing cost to our justice system and therefore the taxpayer, is accounted for;
- the ongoing root causes of crime in high risk communities remain unaddressed; and
- the self evident role that agencies outside of the justice system could play in reducing the number of people entering the justice system if given the relevant objectives, remits and funding.

The last two points highlights the critical fact that agencies outside the justice system potentially do have a key role to play in taking effective action to reduce crime. However they would need to be empowered to do so within a collaborative framework.

## **(b) Recognising the need for prevention**

It has been suggested by the Law Council of Australia that incarceration as a solution to subsequent criminal behaviour has proven not only to fail, but is also counter productive and leads to an increased level of criminal behaviour. The Law Council report that indigenous juvenile offenders given a custodial sentence are 74% more likely to be convicted of a further offence when compared to those who receive a non-custodial sentence.<sup>337</sup> They also cite that studies into custodial penalties and recidivism demonstrate that the incidence and duration of custodial penalties for Aboriginal juvenile and adult offenders is increasing and the rate of recidivism is substantially higher among those who have served a custodial sentence.<sup>338</sup>

As highlighted earlier, the root cause of Aboriginal juvenile crime rates and the high rates of Aboriginal recidivism lie in the entrenched social disadvantage of those groups. This has been well understood for many years. The issues include all the issues of Aboriginal disadvantage including dispossession from land, cultural alienation, social dysfunction, family dysfunction, poor standards of health, higher than average levels of mental illness, high levels of substance

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<sup>336</sup> The House of Commons Justice Committee, *Cutting Crime: The Case for Justice Reinvestment*, London, 2009, p5 and The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/reps/committee/R12899.pdf>. Accessed on 5 August 2010.

<sup>337</sup> Law Council of Australia, 'Submission To The House Of Representatives Standing Committee On Aboriginal And Torres Strait Islander Affairs', January 2010. Available at: [http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file\\_uid=8667662C-1E4F-17FA-D20F-0ED118993E97&siteName=lca](http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uid=8667662C-1E4F-17FA-D20F-0ED118993E97&siteName=lca). Accessed on 17 June 2010.

<sup>338</sup> Law Council of Australia, 'Submission to the House Of Representatives Standing Committee On Aboriginal And Torres Strait Islander Affairs', January 2010. Available at: <http://www.lawcouncil.asn.au/>.

abuse, foetal alcohol spectrum disorder, domestic violence, poor school attendance rates, poor employment participation rates, poor standards of housing and overcrowding, racism and various other factors. All of these factors interrelate and combine to produce the problem.<sup>339</sup>

Recognising that Aboriginal culture emphasises the extended family, in its submission to the Committee, Outcare emphasised the need to mirror the programs run for offenders with those run in the communities.<sup>340</sup>

While the Committee acknowledges that prison for serious offenders is the only possible response, it also believes that if the justice system is to be put on a more sustainable footing, then strategies that invest in effective, evidence based, evaluated rehabilitation and prevention initiatives will reduce the pressure on future justice budgets. However, while in the longer term savings would be achieved, in the immediate future additional spending will be required to start the process.

Such initiatives are complex because, not only are they outside the justice system for the most part, they will also require high levels of agency collaboration in areas considered to be important building blocks in overcoming Indigenous disadvantage. The 'building blocks' endorsed by COAG are:

- Early Childhood;
- Economic Participation;
- Governance and leadership;
- Health;
- Safe communities; and
- Schooling.<sup>341</sup>

The alternative, that of simply spending money on the criminal justice system, is not on its own going to be effective when dealing with those sections of the community where criminality is embedded and recidivism rates are high. This is not unique to Western Australia. It is also the experience in all western industrialised nations.

As a consequence the Minister for Crime Prevention in South Australia was drawn to argue that regardless of political persuasion or what part of Australia is under discussion, 'Innovative solutions are a matter of urgency.' Such innovation is seen to involve the direct engagement of the community. This is a broadly shared sentiment and the Minister went on to note that:

*A number of countries with whom Australia would feel familiar-including England, France, the Netherlands, Sweden, Canada, New Zealand, Belgium and Germany-as well as countries with whom we trade significantly-like Japan, and countries who were previously included in the Eastern Bloc-spoke with one voice in supporting this resolution. The*

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<sup>339</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>340</sup> Submission No. 12 from Outcare Inc., March 2010, p26.

<sup>341</sup> <http://www.aihw.gov.au/closingthegap/resources/building-blocks.cfm>, 'COAG Building Blocks'. Accessed on 15 October 2010.



*sentiments, which underline their unambiguous consensus support through this resolution on preventing urban crime, were that:*

- *the community has an important role to play.... in both reinforcing the core values of society, as well as developing programs which respond to locally defined crime problems*
- *just spending money on the criminal justice system is not on its own going to be effective;*

*and*

- *no matter how much is spent on law enforcement or how rapidly courts commit offenders to prison, crime will continue to grow unless the enforcement and deterrent effect of the law is supplemented by prevention initiatives.<sup>342</sup>*

One such initiative is Justice Reinvestment.

## **8.2 Justice Reinvestment**

### **(a) What is Justice Reinvestment?**

Justice Reinvestment, originating in the United States, is a new way of looking at tackling crime. In common with most justice jurisdictions around the world, including the United States, Western Australia primarily focuses on the management of the criminal individual rather than on the communities they come from when addressing crime. The very nomenclature employed as evidenced throughout this Report (e.g. Offender Management System) highlights this fact.

Additionally, imprisonment takes the individual out of their community with its potential support structures. This is particularly the case with Aboriginal offenders who have the highest recidivism rate in the country.

International research<sup>343</sup> highlights the fact that the criminal justice system works best where there are cohesive communities. By contrast where large proportions of young men from particular dysfunctional communities are cycled through prison and then return to those communities, the communities suffer further. Moreover high imprisonment rates from residents of such communities contribute to community destabilisation resulting in elevated crime rates and high re-incarceration rates.

Justice Reinvestment recognises that most offenders come from a small number of disadvantaged communities and it redirects money into crime prevention and community services in those

<sup>342</sup> Chris Sumner, Attorney-General and Minister for Crime Prevention, South Australia, 'National overview on crime prevention: An Australian Perspective', Available at: <http://www.aic.gov.au/en/publications/previous%20series/proceedings/>. Accessed on 16 November 2010.

<sup>343</sup> Research by the American organisation the Open Society Institute, by Professor Houchin Glasgow Caledonian University in Scotland, and by the American Criminal Justice scholar, Todd Clear.

identified communities. As such it responds both to the individual and to the causes and sources of crime through a less centralised more localised approach to reduce offending.<sup>344</sup>

Because the preventative funding is spent on local community based strategies, it creates as an outcome, safer and more confident communities. In the case of Aboriginal communities the high rate of offending by Aboriginals against their own people has been highlighted by the Chief Justice of Western Australia:

*Of course, the reason there are more Aboriginal people in the criminal justice system is that they commit more crime. But, tragically, those crimes are also usually committed against other Aboriginal people. So it is important to recognise that, although Aboriginals are overrepresented in the offender population, they are also significantly overrepresented in the victim population, and that includes juveniles as much as any other age group. It is important to keep in perspective that Aboriginal juveniles are very often victims of offences as well.*<sup>345</sup>

The complexity of the root problem to be addressed in Aboriginal communities requires an integrated interagency response. Justice Reinvestment's framework, demanding as it does a collaborative, localised, response is far more likely to work than existing strategies because the problem goes beyond the capacity of any one agency to understand or respond to:

*The conclusion I draw from that is that, because the causes are multifaceted and interrelated, so must be the solutions, so a holistic approach across all of government is required. The problems of a fragmented, silo approach have been known and have been being talked about for many years, but nothing much has been done to overcome the issues and break down the silos.*<sup>346</sup>

The causes of the problem are external to the justice system and for this reason, given the fractured nature of the so called 'high stakes' communities in question, the solutions are not likely to be found in the criminal justice system either.<sup>347</sup>

The funding for Justice Reinvestment in the longer term comes from the savings made through reduced crime and recidivism. Justice reinvestment diverts a portion of the funds spent on imprisonment to the local communities where there is a high concentration of offenders. The

<sup>344</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda, February 2010. Available at: <http://www.asiapacificforum.net/news/australia-focus-on-alternatives-to-incarcerating-indigenous-people.html>. Accessed on 17 June 2010.

<sup>345</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>346</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>347</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

money that would have been spent on imprisonment is reinvested in programs and services that address the underlying causes of crime in these communities.<sup>348</sup>

The savings formula is:

$$\text{Intervention cost saving} = \text{Cost of prison} - \text{Cost of alternative}$$

## **(b) How Justice Reinvestment works**

Justice Reinvestment experts review prison admission data to determine what is driving increases in the offending population. Using mapping technology, these experts provide geographic analyses to pinpoint which neighborhoods receive people released from prison and how state spending on programs often converges on the same families and communities.<sup>349</sup>

The four key steps to Justice Reinvestment are:

1. analyse the prison population and spending in the communities to which people in prison often return;
2. provide policy makers with options;
3. quantify savings and reinvest in select high-stakes communities; and
4. measure the impact and enhance accountability.<sup>350</sup>

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<sup>348</sup> Australian Human Rights Commission, 'Investing in Aboriginal youth and communities to prevent crime', 2009. Available at: [http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~/\\_media/conferences/2009-Aboriginalyouth/presentations/tom\\_calma.ashx](http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~/_media/conferences/2009-Aboriginalyouth/presentations/tom_calma.ashx). Accessed on 9 April 2010.

<sup>349</sup> The Justice Centre: Council of State Governments, 'Justice Reinvestment', Available at: <http://www.justicereinvestment.org/strategy>. Accessed on 9 April 2010.

<sup>350</sup> The Justice Centre: Council of State Governments, 'Justice Reinvestment', Available at: <http://www.justicereinvestment.org/strategy>. Accessed on 9 April 2010.

**Step 1 Analysis and mapping**

Identify ‘high stakes communities’ with a large number of prisoners. In Western Australia these are identified in Table 8.1:

**Table 8.1 High stakes communities<sup>351</sup>**

Rank	Location	Description
1	Broome – Local Government Area	Including Broome, Bidadanga Community, One Mile Community, Kennedy Hill Community, Djarindjin
2	Halls Creek – Local Government Area	Including Balgo Hills Community, Billiluna Community, Halls Creek, Mulan Community, Turkey Creek [sic]
3	Swan – Local Government Area	Including Swan View, Midvale, Lockridge, Beechboro
4	Derby – West Kimberley Local Government Area	Including Derby, Bayulu, Bungardi, Junjuwa, Looma Community, Mowanjum Community
5	Stirling – Local Government Area	Including Balga, Nollamara, Mirrabooka

**Step 2 Development of options to generate savings and improve local communities**

Look at where but also why people are being imprisoned; e.g. the quality of community supervision, low parole release rates.<sup>352</sup>

**Step3 Quantify savings and reinvest in high stakes communities**

*State and city leaders work with the justice reinvestment team to determine how much they will save, and avoid spending, by adopting some or all of the options identified by the experts. Policymakers and the team’s experts develop plans for reinvesting a portion of these savings in new or enhanced initiatives in areas where the majority of people released from prisons and jails return. For example, officials can reinvest the savings and deploy existing resources in a high-stakes neighborhood to redevelop abandoned housing and better coordinate such services as substance abuse and mental health treatment, job training, and education. These efforts are viewed generally as benefiting everyone in the community, regardless of their involvement in the criminal justice system<sup>353</sup>*

<sup>351</sup> HREOC, ‘Social Justice Report’, 2009. Available at: [http://www.hreoc.gov.au/social\\_justice/sj\\_report/sjreport09/pdf/sjr\\_ch2.pdf](http://www.hreoc.gov.au/social_justice/sj_report/sjreport09/pdf/sjr_ch2.pdf). Accessed on 22 October 2010.

<sup>352</sup> Australian Human Rights Commission, ‘Investing in Aboriginal youth and communities to prevent crime’, 2009. Available at: [http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~/\\_media/conferences/2009-Aboriginalyouth/presentations/tom\\_calma.ashx](http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~/_media/conferences/2009-Aboriginalyouth/presentations/tom_calma.ashx). Accessed on 9 April 2010.

<sup>353</sup> The Justice Centre: Council of State Governments, ‘Justice Reinvestment’, Available at: <http://www.justicereinvestment.org/strategy>. Accessed on 9 April 2010.

For example in Texas \$241 million was reinvested into substance abuse treatment, diversion and accommodation instead of building another jail; and they allocated \$10 million for Nurse Family Partnerships program in high stakes communities.<sup>354</sup>

***Step 4 Measure and evaluate impact***

*For each policy adopted, an appropriate state agency is charged with setting performance measures and projected outcomes, such as the amount of corrections costs saved or avoided, recidivism rates, and indicators of community capacity. The agency may also be charged with establishing systems that can span multiple agencies to collect and analyze data and provide periodic reports to policymakers. Policymakers can use these measures to determine whether agencies are implementing the new policies effectively, assess how closely the actual impact of these new policies corresponds to projections, and make any necessary adjustments.<sup>355</sup>*

For instance in Kansas there was a 7.5% reduction in their prison population; parole revocation is down by 48%; and the reconviction rate for parolees has dropped by 35%. This equated to a saving of \$80.2 million over 5 years.<sup>356</sup> Texas also halted the growth in imprisonment for the first time in years, with a saving of \$210.5 million in 2008-2009.<sup>357</sup>

Given the intractability of Aboriginal re-offending as a significant criminal justice issue, one that is faced not only by the individuals leaving and returning to prison but by the most deprived and socially excluded communities that currently lack support and effective resourcing, Justice Reinvestment commends itself as a worthwhile response in the Australian context.

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<sup>354</sup> Australian Human Rights Commission, 'Investing in Aboriginal youth and communities to prevent crime', 2009. Available at: [http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom\\_calma.ashx](http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom_calma.ashx). Accessed on 9 April 2010.

<sup>355</sup> The Justice Centre: Council of State Governments, 'Justice Reinvestment', Available at: <http://www.justicereinvestment.org/strategy>. Accessed on 9 April 2010.

<sup>356</sup> Australian Human Rights Commission, 'Investing in Aboriginal youth and communities to prevent crime', 2009. Available at: [http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom\\_calma.ashx](http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom_calma.ashx). Accessed on 9 April 2010.

<sup>357</sup> Australian Human Rights Commission, 'Investing in Aboriginal youth and communities to prevent crime', 2009. Available at: [http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom\\_calma.ashx](http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~//media/conferences/2009-Aboriginalyouth/presentations/tom_calma.ashx). Accessed on 9 April 2010.

**Finding 31**

The current justice system's response to crime, which has its sole focus on the offending individual, is failing where the individual comes from a highly dysfunctional community. This is evidenced by the high recidivism rates. Justice Reinvestment recognises that most offenders come from a small number of disadvantaged communities and it redirects money into crime prevention and community services in those communities. As such it responds both to the individual and to the causes of crime through a less centralised more localised approach to reduce offending. Such approaches have met with demonstrable success in some jurisdictions.

**8.3 Justice Reinvestment - going forward**

Justice Reinvestment is a response to an issue that has historically been highly resistant to resolution. It seeks to respond to criminality whose root causes are found in socially dysfunctional communities. Justice reinvestment will require a programme of joined-up government on a very systematic and ambitious basis as it seeks to do nothing less than to change radically the culture of local communities.

The issue is embedded in a holistic failure of services and it is considered by the Chief Justice and others that the imperative is for such agencies to work collaboratively in a family and community context if the adverse environment is going to be successfully addressed.<sup>358</sup> In Western Australia, the agencies that need to work together include those responsible for child protection, health, education, housing, employment, juvenile justice and policing.

**Finding 32**

The successful implementation of a Justice Reinvestment strategy relies on a multi-faceted approach based on accurate data collection, a commitment of governmental agencies to implement impactful policies, robust evaluation strategies implemented, and strong inter-agency cooperation and accountability of all those involved.

<sup>358</sup> The Hon. Wayne Martin Chief Justice, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.apf.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

**Recommendation 22**

The Committee recommends that as part of the implementation of the justice reinvestment strategies a mapping exercise be undertaken to identify those communities currently delivering the highest percentage of population to the prison system.

The need for collaborative strategies in this arena has been identified in countless inquiries but they do not occur:

*Most of the systemic failings that lead to young Aboriginal children ending up in detention centres have been identified and reported on in previous inquiries. It is widely accepted that the concept of joined-up government services is simply not occurring on the ground, especially in the country and in particular in remote areas in Western Australia, at least not effectively. This failing is one of the key reasons why children are being detained in police lockups and held for unacceptable periods whilst waiting to be transported to a detention centre in Perth.<sup>359</sup>*

The Committee recognises that there are a number of factors that militate against successful collaboration between departments operating in a silo'd environment including:

- the present bureaucratic structure rewards departments and individuals, whose priority is the needs of their agency, with little incentive for them to contribute to corporate goals or to those of another department;
- the leadership and communication skills to develop and deliver cross-cutting solutions are often absent;
- budgets are arranged around vertical, functional lines rather than horizontal, interagency problems and issues; and
- systems of accountability and the way risk is handled can militate against innovative cross-cutting working.

The Children's Court President, Judge Reynolds, addressed some of the social issues affecting Aboriginal communities when appearing before the House of Representatives earlier this year. He argued that the Department of the Premier and Cabinet should have over arching responsibility, stating:

*In this state, what I would do is set up within the Department of the Premier and Cabinet a high-level policy group charged with dealing with these problems in the Aboriginal area. They would have overarching authority over each of the agencies. They would identify*

<sup>359</sup> Superintendent Michael Emmanuel, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/committee/R12899.pdf>. Accessed on 5 August 2010.

*ultimate objectives. They would then, with the various agencies, identify what role each of those agencies needed to play to achieve that ultimate objective. They would then, on an ongoing basis, require the agencies to do what each of them needed to do to fulfil that ultimate objective and, on a regular basis, get together and put each of the agencies to account to show that they had done what they had been required to do in order for that ultimate objective to be achieved.*<sup>360</sup>

Justice Reynolds added that it would be important to include Aboriginal representation on the overarching policy group:

*I spoke about the need to have this high-level policy group within Premier and Cabinet. I think it is essential that there be Aboriginal people attached to that group—and not just Aboriginal people from a particular area of Western Australia. Aboriginal people consist of a vast variety of peoples. For example, in the south-west of Western Australia there are 14 Nyungar clans. They are not just one group. They are made up of vast number of groups with rich diversity. What is good for some areas is not necessarily good for another. So when I talk about having a high-level policy think tank, I mean that it must include Aboriginal people and reflect the diversity of Aboriginal people.*<sup>361</sup>

The suggestion of placing the overarching strategy in the hands of an independent lead agency finds support in other quarters. The Auditor General has previously alerted the Committee to the need to articulate clear collaborative goals that over ride the goals of a single agency if initiatives such as Justice Reinvestment are to succeed:

*If an agency has clearly articulated outcomes and objectives, then that is always going to be a priority over any other activity involving another agency or helping other people to achieve their objectives. That is a challenge.*<sup>362</sup>

A second impediment to collaborative success is the way performance indicators are structured in joined up strategies. This is due to the bias of existing indicators being geared towards an individual agency pursuing its own goals, in a silo, rather than those achieved collaboratively:

*The performance of agencies is much better in pursuing individual agency goals than when a group of agencies work together on a shared goal. We often find opportunities for improved coordination between agencies in trying to work together to achieve a shared goal.....I am tabling a report today that indicates that performance in individual agencies varies quite widely. The evidence around agencies working cooperatively or*

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<sup>360</sup> Judge Denis Reynolds, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>361</sup> Judge Denis Reynolds, before the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs', 30 March 2010. Available at: <http://www.aph.gov.au/hansard/rep/commtee/R12899.pdf>. Accessed on 5 August 2010.

<sup>362</sup> Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 26 September 2007, p7.



*collaboratively is that it consistently needs improvement. We do not see really good examples of agencies working cooperatively together.*<sup>363</sup>

The third critical factor for the success of a collaborative initiative is the need for the active engagement and support of Ministers, heads of departments, decision-makers and key stakeholders. If Justice Reinvestment is to succeed through interagency collaboration, their engagement is critical for the mandate that they provide.

To highlight the necessity for high level championing of Justice Reinvestment, the Committee has resolved to release the following evidence from its unpublished Report on collaboration which emphasises the key role of leadership.

‘The mandate to engage in a collaborative initiative needs to be strongly supported at either a senior Ministerial or executive level.<sup>364</sup> Support at a senior Ministerial level gives permission to move the culture from risk avoidance to risk management.

*The strength of Ministerial/CEO advocacy for a project can be a critical factor in the selection of the project; conversely the absence of a Ministerial champion may hamper the progress and success of a project.*<sup>365</sup>

And again:

*A culture of cooperation and collaboration needs to be driven from the top down. When collaboration is modelled at a senior level, this demonstrates Government and agency commitment that will permeate throughout and across agencies.*<sup>366</sup>

The issue of the need for a clear mandate is well established through a literature review of state, national and international collaborative work and is well expressed as follows:

*Each organisation involved needs a mandate to work collaboratively on the issue. If the action is at a central policy level, the mandate may need to come from the government. If the proposed action is at a grass-roots level, the mandate may need to come from senior management. Along with this mandate there needs to be an acknowledgement of the potential shared benefits and a commitment of resources.*<sup>367</sup>

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<sup>363</sup> Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 26 September 2007, p2-3.

<sup>364</sup> Briefing, Dr Joanne Kelly, Adjunct Professor, Australia and New Zealand School of Government, 20 February 2008.

<sup>365</sup> Submission No. 47 from Western Australia Police, 31 March 2008, Annexure A, p3.

<sup>366</sup> Submission No. 45 from Department of Indigenous Affairs, 31 March 2008, p15.

<sup>367</sup> Submission No. 45 from Department of Indigenous Affairs, *Intersectoral Collaboration Success Factors* 31 March 2008, p12.

In contrast, 'In the absence of real authority for implementation, anything that requires complex solutions tends not to happen. More paving can be achieved, but significant community building is difficult to sustain over time.'<sup>368</sup>

Where there is middle management or 'on the ground' leadership, without high level support initially successful collaborations often do not get expanded, rolled-out, and promoted. Consequently they do not get the accolades they deserve. The sustainability of these projects then becomes precarious because they are relying so heavily on the enthusiasm and commitment of individuals.<sup>369</sup>

### **Finding 33**

There is a need to develop and maintain a more sophisticated performance measurement system for Justice Reinvestment, as a collaborative initiative, because of the difficulties experienced in measuring the effectiveness of such initiatives. Such performance measurements need to be aligned with incentives, reporting systems and the budgetary process.

### **Finding 34**

The collaborative nature of any Justice Reinvestment strategy demands that it has a mandate that is strongly supported at both a senior Ministerial and Executive level.

### **Recommendation 23**

The Committee recommends that the government initiates a properly funded, evidence based, collaborative Justice Reinvestment strategy in one metropolitan and one regional 'high stakes' community identified by the recommended mapping exercise, as a pilot, to be evaluated against adequate performance measures. This pilot would measure the effectiveness of the role of each of the individual participating agencies as well specific outcomes relating to the interagency collaboration on the ground.

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<sup>368</sup> Submission No. 25 from John Mant, Consultant Urban Planner, 31 March 2008, p4.

<sup>369</sup> Submission No. 27 from the Commissioner for Children and Young People, 13 March 2008, p4.

**Recommendation 24**

The Committee recommends that government at the highest level charge a lead agency to establish the proposed pilot Justice Reinvestment strategy to:

- have an over arching responsibility for each of the agencies collaborating in the strategy insofar as their deliverables to the strategy are concerned; and
- have control and be accountable for the pooled Justice Reinvestment budget.



# APPENDIX ONE

## *SUBMISSIONS RECEIVED*

<b>Number</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
1	Dr George O'Neil	Medical Director	Fresh Start
2	Neil Morgan	Inspector	Office of the Inspector of Custodial Services
3	N/A		
4	Dave Rennardson		
5	Dr Ruth Shean	Director General	Department of Training and Workforce Development
6	Nathalie Hayman		
7	Jane Paterson		Perth Women in Black
8	John Thompson	Registered Psychologist	Private Practice
9	see submission 4		
10	Nathaniel Freeman		
11	John Fluck	Bowen Therapist Masseur, Sports Trainer	Jurien Muscle Therapy Clinic
12	Mike Steward	Consultant	Outcare
13	Richard Wolterman	Manager, Dads@Lifeline	Lifeline WA
14	Richard Lippiatt		
15	Ian Johnson	Commissioner	Department of Corrective Services
16	Dr Ron Chalmers	Director General	Disability Services Commission
17	Brett O'Keefe	Gardens Manager	Hakea Prison

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

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<b>Number</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
18	John Bedford	Executive Officer	Aboriginal Legal Service of Western Australia (Inc)
19	Rose Carnes		

## APPENDIX TWO

### HEARINGS

Date	Name	Position	Organisation
23 September 2010	Mr Ian Johnson	Commissioner	Department of Corrective Services
	Mr Ian Giles	Deputy Commissioner, Adult Custodial Division	Department of Corrective Services
	Ms Jacqueline Tang	Deputy Commissioner, Offender Management and Professional Development	Department of Corrective Services
19 January 2010	Mr Ian Clark	Superintendent	Hakea Prison
	Mr Ian Giles	Deputy Commissioner, Adult Custodial Division	Department of Corrective Services
	Mrs Christine Laird	Managing Director	Department of Corrective Services
10 February 2010	Professor Neil Morgan	Inspector of Custodial Services	Office of the Inspector of Custodial Services
	Mr Barry Cram	Deputy Inspector of Custodial Services	Office of the Inspector of Custodial Services
	Justice Narelle Johnson	Chairperson	Prisoners Review Board of Western Australia
10 March 2010	Mr Turlough Connolly	Director, Case Management and Prisoner Employment	Department of Corrective Services
	Mr Barry Cram	Deputy Inspector of Custodial Services	Office of the Inspector of Custodial Services
	Ms Kathleen Csaba	Manager, Prison industries	Department of Corrective Services
	Mr Peter Henson	President	Outcare
	Mr Peter Sirr	CEO	Outcare

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
17 March 2010	Professor Richard Harding	Consultant	
21 April 2010	Ms Vanessa Davies	Assistant Director, Offender Management, Acacia Prison	Serco Australia Pty Ltd
	Mr Paul McMullan	Director, Acacia Prison	Serco Australia Pty Ltd
	Mr Tony Clark	WAPOU Senior Industrial Officer	West Australian Police Officers Union
	Mr John Welch	Secretary of Union	West Australian Police Officers Union
19 May 2010	Ms Jacqueline Tang	Deputy Commissioner, Offender Management and Professional Development	Department of Corrective Services
	Ms Christine Laird	Managing Director, Education and Vocational Training	Department of Corrective Services
	Mr Mark Glasson	Director, Offender Services	Department of Corrective Services
	Mr Brian Ellis	Director, Sentence Management	Department of Corrective Services
	Ms Helen Baron-St John	Employed on Contract to Review Offender Employment in WA	Department of Corrective Services
26 May 2010	Ms Kathleen Csaba	Manager, prison Industries	Department of Corrective Services
11 August 2010	Mr Neil Fong	Consultant	KPMG
	Ms Christine Ginbey	Director, Strategic Asset Services	Department of Corrective Services
	Ms Katalin Kraszlan	Project Manager	Department of Corrective Services
18 August 2010	Ms Angela Dominish	Director Strategic and Executive Services	Department of Corrective Services
	Mr Ian D'Mello	Manager, performance and Statistics	Department of Corrective Services



COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
	Ms Natalie Gibson	Director Operations	Office of the Inspector of Custodial Services
	Mr John Acres	Principal Officer	Office of the Inspector of Custodial Services
	Professor Neil Morgan	Inspector of Custodial Services	Office of the Inspector of Custodial Services
8 September 2010	Ms Donna Herdsman	Manager, Service Agreements (procurement)	Department of Corrective Services
	Ms Matilda Prowse	Manager, Non Government Contracts	Department of Corrective Services
	Ms Katalin Kraszlan	Public Servant/ Project Manager	Department of Corrective Services
	Mr Peter Sirr	CEO	Outcare
15 September 2010	Ms Natalie Gibson	Acting Deputy Inspector	Office of the Inspector of Custodial services
	Mr John Acres	Director of Operation	Office of the Inspector of Custodial services
	Professor Neil Morgan	Inspector of Custodial Services	Office of the Inspector of Custodial services
22 September 2010	Mr Graeme Doyle	Assistant Commissioner	Department of Corrective Services
	Mr Mark Kuzminski	Chief Finance Officer	Department of Corrective Services
	Mr Boris Rozman	Acting Director, Corrective Services Policy and Evaluation Unit	Department of Treasury and Finance
	Mr Anthony Kannis	Executive Director, Infrastructure and Finance	Department of Treasury and Finance



## APPENDIX THREE

### *BRIEFINGS HELD*

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
3 March 2010	Superintendent and Staff	Casuarina Prison	Department of Corrective Services
25 March 2010	Alvin Yeo	Chair	The Government Parliamentary Committee for Home Affairs and Law
	Zainudin Nordin	Mayor	The Central Singapore District
	Phang Seok Sieng		Singapore Prison Service
	Shie Yong Lee		Singapore Prison Service
	Poh Zhongming		Ministry of Home Affairs
	Phillip Overmyer	CEO	Singapore International Chamber of Commerce
26 March 2010	Soh Wai Wah	Director of Prisons	Singapore Prison Service
	Phang Seok Sieng		Singapore Prison Service
	Desmond Chin Kim Tham	CEO	SCORE
	Matthew Chua		Ministry of Home Affairs
	Associate Professor Ho Peng Kee	Senior Minister of State for Home Affairs	Ministry of Home Affairs
27 April 2010	Superintendent, and Staff	Bandyup Women's Prison	Department of Corrective Services
20 May 2010	Steve Thorpe	Executive Director	Corrective Service Industries NSW

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

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<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
	Rhonda Booby	Director Offender Services and Programs,	NSW Department of Corrective Service
27 April 2010	Superintendent, and Staff	Bandyup Women's Prison	Department of Corrective Services
20 May 2010	Steve Thorpe	Executive Director	Corrective Service Industries NSW
30 September 2010	Wes Morris	Centre Coordinator	KALACC
30 September 2010	Superintendent, and Staff	Broome Regional Prison	Department of Corrective Services
1 October 2010	Superintendent	West Kimberley Regional Prison	Department of Corrective Services

## APPENDIX FOUR

### DCS RE-ENTRY LINK PROGRAM

Re-entry Link Program <sup>370</sup>		
Overview	Service Name/Region	Service provider
<p>The Re-entry Link Service provides support to prisoners and their families and assists offenders in their re-entry back into the community. Contact is totally voluntary as part of offenders and their families.</p> <p>The Service will encourage offenders to adopt law-abiding lifestyles by implementing and maintaining the following services within the Prisons, Work Camps and in the Community.</p> <p>Pre Release:</p> <ol style="list-style-type: none"> <li>1. Support to Remand Prisoners (Bandyup and Regional prisons only)</li> <li>2. Prison, Life Skills Information Sessions</li> <li>3. Transition Planning and Support</li> </ol> <p>Post Release</p> <ol style="list-style-type: none"> <li>4. Outreach Support Services.</li> </ol> <p>Services are engaged to provide coordination and support in re-integration of prisoners. And therefore the following issues are clarified:</p> <ul style="list-style-type: none"> <li>• Service providers are not required to provide all services for the client but to identify required services and coordinate a response to the client's needs using services which are available. (These may be in-house depending on the Service Provider business and size and what has been accepted as part of their offer).</li> <li>• Services will depend in available support services and related community infrastructure. Where services are not available in the community or not accessible, it is not the Service Provider's responsibility to provide the services in-house.</li> <li>• It is important to note that this service is not an accommodation service and does not provide accommodation. It will provide clients with help and support in seeking accommodation.</li> </ul>	Metropolitan Area - Men	Outcare
	Metropolitan Area - Women	Ruah
	West Kimberley	Men's Outreach Service
	East Kimberley	Ngnowar Aerwah Aboriginal Corp
	Pilbara	KMD
	Mid-West	Geraldton Resource Centre
	Eastern Goldfields	Centrecare Goldfields
	Great Southern	Regional Counselling and Mentoring Service
	South West	Agencies for South West Accommodation (ASWA)

<sup>370</sup>

Documentation provided to the Committee by the Department of Corrective Services Non Government Agreements Branch, September 2010.