



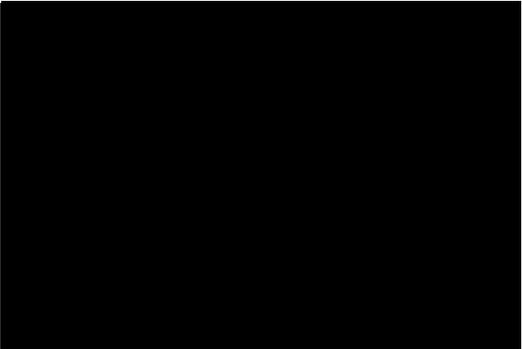
**Paul Papalia** CSC, MLA  
Member for **Warnbro**



**Mr Stephen King**  
Chair, Economic Regulation Authority  
PO Box 8469  
PERTH BC WA 6849

15 July 2015

Dear Mr King,



**Inquiry into the Efficiency and Performance of Western Australian Prisons**

Until now, I have refrained from making a written submission to the inquiry as I felt it best to maintain a degree of distance from the process to allow objective assessment and public commentary. In light of the content of the draft report released 9 July 2015, my view has changed and I now feel obliged to make a formal submission to the Inquiry.

As stated during our initial conversation at the beginning of the Inquiry, I believe no study of challenges confronting the Western Australian prison system can be of value without first considering drivers of demand on that system.

At page 13, the draft report makes the following concession:

*A challenge in conducting this Inquiry is that many of the drivers and decisions that affect the cost and performance of the prison system involve parties outside the prison system, and are beyond the Terms of Reference of this Inquiry.*

The document further states:

*Further than this, it is beyond the scope of this Inquiry to address the external factors that affect the prison system (such as the high rate of Indigenous incarceration and growth in the prison population).*

Having made these acknowledgements, the draft report then proceeds to focus simply on a range of models for managing the growth in prisoner numbers. The paper makes a determination that private prisons in Western Australia are more efficient and transparent but WA Labor questions this conclusion for three key reasons:

- a. A number of assumptions regarding management models refer to dated analysis by the Inspector of Custodial Services. The relevance of the Inspector's reports must now be questioned in light of the massive increase in prisoner numbers at the privately run Acacia prison and subsequent

evidence of significant security failure at the prison. Since the last report by the Inspector, there has been a more than fifty percent increase in prisoner numbers at Acacia within the same geographical footprint increasing crowding, security and administrative challenges. To suggest that now dated reports of success at the site remain valid is a questionable leap of faith.

- b. The most recent report by the Auditor General into Bail Management has revealed substantial cost imposts on the public prison system during initial induction of prisoners into the system that are not incurred by private prisons. A far more comprehensive analysis and comparison of costs of private and public prisons must now be undertaken before comparative benefits of the two can be determined. The Auditor General's report looks to have rendered the extant Public Sector Comparator for prison costing obsolete. Assuming that private prisons are significantly cheaper (and by implication more efficient) is no longer reasonable.
- c. WA Labor share the view expressed by some stakeholders to the ERA that it is not desirable for private enterprise to profit from the enforced incarceration of Western Australian citizens. In government, WA Labor inherited oversight of one private prison and did not seek to bring that facility back into the public sector at the time of contract renewal. At that time, the proportion of prisoners held in a private prison was significantly lower than today. Under the current government, the Acacia prisoner population has increased by 78 percent and another private prison has been opened at Wandoo. The active shift of much larger numbers of prisoners into an environment which is profit making for private enterprise is not supported by WA Labor. The move by the ERA to embrace and further encourage this shift through advocacy of the 'Commissioning model' is, in our view, not supported by strong evidence in the draft report and is opposed by WA Labor.

Further observations and recommendations about management models may be worth more extensive comment but only as part of an Inquiry that first assesses why prisoner numbers are growing and whether that is in the interests of taxpayers.

The renewed surge in the prison muster witnessed in the past 18 months is not included in the draft Inquiry report. This masks the extent of growth under the current government. In calendar year 2014, the prison muster (already at record high levels) increased by 8.8 percent, more than 5 times the rate of growth in state population which had eased dramatically to 1.6 percent. Prison muster growth since the start of 2015 remains high indicating a further increase of between 4 and 5 percent for the calendar year.

Departmental forecasts released during budget estimates predict a continued growth of around 4.4 percent unabated out to FY19/20. Alarming, the budget warns of the risk of an increase of an additional 200 adult prisoners as a result of recent changes to Aggravated Burglary legislation.

Overall growth in the adult prison population in Western Australia has been 39 percent under the current state government – more than double the rate of population growth. This is an extraordinary statistic. What other state government Department has been forced to contend with a growth in demand of 39 percent in 7 years? Observations made in the draft report Introduction (pages 19 to 21) confirm the importance of government justice policy on driving demand on the prison system. Despite this, the remainder of the report complies with constrained Terms of Reference which ignore this issue.

Perhaps the most valuable contribution by the ERA in the draft report is encapsulated in one paragraph, as follows:

*However, justice policies that are “tough on crime” may not be effective on crime. That is, the policies may lead to an increase in the prison population (with consequential increased cost), without delivering benefits in the form of deterrence to criminal behaviour or preventing people from reoffending.*

In recent years, constraint on the public purse has been the primary motivation behind significant justice policy changes within a number of United States jurisdictions. Recognising that unchecked growth in prisoner numbers was both unsustainable financially and ineffective at reducing crime, many states implemented Justice Reinvestment policies aimed at preventing crime and reducing prison populations. Acknowledgement of the waste of taxpayer’s dollars was the first step in enacting change.

The state Opposition identified the failure of justice policies following the steep rise in prison muster that occurred in the first 18 months of the current government. In 2010, WA Labor released a discussion paper on Justice Reinvestment (attached), moved a motion in parliament calling for the approach to be adopted, and passed Justice Reinvestment into the state Labor Party Platform. These initiatives were ignored by the government and the prison muster has continued to grow far in excess of population growth.

Noting the ERA are complying with Terms of Reference issued by government, it is the view of WA Labor that the Authority has an obligation to seek more expansive Terms of Reference. Continuing to pursue an Inquiry focussed on the best form of managing a system in the absence of assessing the key driver of demand for that system is a waste of taxpayer’s money.

I request that the ERA approach the Treasurer to seek expanded Terms of Reference enabling assessment of justice policies that are driving the rapid growth in prisoner numbers and undermining efficiency of the state's prisons.

Yours sincerely



**Paul Papalia CSC, MLA**  
Shadow Minister for Corrective Services

**Enclosure:**  
Discussion Paper, Justice Reinvestment: An option for Western Australia

# Justice Reinvestment An Option for Western Australia

Discussion Paper - June 2010



**Paul Papalia** MLA

Shadow Minister for Corrective Services



WA  
**Labor**

## Background

Western Australia's prison system is beset by massive overcrowding. There has been a long and steady growth in the number of people in our prisons – a 49 percent increase during the period June 2001 to November 2009.<sup>1</sup> The situation has deteriorated rapidly in recent times with a 27 percent increase in the muster in the first 18 months of the Barnett government.<sup>2</sup> Most prisons are holding numbers well in excess of original design capacity.

Faced with growing numbers of prisoners in early 2009, the newly-elected Barnett government announced a major infrastructure program allocating \$655 million to prison construction in its first term of office.<sup>3</sup> Prisoner numbers then spiked compelling government to announce an 'urgent expansion' of prison capacity in addition to the newly announced building program – chiefly this meant more beds inside current prisons.

Even if prison muster growth immediately returns to historical levels it will soon outpace government building plans. Depending on rate of growth, there could be between 5,100 and 6,600 offenders in the State's gaols by March 2013.<sup>4</sup> By contrast (assuming no delays in construction) the entire prison building program will result in a new capacity of only around 6,100 sometime in 2015.<sup>5</sup>

If it is to house even minimal growth in the prison population, government will have to begin construction of another major metropolitan prison in this term of

office. Such a major undertaking would conservatively add between half a billion and a billion dollars to capital costs. That represents 20 percent of the State's annual budget for capital works. At the very least, the State's critical level of prison overcrowding demands an assessment of current practices.

## Aim

The purpose of this paper is to analyse what is causing prison overcrowding and discuss whether Justice Reinvestment might be employed in Western Australia to achieve better outcomes.

## Key causes of overcrowding

Consistent growth in prison populations over recent decades is a phenomenon experienced not only in Western Australia but around the world. In the United Kingdom, the prison population almost doubled between 1992 and 2009.<sup>6</sup> In the United States prison numbers increased sevenfold in the four decades from 1970.<sup>7</sup>

Paradoxically, the rate of growth in prison populations over the last decade is not in response to increasing crime rates. United States violent crime rates dropped by 40 percent between 1991 and 2007.<sup>8</sup> The United Kingdom experienced similar dramatic drops in crime rates with a reduction by one third from 1997 to the present.<sup>9</sup>



Our own crime statistics reflect a similar divergence from the rate of growth in prisoner numbers. Overall reported crime dropped by 10 percent<sup>10</sup> in Western Australia from 2002 to 2008.<sup>11</sup>

## Political Populism

In the absence of a relationship between crime rates and growth in the prison population, respected authorities both here and overseas are drawing similar conclusions about the main causes of prison population growth. Over recent decades, politicians from both ends of the political spectrum in many Western nations have engaged in what can safely be described as a populist debate over who is ‘toughest’ on crime.

Citing obvious flaws in the populist debate, US Attorney General Eric Holder has called for jurisdictions in his country to get “smart on crime”. He acknowledges the superficial nature of the ‘who is toughest’ debate and says Americans must get smart on crime and “do so without worrying about being labelled as too soft or too hard on crime. Getting smart on crime means moving beyond useless labels and catch-phrases, and instead relying on science and data to shape policy”.<sup>12</sup>

British legislators have drawn similar conclusions. The United Kingdom House of Commons Justice Committee recently said that arguments for reform should be based on the best use of taxpayer’s money. In this way “the political argument could be shifted away from notions about which party is ‘harder’ or ‘softer’ on crime and criminals to questions about the most effective use of scarce resources to reduce offending and re-offending”.<sup>13</sup>

Here in Western Australia, the Chief Justice has also identified ‘popular punitivism’ as a contributor to increasingly harsher penalties and a consequent increase in prison population over the last decade despite a general reduction in most crime statistics.<sup>14</sup>

Both sides of politics in Western Australia have regularly engaged in ‘tough’ versus ‘soft’ on crime taunts in recent years. The taunts have invariably been accompanied by legislation introducing more harsh penalties and/or tighter constraints on judicial discretion for sentencing.

## Parole Management

Another contributor to expanding prison populations is related to populist politics but is worthy of separate consideration. It is an apparent failure of parole to deal effectively with non-threatening, less dangerous offenders.

Evidence given to the United States Congress indicates that, until recent changes in some states, parole was denied to many offenders who did not represent a significant threat to the community. These individuals easily tripped at the hurdle of tighter parole restrictions. Officials confirmed their parole and probation systems had broken down: “They were sending too many people back to jail. Many were drug-addicted or mentally ill offenders who could be safely dealt with in community programs”.<sup>15</sup>

The United Kingdom House of Commons Justice Committee believes their probation system was also poorly or under-utilised. They felt that violent and sexual offenders were being dealt appropriately harsh penalties but that ‘low-level and persistent offenders were not being dealt with effectively; in other words by robust community punishments rather than short custodial sentences’.<sup>16</sup>

In Western Australia, the nature of the recent prison intake seems to mirror the experience in the US and UK. The Chief Justice has confirmed that if there are any general characteristics of prisoners who constitute recent growth in the Western Australian prison system, they are “psychiatric disability, economic disadvantage (evidenced through an inability to pay fines), Aboriginality and offending at the lower end of the spectrum”.<sup>17</sup>

Around 60 percent of the recent steep growth in Western Australia’s prison muster can be attributed to changes in parole policies and practices since April 2009.<sup>18</sup> The Chair of the Prisoner Review Board has defended this outcome saying she believes “if a parolee tested positive to drugs, did not turn up for counselling or broke the law – no matter how they reoffended – they were not on parole but “at large” and should be returned to prison”.<sup>19</sup>

It is clear some US and UK authorities believe that a punitive justice philosophy has failed. By comparison



the State government continues to parrot the populist and widely refuted 'tough on crime' script, with no lesser light than the Premier engaging in juvenile name-calling during his annual opening address to parliament on 23 February 2010.<sup>20</sup>

## Does popular punitivism work

In the same speech, the Premier claimed his government had achieved an 8.5 percent decrease in reported crime in twelve months due to its hard-line 'tough on crime' agenda. Even assuming this seemingly audacious claim is accurate, the questions of sustainability and efficacy must be addressed.

## Sustainability

Home Office modelling in the United Kingdom has suggested that it would require a 15 percent increase in the prison population to achieve a short-term reduction in crime of only one percent.<sup>21</sup>

Prisons are costly. Recurrent costs of the Corrective Services Department, predominantly consumed by the operating costs of our prisons, already exceed half a billion dollars annually. The Chief Justice and Inspector of Custodial Services both say this substantial figure is growing at the rate of \$100,000 a year for each additional prisoner.<sup>22</sup> By this reckoning, the annual cost of operating our prisons has increased by \$90 million since the Barnett government took office.

If no change occurs in the rate of growth, by the next State election in 2013 recurrent costs of Corrective Services will have grown to nearly \$800 million annually.<sup>23</sup> Budget forecasts indicate the Department will receive \$140 million for capital works that year.<sup>24</sup> Despite this expenditure of close to a billion dollars a year, all of the additional funding could still be inadequate to meet demand. More prisons will still need to be built to accommodate this level of growth.

In theory, it might be possible to reduce crime significantly by increasing the size of our prisons exponentially. In reality, fiscal sanity will kick in long before this theoretical point is ever reached. The

majority of tax-paying Western Australians are unlikely to ever place unlimited funding for prisons above schools, hospitals and police stations in their list of priorities.

**“ Re-incarcerating low-threat offenders who breach their parole through minor infractions does nothing but place them back into a system which has demonstrably failed to influence them towards better behaviour. ”**

## Efficacy

Apart from the dramatic impact unlimited prison growth would have on the budget, the 'tough on crime' theory overlooks another germane fact - the vast majority of prisoners eventually leave prison. Whatever the duration of a sentence, incarceration will have had a profound impact on the offender. The impact will be either positive or negative.

Rigid application of release considerations, as advocated by the Chair of the Prisoner Review Board, ignores the negative impact on community safety caused by incarcerating low-threat offenders in an overcrowded system. Evidence suggests that our overcrowded prisons are not effective in reducing re-offending.

Recidivism rates provide an obvious indicator of success or failure of interventions. Logically, if increased deterrence (demonstrated through more harsh sentences for the same crime) were effective, prison populations would diminish over time as offenders



encountered prison and 'learnt their lesson'. This is not the case in Western Australia.

About 40 percent of male adult non-Aboriginal prisoners leaving prison between 1 July 1998 and 30 June 2008 had returned to prison by May 2009. It was far worse for Aboriginal prisoners at just under 70 percent. The equivalent figures for adult women were 30 percent for non-Aboriginal and 55 percent for Aboriginal.<sup>25</sup>

Re-incarcerating low-threat offenders who breach their parole through minor infractions does nothing but place them back into a system which has demonstrably failed to influence them towards better behaviour. This course of action is, in effect, accepting and institutionalising failure. It fails the efficacy test, particularly in light of an alternative approach developed in the US.

## Justice Reinvestment in the United States

More than ten jurisdictions in the United States have adopted Justice Reinvestment in an effort to break the nexus between 'tough on crime' justice practices and ever-increasing prison populations. Justice Reinvestment is a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen communities. Much of the focus of Justice Reinvestment is on reducing re-offending by people who leave the prison system.

As possibly the most hardline of all US States, Texas offers an interesting case study.<sup>26</sup> Confronted with an impending prison overcrowding crisis in 2007, Texan politicians decided against spending \$523 million to build and operate additional prisons. Instead, they determined the best way to increase public safety and reduce reoffending was to shift focus towards tackling prison costs at their source.

Initially, specialist advisors from the US Council of State Governments Justice Centre were engaged to provide geographic analyses of the prison population identifying which communities were contributing most offenders to prison. This process clearly identified a minority of communities were responsible for a disproportionately large ratio of prison costs.

For example, in Houston 50 percent of former prisoners were returning to neighbourhoods that accounted for only 15 percent of the City's population. Only 10 of the City's 88 neighbourhoods accounted for almost \$100 million of prison expenditure each year and five Counties in the State accounted for more than half of all people sentenced to prison.<sup>27</sup>

Armed with this evidence, Texan legislators took a rare step. They convened a Joint hearing of State House and Senate members to review factors contributing to prison growth, respond to research, and consider policy options which could reduce recidivism and increase public safety. As a result of the Joint hearing and subsequent deliberations, political leaders in the State moved to enact a wide suite of policies aimed at expanding treatment and diversion programs.<sup>28</sup>

A discussion paper published in the journal *Federal Probation* in 2006 suggested an ideal model for re-entry programs would include three or more phases designed to 'transition the inmate into the community'.<sup>29</sup> The model proposed would begin inside prison with service delivery 'congruent with the inmate's needs'. This would be followed by the second phase as the inmate is released from prison and completed by a final, 'aftercare or relapse prevention phase'.

It seems that Texas and other US State Legislatures adopted this type of comprehensive model as they shifted focus, away from punitive measures alone, towards making reduction of recidivism a priority.

## In-prison action

Intensive rehabilitation programs were initiated within Texas prisons aimed at reducing the likelihood of prisoners re-offending. In total, some 3,200 bed places were established for in-prison facilities treating prisoners with a focus on programs for drink driving offenders and intensive substance abuse treatment.<sup>30</sup>

## Community action

A significant component of Justice Reinvestment in Texas also related to providing supervised housing for offenders as they transitioned from prison or as an alternative to imprisonment. Hundreds of new beds



were provided in halfway houses. Over 2,000 bed places were also established in supervised parole programs and facilities. Notably, 'intermediate sanction facilities' provided the lion's share of these places and aimed at diverting 'probation and parole technical violators from prison'. Significant increases were also made to substance abuse treatment programs for people on probation.<sup>31</sup>

## Policy settings

A raft of changes to policy settings played a major role in shifting the focus of Texas Corrections towards reducing offending and re-offending, these included:

- a. Maximum limits were set on caseloads for parole supervisors.
- b. Maximum terms for probation were reduced to ensure effort and resources were used most effectively and directed at treatment and supervision of offenders at a time when research studies demonstrate they are most likely to re-offend.
- c. Incentives schemes were established to encourage authorities to develop progressive sanctioning models for probation violators.
- d. Expansion of drug and other specialty courts to place minor offenders into treatment programs aimed at reducing re-offending.
- e. Authorization for funding for construction of additional prisons was given but with implementation only allowed in the event of the new policies and programs not being implemented effectively deeming construction necessary.

## Savings

Increasing capacity of treatment and residential facilities proved significantly cheaper than incarcerating additional offenders in Texas. Over 2008 and 2009 the state saved \$210.5 million through not having to enlarge imprisonment capacity. Additional savings of \$233.4 million stood to be made if the programs prevented the need for additional prison construction.<sup>32</sup>

## Outcomes analysis

A key and essential final step in the Texas Justice Reinvestment process is analysis of the outcomes achieved. The State Legislature established an Oversight Committee to monitor implementation of the new policies and programs and to evaluate their impact on the state prison populations. The composition of the new Committee is designed to provide nonpartisan research, analysis, and recommendations for shaping ongoing criminal justice policy.

Since enacting its new policies, Texas has seen the number of people on parole and probation who have been returned to prison drop significantly. Prison populations have stabilized and is not projected to grow. Planned prison builds have been cancelled. And the ultimate and most important outcome is that crime rates in nearly every major urban area in the state have declined.<sup>33</sup>

Other US states have achieved similar success. Kansas also acted in 2007 to focus on preventing low-risk offenders on parole and probation from re-entering the prison system. Between 2007 and 2009 the state prison population decreased by 4 percent. The number of individuals having parole and probation revoked for violating conditions of their supervision or for committing new crimes dropped by 20 percent during the corresponding period. No new prison construction was needed and the declining prison population enabled some smaller facilities to close.

## Current recidivism focus in Western Australia

Despite the pervasive 'tough on crime' rhetoric employed by politicians in the public debate on 'law and order' issues, Western Australia has many examples of successful or promising initiatives aimed at reducing recidivism. It is valuable to review a small sample of these initiatives to confirm the potential offered by a focus on reducing re-offending.



## Boronia

Boronia pre-release Centre for Women is undoubtedly a world class, innovative response to preparing women prisoners for transition from prison to the community. The latest report on Boronia by the Inspector of Custodial Services confirmed recidivism rates had dropped by almost 4 percent (from 20 percent to 16.16 percent) since his previous inspection. Boronia also received a national award in recognition of its recidivism rate being one third of the national average.

## Drug court

The Chief Justice confirmed in a recent speech that the WA Drug Court could achieve dramatic outcomes at substantial cost savings by comparison to imprisonment. Offenders who successfully completed Drug Court had recidivism rates about one-third lower than those who served terms in prison. The annual cost of an individual to complete Drug Court at \$16,000 stood in stark contrast to the annual cost of \$100,000 per prisoner.

## Regional Youth Justice Centres

Youth Justice Centres have been created in regional youth crime trouble-spots of Geraldton and Eastern Goldfields. These centres brought together a range of government departments with responsibility for dealing with at-risk and offending youth and housed these agencies together in a purpose-designed building. The concept relies on information sharing across departmental boundaries and links to the local community. It is supported by access to safe accommodation thereby avoiding juveniles being unnecessarily sent to Perth on remand. Anecdotal reports suggest the initiative is a success and has led the Department of Corrective Services to attempt to replicate the model elsewhere.

## Prisoner employment program

Since 2008, prisoner employment officers have been appointed in prisons to prepare offenders nearing the end of their sentence for exit to employment. Eligible prisoners are awarded day release for work experience and even full-time paid employment prior to their release. Pay is retained by the Department and costs and board are extracted. Despite the early stage of the program and consequently only very low numbers of prisoners being enrolled, it offers hope for success. Evidence given to a recent parliamentary inquiry confirmed offenders participating in the prisoner employment program had a 13 percent recidivism rate (compared to around 40 percent for other prisoners).<sup>34</sup>

## Sycamore Tree Project

The Sycamore Tree Project operates under the auspices of Prison Fellowship Australia. It is a not-for-profit, volunteer operated program that was established in Western Australian prisons in late 2005. Many New Zealand, UK and US prisons employ the program. It takes victims of crime into the prison system where they participate in programs with select prisoners under direction of qualified volunteer facilitators. Proper analysis has not been funded in our State but a similar program in Texas, the Bridges to Life program, has resulted in recidivism rates of only 17 percent (the norm had been around 50 percent). Anecdotal reports suggest the Western Australian program is highly valued by victims, prison management and prisoners.

## Justice Reinvestment for Western Australia

Although they accord with Justice Reinvestment principles, the positive initiatives discussed above do not individually or collectively represent Justice Reinvestment. Justice Reinvestment is a comprehensive government (at every level), non-government, business and community co-ordinated response that is funded through offsets from savings achieved by arresting and reversing prison population growth. Employing Justice Reinvestment in Western Australia would require the discipline to follow the process proven to work in the US.



## Step one

Justice Reinvestment dictates a scientific approach. First, a geographic analysis of the State's prison population is needed to identify which communities are generating costs to our prison system. This task should be given to independent authorities capable of providing non-partisan expertise.

In the US, specialist support was provided by the Council of State Governments Justice Centre. Here in Western Australia, a number of highly credible academics and institutions are capable of the task. Access to necessary Departmental databases, specialist knowledge and advice regarding government practice might be provided by the Department of Treasury and Finance, although independence must be maintained.

Causes of the increase in prison population must also be analysed. The US experience identified, amongst other things, increases in probation revocation, lower parole approvals and a reduction in funding of community-based substance abuse and mental health services with resultant drop in treatment places, as key contributors.

The objective must be to map where the costs of our prison system are generated, what those costs are, and what factors may be contributing to growth in the prison muster. It is essential that the task is completed without political partisanship. Failure to do so would compromise the integrity of the data and undermine the entire process.

## Step two

Once in receipt of the detail acquired at step one, the Texas Legislature chose to create a Joint Bi-partisan Committee to identify potential options for reducing recidivism, generating savings and increasing public safety.

Our State's Westminster system of parliament does not easily lend itself to this approach. A more appropriate mechanism for assessing and choosing options might be an Inter Agency Steering Committee comprising Directors General of every department

with a relevant responsibility. The objective should be to cast the net as wide as possible including but not limited to departments such as Corrective Services, Child Protection, Indigenous Affairs, Police, Local Government, Education and Regional Development. To ensure the appropriate budgetary discipline and clout, the Committee could be Chaired by the Under Treasurer.

Key specialist agencies and advisors might easily assist the Committee at this stage. Academics and institutions with relevant knowledge reside in all of the State's tertiary institutions. The Commissioners for Children and Equal Opportunity, the Inspector of Custodial Services, and the Indigenous Advisory Board are examples of established sources of expertise within the State government framework.

Similarly, both local and federal governments must be included in the process and, if possible, recruited to the cause of co-ordinated activity focussed on reducing recidivism. Non-government service providers and the business community also have a stake in the outcome of Justice Reinvestment and should be urged to participate.

The Committee would have responsibility for looking at any measures that might reduce recidivism. This task would necessarily result in unique solutions for each of the target communities identified in step one. As no two communities are identical, no single plan for reducing recidivism can meet all of the needs of every community. Engaging with communities to identify their specific challenges and needs will also serve to build ownership of the process and enhance the likelihood of success.

## Step three

Once a comprehensive list of measures to reduce recidivism had been identified, Treasury specialists could conduct a thorough cost comparison of implementing the measures versus housing low-threat offenders in prisons. This comparison could then be provided to the Expenditure Evaluation Review Committee for consideration and advice to Cabinet.

Such were the scale of savings in Texas that additional



initiatives were funded including early intervention strategies aimed at increasing self-sufficiency and improving health and wellbeing of low-income families.

Further potential savings were also identified in the event of the measures preventing the need for future prison builds. Here in Western Australia the potential savings could be significant - \$655 million is currently allocated in the budget out years towards building prison capacity and another half a billion to a billion dollars will be needed if a new major metropolitan prison is commenced in the near term.

## Step four

The final part of the process is measuring outcomes. It is essential that the impact of any new initiatives be fully measured and assessed. Any programs aimed at reducing recidivism must be rigorously managed and analysed. Only proven successful programs should be continued.

There is a critical need for proper funding of data gathering and analysis within the Western Australian justice system. The Department of Corrective Services has confirmed it is incapable of saying which intervention or rehabilitation programs are effective and which are not. Worryingly, the Department also cannot provide comparative studies of former prisoners to enable analysis of success between those who receive parole and those who have parole denied.

## A unique opportunity

Justice Reinvestment offers hope of improving community safety, arresting never-ending growth in the prison muster, and freeing up hundreds of millions of dollars of tax-payers money currently tied up in building and operating prisons. This is true of any jurisdiction but it is particularly so for Western Australia because of the unique nature of our prison population.

The sheer weight of numbers of Indigenous people within the Western Australian prison system offers an almost perverse opportunity for Justice Reinvestment to work. We have the highest rate of Indigenous imprisonment in the nation. Around 43 percent of the adult prison population and at times as high as

80 percent of the juvenile detention population is Aboriginal. This from a minority which represents only 3.2 percent of the State's population. Aboriginal Western Australians are 20 times more likely to be in prison than non-Aboriginal people.

A recent Australian study suggested that 'modest reductions in the rate at which offenders are re-imprisoned would result in substantial savings in prisoner numbers and correctional outlays'.<sup>35</sup> The same study determined that only a 10 percent reduction in overall reimprisonment rates would create a reduction in the prison muster of 800 prisoners, saving \$28 million annually. A ten percent reduction in the rate of Aboriginal re-imprisonment would lower the number of indigenous prisoners by 365 with commensurate savings of \$10 million per annum.

We incarcerate Aboriginal people at a shockingly disproportionate level. Yet, scientific analysis shows we can achieve an equally disproportionate return on investment if we focus on reducing Aboriginal re-offending.

## Conclusion

Western Australia's prison system is critically overcrowded. The prison muster has been growing for over a decade and growth has escalated dramatically in recent years. Evidence shows our prisons do not stop offenders from re-offending. Studies also show only a small reduction in recidivism will result in significant improvements in community safety and a commensurate reduction of costs in the prison system.

Justice Reinvestment offers a framework for co-ordinating activity from every level of government, nongovernment agencies, business and communities in a focussed manner aimed at reducing recidivism. It is a proven, scientifically based process that has worked elsewhere in the world. Coincidentally, by focussing on communities that generate costs to the prison system, it probably offers the single most effective tool for tackling Indigenous disadvantage in Western Australia.



## Endnotes:

1. Martin W., Chief Justice, Popular Punitivism – The Role of the Courts in the Development of Criminal Justice Policies speech to The Australian and New Zealand Society of Criminology Conference, 23 November 2009, p9.
2. Opcit.
3. Government of WA Budget, 2009-10 Budget Paper No.2 Volume 3, 14 May 2009, p759.
4. Historical low level of growth was 100 per year between 2001 and end 2008. Growth during current government was over 900 in 18 months equivalent to 600 per year. If growth returns to low of 100 per year immediately, muster will be 5,100. Alternatively, at 600 per year it will be 6,600.
5. Porter C., Attorney General and Minister for Corrective Services, Written response to question in Legislative Assembly Estimates Committee B, 26 May 2009 indicating 5,542 beds by June 2014, coupled with recently announced Urgent and Immediate Expansion strategy for additional 600 beds by 2015.
6. Home Office, Crime in England and Wales 2008/09, Vol 1: Findings from the British Crime Survey and police recorded crime, July 2009 Back, quoted in House of Commons Justice Committee report 14 January 2010.
7. Holder E., US Attorney General, Speech to the American Bar Association Convention, 3 August 2009.
8. Opcit
9. House of Commons Justice Committee, Cutting Crime: the case for justice reinvestment, 14 January 2010
10. Although the rate of reported assaults increased by 27 percent in that time, rates of reported homicides (down 40 percent), armed robbery (down 45 percent), burglary (down 45 percent), motor vehicle theft (down 50 percent) and other theft (down 12 percent) all fell dramatically. The rate of reported sexual assault remained much the same.
11. Ibid, Martin W., p18.
12. Ibid, Holder E., 3 August 2009.
13. Ibid, House of Commons Justice Committee.
14. Ibid, Martin W., pp2-19.
15. New York Times Editorial, 11 May 2009.
16. Ibid, House of Commons Justice Committee.
17. Ibid, Martin W, p14.
18. Ibid, Martin W, p12.
19. Opcit.
20. Premier Barnett claimed the previous Labor government had a “soft-on-crime approach to law and order” recorded in Hansard 23 February 2010 page 33.
21. Reported in Inspector of Custodial Services draft A Thematic Review of Overcrowding in Prisons, November 2009.
22. Ibid, Martin W., p 16.
23. The 2009/10 budget allocated \$500 million recurrent to Corrective Services and there has been an additional 900 prisoners added to muster since that allocation (\$90 million in costs annually). At this rate, a further 1,800 prisoners will enter the system by 2013. At \$100,000 per year per prisoner, this equates to a further \$180 million in recurrent costs for a total of \$770 million by March 2013.
24. Ibid, Government of WA Budget, p763.
25. Ibid, Martin W, p16.
26. Since reintroducing Capital punishment in 1972, Texas has executed more prisoners than any other State.
27. US Council of State Government Justice Center website
28. Opcit
29. Listwan S.J., Cullen F.T, Latessa E. J., How to prevent prisoner re-entry programs from Failing: Insights from evidence-based corrections, Federal Probation Volume 70 Number 3, December 2006.
30. 1,500 new beds for an in-prison intensive substance abuse treatment program, 1,200 slots for intensive substance abuse treatment programs in the prison system, and 500 new beds in a new facility for an in-prison treatment unit targeting people with drink driving offences.
31. 800 new beds in a residential program for people on probation supervision with substance abuse needs, 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison, 300 new beds in halfway house facilities for people under parole supervision, and 3,000 slots for outpatient substance abuse treatment for people on probation supervision.
32. Ibid, US Council of State Government Justice Center website
33. Ibid
34. Evidence by Deputy Commissioner Adult Custodial Mrs C. Laird to Community Development and Justice Standing Committee, 19 January 2010.
35. NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin Number 138, December 2009. Justice Reinvestment - an option for Western Australia?