

# *Justice & Community Safety in Western Australia:*

*A call for  
Efficient investment in effective outcomes*

February 2013

A discussion paper prepared by:



**WAAMH**

Western Australian Association  
for Mental Health



**wacoss**

Western Australian  
Council of Social Service Inc

*Ways to make  
a difference*



**wanada**

Western Australian Network of  
Alcohol & other Drug Agencies

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# 1. Introduction

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Western Australia is stuck in a rut, when it comes to prisons. And what an *expensive* rut it is!

Despite increasing investment in prisons and the justice system in WA and a ‘tough on crime’ approach, including mandatory sentencing, minimum terms, and reduced parole, no significant return on the State’s investment in this area has been achieved. This investment has not led to a reduction in offending rates, reduction in recidivism rates, or improvements in community safety. Rather, most of these factors have been getting worse.

Western Australians are spending much more than ever before on prisons and corrective services, and yet our jails are overcrowded and re-offending rates continue to rise. Clearly something is wrong here, and a new approach is needed.

The Western Australian Council of Social Service (WACOSS), Western Australian Association for Mental Health (WAAMH) and Western Australia Network of Alcohol and Drug Agencies (WANADA) have prepared this paper to promote public discussion on the composition and effectiveness of WA’s investment in the area of prisons and the justice system.

Western Australia would be better served through the adoption of an evidence-based approach to improve the outcomes of the justice system, reduce crime and increase community safety. We need to focus on the risk factors for crime and for re-offending, and put in place preventative measures, early intervention strategies and effective rehabilitation approaches that are based on a cost-benefit approach to investment in justice and community services. Spending in the areas of justice, prisons and community services need to be accountable for producing outcomes and targeted where it will provide the most benefit.

Rehabilitation programs to reduce recidivism rates among offenders, early intervention programs that seek to divert young and first-time offenders before they progress on to a ‘career’ in crime, and preventative strategies that seek to tackle the underlying causes of offending behaviour at its source are all important aspects of a holistic and effective strategy. While justice experts and advocates may differ in their concentration on these different aspects (and perhaps disagree on the relative importance of how much to invest, in which aspect, at which part, of a longer-term community safety strategy) there is a strong underlying consensus that all of these approaches provide a more effective and cost efficient alternative to increasing incarceration rates.

Often there has been a focus on reducing recidivism, largely because better data is available and it is easier to demonstrate a direct connection between a specific program or service and an outcome. Improving re-offending rates may be considered a good **short-term strategy**, but there is also an extent to which — by the time many individuals from disadvantaged backgrounds have ended up in the prison system — the complexity of their needs and those of their families (including mental health issues, alcohol and drug, or family and relationship problems, life skills and employment disadvantage) may be such that they are facing significant and entrenched barriers to achieving better life outcomes.

In the **medium term**, early intervention and diversionary strategies that target first time offenders and seek to address the underlying causes of offending behaviour — before patterns of crime become entrenched — hold out the promise of being able to achieve more cost-effective and sustained outcomes. One form of targeted preventative strategy is to seek to identify those groups of disadvantaged young people most likely to be ‘at risk’ of going on to become offenders (for instance, those dropping out of the education system, experiencing family violence or homelessness) and provide targeted support services and guidance prior to them actually coming into contact with the justice system. One challenge is the burden of proof —the extent to which, while we can demonstrate improved statistical outcomes in terms of offending rates across the group of ‘at-risk’ young people or first offenders, we can never conclusively say whether an individual first offender diverted by such a program would necessarily have gone on to become a career criminal.

If we are serious about producing better **long-term outcomes** and having a greater impact on improving community safety and the long-term outcomes for disadvantaged communities, then we also need to be investing more time and resources into understanding the social determinants of offending behaviours. We need to determine what kinds of programs and supports that can prevent young people (from at-risk communities) ending up in our criminal justice system.

This is all part of the justice reinvestment approach:

*Justice reinvestment aims to make more efficient use of criminal justice resources while maintaining public safety. The local justice reinvestment process involves identifying drivers of criminal justice system costs, targeting alternative allocations of resources to reduce those costs, and reinvesting the savings in areas that will contribute to increased public safety.<sup>1</sup>*

**The status quo approach to community safety and justice is not achieving the best for the Western Australian community. It truly is time to start looking at alternatives to the existing approach in WA.**

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<sup>1</sup> Dwyer, AM., Neusteter, SR., Lachman, P. (2012) *Data-Driven Decision-making for Strategic Justice Reinvestment*, Urban Institute: Justice Policy Centre, <http://www.urban.org/publications/412543.html>

## **1.1 The justice reinvestment approach**

Justice Reinvestment has three key steps:

1. Collection of data relating to offending and the criminal justice system;
2. Independent analysing of this data to a) identify neighbourhoods which will benefit most from targeted investment in crime prevention initiatives, and b) to identify the areas of greatest need within prisons to ensure appropriate and adequate service delivery which targets recidivism; and
3. Services or programs introduced to respond to those community needs identified through the data collection and mapping, must be subject to rigorous, independent and ongoing evaluation.

Justice Reinvestment is not a radically new approach, but rather makes good common sense. Making decisions based on strong evidence, and committing to comprehensively evaluate the outcomes of those decisions is logical.

However, there are two key barriers to the adoption of a justice reinvestment approach in Western Australia:

- (1) The first relates to the lack of comprehensive, appropriate data to enable us to understand the social determinants of offending behaviour, identify those most at risk, and monitor the impact of access (or lack of access) to different services and supports.
- (2) The second relates to how programs and services — identified as being needed through the collection and analysis of data — will be funded.

These two barriers are discussed in more detail in Section 5:

***Barriers to an evidence-based approach*** to justice in WA.

Firstly, however, this report outlines the Western Australian picture of an increasingly desperate situation; rapidly increasing prison populations, unsustainable increases to prison operation and infrastructure costs, and little evidence of the benefits of this expenditure.

Finally the report includes recommendations for practical action that the community and Government can take in WA to implement a new approach to justice, where investment in outcomes is based on evidence of effectiveness in reducing offending behaviour, by helping to address the complexity of individuals and families' needs.

## 2. Why it's time for a change of approach in WA

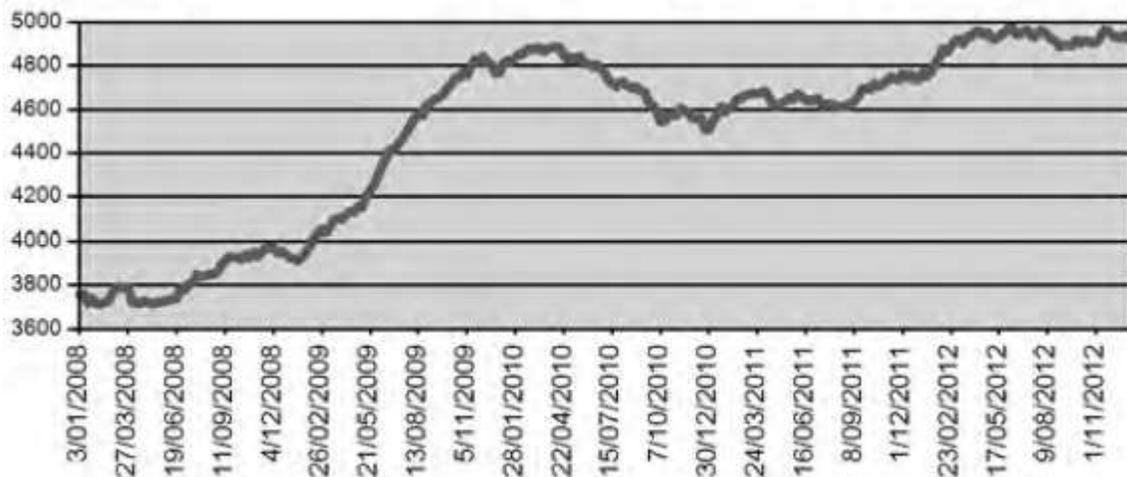
### 2.1 The number of people in prison in WA has grown 40% in 6 years

Over the last 5-6 years, the prisoner population in Western Australia has gone through a period of immense growth. Between 4 January 2007, and 3 January 2013:

- The total adult and juvenile prisoner population grew by 41.1%.
- The number of adults in prison grew by 40.6% (an additional 1,429 prisoners).
- The adult female prisoner population grew by 64.4% (an additional 181 prisoners).
- The number of juveniles in detention grew by 56.3% (an additional 72 detainees).<sup>2</sup>

Indigenous people have remained highly over-represented in the adult prisoner population in WA - 42% in 2007 and 40.2% in 2013; and are even higher in the juvenile population - 73.4% in 2007 and 67.5% in 2013. This is particularly significant when we consider that Indigenous people represent only 3.1% of the total population in WA.<sup>3</sup>

Figure 1: Adult Prisoner Population - Rolling 5 year snapshot<sup>4</sup>



The following table compares the numbers and demographics of the adult and juvenile prisoner populations on 4 January 2007, and 3 January 2012.

<sup>2</sup> Figures taken from the Department of Corrective Services *Weekly Offender Statistics* reports from 4 January, 2007 <http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2007/prison-count-jan-mar-2007.pdf> and 3 January, 2013 <http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2013/cnt130103.pdf>.

<sup>3</sup> Australian Bureau of Statistics (2012) *2011 Census Counts — Aboriginal and Torres Strait Islander Peoples*, <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2075.0main+features32011>

<sup>4</sup> Department of Corrective Services (2013) *Weekly Offender Statistics: 3 January 2013*, <http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2013/cnt130103.pdf>.

Figure 2: WA adult & juvenile prison populations<sup>5</sup>

	January 4, 2007		January 3, 2013		% Increase
	Number	% of total population	Number	% of total population	
<b>Adult prisoner population</b>	3,524	100.0%	4953	100.0%	40.6%
- Males	3,243	92.0%	4491	90.7%	38.5%
- Females	281	8.0%	462	9.3%	64.4%
- Indigenous	1,480	42.0%	1993	40.2%	34.7%
- Non-Indigenous	2,044	58.0%	2960	59.8%	44.8%
- Sentenced	2,874	81.6%	3947	79.7%	37.3%
- Unsentedenced (Remand)	627	17.8%	984	19.9%	56.9%
<b>Juvenile custodial population</b>	128	100.0%	200	100.0%	56.3%
- Males	118	92.2%	180	90.0%	52.5%
- Females	10	7.8%	20	10.0%	100.0%
- Indigenous	94	73.4%	135	67.5%	43.6%
- Non-Indigenous	34	26.6%	65	32.5%	91.2%
- Sentenced	58	45.3%	102	51.0%	75.9%
- Unsentedenced	70	54.7%	98	49.0%	40.0%

These figures show an alarming rate of growth in our prison population.

<sup>5</sup> Figures taken from the Department of Corrective Services *Weekly Offender Statistics* reports from 4 January, 2007 <http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2007/prison-count-jan-mar-2007.pdf> and 3 January, 2013 <http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2013/cnt130103.pdf>.

## 2.2 Overcrowding in WA prisons

In 2010, there was concern raised about the rates of prison overcrowding in WA following an increase in the adult prisoner population of approximately 25% in the space of a year. Much of this increase was attributed to the changed practice of the new Prisoner Review Board from 2009.<sup>6</sup> The impact of the new Board’s “difference of approach” in granting early release orders can be seen in the table below:

Figure 3: Prisoner Review Board decisions<sup>7</sup>

	2008-09	2009-10
The number of prisoners who became eligible to be released under a parole order	3,051	3,091
The number of prisoners who were refused an early release order	855	2,112
The number of prisoners released under an early release order	1,957	927

With prisoner numbers increasing, occupancy rates in WA detention facilities shamefully defy design and optimal capacity. As the 2010 Productivity Commission *Report on Government Services (Chapter 10: Corrective Services)* explained (emphasis added):

*‘Prison utilisation’ is defined as the annual daily average prisoner population as a percentage of the number of single occupancy cells and designated beds in shared occupancy cells that is provided for in the design capacity of the prisons, reported separately for open and secure custody.*

*It is generally accepted that the preferred level of prison utilisation falls **between 85 and 95 per cent**, because of the need for spare capacity to cater for the transfer of prisoners, special-purpose accommodation such as protection units, separate facilities for males and females and different security levels, and to manage short-term fluctuations in prisoner numbers. Percentages at the upper end of this range indicate better performance towards achieving efficient resource management.*

*Efficiency indicators are difficult to interpret in isolation and need to be considered in conjunction with effectiveness indicators. A high utilisation*

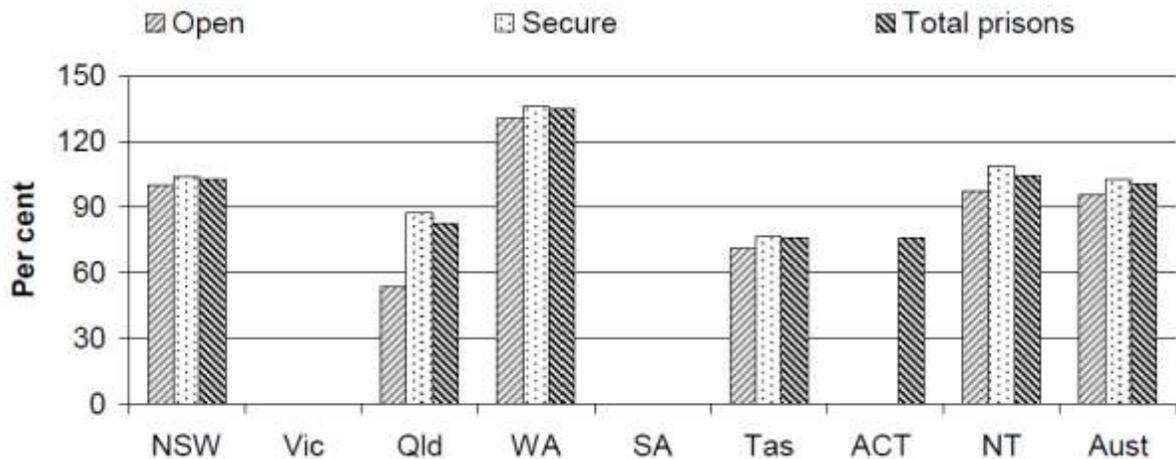
<sup>6</sup> ABC Radio National (2010) Law Report: WA’s Prisoner Review Board, <http://www.abc.net.au/radionational/programs/lawreport/was-prisoner-review-board/3015552#transcript>

<sup>7</sup> Prisoner Review Board (2010) Annual Report [http://www.prisonersreviewboard.wa.gov.au/files/PRB Annual Report 2010.pdf](http://www.prisonersreviewboard.wa.gov.au/files/PRB%20Annual%20Report%202010.pdf), page 12

percentage, for example, can impact adversely on effectiveness indicators such as 'assaults'.<sup>8</sup>

According to the same Productivity Commission report, in 2010-11 the national rate of prison utilisation was 100.6 per cent.<sup>9</sup> However, Western Australia's performed significantly worse on this measure, as shown by the graph below:

Figure 4: Prison design capacity utilisation, 2010-11<sup>10</sup>



In 2010-11, Western Australian prisons were operating at 134.9% of the total design capacity. (Secure facilities were operating at 136.1% of capacity, and open facilities were operating at 130.6% of capacity. WA's prison utilisation rate has worsened since 2008-09 when they were operating at 116.9% of the total design capacity. (At that time, secure facilities were operating at 112.1% of capacity, whereas open facilities were 130.6% of capacity).<sup>11</sup>

The poor rate of prison utilisation (overcrowding) in WA needs to change. While money does need to be spent on replacing and repairing ageing prison infrastructure, it does not follow that the best way to improve the prison utilisation rate is to build more prisons. Shifting investment *away* from expensive new prisons, and into both crime prevention strategies (which address the underlying causes of criminal behaviour) and programs which reduce recidivism rates is the more fiscally and socially responsible option.

<sup>8</sup> Productivity Commission (2010) *2010 Report on Government Services, Chapter 8: Corrective Services*, Australian Government, <http://www.pc.gov.au/gsp/rogs/2010>, page 27.

<sup>9</sup> Ibid, page 27.

<sup>10</sup> Ibid, page 27.

<sup>11</sup> Ibid, Table 8A.23.

## 2.3 The WA Government is investing heavily in new prisons

As a result of recent prison population increases, the WA Government has committed hundreds of millions of dollars to expand existing prisons, and build new prison facilities. In recent years — both because of the need to replace and repair ageing prison infrastructure, and because of the growing numbers of prisoners. But this asks the question — will building more prisons yield the best possible investment of public safety dollars?

In recent years, the State Government has committed to:

- Spending \$655 million on a prison infrastructure program which would add 640 beds to the existing Hakea, Casuarina and Albany prisons.<sup>12</sup>
- Establishing a prison work camp near Warburton, at a cost of \$15.6 million (housing 18 prisoners).<sup>13</sup>
- Establishing a prison work camp near Wyndham, at a cost of \$9.4 million (housing 9 prisoners).<sup>14</sup>
- Establishing a new West Kimberley Regional Prison, near Derby at a cost of \$150million (150 beds)<sup>15</sup>

(Note: the spending figures identified above, which total over \$830 million, account only for infrastructure costs, and do not include the ongoing costs of running the new facilities.)

The location and type of these new corrective prisons reflect the over-representation of Indigenous Western Australians in the WA justice system. In particular, the Derby facility has been designed specially to cater for Indigenous prisoners. Corrective Services Minister, Christian Porter MLA claimed that “The Derby facility will be the first complex in Australia designed, built and staffed to meet the unique social and cultural needs of Aboriginal offenders.”<sup>16</sup> While we acknowledge there is value in providing culturally appropriate facilities, we question whether the high rates of Indigenous offending in the (primarily Indigenous) communities surrounding these new facilities could not be better dealt with by instead increasing investment in local, community-directed initiatives targeting the factors which have been shown to precipitate offending behaviour in a local area. Providing ongoing funding for evidence-based programs and services which address existing areas of disadvantage (and other identified issues) has the potential to bring long term, much more positive outcomes to local communities than it is likely any prison will be able to achieve.

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<sup>12</sup> The Nationals WA (2012) *State Budget 2011-12: Supporting our Community - Corrective services infrastructure improvements*, <http://www.nationalswa.com/News/Speeches/>

<sup>13</sup> The West Australian (2012) 'Resorts cheaper' than work camp, <http://au.news.yahoo.com/thewest/a/-/breaking/13811497/resorts-cheaper-than-work-camp/>

<sup>14</sup> Ibid.

<sup>15</sup> Liberals WA (2008) *\$150million for new West Kimberley Regional Prison* <http://www.wa.liberal.org.au/article/150million-new-west-kimberley-regional-prison>

<sup>16</sup> Ibid.

## 2.4 The rising cost of detention

According to WA State Budget figures, between 2006-07 and 2010-11, the costs per day of keeping adults and juveniles in detention did not change significantly. However, given the large increases in the size of the prisoner population, the total cost of delivering Adult and Juvenile Offender Services both increased significantly, as shown in the table below:

Figure 5: Cost of Offender Services in WA<sup>17</sup>

	2006-07 Actual (\$'000)	2010-11 Actual (\$'000)	Difference (\$'000)	Increase (%)
Cost per day of keeping an adult offender in custody	286	292	6	2.1%
Adult Offender Services - Net Cost of Service (Total)	380,231	568,452	188,221	49.5%
Cost per day of keeping a juvenile in detention	657	667	10	1.5%
Juvenile Offender Services - Net Cost of Service (Total)	55,185	86,879	31,694	57.4%

The 2012-13 State Budget has provided for expenditure of \$759,945 (for Adult and Juvenile Corrective Services) in the 2012-13 financial year.<sup>18</sup> This represents a 75% increase in spending on the 2006-07 figures shown above — and does not include the Government's investment in new and expanded prison infrastructure.

<sup>17</sup> Figures taken from the *2008-09 WA State Budget Papers: Volume 3*, (Corrective Services, pages 1028-1031) and *2012-13 WA State Budget Papers: Volume 2*, (Corrective Services, page 784).

<sup>18</sup> Government of Western Australia (2012) *2012-13 WA State Budget Papers: Volume 2*, (Corrective Services, page 784).

## 2.5 The indirect costs of increased numbers of prisoners

While the previous sections have discussed the direct (and very high) costs of corrective facilities and Offender Programs, it is also important to consider the indirect costs of corrective facilities — though such costs are much more difficult to measure. In Western Australia, where facilities have been operating at high cost and with overcrowding, there are a range of considerations which relate directly to the issue they seek to address — community safety.

The growth in the prisoner population in the last 5 years, has led to concerns about the levels of overcrowding in WA prisons. This led to particular concerns, including:

- Cells which were specifically designed for single-occupancy were suddenly being double, triple or quadruple “bunked” (more than one prisoner being held in a cell).<sup>19</sup>
- As a result of insufficient beds, some prisoners have been forced to sleep on the floor of cells.<sup>20</sup> Compounding this, there have also been reports of prisoners “sleeping on the floor on mattresses, their head lying centimetres away from the toilet or the cell door.”<sup>21</sup>
- It has also been reported that the overcrowding had led to both the cancellation of training and education opportunities for prisoners, and the inability of prisoners to gain access to programs.<sup>22, 23</sup> The flow-on effect of this is that prisoners have been denied parole because they have not been able to address their offending behaviours as programs are unavailable or oversubscribed.
- The WA Prison Officers Union has expressed concern about the safety of its members (and of prisoners), claiming that “overcrowded prisons in WA are causing violent behaviour to fester among some of the state's most dangerous prisoners.”<sup>24</sup>

Overcrowding undermines the rehabilitative intention of prisons. Denial of parole due to the inaccessibility of programs means that prisoners are released at the end of their sentence without ongoing supervision, unlike when they are released on parole. The consequences (and costs) of

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<sup>19</sup> The Australian (2010) Overcrowding, breaches of basic care and responsibility 'rife' in WA prisons, 23 July 2010, <http://www.theaustralian.com.au/business/legal-affairs/breaches-of-basic-care-and-responsibility-rife-in-wa-prisons/story-e6frg97x-1225895824870>

<sup>20</sup> WAToday (2012) *New minister defends prison overcrowding* <http://www.watoday.com.au/wa-news/new-minister-defends-prison-overcrowding-20120702-21c2f.html#ixzz2LcBOQCSC>

<sup>21</sup> The Australian (2010) Overcrowding, breaches of basic care and responsibility 'rife' in WA prisons, 23 July 2010, <http://www.theaustralian.com.au/business/legal-affairs/breaches-of-basic-care-and-responsibility-rife-in-wa-prisons/story-e6frg97x-1225895824870>

<sup>22</sup> WAToday (2012) Overcrowded prisons ‘festering more crime’, 23 October 2012, <http://www.watoday.com.au/wa-news/overcrowded-prisons-festering-more-crime-20121023-282re.html>

<sup>23</sup> ABC News (2012) *Warnings of deaths in custody as WA prison population explodes*, 9 August 2012, <http://www.abc.net.au/worldtoday/content/2012/s3563989.htm>

<sup>24</sup> WAToday (2012) Overcrowded prisons ‘festering more crime’, 23 October 2012, <http://www.watoday.com.au/wa-news/overcrowded-prisons-festering-more-crime-20121023-282re.html>

prison overcrowding in WA cannot be underestimated - it has the potential to have negative consequences for community safety (though it is uncertain whether any such consequences in WA are being actively measured or monitored).

As *Fleming et al.* wrote in 2011 with regard to the effects of “releasing offenders with untreated mental health problems into the community:”

*It is important to consider not only the health issues of the prisoners, but also the effects of releasing offenders with untreated mental health problems into the community. Particularly with problematic prison overcrowding, the mental wellbeing of prisoners will only worsen as living conditions become more cramped, cell temperatures reach extremes, and interpersonal difficulties inevitably occur. Overcrowding also increases the pressure on prison health services, unavoidably resulting in prisoners with undetected and untreated mental health problems. As these prisoners complete their sentences and are released, potentially without parole, the impact is felt on the public health system as they start accessing public health resources... Thus, prisoner mental health must be screened for and treated, with data provided to health organisations and government agencies to ensure programs are effective, and the health of prisoners meets standards expected in the general community.<sup>25</sup>*

We are concerned by the seeming acceptance in WA of the bottomless pit which seems to be the State Government’s corrective services budget. While prisons are an essential part of the justice system, they should only be used as a last resort, and much greater emphasis needs to be placed on the rehabilitative opportunity the period of imprisonment provides. Ultimately, supporting communities by addressing the underlying problems which often lead people to commit crimes should be at the core of State Government justice and corrections policy.

This is why we as community service organisations are in favour of a justice reinvestment approach.

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<sup>25</sup> Fleming, J., Gately, N., & Kraemer, S. (2011) *Creating HoPE: Mental Health in Western Australian Maximum Security Prisons*, Edith Cowan University, <http://goo.gl/LZ9fd>, pages 7-8.

## 2.6 Corrections spending is high, but so are recidivism rates

The willingness of the Western Australian Government to allow such high rates of imprisonment (and overcrowding) to both manifest and continue, raises significant questions about what the Government and Western Australian community sees as the primary purpose of prisons — is it deterrence, incapacitation, punishment, or rehabilitation?

- **Deterrence** — to deter people from offending, through fear of loss of liberty.
- **Incapacitation** — to remove offenders from the community and incapacitating them, in order to prevent them from offending again.
- **Punishment (or retribution)** — to subject an offender to a penalty (loss of liberty) in response to their wrongdoing. The punishment seeks to deter them from offending (or getting caught) again.
- **Rehabilitation** — to provide support, services or training for an offender so as to assist them to overcome the factors in their life which resulted in them becoming an offender. The rehabilitation seeks to provide an individual with new lifestyle-options post-release.

However, with regards to “incapacitation” and “punishment”, it is important to remember that almost all prisoners get released at some point. Fear of re-imprisonment alone is unlikely to be effective in bringing about significant, and lasting, behavioural change – particularly if there are broader social determinants of offending which remain unaddressed. The problem with “deterrence” is that the focus is on not getting “caught,” rather than not offending.

All four of these factors have some role to play in addressing crime and justice issues in WA. The question is how much emphasis is placed on each of these purposes, how funding can be distributed to bring about the most positive outcomes for the broader Western Australian community.

The Department of Corrective Services (WA) lists its obligations as:

- providing offender management services that protect the community;
- giving offenders the interventions they need to make a positive difference in their lives and reduce their involvement in the criminal justice system;
- supporting offenders to become responsible citizens by adopting law-abiding lifestyles; and
- promoting crime prevention.<sup>26</sup>

Despite mounting spending on corrective services, rates of recidivism amongst WA prisoners remain high. Recidivism is defined as re-incarceration within two years of release and does not include convictions involving other penal sanctions. In 2010–11, the recidivism rate in Western

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<sup>26</sup> Department of Corrective Services (2011) *Our Responsibilities*, <https://www.correctiveservices.wa.gov.au/about-us/our-responsibilities/default.aspx>

Australia was 44.2% for the adult prison population as a whole.<sup>27</sup> However, the recidivism rate for the Aboriginal prison population is markedly higher than that of the non-Aboriginal prisoner population.

Between 1 July 1998 and 30 June 2008, the recidivism rates for Western Australians were as follows:

Figure 6: Recidivism rates, Western Australia<sup>28</sup>

	Recidivism rate
Aboriginal male adult	70%
Non-Aboriginal male adult	40%
Aboriginal female adult	55%
Non-Aboriginal female adult	30%
Aboriginal male juvenile	80%
Aboriginal female juvenile	64%

If the WA prison system was working effectively, by deterring people from offending, or discouraging them from re-offending post-release, we would expect to see both prisoner numbers decreasing, and significantly lower rates of recidivism. This is the opposite to what WA is currently experiencing.

Furthermore, the WA prison system's ongoing, still-unresolved overcrowding issues do not reflect favourably on these obligations, and contribute in a less than positive (and very expensive) way to the safety of the Western Australian community.

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<sup>27</sup> Sentencing Advisory Council of Victoria (2012) Released Prisoners Returning to Prison, <http://sentencingcouncil.vic.gov.au/page/about-sentencing/sentencing-statistics/imprisonment/released-prisoners-returning-prison>

<sup>28</sup> Hon Wayne Martin (2009) 'Corrective Services for Indigenous Offenders - Stopping the Revolving Door', Presentation to Joint Development Day - Department of Corrective Services, <http://goo.gl/2nPwQ>

### 3. Health and other social determinants of offending

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A key feature of the existing approach to crime and justice issues in WA has been the ‘criminalisation’ of social and health issues. The lack of support provided for those experiencing significant social and health disadvantage together with the lack of appropriate and effective treatment for mental health, alcohol and other drug problems (and their comorbidity) contributes to circumstances where those affected and untreated are significantly more likely to end up in our justice system. This is evidenced in high rates of over-representation in our courts, prisons and juvenile justice system, and as victims of crime.

It is both inappropriate and ineffective to treat health problems and address social disadvantage through prisons. The fact that these issues, if left untreated, can lead or contribute to criminal behaviour amongst *some* of those affected, is a reason to ensure appropriate and adequate services are available to all. The presence of these factors cannot be said to ‘cause’ or excuse criminal behaviour – but the evidence is clear that they do make it very much more likely. While from a social justice point of view, many of us may like to think that it is simply the right thing to do to ensure all citizens have equal access to services and support and to reduce social and economic disadvantages arising from historical injustices, the point about a justice reinvestment argument is that targeted and effective prevention, diversion and rehabilitation strategies are more economically effective.

Prisons are a particularly inappropriate place for most people with health issues (especially mental health and/or alcohol and other drug issues) to receive treatment. Experience has shown that prisons can rarely provide the support needed to help individuals seek recovery or to prevent them from reoffending. The practical reasons for this include that, in prison, medical attention is scant, PBS Medicare entitlements are withdrawn, and recovery oriented services are generally unavailable or inaccessible.<sup>29</sup>

The fact that early experience of poverty, child abuse and neglect mean that it is significantly more likely that a young person will end up within our criminal justice system is a compelling reason why we need to do more to tackle these fundamental injustices as a society.

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<sup>29</sup> Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia, pages 119 -122 and recommendation 9.1.3.

### 3.1 Alcohol & other drugs

Estimates of the percentage of WA prisoners who have alcohol and other drug use issues, vary between 60% and 80%. For example:

- The *Drug Use Careers of Offenders Study*, conducted in 2000, surveyed the drug histories of sentenced adult male prisoners in Western Australia. The study found that 80% of prisoners had a history of regular illicit drug use, and 50% reported a high level of drug dependence.<sup>30</sup>
- In 2011, the Department of Corrective Services told a Parliamentary Committee that “approximately 62% of prisoners have alcohol and other drug problems, and 53% of adults on community service orders have alcohol and other drug problems.”<sup>31</sup>

Furthermore, the Department of Corrective Services reported in their *Offender Drug and Alcohol Strategy 2010 – 2014*, that:

*It is estimated that between 37% and 52% of offenders in Australia report that their offending is attributable to their drug problem.<sup>32</sup> In relation to young people in custody, an Australian study indicated that the misuse of drugs exacerbated offending, with 35% of Aboriginal and 29% of non-Aboriginal youths attributing their offending to their drug use.<sup>33</sup>*

Below are some examples of what we know about the treatment (or lack of treatment) of alcohol and other drug issues in WA for individuals involved in the justice system:

#### Community corrections/prior to imprisonment

- (1) The alcohol and other drug community service sector is minimally resourced. Many services are forced to cap the number of mandated clients they are able to provide treatment services to as a way of minimising the displacement of voluntary service users. Alcohol and other drug services that see a high percentage of mandated consumers typically experience higher turnover of staff and a negative impact on the culture of the organisation.

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<sup>30</sup> Makkai and Payne (2003) cited in Australian National Council on Drugs (2012) *Drug Research Paper 23: Supply, Demand and Harm Reduction Strategies in Australian Prisons - an update*, [http://www.ncd.org.au/images/PDF/Researchpapers/rp23\\_australian\\_prisons.pdf](http://www.ncd.org.au/images/PDF/Researchpapers/rp23_australian_prisons.pdf), page 49.

<sup>31</sup> Education and Health Standing Committee (2011) *Alcohol: Reducing the Harm and Curbing the Culture of Excess*, Legislative Assembly Parliament of Western Australia, [http://www.parliament.wa.gov.au/parliament/commit.nsf/%28Report+Lookup+by+Com+ID%29/1511331A52931060482578B80007F0D5/\\$file/97909904.pdf](http://www.parliament.wa.gov.au/parliament/commit.nsf/%28Report+Lookup+by+Com+ID%29/1511331A52931060482578B80007F0D5/$file/97909904.pdf), page xxviii.

<sup>32</sup> NCDS (2006) cited in Department of Corrective Services (2010) *Offender Drug and Alcohol Strategy 2010 – 2014*, <http://goo.gl/fEVWt>, page 5.

<sup>33</sup> Prichard and Payne (2005) cited in cited in Department of Corrective Services (2010) *Offender Drug and Alcohol Strategy 2010 – 2014*, <http://goo.gl/fEVWt>, page 5.

- (2) There is high demand and waiting lists for services at most alcohol and other drug services, including significant demand for services to mandated consumers. Waiting lists often act as a deterrent to early access to services as a prevention to crises, including criminal behaviour.
- (3) The alcohol and other drug sector receives minimal funding to specifically meet the needs of the significant referrals from community corrections.
- (4) Referral from corrective services staff typically demonstrates inadequate understanding of the needs of alcohol and other drug consumers or the autonomous community service sector, with inappropriate referrals, expectations of prioritisation and inadequate assessment and case management. As a result community sector resources are often wasted.
- (5) Diversion initiatives are welcomed by the alcohol and other drug sector. The 2006 review of the Perth Drug Court (established in 2000) found that:

*Drug Court involvement had a beneficial effect on recidivism – with participants being 17.0% less likely to return to correction than prisoners and 10.4% less likely than those on community orders.<sup>34</sup>*

However, at the time of the review, there was a waiting list for people wanting to access the Drug Court. Evidence has also indicated that marginalised and vulnerable population group members are typically underrepresented in diversion access. In addition, alcohol diversion is currently not an option in Western Australia.

### **During prison**

- (6) Assessment of alcohol and other drug issues is not routinely and adequately undertaken at prison entry for all individuals. As such there is no appreciation of the true treatment and support needs for the WA prison population and no capacity for the prisons, government or the community service sector to participate in meaningful planning to meet the gaps in service needs.

The 2011 Legislative Assembly report, *Alcohol: Reducing the Harm and Curbing the Culture of Excess* found that “the current provision of (alcohol and other drug) treatment programs provided by the Department of Corrective Services is inadequate”.<sup>35</sup>

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<sup>34</sup> Department of the Attorney General (2006) *A review of the Perth Drug Court*, [http://www.courts.dotag.wa.gov.au/D/drug\\_court\\_evaluation.aspx?uid=1254-2424-6583-8790](http://www.courts.dotag.wa.gov.au/D/drug_court_evaluation.aspx?uid=1254-2424-6583-8790) page 1.

<sup>35</sup> Education and Health Standing Committee (2011) *Alcohol: Reducing the Harm and Curbing the Culture of Excess*, Legislative Assembly Parliament of Western Australia, page xxviii [http://www.parliament.wa.gov.au/parliament/commit.nsf/%28Report+Lookup+by+Com+ID%29/1511331A52931060482578B80007F0D5/\\$file/97909904.pdf](http://www.parliament.wa.gov.au/parliament/commit.nsf/%28Report+Lookup+by+Com+ID%29/1511331A52931060482578B80007F0D5/$file/97909904.pdf)

- (7) The “zero tolerance” approach (as opposed to a “harm minimisation” approach) to drug use has been demonstrated again and again as not being a viable option for the community, and this is demonstrated by the ineffective capacity for confined environments (such as Western Australian prisons) to ensure zero tolerance. The Drug Use Careers of Offenders Study, which was conducted in 2000, surveyed the drug histories of sentenced adult male prisoners in Western Australia, finding that:

*45 per cent of 146 prisoners reported using drugs in prison. Of those reporting drug use while in prison, 21 (over 30%) reported that the last time they injected was in a prison setting (Kraemer, Gately and Kessell, 2009). A cross-sectional audit of all medical notes for inmates at one regional prison in Western Australia found that 57 per cent of inmates had documented evidence of illicit drug use in their lifetime.<sup>36</sup>*

Equitable access to treatment, support or harm reduction services is not made available to people in Western Australian prisons. Under the illusion of no drug use in prisons, harm reduction strategies (including those that assist with reducing blood borne viruses) are not afforded to prisoners, who on release from prison contribute to community and family risks of harm. Poor service access and inadequate focus on the health and wellbeing of prisoners with health and disadvantage concerns is negatively impacting on the safety and wellbeing of the Western Australian community.

#### **Post-release**

- (1) Pathways programs, supporting the transition from prison and back to the community are provided, however numbers participating are minimal and clearly more resources need to be focused in this area to significantly prevent recidivism.

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<sup>36</sup> Gilles et al. (2008) cited in Australian National Council on Drugs (2012) *Drug Research Paper 23: Supply, Demand and Harm Reduction Strategies in Australian Prisons - an update*, page 49, [http://www.ancd.org.au/images/PDF/Researchpapers/rp23\\_australian\\_prisons.pdf](http://www.ancd.org.au/images/PDF/Researchpapers/rp23_australian_prisons.pdf)

### 3.2 Mental health

Various studies have sought to estimate the mental health status of people in prison or specific prison populations. Below is a summary of some of some of the findings:

- A 2003 NSW study suggests that around 74 per cent of people in prison have some form of mental health problem, in comparison to 20 per cent of the general population.<sup>37</sup>
- Research by Morgan et al (2008) indicated that mentally ill individuals are over-represented in the criminal justice system at all levels. Of those who offend, court data cross-linked with a mental health database shows that 85 per cent of court attendees have had contact at some previous stage with mental health services.<sup>38</sup>
- A 2009 study on the health of Australia's prisoners shows that prisoners in Australia have poor health compared to the general community, with 37% reporting having a mental health diagnosis at some point, with 31 per cent having been referred to prison mental health services.<sup>39</sup>
- The 2010 National Prisoner Health census indicated that 31% of prison entrants reported that they had been told by a doctor, psychiatrist, psychologist or nurse that they had a mental health disorder (including drug and alcohol abuse) in their lifetime - a rate 2.5 times higher than the general population.<sup>40</sup> 16% of prison entrants surveyed were currently on medication for a mental health disorder.
- 54% of prisoners in a WA prison study reported having received treatment for an emotional or mental health problem in the past.<sup>41</sup>

A 2012 *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, undertaken by Professor Bryant Stokes AM, has provided the most current, and identified the *most significant* gaps in mental health supports for people in and released from prison. Some of the findings of this report are reflected in the

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<sup>37</sup> Butler, R., and Allnutt, S. (2003) cited by Government of Western Australia, Mental Health Commission *Mental Health 2020: Making it personal and everybody's business*, <http://goo.gl/YqTUv>, page 37.

<sup>38</sup> Morgan et al (2008) cited in Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia, page 111, [http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core\\_Download&EntryId=1476&PortalId=0&TabId=132](http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1476&PortalId=0&TabId=132)

<sup>39</sup> Australian Institute of Health and Welfare, *The health of Australia's prisoner's: 2009*, <http://www.aihw.gov.au/publication-detail/?id=6442468371>, page x.

<sup>40</sup> Australian Institute of Health and Welfare, *The mental health of prison entrants in Australia: 2010*, <http://www.aihw.gov.au/publication-detail/?id=10737422201>, page 2.

<sup>41</sup> Fleming, J., Gately, N., & Kraemer, S. (2011) *Creating HoPE: Mental Health in Western Australian Maximum Security Prisons*, Edith Cowan University, <http://goo.gl/LZ9fd>, page 11.

following observations regarding the treatment (or lack of treatment) of mental health issues in WA for individuals involved in corrective services:

### **Community corrections/prior to imprisonment**

- (1) One in 5 Western Australian adults (450,000 people) will experience a mental health difficulty in any year.<sup>42</sup> However, all community mental health services have waiting lists which vary from 3 weeks to 12 months.<sup>43</sup> As noted earlier, waiting lists often act as a deterrent to early access to services as a prevention to crises, including criminal behaviour.
- (2) Professor Stokes received evidence that criminal behaviour is often the result of the longstanding difficulty experienced by patients and their carers in accessing care in the community.<sup>44</sup>
- (3) The community sector has welcomed the State Government's decision to establish a new dedicated mental health court for people (adults and young people) with mental health problems and/or mental illness. However, given the high rate of mental illness amongst people coming into contact with the criminal justice system in WA, it seems likely that the Court will be unable to meet demand.

### **During prison**

- (4) The Frankland Centre is WA's only forensic secure inpatient mental health facility. The Centre was opened in 1993, with 30 beds. The number of beds in the facility has not increased since it was opened "despite a significant increase in demand brought about largely by the proclamation of the Criminal Law (Mentally Impaired Accused) Act 1996 in 1997"<sup>45</sup> and the significant increase in prisoner numbers.

*... prisoners who require psychiatric care at Frankland sometimes wait up to three or four weeks in prison before a bed becomes available... the current number of secure beds in the Frankland Centre is highly inadequate to meet demand.*<sup>46</sup>

Professor Stokes received evidence that there are significant gaps in availability of mental health care to people in prison. It was reported that prisoners who require

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<sup>42</sup> Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia, page 25, [http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core\\_Download&EntryId=1476&PortalId=0&TabId=132](http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1476&PortalId=0&TabId=132).

<sup>43</sup> Ibid, page 159.

<sup>44</sup> Ibid, page 120.

<sup>45</sup> Ibid, page 119.

<sup>46</sup> Ibid, page 119.

psychiatric care at Frankland sometimes wait up to three or four weeks in prison before a bed becomes available and the current number of secure beds is highly inadequate to meet demand.<sup>47</sup> Professor Stokes called for, as a matter of urgency:

*The planning, business cases and funding for provision of a full range of mental health services in WA prisons and detention centres. This will involve dedicated units and services in prison for mentally ill women, youth, Aboriginal and people with acquired brain injury/intellectual disability.*<sup>48</sup>

- (5) The understaffing of mental health programs and services within prisons means “funds for treatment are often only available for those at crisis point, or who have committed particularly violent or sexual crimes.”<sup>49</sup>

#### Post-release

- (6) Professor Stokes also noted that, in the WA context, many prisoners may not receive any medical or mental health follow-up following their release, as the critical services may not be informed of their release.<sup>50</sup> Professor Stokes called for, as a matter of urgency:

*Community services [to be] expanded to facilitate transition from prison, to assertively follow up people who are seriously mentally ill and present a serious risk of harm to themselves and others, and to closely follow up and monitor mentally impaired accused patients on custody orders in the community.*<sup>51</sup>

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<sup>47</sup> Ibid, page 119.

<sup>48</sup> Ibid, page 21.

<sup>49</sup> Fleming, J., Gately, N., & Kraemer, S. (2011) *Creating HoPE: Mental Health in Western Australian Maximum Security Prisons*, Edith Cowan University, <http://goo.gl/LZ9fd>, page 3.

<sup>50</sup> Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia, page 7, [http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core\\_Download&EntryId=1476&PortalId=0&TabId=132](http://www.amawa.com.au/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1476&PortalId=0&TabId=132)

<sup>51</sup> Ibid, page 21.

### 3.3 Young people at risk

Research has indicated that young people at risk of offending often have a history of involvement with a range of government and community sector services and interventions. This suggests that there is a clear opportunity that is being missed to identify young people most at risk before they begin to engage in criminal behaviour and come into contact with the justice system – at which point intervention becomes more difficult and the costs more significant. We need to provide better services and support to young people at risk.

There is strong evidence that children who suffer abuse or neglect are more likely to engage in criminal activity than those who do not. A recent study by the Australian Institute of Health & Welfare linked available child protection, juvenile justice and Supported Accommodation Assistance Program (homelessness) data. Analysis of the linked data found that “children and young people who are involved in one of these three sectors are more likely to be involved in another of the sectors than the general population.”<sup>52</sup> For example, the study found that:

- Almost 15% of young people under juvenile justice supervision received SAAP support within 1 year before the start of their most recent supervision, and this proportion increased to almost 20% for the previous 2 years.<sup>53</sup>
- One in 12 (8%) of young people received SAAP support within 12 months after the end of their most recent juvenile justice supervision, while 1 in 8 (12%) received it within 2 years.<sup>54</sup>
- Almost one-third (31%) of young Indigenous women under juvenile justice supervision had one or more child protection notifications, compared with 19% of young Indigenous men, 17% of young non-Indigenous women and 8% of young non-Indigenous men.<sup>55</sup>
- Young people with a history of substantiated child protection notifications were more likely to enter supervision at a younger age than those with no substantiated notifications.<sup>56</sup>

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<sup>52</sup> AIHW (2012) *Children and young people at risk of social exclusion: links between homelessness, child protection and juvenile justice*, Australian Institute of Health & Welfare  
<http://www.aihw.gov.au/publication-detail/?id=60129542237>.

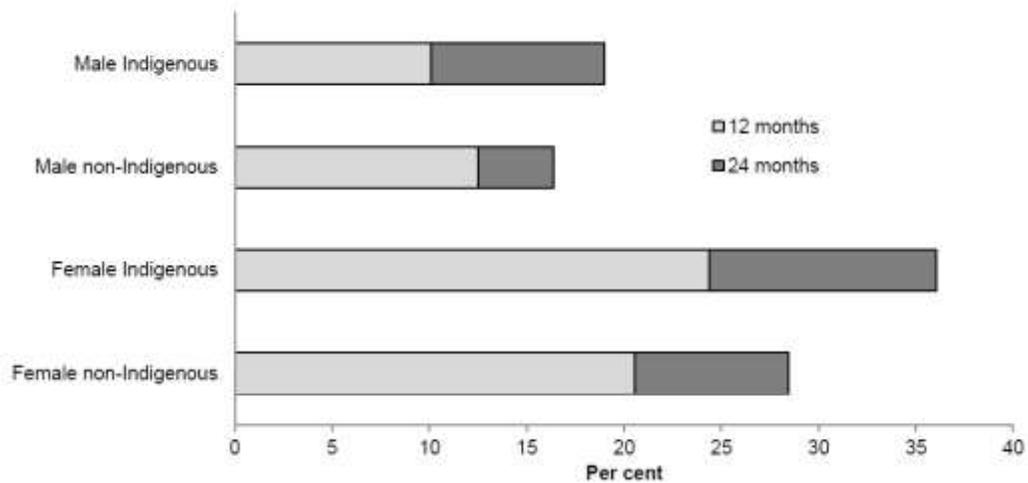
<sup>53</sup> Ibid, page 10.

<sup>54</sup> Ibid, page 14.

<sup>55</sup> Ibid, page 25.

<sup>56</sup> Ibid, page 26.

Figure 7: Young people who received SAAP support before their most recent juvenile justice supervision<sup>57</sup>



In April 2012, WACOSS hosted a Sector Consultation titled “Youth at Risk and Juvenile Justice.” The forum canvassed a wide range of issues affecting young people, including housing, access to services, government ‘silos,’ the cultural competence of youth services, diversion programs, early intervention, binge drinking, parenting, service funding, the media coverage of youth issues and health.

One of the key themes of the consultation was youth justice. While the community sector participants were concerned about the rate young people were coming into contact with the justice system (and the rate at which they were being incarcerated), most were more concerned about what was seen as the critical need to address those underlying factors which have been shown to contribute towards the likelihood of offending behaviour. Such factors included (but are not limited to) alcohol and/or drug abuse, mental illness, homelessness and family breakdown.

Following the Youth at Risk and Juvenile Justice Forum in April, the Youth Affairs Council of WA (YACWA), Youth Legal Service and WACOSS came together to develop plans to provide further opportunities for participants and other interested parties to discuss and workshop the issues raised. Subsequently, three half-day “Youth Justice Think Tank” workshops were held, one in each of September, October, and December 2012.

The report ‘**Building a more effective youth justice system**’<sup>58</sup> is a result of a series of Youth Justice Think Tanks hosted by the Western Australian Council of Social Service (WACOSS), the Youth Legal Service (YLS) and the Youth Affairs Council of Western Australia (YACWA). The Think Tanks brought together over 100 policy makers, representatives from non-government organisations,

<sup>57</sup> Ibid, page 10.

<sup>58</sup> The *Report and Recommendations of the 2012 Youth Justice Think Tank*, can be found here: [http://www.wacoss.org.au/Libraries/State\\_Election\\_2013\\_Documents/Youth\\_Justice\\_Think\\_Tank\\_Report.sflb.ashx](http://www.wacoss.org.au/Libraries/State_Election_2013_Documents/Youth_Justice_Think_Tank_Report.sflb.ashx)

legal experts and youth workers to explore how Western Australia could evolve our youth justice approach to better meets the needs of young people and the community.

The report contains 26 recommendations targeting government and non-government services that can deliver effective community action. These recommendations all relate to improving the effectiveness of the Western Australian approach to addressing youth justice issues. The strong involvement of people from both the government and community sectors was one of the great strengths of the Youth Justice Think Tank.

## 4. The role of the community sector

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The community sector has a valuable contribution to make to a justice reinvestment approach to crime prevention and the reduction of recidivism rates.

One of the major strengths of community sector organisations is their strong links to, and knowledge of, local communities and networks. These links place community organisations in a strong position to provide the kind of sustainable and targeted supports that help people overcome what can often be chaotic life factors which can lead to engagement with the justice system. Young people at risk of offending behaviour are often in contact with and known to community service providers, as discussed above. However, the high level of demand for services, the limits placed on service delivery by funding contracts, and the lack of information sharing needed to identify risk factors can prevent services from intervening.

Community sector organisations provide a wide range of services - ranging from community education and early intervention through to acute services. Many community sector programs and services seek, directly or indirectly, to address those factors which have been shown to contribute to an increased likelihood of offending behaviour amongst vulnerable communities. This includes (but is far from limited to) services relating to alcohol and other drug problems, mental health, domestic violence, at-risk youth, family support, homelessness and employment. Other community sector programs work to provide diversion opportunities, and to reduce the rates of re-offending amongst offenders once they are released from prison. It is *not just* individuals that benefit from access to community sector programs. Families and communities are also strengthened and best served by the provision of well-integrated programs and services developed in response to the identification of vulnerabilities, and evidence of need within a local community.

A wide range of services are needed to meet the diverse needs of individuals, families and communities. Many of these services are already provided by the community sector. For example:

- The alcohol and other drug sector provides individual, group, couples and family support through a range of services, including: community drug services, therapeutic communities and residential rehabilitation centres, sobering-up shelters, harm reduction services, counselling services, detoxification and pharmacotherapy support. The alcohol and other

drug sector also provide community development, education and prevention services in consultation with their community.

- The mental health sector assists individuals' to identify their own recovery goals, which can involve steps like securing safe housing, gaining and maintaining employment, engaging in a recreational activity and reengaging with family. WAAMH's member organisations often have 'core' mental health services (like counselling) among a suite of other related services aimed at enhancing a person's recovery journey. For example, WAAMH member organisations often include a combination of some of the following services: networking and support for carers, family and friends of people with mental illness; crisis accommodation and refuge from domestic violence; support gaining basic life skills; support for families affected by stress and depression relating to pregnancy, childbirth and new parenthood; and telephone crisis lines.

One example of a community-managed organisation, funded by the Western Australian State Government, is the recently opened sub-acute mental health service. The service, known as *Step-up Step-down*, encapsulates the aim of the service in providing short term supported accommodation to people who, without that support, are likely to be admitted to hospital (ie, step-up), as well as people who need support after being discharged from hospital (ie, step down). This form of accommodation provides a solid base from which to stabilise treatment and arrange individualised planning and coordination, to ensure that people are connected to the supports and services they need to re-establish a good life.<sup>59</sup>

- The family and child sector provides a wide range of services, including: services to build parenting capacity; family and peer support for children and family members and carers; case management; support when transitioning to child care, pre-school and primary school; playgroups, child care and family day care services; counselling; relationship support services; community education; domestic violence services; early intervention services to families and children at risk of abuse or neglect; services to prevent children from entering the child protection system; and out-of-home care services .

Community sector organisations are committed to outcomes which best serve their communities. The community sector is keen to gain access to existing data and to see improved data collection processes introduced to ensure the services they are offering are meeting the needs of their community.

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<sup>59</sup> Mental Health Commission (2011) *Mental Health 2020: Action Plan 2011- 2012*, [http://www.mentalhealth.wa.gov.au/Libraries/pdf\\_docs/MHC\\_action\\_plan\\_Web\\_2.sflb.ashx](http://www.mentalhealth.wa.gov.au/Libraries/pdf_docs/MHC_action_plan_Web_2.sflb.ashx), page 9.

## 5. Barriers to an evidence-based approach to justice in WA

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### 5.1 The 'good data' barrier

Access to and sound analysis of quality data is at the basis of the justice reinvestment approach. The United States Council of State Governments: Justice Center, describes the use of data in justice reinvestment as follows:

*Justice Center experts analyse crime, arrest, conviction, jail, prison, and probation and parole supervision data provided by state and local agencies; map specific neighbourhoods where large numbers of people under criminal justice supervision live and cross-reference this information with reports of criminal activity and the need for various services (including substance abuse and mental health treatment programs) and resources (such as unemployment or food stamp benefits); and assess available services critical to reducing recidivism. Using that state-specific information, the Justice Center develops practical, data-driven, and consensus-based policies that reduce spending on corrections to reinvest in strategies that can improve public safety.<sup>60</sup>*

Good data is the key to a developing a successful, partnership-based justice reinvestment approach to crime prevention and the reduction of recidivism rates. Quality data is critical both to the planning and provision of services, but also to the comprehensive evaluation of initiatives undertaken.

Unfortunately, in WA at present, there is currently a lack of quality data measuring alcohol and other drug use, mental health rates, and other social issues currently identified as being found disproportionately amongst the prison population.

In 2001, the Australian Bureau of Statistics published *The National Criminal Justice Statistical Framework*. In the Framework, the ABS identified "number of important questions about criminal justice and the CJS that either cannot or have not been addressed by currently available data."<sup>61</sup>

Key issues include:

- An inability to distinguish characteristics of offenders (a lack of detailed offender information).
- An inability to track offenders through the criminal justice system.
- The lack of information of victim and offender ethnicity and Indigenous status.
- The lack of information of drug, alcohol and firearm involvement in crime.

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<sup>60</sup> The Council of State Governments: Justice Center (no date) *Justice Reinvestment*

[http://justicereinvestment.org/files/JR\\_overview\\_2010\\_rev.pdf](http://justicereinvestment.org/files/JR_overview_2010_rev.pdf)

<sup>61</sup> Australian Bureau of Statistics (2001) *4525.0 - The National Criminal Justice Statistical Framework, Jul 2001*, <http://www.abs.gov.au/ausstats/abs@.nsf/66f306f503e529a5ca25697e0017661f/73D3A2566F429B95CA256AB8007FEE8D>

- The lack of adequate data to examine recidivism (including the lack of a standard definition of a recidivist).
- An inability to evaluate comprehensively programs to reduce recidivism and other intervention / prevention programs in order to determine accurately the types of strategies that are effective.
- The lack of collection of data for research and evaluation requirements, rather than just for operational needs.
- The existence of many systems to store data, but no integration of that data.
- The lack of uniform standards in some parts of the crime and justice field.
- The need for geo-coded data for regional comparisons at small local area level.
- The lack of a substantial link between crime data and other data to help identify factors contributing to crime.<sup>62</sup>

In 2012, WACOSS and its members called for the introduction of an ongoing audit of rates of mental illness and drug and alcohol problems amongst prisoners.<sup>63</sup> Improved data collection and data sharing is needed to:

- Better consider the opportunities for new, targeted crime prevention services, as well as to measure the impact of existing services;
- Ensure the provision of alcohol and other drug and mental health services within prisons are both appropriate and adequate to meet the current need; and
- Plan and manage support for prisoners once they are released back into the community.

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<sup>62</sup> Ibid.

<sup>63</sup> Western Australian Council of Social Service (2012) *2013-14 Pre Budget Submission*, [http://www.wacoss.org.au/Files/WACOSS\\_Pre\\_Budget\\_Submission\\_2013-14.pdf](http://www.wacoss.org.au/Files/WACOSS_Pre_Budget_Submission_2013-14.pdf)

## 5.2 The funding barrier

There was an economic argument behind the use of the justice reinvestment approach in the United States — the country with the highest rate of incarceration in the world<sup>64</sup>.

In 2007, the state of Texas projected it needed, to address the state's impending prison overcrowding crisis, to spend an additional \$523 million for the construction and operation of new prisons over two years. Analysis of data relating to why the prison population was growing, found that failures related to community supervision and insufficient treatment capacity were key factors. Texas State Representative Jerry Madden said:

*Our prisons were increasingly filled with people sentenced for substance abuse problems, mental health issues, or technical violations. The result has been a huge burden on our state budget and fewer beds for serious, violent offenders. We needed to be smarter about how we spent taxpayers' dollars on public safety while ensuring that we continued to be tough on those offenders who pose the greatest risk to our communities.*<sup>65</sup>

In response to these findings, the state introduced a comprehensive criminal justice package and spent \$241 million on:

- Expanding the capacity of substance abuse treatment programs
- Increasing available mental health community-based treatment and diversion programs
- Improving success rates for people on community supervision
- Enhancing the use of parole for low-risk offenders.

Texas found that the cost of increasing the capacity of treatment and residential facilities was significantly less than the earlier budget request for additional prison capacity. The state immediately saved \$210.5 million for the 2008–2009 fiscal biennium.

So, if Texas can make it work, why can't we do it in our own 'wild West'?

A number of WA State Government inquiries have recommended the adoption of a justice reinvestment approach, including the November 2010 report *Making our Prisons Work: An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies*.<sup>66</sup>

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<sup>64</sup> Population Reference Bureau (2013) *U.S. Has World's Highest Incarceration Rate*  
<http://www.prb.org/Articles/2012/us-incarceration.aspx>

<sup>65</sup> Council of State Governments: Justice Center (2009) *Texas Justice Reinvestment Policies Reduce Corrections Spending and Strengthen Supervision*,  
[http://www.reentrypolicy.org/announcements/texas\\_justice\\_reinvestment](http://www.reentrypolicy.org/announcements/texas_justice_reinvestment)

<sup>66</sup> Legislative Assembly (2010) *Making our Prisons Work: An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies*, Community Development and Justice Standing Committee, Parliament of Western Australia,

With both State and Federal Government committees having recommended (at least further investigation of) a justice reinvestment approach, many in the community sector have been frustrated by the current WA Government's response. This frustration can, perhaps, be better understood after reading the Government's response to Recommendation 20 of the 2011 report of the *Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters*.

**Recommendation 20:** *The Committee supports the principles of justice reinvestment and recommends that the Government focus their efforts on early intervention and diversionary programs and that further research be conducted to investigate the justice reinvestment approach in Western Australia.*<sup>67</sup>

The response from the Minister for Corrective Services to this recommendation was:

*The Government notes this recommendation. Justice reinvestment cannot be achieved by the Department of Corrective Services alone; would require a Government wide approach (sic). The Government acknowledges the benefits that can be gained from identifying hot spots and providing local funding to those areas to tackle the social disadvantages that contribute to offending behaviour, however, past attempts to address social disadvantage have had mixed outcomes and it is not clear how the justice re-investment approach will lead to better outcomes. If such an approach is to work, it is one that would require generational change. Utilising capital funding from the Department's future capital planning for existing requirements prior to these needs being met will simply magnify the gap between design and operational capacity within prisons.*

*The Government acknowledges the desirability of collaboration among government agencies. As the Committee's Report (page 109) indicates, this approach can be problematic due to a number of factors, such as the hierarchical accountability framework within government and the various agencies having different priorities. Australian and international research indicated that any justice reinvestment strategy requires a well co-ordinated and closely monitored inter-agency approach.*

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<http://www.parliament.wa.gov.au/Parliament%5CNews.nsf/%28Download+Lookup%29/482569F400245ECB482578310040D2B8?open document>.

<sup>67</sup> Legislative Council (2011) *Report of the Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters*, Environment & Public Affairs Committee, Parliament of Western Australia,

<http://www.parliament.wa.gov.au/Parliament/commit.nsf/%28ReportsAndEvidence%29/E0FB355792E06945482578D10006F211?opendocument>, page 89.

*If the Western Australian government were to pilot a Justice Reinvestment Strategy, the Department's research has identified that the following areas are key elements for success:*

- *Housing: Stable housing and access to support in the community have been identified as important factors for newly released offenders.*
- *Mental Health: Efforts to divert offenders with mental illness away from the criminal justice system have a positive impact. There are some effective US police diversion models which could be explored.*
- *Alcohol and other drug use: There are a range of studies exploring the relationship between drug and alcohol use and crime. Programs could be developed to cater for offenders with more entrenched drug use and a more serious level of offending.*
- *Parenting support, social supports: There has been a significant amount of international research into the area of social supports such as early childhood interventions and mentoring - and the role these may play in preventing contact with the justice system.*

*Justice Reinvestment is founded on the premise that there is appropriate infrastructure for the current requirements (i.e. sufficient design capacity) prior to consideration of reinvestment of future funds to alternatives to imprisonment. The Department is a considerable way from this point.*

We support the range of areas for attention identified by the Department, noting it would also be critical to ensure that the Department's "research" has a strong evidence-base which is understood and supported across Government Departments and the broader community to build the necessary community support. However, we are disappointed by Minister Redman's claim that the Government will not consider the "reinvestment of future funds to alternatives to imprisonment" until WA has appropriate prison infrastructure for the current numbers of prisoners. As a result, given the 40% increase in the WA prison population in recent years, it will take the current Government considerable time, and an incredible amount of money before they will be prepared to take what should be the logical *first* step - and investing in programs which both prevent crime and reduce rates of recidivism. The risk is that we end up in a vicious cycle where we are always playing catch-up with increasing offending and incarceration rates and never in a position to invest in crime reduction.

The Minister's statement supports the notion of a whole of Government response to the report's recommendations, and suggests that the Department of Corrective Services (and hence himself as the Minister for Corrective Services) cannot solve the problem alone. Clearly what is missing is an ability to provide what is truly a whole of government response, together with the willingness to tackle justice issues from an evidence-based and outcomes-driven approach, rather than a populist one.

The question that needs to be answered is whether building expensive new prison infrastructure (not to mention the ongoing operational cost of approximately \$100,000 per annum<sup>68</sup> for each adult in prison) is really where public funds are best spent. The existing research on the effectiveness of prisons in reducing offending behaviour and preventing re-offending post-release calls Minister Redman's and the State Government's approach into question. We believe it is time to try something different.

Until the Western Australian Government makes the decision to implement a comprehensive justice reinvestment approach to the area of corrections, accepting the that the status quo is not the best, or most effective investment of WA's public funds means denying our state the potential for improved social and fiscal outcomes. Central to our ability to be able to achieve this goal is the need for greater collaboration across government department silos and between the government and community services sector.

## 6. Delivering Community Services in Partnership in WA

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In 2008 the WA State Government established an Economic Audit Committee tasked with conducting a wide ranging review of the operational and financial performance of the Western Australian Public sector. The Committee's final report, *Putting the Public First*, was released October 2009.<sup>69</sup> One of the findings of the Committee was that certain failures of the WA public sector, including "large areas in which service delivery is neither efficient nor cost effective", were symptoms of "a public sector which has lost sight of its reason for being – achieving outcomes for the community."<sup>70</sup>

Flowing from the Committee's recommendations, the WA State Government partnered with community organisations to develop new processes for procuring community services in Western Australia. The relevant policy introducing these changes is the *Delivering Community Services in Partnership* (DCSP Policy). The DCSP Policy seeks to underpin a more collaborative funding and contracting relationship between the government and community sectors by:

- focusing on the achievement of outcomes and improving services and support for vulnerable and disadvantaged Western Australians;
- acknowledging the importance of partnering with the not-for-profit sector in the planning, design and delivery of human services;

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<sup>68</sup> Government of Western Australia (2012) *2012-13 WA State Budget Papers: Volume 2*, (Corrective Services, page 784).

<sup>69</sup> Department of Premier and Cabinet (2009) *Putting the Public First – Partnering with the Community and Business to Deliver Outcomes*, Government of Western Australia, [http://www.dpc.wa.gov.au/Publications/EconomicAuditReport/Documents/eac\\_final\\_report.pdf](http://www.dpc.wa.gov.au/Publications/EconomicAuditReport/Documents/eac_final_report.pdf)

<sup>70</sup> Ibid, page 2.

- reducing the administrative burden imposed on not-for-profit organisations engaged to deliver services; and
- ensuring services are funded and procured in a sustainable manner.<sup>71</sup>

The DCSP Policy replaces the Funding and Purchasing Community Services Policy (2002) and is effective from 1 July 2011. The Policy has been endorsed by Cabinet and applies to all Public Authorities that provide funding for, or purchase community services from, not-for-profit organisations.

The DCSP Policy aligns with justice reinvestment principles because it recognises that achieving positive community outcomes requires genuine partnership between the government and not-for-profit sectors. Nowhere does this apply more readily than in the area of empowering vulnerable community members to overcome their desperate personal circumstances that underpin offending behaviours. A similar collaborative approach is urgently needed between governments and the community sector to keep our vulnerable community members out of prisons, and justice reinvestment principles should guide this relationship.

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<sup>71</sup> The complete DCSP Policy is available at:

<http://www.dpc.wa.gov.au/Publications/EconomicAuditReport/Documents/Delivering%20Community%20Services%20in%20Partnership%20Policy.pdf>

## 7. Recommendations: Where to from here?

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### 7.1 A commitment to evidence-based responses to justice issues

**Recommendation 1.** All key stakeholders and political parties support a moratorium on calls for mandatory sentencing and being “tough on crime” and commit to an evidence-based approach to policy development and advocacy on justice issues.

### 7.2 Improved collection, analysis & sharing of data

**Recommendation 2.** A comprehensive audit of all prisoners in Western Australia correction facilities that includes current mental health issues, alcohol and drug use and access to existing or desired services.

**Recommendation 3.** Embed annual prisoner health and social service need auditing as an ongoing function of the Department of Corrective Services in partnership with the Department of Health, Mental Health Commission, and the community sector.

**Recommendation 4.** A commitment to maintain and share data with post-release and other frontline services, as prisoners come into, and leave prison.

**Recommendation 5.** Establishment an independent program, institute or authority responsible for:

- Linking and analysing existing Western Australian data sets from the Departments of Education, Health, Child Protection and Corrective Services and relevant community services;
- Identifying gaps in data analysis, recommending additional data collection and developing data protocols;
- Identifying and analysing social determinants of offending in WA;
- Providing policy advice to Government and the community sector;
- Facilitating and supporting program and service planning and evaluation;
- Developing a toolkit that supports community services and government agencies to work in partnership to assess community needs (related to community safety and justice), and facilitates uniform data collection and evaluation of any service responses.

### 7.3 Mental health & alcohol and other drug services

The need to collect and analyse data, facilitate collaboration and undertake program and service planning should not delay an immediate increase in funding and service provision in critical areas, particularly prison-based and post-release services.

- Recommendation 6.** Provision of dedicated community corrections funding for alcohol and other drug community services to enable and support existing unfunded referrals from the Department of Corrective Services.
- Recommendation 7.** Increased funding for alcohol and other drug services in prisons to match the growth in service need, and institution of an ongoing population and needs based funding formula.
- Recommendation 8.** Enact the 9 recommendations relating to the judicial and criminal justice system of the 2012 Stokes Report: *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia.*<sup>72</sup>
- Recommendation 9.** As a matter of urgency, the Department of Health, the Mental Health Commission and the Department of Corrective Services (and other relevant stakeholders) must undertake a collaborative planning process to develop a 10-year plan for forensic mental health in WA. This plan should form the forensic mental health component of the State Mental Health Clinical Services Plan). Expand the number and address the location of secure forensic mental health inpatient beds.
- Recommendation 10.** Ensure a full range of mental health services in WA prisons and detention centres are provided, including dedicated units and services in prison for mentally ill women, youth, Aboriginal and people with acquired brain injury/intellectual disability.
- Recommendation 11.** Expand community services to facilitate transition from prison; to assertively follow up and support people who have a history of alcohol or other drug issues, or are seriously mentally ill and present a serious risk of harm to themselves and others; and to closely follow up and monitor mentally impaired accused patients on custody orders in the community.
- Recommendation 12.** Assess and develop appropriate models of care for particular groups of individuals with particular care needs such as sex offenders, stalkers and arsonists.

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<sup>72</sup> Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia.

## **7.4 Building community sector capacity**

**Recommendation 13.** Fund community sector peak bodies to build capacity and provide coordination for a collaborative approach to justice reinvestment, including evidence-based service planning and evaluation, data collection and analysis, policy development and advocacy.

**Recommendation 14.** Develop culturally appropriate and flexible service model targeted at Indigenous young people and their families to provide a comprehensive and coordinated response to the complexity of their needs.

## **7.5 Collaboration**

**Recommendation 15.** Establishment of a *Justice Roundtable* as a whole of government and community sector forum, with senior representation from key government and community service sector stakeholders based on the model of the Partnership Forum.

## 8. About WACOSS, WAAMH & WANADA

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### 8.1 About WACOSS

The **Western Australian Council of Social Service (WACOSS)** is the leading peak organisation for the community services sector in Western Australia, and represents its 300 members and the over 800 organisations involved in the provision of services to individuals, families and children in our community. WACOSS has strong relationships with the community services sector and represents the interests of the sector and the communities they serve. WACOSS is in a unique position to comment on critical social issues that affect members of the WA community — particularly those members who are disadvantaged and vulnerable.

WACOSS represents community sector organisations who work in a diverse range of areas, including:

- health;
- mental health;
- community services and development;
- disability;
- employment and training;
- aged and community care;
- family support;
- children and youth services;
- drug and alcohol assistance;
- indigenous affairs;
- support for culturally and linguistically diverse people;
- housing and crisis accommodation;
- safety and justice; and
- advocacy.

### 8.2 About WAAMH

The **Western Australian Association for Mental Health (WAAMH)** is the peak body representing over 80 community-managed mental health services in Western Australia. WAAMH's vision is that Western Australian community organisations will lead the way in supporting and including people with mental illness and their carers, providing innovative, well-governed community-based services focused on recovery.

WAAMH's core role is to support the development of the community-based mental health sector, provide systemic advocacy and representation, and influence public opinion for the benefit of people with mental illness and their carers.

Our members' services assist individuals to identify their own recovery goals, which can involve steps like securing safe housing, gaining and maintaining employment, engaging in a recreational activity and re-engaging with family. Community services often provide 'core' mental health services (like counselling) among a suite of other related services aimed at enhancing a person's recovery journey (like housing, employment and education assistance).

### **8.3 About WANADA**

The **Western Australian Network of Alcohol and other Drug Agencies (WANADA)** is the peak body for the alcohol and other drug education, prevention, treatment, rehabilitation and support sector in WA. WANADA is an independent, membership-driven not-for-profit association.

Alcohol and other drugs are a health and social issue that impacts the whole community. The alcohol and other drug sector in Western Australia provides highly skilled services to meet the diverse needs of people in our community. WANADA is committed to supporting services to improve the quality of life for individuals, families and communities affected by alcohol and other drugs.

WANADA is driven by the passion and hard work of its member agencies and is the independent voice on alcohol and other drug sector issues throughout WA.