



PwC's Indigenous  
Consulting



The  
Korin Gamadji  
Institute  
*"Grow and Emerge"*



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May 2017

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# *Indigenous incarceration:* Unlock the facts



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*Throughout this report, the term 'Indigenous' is used to refer to both Australian Aboriginal and Torres Strait Islander people. The term 'Aboriginal' is retained when it is part of the title of a report, program or quotation.*

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# Foreword

## ***Richmond Football Club and the Korin Gamadji Institute***

Richmond Football Club (RFC) and the Korin Gamadji Institute (KGI) are pleased to have worked collaboratively with PwC, PwC's Indigenous Consulting (PIC) and Change the Record to develop this important piece of work. This report highlights a significant issue in this country that cannot be ignored and, importantly, it recommends actions that will drive meaningful change. Indigenous incarceration is a complex issue. The human impact is immeasurable and the economic impact staggering. This report breaks the issue down and the unavoidable conclusion is that a different approach needs to be taken.

From the point of view of RFC and the KGI, it reaffirms the critical nature of the work we do and the importance of taking a proactive approach that will drive generational change. Each year we work with hundreds of young Aboriginal and Torres Strait Islanders on leadership, cultural affirmation and resilience, all critical protective factors that reduce the likelihood of incarceration. It must be an investment priority, along with other important opportunities outlined in the report.

Richmond and the KGI would like to thank the other partners that participated in the development of this report for their dedication and enthusiasm to unlock the facts and breakout the solutions.

**Brendon Gale, CEO of Richmond Football Club and Aaron Clark, Director of the Korin Gamadji Institute**

## ***Change the Record***

Change the Record was established in recognition that the rates at which Aboriginal and Torres Strait Islander people are experiencing violence and being put in prison has reached a crisis point. These issues are some of the most pressing social justice challenges facing Australia.

This is devastating lives and comes at an enormous cost – both socially and economically – affecting not only the individual, but also their family and whole community. It is clear that a different approach and urgent action is needed.

The social impact of a reduction in imprisonment rates would be significant, changing lives and transforming communities. However this important collaborative report, produced in partnership with PwC, PIC, RFC and KGI, plays a key role in highlighting the significant economic impact, and potential savings for Governments and in turn the tax payer.

Change the Record has been calling for a shift towards investing in early intervention, prevention and diversion initiatives. These are smarter solutions that increase safety, address the root causes of violence against women, cut reoffending and imprisonment rates, and build stronger and safer communities.

This report backs up our key calls and has outlined a compelling case for governments at all levels to act decisively, in partnership with Aboriginal and Torres Strait Islander people and their communities, to address this national crisis.

The current piecemeal approach isn't working. We need a comprehensive, co-ordinated and holistic approach, which involves leadership and partnership from the Federal, state and territory governments to shift more investment into preventative and early intervention approaches.

We know many of the solutions are already there. Now we need to make it happen, and do so in a way that empowers Aboriginal and Torres Strait Islander people, communities and services to drive these solutions.

**Shane Duffy and Antoinette Braybrook, Co-Chairs of the Change the Record Coalition**

## Purpose of this report

Indigenous incarceration in Australia has been the subject of many thorough and well evidenced reports and reviews over the past three decades including the landmark Royal Commission into Aboriginal Deaths in Custody.

Our report contributes new economic modelling to the evidence base. It estimates the costs of Indigenous incarceration and the potential savings if Indigenous incarceration rates were no different to those of the non-Indigenous population.

The high, and growing, rates of Indigenous incarceration has a heavy impact on individuals, families, communities, and the Australian economy but it doesn't have to be this way.

Our modelling suggests that implementing a holistic suite of initiatives would contribute significantly to closing the gap between Indigenous and non-Indigenous rates of incarceration, but this alone would not be enough.

Closing the gap requires systemic change, as well as smarter investment in programmatic solutions with Indigenous Australians having ownership and control over program settings.

This report seeks to raise awareness of, and calls for action to address, the disproportionate rates of Indigenous incarceration across Australia.

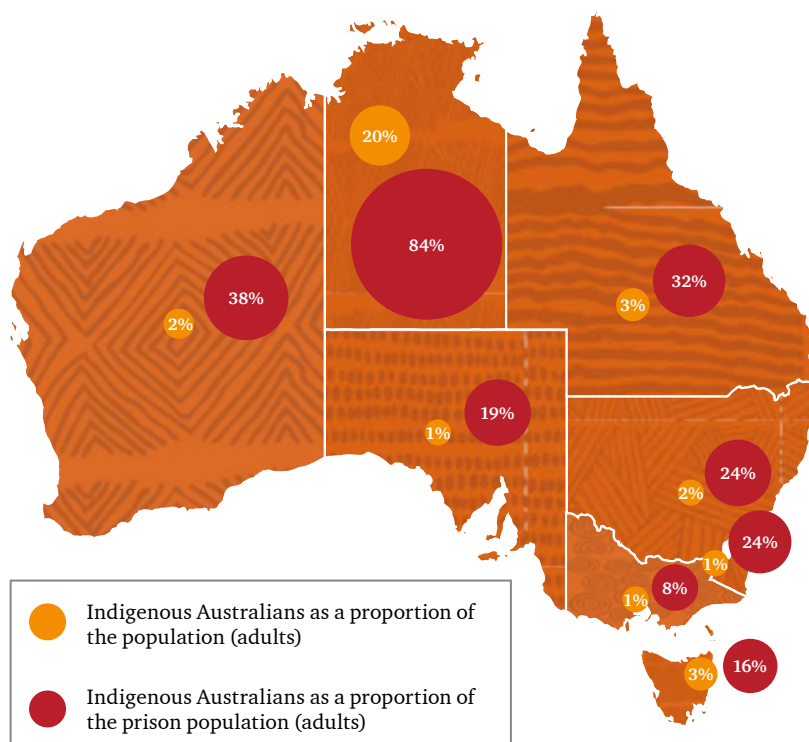
# Executive summary

## *Disproportionate rates of Indigenous imprisonment are unfair, unsafe and unaffordable, but it doesn't have to be that way*

In the twenty-six years since the report of the Royal Commission into Aboriginal Deaths in Custody was tabled in the Parliament of Australia, the proportion of the prison population that is Indigenous has doubled.

Indigenous Australians are dramatically over-represented in the criminal justice system, in each state and territory. While Indigenous people represent only 3 per cent of Australia's total population, they make up more than 27 per cent of our prison population and 55 per cent of the youth detention population.<sup>1</sup>

Figure 1: Indigenous incarceration in Australia, by state and territory



Source: ABS, Productivity Commission

1. ABS (2013). Estimates of Aboriginal and Torres Strait Islander Australians, June 2011. Canberra: ABS; ABS (2016). Prisoners in Australia, 2016. Canberra: ABS; AIHW (2017). Youth justice in Australia 2015-16. Table S75a: Young people in detention on an average day by sex and Indigenous status, states and territories, 2015-16. AIHW Bulletin no. 139. Cat. No. AUS 211. Canberra: AIHW.

This gap between the rates of Indigenous incarceration and non-Indigenous incarceration is fundamentally unfair.

On any given day, there are around 10,000 Indigenous adults in prison (including roughly 1,000 women), 500 Indigenous youth in detention and many more Indigenous people in custody in police cells.<sup>2</sup>

The high numbers of Indigenous people in prison has consequences for virtually all Indigenous people. It impacts the individuals who are incarcerated, as well as their families and communities. Children with a parent in prison are particularly vulnerable, increasing their risk of contact with the justice system later in life.

Incarceration can also lead to loss of culture, identity and connection to the land. The cycle of disadvantage, poverty and incarceration continues, making communities less safe in the long run.

As well as the human impact, this report also finds that high incarceration rates significantly impacts the Australian economy.

This report calls for action to address this unfair, unsafe and unaffordable situation.

Our report shows that reducing disproportionate Indigenous incarceration rates is the right and the fair thing to do, that it will increase community safety, and that it will contribute to reducing expenditure of Australian governments.

Figure 2: Australian imprisonment rates



Source: ABS (2016). Corrective services, Australia, June quarter 2016. Canberra: ABS; AIHW (2017). Youth justice in Australia 2015–16. AIHW Bulletin no. 139. Cat. no. AUS 211. Canberra: AIHW.

2. ABS (2016). Corrective Services, Australia, June Quarter 2016. Canberra: ABS; AIHW (2017). Youth justice in Australia 2015–16. Table S85a: Young people aged 10–17 in detention on an average day by Indigenous status, states and territories, 2006–07 to 2015–16 (rate). AIHW Bulletin no. 139. Cat. no. AUS 211. Canberra: AIHW.

***PwC, PwC's Indigenous Consulting (PIC), Change the Record, Richmond Football Club and the Korin Gamadji Institute have come together to show our commitment to tackling this issue and to make a new contribution to the existing knowledge base***

This work coincides with three significant milestones in Australia's reconciliation journey – the 50th anniversary of the 1967 referendum, the 25th anniversary of the Mabo decision, and the 20th anniversary of the *Bringing them Home* report. It is a timely opportunity to celebrate achievements, but also to drive change in areas which continue to be in serious need of reform.

Our five organisations, PwC, PIC, Change the Record, the Richmond Football Club and the Korin Gamadji Institute, have a shared interest in tackling this important national issue that affects the lives of many Indigenous people.

Through our partnership we leveraged the skills of each of the organisations to contribute to the existing knowledge base and increase awareness of Indigenous incarceration in four ways:

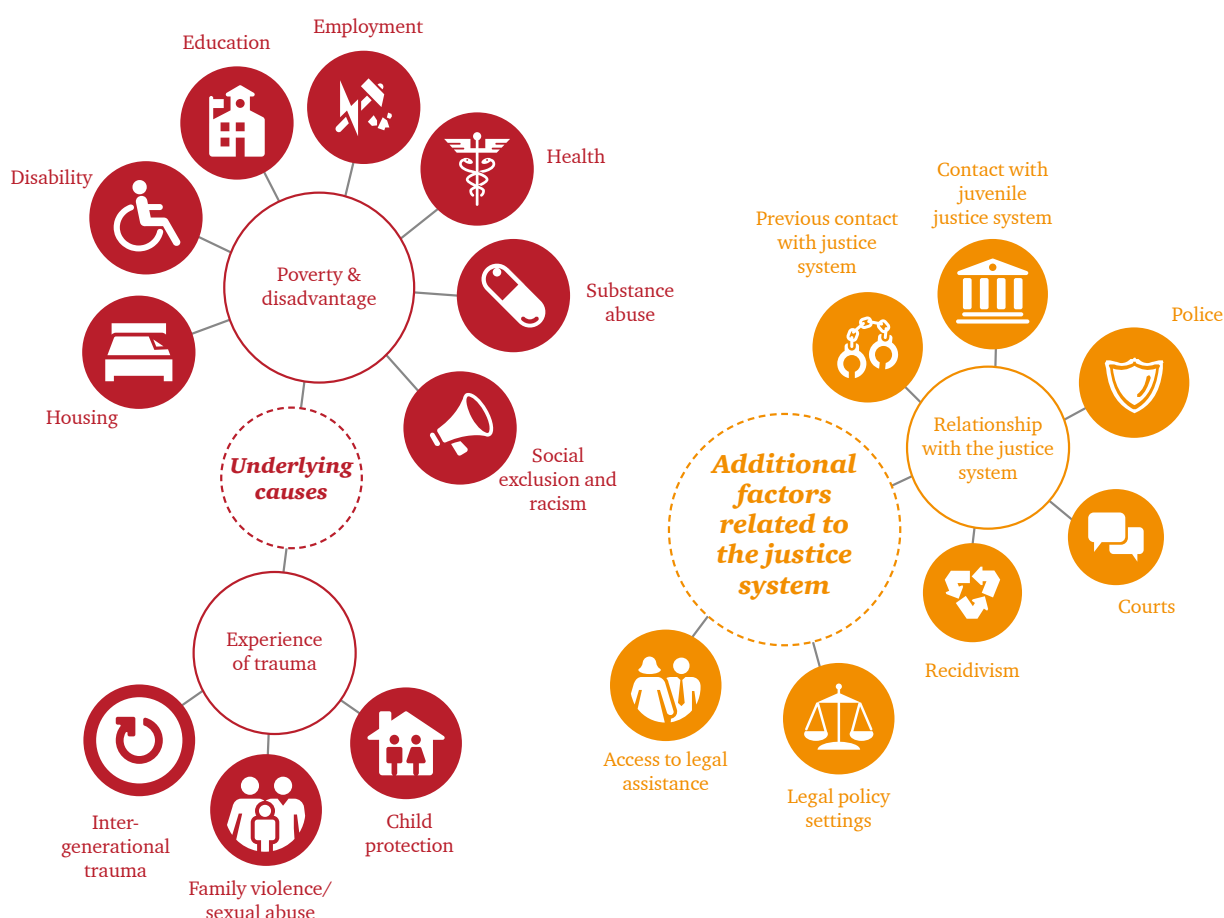
1. Economic modelling to quantify the current and projected economic costs of Indigenous incarceration rates (refer to section 3).
2. Detailed research to identify effective ways to reduce Indigenous incarceration rates (refer to section 4).
3. Modelling the impact of implementing a range of initiatives would have on the costs of Indigenous incarceration (refer to section 6). It is important to note that we have not undertaken a full cost benefit analysis although this would be important future work.
4. A public awareness campaign to communicate the findings of the project and the need for urgent and major action to address high Indigenous incarceration rates.

We hope that our work will also inform two major government reviews that are currently underway: the Australian Law Reform Commission's Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples and the Royal Commission into the Protection and Detention of Children in the Northern Territory.

***We have looked beyond the justice system to identify the key drivers of high Indigenous incarceration rates, and to make a case for a holistic approach to the issue***

As an ongoing consequence of colonisation and dispossession, and the social impacts that followed, Indigenous people are the most disadvantaged group in Australia on a number of indicators.<sup>3</sup> Our research shows there is a strong link between intergenerational disadvantage, poverty and incarceration.

Figure 3: Key drivers of Indigenous incarceration



3. Australian Government Department of the Prime Minister and Cabinet (2017). Closing the Gap: Prime Minister's Report 2017. [www.closingthegap.pmc.gov.au/sites/default/files/ctg-report-2017.pdf](http://www.closingthegap.pmc.gov.au/sites/default/files/ctg-report-2017.pdf). Accessed April 2017.

Tackling economic and social disadvantage, increasing income equality and improving access to high-quality health, education, employment and housing can directly influence rates of offending. That's why our report takes a holistic approach and emphasises the importance of addressing the key drivers of Indigenous incarceration.

Although there are factors within the justice system that, if addressed, could help close the gap between Indigenous and non-Indigenous rates of incarceration, addressing the key drivers that lead to offending and contact with the justice system in the first place has the greatest potential for impact in the longer term.

***Our economic modelling shows the cost to the Australian economy of Indigenous incarceration is almost \$8 billion (\$7.9 billion) per year and rising***

Our modelling shows that Indigenous incarceration is costing the Australian economy **\$7.9 billion** per year and this cost is rising. This comprises whole of economy impacts including loss of productive output (economic costs) as well as separating out the direct costs to governments (fiscal costs) as set out in Figure 4.<sup>4</sup>

If nothing is done to address disproportionately high rates of Indigenous incarceration, this cost will rise to **\$9.7 billion** per year in 2020 and **\$19.8 billion** per year in 2040 (section 3). Closing the gap between Indigenous and non-Indigenous rates of incarceration would generate savings to the economy of **\$18.9 billion** per year in 2040.

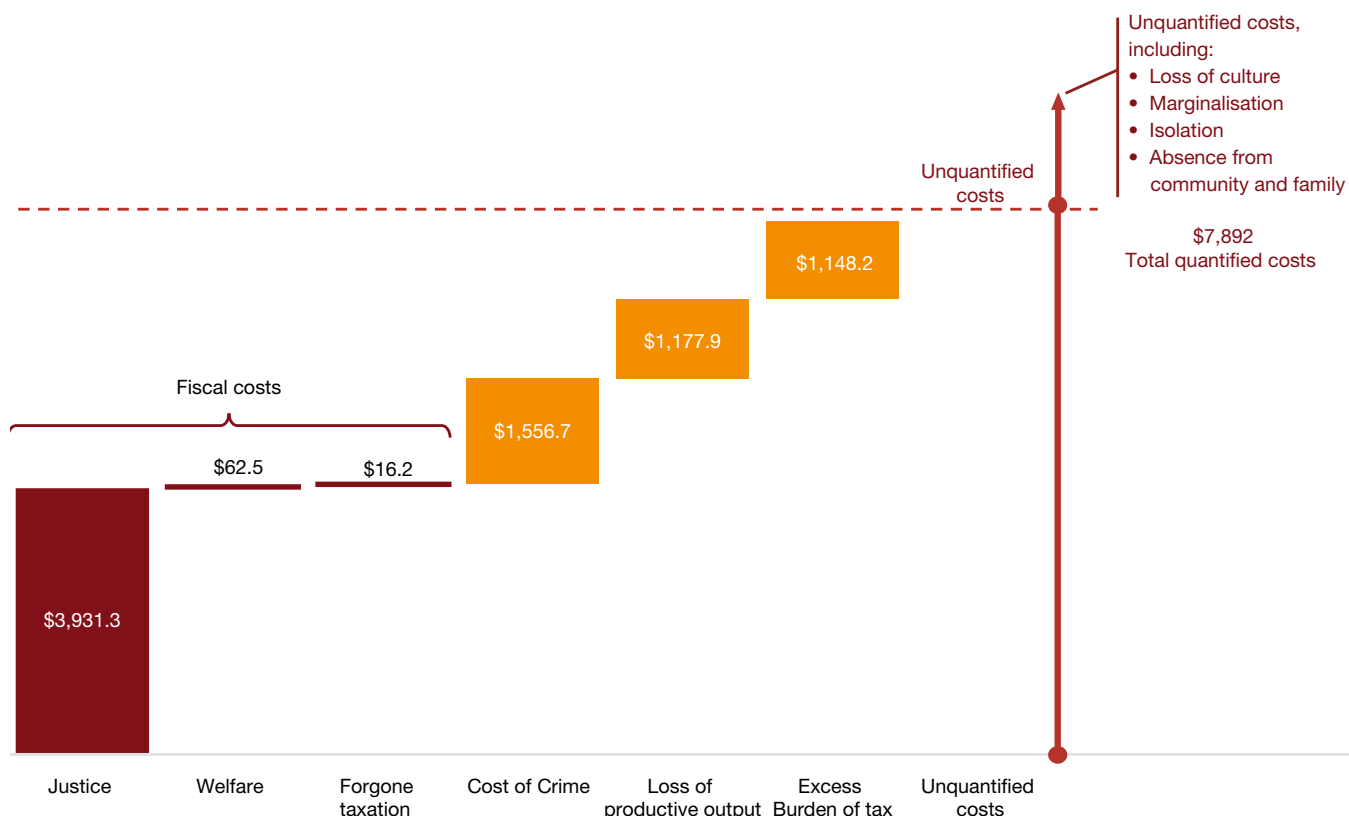
Further detail on our economic modelling is provided in sections 3 and 6.

***While our modelling shows that investing in a range of initiatives will reduce the rate of incarceration, this alone will not close the gap. Action is required across a broader range of areas***

Reducing the rates at which Indigenous children, young people, men and women are imprisoned in Australia is a complex challenge. We know from the evidence that there are no simple or straightforward solutions, and the issue requires a multi-pronged approach.

Evaluations show that initiatives and programs exist that are effective in reducing the incarceration rates. Despite this, a program or initiative based response alone is not enough. Indigenous Australians must have control, ownership and involvement in the solutions. Arming the Australian community with the facts that sit behind this challenge is also important.

Figure 4: Estimated costs of Indigenous incarceration in 2016



4. Fiscal costs relate to actual expenditure, economic costs include actual expenditure, as well as productivity losses related to lost output.



Addressing the key drivers of Indigenous incarceration such as poverty, disadvantage and experiences of trauma requires broader system reform. Law reform is also needed.

Key elements of the approach required are outlined in Figure 5. The outer ring of this diagram represents the key foundations of the recommended approach. The central pyramid provides a categorisation framework of potential initiative or program responses. In summary components of our recommended approach are:

1. **Self-determination:** Like all Australians, Indigenous people have a right to determine their own political, economic, social and cultural development. This human right is an essential approach to overcoming Indigenous disadvantage and includes building connections to culture and a strong role for Aboriginal Community Controlled Originations (ACCOs) in the formation of any solutions.
2. **System reform:** The key drivers of over-representation of Indigenous people in prisons will not be addressed by a single initiative or program. Instead, whole of system solutions are required across a range of traditional government policy and portfolio areas, including education, health, human services, welfare and justice.
3. **Law reform:** This includes consideration of changes to laws and legal policy settings which contribute to the over-representation of Indigenous people in prison.
4. **Increased community awareness:** Despite landmark reports, inquiries and reviews such as the Royal Commission into Aboriginal Deaths in Custody, the level of understanding in the Australian community of the issues, causes, rates and consequences of over-representation of Indigenous men, women, children and young people remains limited. The facts need to be unlocked. In order for change to happen, there needs to be broader community awareness.

5. **Initiatives and programs:** In addition to broader system level reform, specific initiatives and programmatic responses are required – particularly Indigenous community controlled and led initiatives.

### Self determination

The evidence is clear that community involvement in the design and delivery of programs is important. This requires more than consultation and includes community ownership and control.

Across each state and territory, ACCOs have been established to deliver culturally aware and responsive health, legal, housing, childcare and other human services to Indigenous people. These community owned, culturally aware and responsive environments provide a safe setting for Indigenous people to access services as there is long-standing trust and respect between ACCOs and communities.

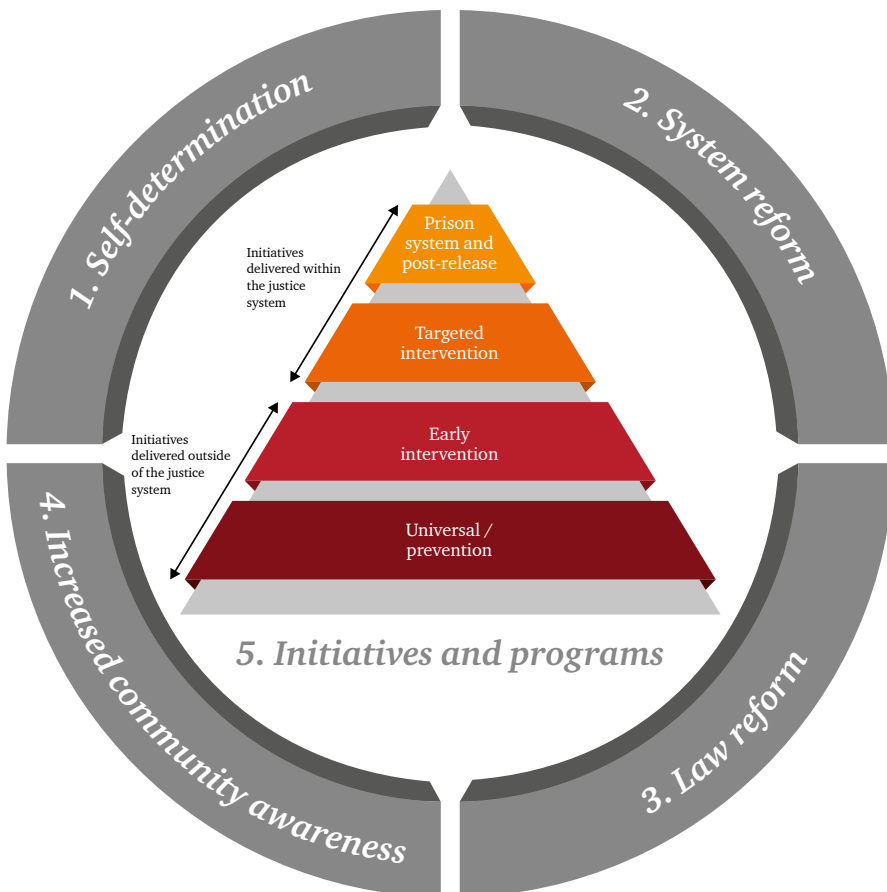
The current reliance on mainstream services needs to shift, with the optimal scenario one in which Indigenous communities own and deliver more of their own services and initiatives. Under such a scenario, ACCOs would play a key role.

### System reform

Research points to the interlinked nature of the causes and the factors leading to over-representation of Indigenous Australians in prison. These include poverty, disadvantage, lower levels of educational attainment, higher incidence of mental and cognitive disabilities, higher incidence of involvement with the child protection system, lack of employment opportunities and access to housing.

System-wide reform is required. This includes accountability for the achievement of outcomes consistent with the broader Closing the Gap targets.

Figure 5: Responses and solutions: a holistic response is needed





In 2016, the Australian Senate passed a motion which called on Commonwealth, state and territory governments to adopt a set of justice targets aimed at closing the gap in rates of incarceration between Indigenous and non-Indigenous Australians for which all levels of government should be held accountable.<sup>5</sup> In Victoria, the Northern Territory, and the Australian Capital Territory Indigenous justice targets have been introduced.<sup>6</sup>

What is needed is a nationally agreed set of Closing the Gap justice targets. This will support better cooperation, help with the development and monitoring of long term strategies and investments, enable a focus on outcomes, and help drive greater accountability to achieve reduced rates of Indigenous incarceration across Australia. In addition, improving the collection of, and access to, good quality data to help monitor and track progress is required.

As part of a blueprint for change, Change the Record has proposed that Australian governments work with Indigenous communities and organisations to set justice targets, and reduce the disproportionate rates of violence experienced by Indigenous people. The target Change the Record propose is to halve the gap in the rates of imprisonment between Indigenous and non-Indigenous people by 2030, before closing the gap in 2040.<sup>7</sup>



## *Recommendation 1*

**The right of Indigenous communities to self-determination should underpin the development, implementation and ownership of strategies and initiatives to address the high rates of Indigenous incarceration**

Real change requires a strong partnership and genuine relationship between funders, the justice sector, the broader service system and the Indigenous community including Indigenous organisations. This can only be achieved when Indigenous people have a meaningful stake in the implementation, design, delivery and evaluation of solutions.

A practical first step to achieve a more meaningful role, and voice, for Indigenous communities in the implementation of strategies and initiatives is for all governments to implement policies that allow for greater self-determination, including policies that make Indigenous organisations the preferred provider for Indigenous services.



## *Recommendation 2*

**A national set of Closing the Gap justice targets should be established to encourage a focus on outcomes, and to improve accountability by making visible any progress, or lack thereof, in reducing the rates at which Indigenous people are incarcerated**

The Commonwealth and state and territory Governments should initiate this process through consultation with the justice sector, Indigenous organisations, and other key service sector stakeholders to agree on a set of national justice targets as part of Closing the Gap.



## *Recommendation 3*

**Mainstream services need to be culturally aware and responsive to increase access to, and the effectiveness of, services to reduce the rates of Indigenous incarceration**

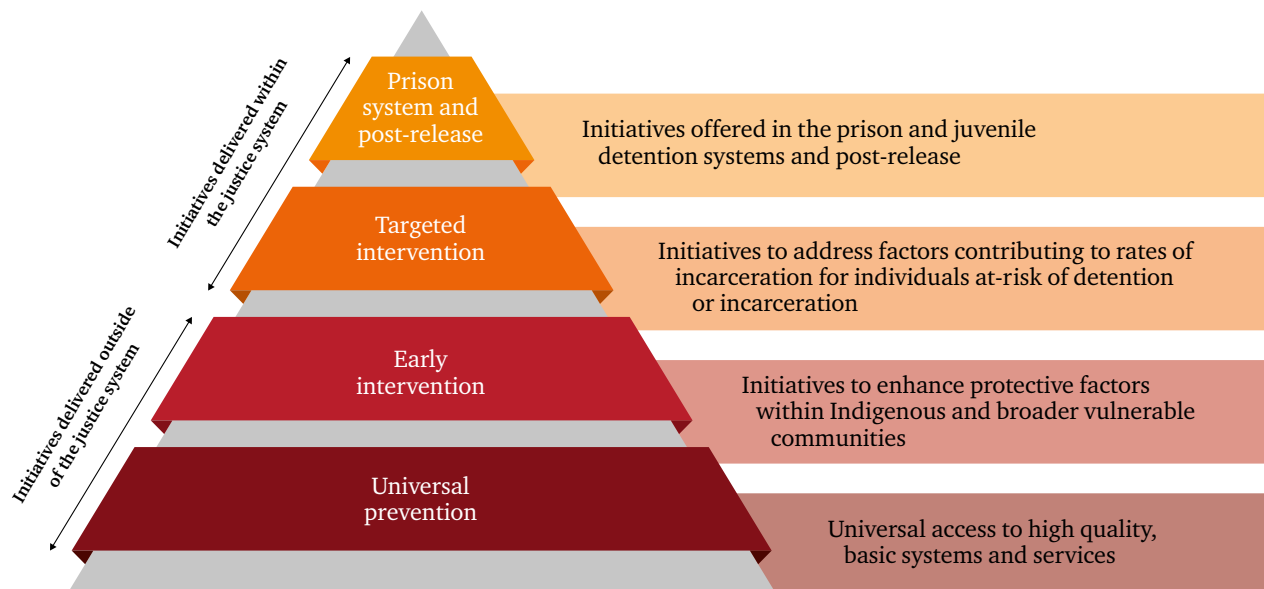
Many mainstream funding agreements and grants already specify that they must deliver culturally aware and responsive services for Indigenous people. This needs to be made more transparent with funded services being required to more comprehensively demonstrate how their services are culturally aware and responsive, and being accessed by Indigenous people. Funding bodies should be required to report on how the agencies they fund to deliver services on their behalf are delivering culturally aware and responsive services, and that action is being taken to address any shortcomings.

5. Australian Parliamentary Debates, Senate, no. 6, 19 April 2016, page no. 3052.

6. Victorian Department of Planning and Community Development (2012). Victorian Aboriginal Affairs Framework 2013-2018. Melbourne: State Government of Victoria; ACT Government (2015). ACT Aboriginal and Torres Strait Islander Justice Partnership 2015-18. Canberra: ACT Government; NT Department of Local Government and Community Services (2016). Aboriginal affairs: monitoring, evaluation and reporting framework. NT Government. Note: Non-Indigenous specific justice targets have also been introduced in New South Wales and South Australia.

7. Change the Record Coalition (2015). Blueprint for change. The Change the Record Coalition Steering Committee, [www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint\\_web.pdf](http://www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint_web.pdf). Accessed January 2017.

Figure 6: Framework for categorising initiatives



In addition, many Indigenous people are reluctant to obtain essential services from mainstream providers due to limited cultural competence and experiences of racism within mainstream service providers. These experiences can lead to future and continued avoidance of mainstream service providers.<sup>8</sup> While Indigenous communities should ideally own and deliver their own services and initiatives where this is not possible, mainstream services need to be culturally aware and responsive to increase the likelihood of Indigenous people accessing services, and the effectiveness of these services.

### Law reform

Law and justice system reform is a critical component of the response required to reduce Indigenous incarceration rates.

The Attorney-General has asked the Australian Law Reform Commission (ALRC) to examine the factors leading to the over-representation of Indigenous Australians in the prison system, and consider possible law reforms in response.

### Increased community awareness

Unlocking the facts and building community awareness is the first step in securing change.

We believe there is potential to build greater awareness based on facts. These include the social injustice, public safety and economic impacts of not fixing this situation that can be used by individuals and communities to support and push for reform to create the change required.

### Initiatives and programs

A range of initiatives and programs is required across the intervention spectrum outlined in Figure 6.

Initiatives to respond to Indigenous incarceration are often associated with custodial or justice settings.

While these initiatives are important and play a role in assisting those who have already come into contact with the justice system, our analysis on the key drivers of Indigenous incarceration suggests that a wider range of initiatives is required. In this report we have modelled the impact of implementing a range of initiatives that could reduce the costs of Indigenous incarceration (refer to section 6).

The initiatives were chosen for the rigour of their evaluation data and are not suggested to represent the most successful initiatives, although they do have well documented quantifiable success. These initiatives are also not representative of all possible initiatives which could be implemented, and be effective at reducing the rates of Indigenous incarceration.

In summary, our modelling demonstrates that:

- the cumulative scenario, entailing investing in all four categories of initiatives, is the most effective as it reduces both the new entry rate and rate of recidivism over time.
- the least effective impact we modelled was the prison system and post release scenario. This is because when scaled across Australia the effect size is small and only effects the recidivism rate of people who had offended and have already entered the system.
- the impact of targeted interventions begin to take effect sooner. The effect impacts on both the rate at which juveniles offend as adults and also the recidivism rate of adult offenders.

8. Weightman, M (2013). The role of Aboriginal Community Controlled Health Services in Indigenous health. Australian Medical Student Journal, 4(1), [www.amsj.org/archives/3012](http://www.amsj.org/archives/3012). Accessed March 2017.

- universal prevention and early intervention become more effective than the prison system and post release scenario in the longer term. This is because the effect size is larger as both scenarios impact on the number of people entering the prison system for the first time each year whereas the prison system scenario only impacts on the recidivism rate.

Part of our approach to the economic modelling included estimating the cost savings of investing in a range of initiatives across each of the four categories.

To develop findings from our economic modelling, we sought evidence of robust evaluations of initiatives and responses. In undertaking our analysis we sought to identify and include Indigenous-specific initiatives in the modelling which were robustly evaluated.

However, the lack of sufficient data in relation to Indigenous-specific and culturally aware and responsive initiatives necessitated the use of some mainstream initiatives.

The need to improve the quality of, and access to, data relating to key drivers and pathways relating to Indigenous incarceration have been reported elsewhere.<sup>9</sup>



## Recommendation 4

**There needs to be a greater focus, and investment in, prevention and early intervention initiatives that address the key drivers of Indigenous incarceration**

To achieve change in this area, it is critical that there be investment in prevention and early intervention initiatives and programs, which will deliver significant results over the long term.

The environment needs to be created to give license to decision makers to invest in prevention and early intervention. This requires a sustained education campaign to broaden and deepen community understanding of key drivers that lead to Indigenous people coming into contact with the justice system in the first place.

To kickstart this process a summit of key stakeholders, led and convened by Indigenous organisations, should be held to identify and set priorities for innovative future investment and public awareness. An existing opportunity for this, which could be built upon, is the ongoing work of the Redfern Statement Alliance, led by Indigenous peak bodies.



## Recommendation 5

**There needs to be an enhanced focus on initiatives such as throughcare and re-integration programs that reduce the likelihood of reoffending**

For those who are imprisoned, there needs to be greater opportunities to access and participate in programs and initiatives that improve the ability of individuals to re-integrate into the community and contribute meaningfully. These need to be tailored specifically for Indigenous people.

An initial step would be for governments to work closely with Indigenous organisations to identify, customise and implement initiatives that reduce the likelihood of reoffending.



## Recommendation 6

**Greater innovation, increased investment and better evaluation of new and existing initiatives is required to improve access to quality data and add to the existing knowledge base on initiatives that have the potential to reduce the rates of Indigenous incarceration**

To bring the sustained focus needed, an independent, data and research central agency with Indigenous oversight could be established. The role of this body would be to coordinate, commission, review and evaluate initiatives and programs designed to reduce the rates of incarceration for Indigenous people focusing on evidence and impact. The central agency could also focus on improving the quality of data to better support decision making and measurement of progress.

This entity should have flexible and sustained funding to invest in innovation, both within the justice system, and solutions that sit outside of it. It should be a clearing house for 'what works'. The entity would not deliver initiatives itself, but would commission others to do so.

The performance of such an agency should be monitored and tied to Closing the Gap justice targets.

9. Change the Record Coalition (2015). Blueprint for change. The Change the Record Coalition Steering Committee, [www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint\\_web.pdf](http://www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint_web.pdf). Access 20 January 2017.

It is important to acknowledge that this does not mean that Indigenous-specific initiatives are not, and cannot be effective. Rather it suggests that investment is required in building the evidence base given the failure to appropriately fund evaluations, matched with the short term nature of funding cycles.

***We have demonstrated our commitment to action by establishing a new program aimed at young Indigenous girls***

Reducing the rates at which Indigenous Australians are imprisoned is a complex issue that will require the combined efforts of the public sector, the private sector, NGOs and Indigenous organisations working together.

In addition to this report, we are also showing our commitment to practical action in this area by partnering to establish a pilot program, the Girls Football Academy.

Indigenous women are currently the fastest growing cohort of the incarcerated population in Australia. Keeping Indigenous girls in school will reduce their likelihood of coming into contact with the justice system, yet there are few programs specifically designed for this group.<sup>10</sup>

The Girls Football Academy will initially focus on working with young Indigenous girls across Years 7 to 12 at four to six schools across Victoria and Western Australia for a pilot period of two years.

The key objective of the program is to improve the education outcomes and overall wellbeing of young Indigenous women, and therefore reduce the risk of contact with the criminal justice system. This program will harness the power of sport in improving outcomes for Indigenous Australians.

PwC and PIC have been working on a pro bono basis with the Richmond Football Club and the Korin Gamadji Institute as well as the Wirrpanda Foundation and the West Coast Eagles Football Club to develop a business case and secure support and funding for implementation of the Girls Football Academy.

This collaborative approach is intended to ensure the success and reach of the program across Western Australia and Victoria, with the intention of expanding the program into other states and territories in the future.

10. Higgins, D, and Davis, K (2014). Law and justice: prevention and early intervention programs for Indigenous youth. Closing the Gap Clearinghouse, Resource sheet no. 34. Canberra: AIHW; [www.girlsacademy.com.au/wp-content/uploads/2016/11/Prospectus-2017.pdf](http://www.girlsacademy.com.au/wp-content/uploads/2016/11/Prospectus-2017.pdf).



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# 1. About the project

## 1.1 PwC's #Purpose campaign

At PwC, our purpose is to build trust in society and solve important problems. In 2016, PwC launched a **#Purpose** campaign, inviting PwC staff across Australia to put forward ideas for projects to invest in that focus on addressing important societal issues. PwC's Executive Board agreed to invest significantly in the project *Indigenous incarceration: unlock the facts*.

This is the largest single pro bono investment PwC is making this year in Australia and reflects both the importance of the issue as well as our commitment to partner with the Indigenous community to address Indigenous disadvantage and create opportunities for Indigenous people.

## 1.2 Objectives of the project

The objective of this project is to raise awareness of, and help drive action to address, the disproportionate rates of Indigenous incarceration across Australia. While the need to address the rates of Indigenous incarceration has been articulated in a number of reviews and publications, many of these tend to focus on the justice system.

Indigenous Australians are dramatically over-represented in the criminal justice system, and the situation is getting worse (Figure 7). When the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) was released in 1991 Indigenous Australians represented 2 per cent of the Australian population and 13 per cent of the total prison population.<sup>11</sup>

Figure 7: Australian imprisonment rates



Source: ABS (2016). *Corrective services, Australia*, June quarter 2016. Canberra: ABS; AIHW 2017. *Youth justice in Australia 2015–16*. AIHW Bulletin no. 139. Cat. no. AUS 211. Canberra: AIHW.

11. Royal Commission into Aboriginal Deaths in Custody (RCIADIC) (1991). *Royal Commission into Aboriginal Deaths in Custody: National reports [Vol 1-5]*, and regional reports. Canberra: Australian Government Publishing Service.

Despite representing just 3 per cent of the population, Indigenous Australians now account for 27 per cent of the adult prison population and 55 per cent of children and young people in detention.<sup>12</sup>

This project takes an holistic approach, exploring the key drivers of incarceration, as well as prevention, intervention and justice system initiatives that have the potential to reduce rates of Indigenous incarceration. In doing so, this project was designed to contribute to the existing knowledge base through:

- Economic modelling to quantify both the current and projected economic cost of Indigenous incarceration rates to Australia
- Detailed research to identify the most effective ways to reduce Indigenous incarceration rates
- Providing new information on the potential savings from implementing initiatives that reduce the rate of Indigenous incarceration
- Creative and compelling ways to communicate the findings of the project and the need for urgent and major action to address Indigenous incarceration rates.

### 1.3 Our approach

Our approach included an initial current state review to understand the current issues, and key drivers, contributing to the high rates of Indigenous incarceration in Australia. This involved exploring reports published in academic journals, as well as by governments and other organisations. Information was distilled into key themes and summarised in a discussion paper for testing and validating with partners and key stakeholders.

Building on this current state review, an economic model was developed to quantify the long term cost to Australia of the disproportionate rates of incarceration experienced by Indigenous Australians. Incarceration has a lasting impact on the individual and on the next generation. The interventions can also have a longer pay back period. For these reasons, to capture the full impacts of the lifetime costs and the full potential cost savings, we have to look at the impacts over a lifetime. For this reason, the economic modelling undertaken in the report extends to 2092 which is equivalent to the year that a Aboriginal or Torres Strait Islander person born today would live to.

Examination of the international evidence base was used to identify initiatives that have shown statistically significant evidence of outcomes in addressing the key drivers, or rates of, incarceration. Where possible, initiatives that have been implemented in Australia and/or in Indigenous communities have been utilised.

Promising initiatives with the strongest evidence base, and their estimated impact, were used as scenarios to input into the economic model in order to demonstrate the potential savings to individuals, governments and society through their implementation in Australia. The potential savings that could be generated if Indigenous incarceration rates were the same as those for non-Indigenous Australians has also been modelled.

12. ABS (2013). Estimates of Aboriginal and Torres Strait Islander Australians, June 2011. Canberra: ABS; ABS (2016). Prisoners in Australia, 2016. Canberra: ABS; AIHW (2017). Youth justice in Australia 2015-16. Table S75a: Young people in detention on an average day by sex and Indigenous status, states and territories, 2015-16. AIHW Bulletin no. 139. Cat. No. AUS 211. Canberra: AIHW.

## 2. Background and context

### 2.1 High rates of Indigenous incarceration

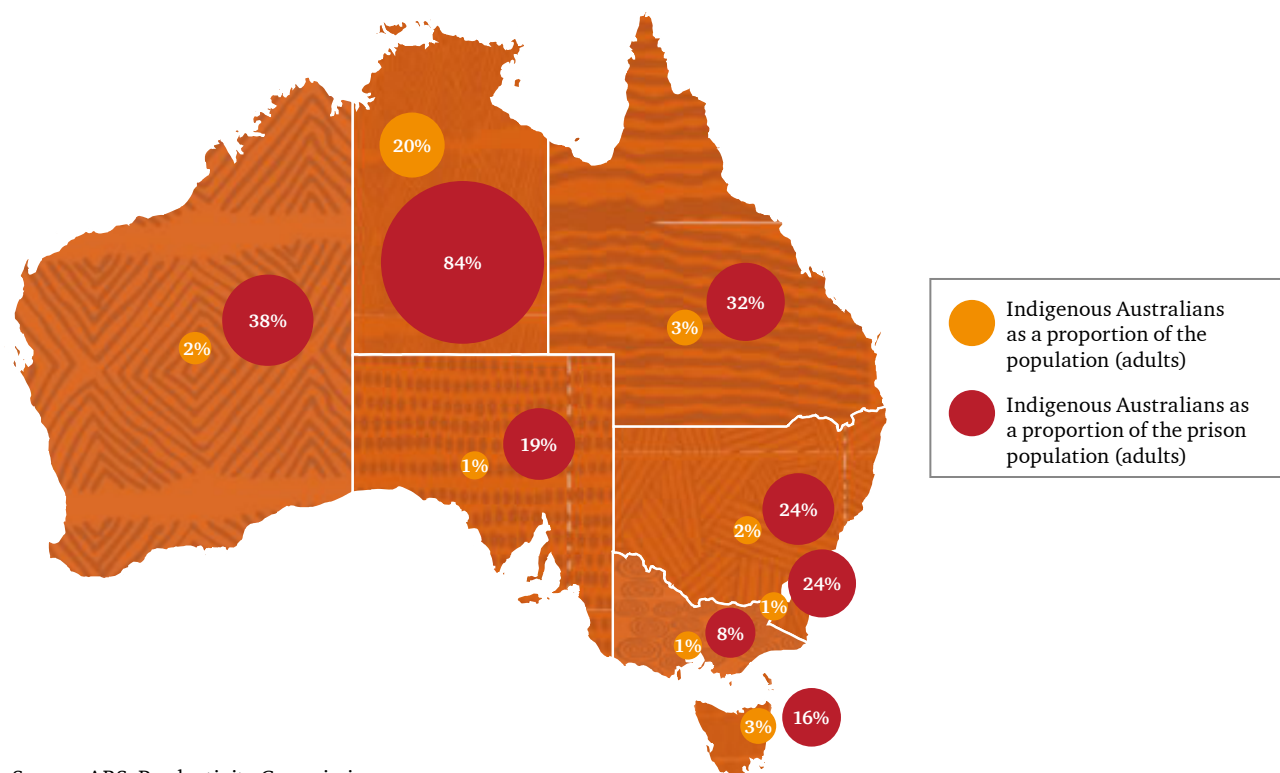
The disproportionate rates of Indigenous incarceration in Australia is not a new phenomenon. However, the degree to which Indigenous Australians are over-represented has increased over time.

The disproportionate rates are observed across a range of demographics, whether across states and territories, by gender, or in adults and young people (children 10 to 17 years of age).

#### States and territories

Indigenous people represent a greater proportion of the prison population than they do the general population in each Australian state and territory (Figure 8).

Figure 8: Indigenous incarceration in Australia, by state and territory



Source: ABS, Productivity Commission

## Indigenous men and women

In 2015, Indigenous men were 11 times as likely to be incarcerated as non-Indigenous men (4,136 per 100,000 compared to 367 per 100,000). This disparity has remained relatively constant since 2000 when Indigenous men were 12 times as likely to be incarcerated when compared to non-Indigenous men (Figure 9).

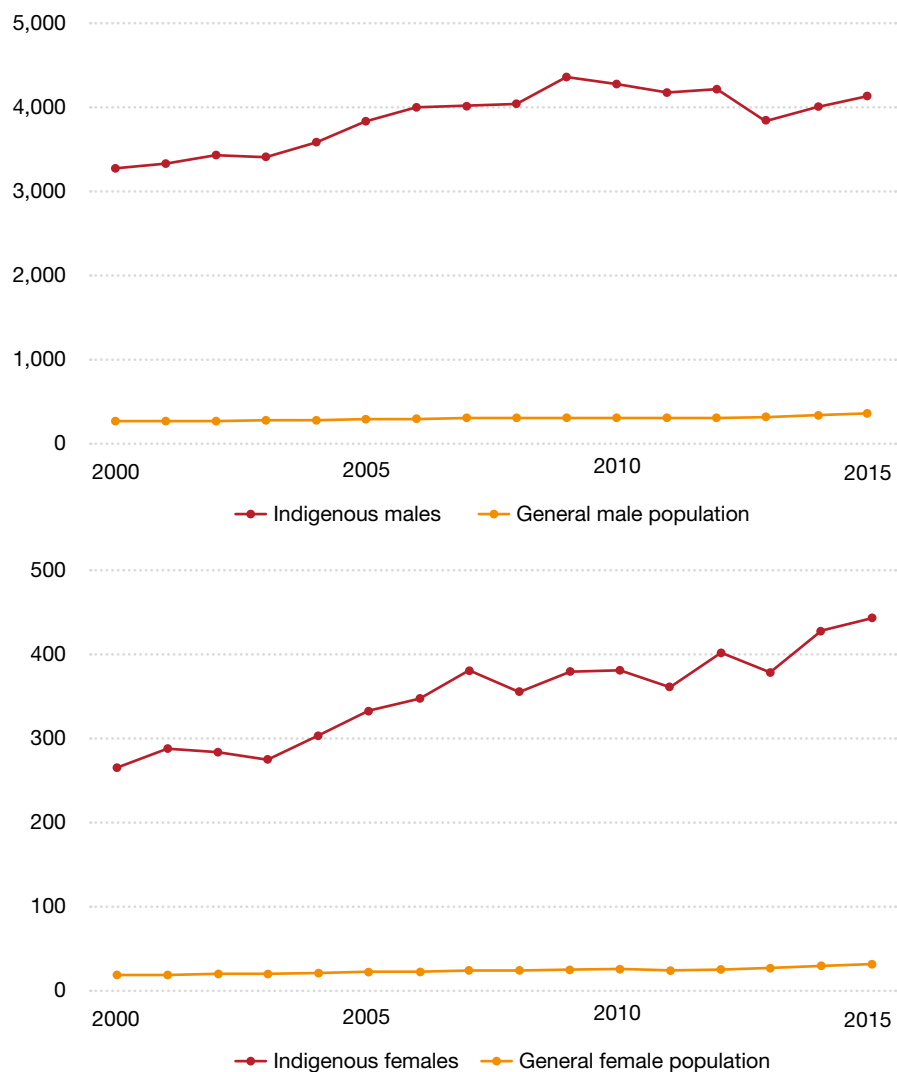
While representing only 2 per cent of Australian women, Indigenous women comprise 34 per cent of the female prison population within Australia. In 2015, the imprisonment rate for Indigenous women was 443 per 100,000 compared to 30 per 100,000 of non-Indigenous women, meaning Indigenous women were 15 times as likely to be incarcerated as non-Indigenous women (Figure 9).

## Detention of Indigenous young people

The rates of detention for both Indigenous and non-Indigenous young people have declined since 1981, most likely as a result of changes to legislation and policy, and the introduction of diversionary programs for young people who have offended. However, the rates of detention for non-Indigenous young people have declined substantially more than those for Indigenous young people. As a result, the over-representation of Indigenous young people in detention has increased. In 2015-16, Indigenous young people were 25 times more likely to be detained in a youth detention facility than non-Indigenous young people (372.2 per 100,000 compared to 14.6 per 100,000) (Figure 10).

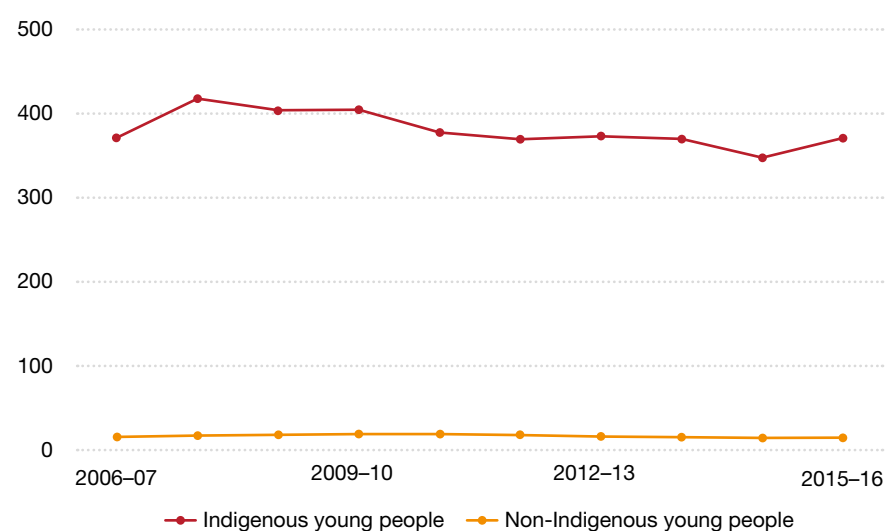
Despite Indigenous young people representing less than 6 per cent of Australia's 10 to 17 year old population,<sup>13</sup> Indigenous children and young people were estimated to account for 55 per cent of children and young people in detention in 2015-16.<sup>14</sup> This exposure substantially increases the likelihood of a young person being involved in crime as an adult.

Figure 9: Australian adult incarceration, by gender (rates per 100,000)



Source: ABS (2016). Corrective Services, Australia, June Quarter 2016. Canberra: ABS.

Figure 10: Australian youth in detention, average day (rate per 100,000)



Source: AIHW (2017). Youth justice in Australia 2015-16. Table S85a: Young people aged 10-17 in detention on an average day by Indigenous status, states and territories, 2006-07 to 2015-16 (rate). AIHW Bulletin no. 139. Cat. no. AUS 211. Canberra: AIHW.

13. AIHW (2017). Youth justice in Australia 2015-16. Table S147: Population of young people aged 10-17, by Indigenous status, states and territories, December 2006 to December 2015. AIHW Bulletin no. 139. Cat. No. AUS 211. Canberra: AIHW.

14. AIHW (2017). Youth justice in Australia 2015-16. Table S75a: Young people in detention on an average day by sex and Indigenous status, states and territories, 2015-16. AIHW Bulletin no. 139. Cat. No. AUS 211. Canberra: AIHW.

Figure 11: Sample of national, state and territory reports relating to Indigenous incarceration, 1991 to 2016

1991

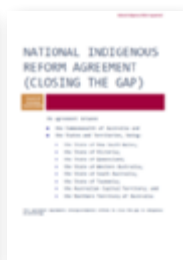


The **RCIADIC** found the troubling rate of Indigenous deaths in custody was due to over-representation of Indigenous people in custody. The Commission highlighted the need to address the levels of disadvantage experienced by Indigenous people in society. Changes to the criminal law system and to addressing the disadvantage that brings Indigenous people into contact with the justice system were proposed through 339 recommendations that placed an emphasis on empowerment of Indigenous communities to address the issues of disadvantage and incarceration from their own perspectives. Many are yet to be committed to and implemented.

2008



2009



The 2005 Social Justice Report called for Australian governments to commit to achieving equality for Indigenous people in health and life expectancy within 25 years. COAG responded by committing to ‘closing the gap’ in life expectancy between Indigenous and non-Indigenous Australians within a generation. COAG agreed to be accountable for reaching this goal and developed a set of targets as part of the **National Indigenous Reform Agreement**. While the agreement included health, education and employment targets, there were no targets specific to justice or incarceration.

2010



2011



2012



2015



Amnesty International Australia commissioned Clayton Utz to review the extent to which the recommendations of the RCIADIC had been implemented by state, territory and Federal Governments. The **Review of the Implementation of Recommendations of the Royal Commission into Aboriginal Deaths in Custody** tracked progress on all 339 recommendations of RCIADIC and found that while government support for the recommendations was strong when the RCIADIC final report was first released, action to address the recommendations had lagged. The report suggested that government plans to implement the recommendations and to report on progress made had been “highly inconsistent.” The report concluded that the bulk of the 339 recommendations remained unimplemented or only partially implemented.

2015



2016



1997



**Bringing Them Home** was initiated to generate recognition among the general public of the impact of forcible removal on the needs of victims and their families. The report traced past laws, practices and policies which resulted in the separation of Indigenous children from their families, the subsequent effects, and examined the adequacy of current laws, practices and policies in relation to those who were affected by separation, and with respect to any future placement and care of Indigenous children. The report found that most families had been affected by the removal of children with between 1 in 3 and 1 in 10 Indigenous children forcibly removed from their families and communities between 1910 and 1970.

2003



2006



The **National Indigenous Law and Justice Framework** outlined a national approach to addressing the complex interactions between Indigenous people and justice systems in Australia. The Framework sought to build a sustainable whole of government and community partnership approach to law and justice issues to eliminate Indigenous disadvantage in law and justice, and close the gap in law and justice outcomes between Indigenous and non-Indigenous Australians. Rather than prescribe strategies or actions, the Framework articulated an evidence based ‘good practice’ approach. Strategies or actions were intentionally flexible to enable implementation responsive to community needs and consistent with jurisdictional priorities and resource capacity. While comprehensive in identifying Indigenous justice issues, the Framework did not compel any jurisdiction to implement strategies and actions.

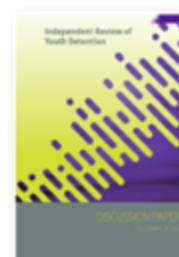
2013



2014



The Change the Record coalition launched a **Blueprint for Change** report that highlighted the need to set justice targets and for governments to work with Indigenous communities, their organisations and representative bodies to design and invest in holistic, early intervention, prevention and diversion strategies. The blueprint also emphasised the need for strategies to be grounded in an understanding of Indigenous people’s culture and identity, and recognition of the history of dispossession and trauma experienced by many communities. As with the RCIADIC, the blueprint highlights the importance of Indigenous self-determination and prevention and early intervention approaches, through participation in the development and implementation of policies and programs if positive change is to be achieved.





## Indigenous recidivism

Prior detention or imprisonment increases the likelihood of future offending and contact with the justice system. Indigenous male prisoners are 1.5 times as likely to have previously been incarcerated as non-Indigenous prisoners.<sup>15</sup> The disparity in reoffending is just as evident in women, with 67 per cent of Indigenous women having previously served time in prison compared to 36 per cent of non-Indigenous women.<sup>16</sup>

## Indigenous victimisation rates

It is important to note that Indigenous people are also more likely to come into contact with the justice system as a victim of crime. Victimization rates are higher for Indigenous people compared to non-Indigenous people for a number of offences. Based on jurisdictions where data is reported (New South Wales (NSW), Queensland (Qld), South Australia (SA) and the Northern Territory (NT)), Indigenous victimisation rates are higher for assault (except in Qld), sexual assault, homicide and kidnapping (except in the NT).<sup>17</sup>

## 2.2 Key justice-related reports and reviews

The over-representation of Indigenous people in the incarcerated population has been the focus of numerous (national, state and territory) reviews and reports (see Figure 11 for some examples). Despite this volume of important work, the disproportionate rates of Indigenous incarceration have persisted and worsened due to a lack of action and follow-through on the recommendations of these reports. The pending Royal Commission into the Protection and Detention of Children in the NT and Australian Law Reform Commission Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples will be the latest contributions to addressing the over-representation of Indigenous people in prison. It is critical that the recommendations of these reviews are acted on and implemented.

## Royal Commission into the Protection and Detention of Children in the NT

In 2016, the Royal Commission into the Protection and Detention of Children in the NT was established in response to the ABC's *Four Corners* television program that aired shocking images of children and young people in detention in the NT.

"The Commission has been tasked with exposing any systemic failures and with making recommendations to improve laws, policies and practices that will result in a safer future for children and young people in the NT. The scope of the Commission's task is extensive, spanning both the child protection and youth detention systems over a 10-year period."

Findings are to be reported back on 1 August 2017 with recommendations made on possible legal, cultural, administrative and management reforms to prevent inappropriate future treatment of children and young persons in detention, and improvements to the child protection system.<sup>18</sup>

## Australian Law Reform Commission Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples

With the over-representation of Indigenous people in prison having increased since the RCIADIC 26 years ago, the ALRC were asked to examine the factors leading to this over-representation, and consider law reform to ameliorate this. A report is to be provided to the Attorney-General by 22 December 2017, having considered:

- Laws and legal frameworks including legal institutions and law enforcement that contribute to the incarceration rate and inform decisions to hold or keep Indigenous people in custody, specifically: nature of offences resulting in incarceration; cautioning; protective custody; arrest; remand and bail; diversion; sentencing (including mandatory); parole, conditions and community reintegration
- Factors decision-makers take into account: community safety; alternatives to incarceration; degree of discretion available to decision-makers; incarceration as a last resort; incarceration as a deterrent and as a punishment
- Laws that may contribute to the rate of Indigenous people offending, including laws that regulate the availability of alcohol, driving offences and unpaid fines
- Indigenous women and their rate of incarceration
- Differences in the application of laws across states and territories
- Other access to justice issues including the remoteness of communities, the availability of and access to legal assistance and language and sign interpreters.<sup>19</sup>

Our work takes a holistic focus, examining the key drivers that lead to Indigenous incarceration and the over-representation of Indigenous Australians in prison.

While there are factors that lie within the justice system that, if addressed, could help close the gap between Indigenous and non-Indigenous rates of incarceration, addressing the key drivers that lead to offending and contact with the justice system in the first place has the potential for greater impact in the longer term.

15. ABS (2016). Prisoners in Australia, 2016. Canberra: ABS.

16. Bartels, L (2012). Sentencing of Indigenous women. Indigenous Justice Clearinghouse, Brief 14.

17. ABS (2016). Recorded crime – victims, Australia, 2015. Canberra: ABS.

18. [www.pm.gov.au/media/2016-07-28/royal-commission-child-protection-and-youth-detention-systems-northern-territory](http://www.pm.gov.au/media/2016-07-28/royal-commission-child-protection-and-youth-detention-systems-northern-territory). Accessed January 2017.

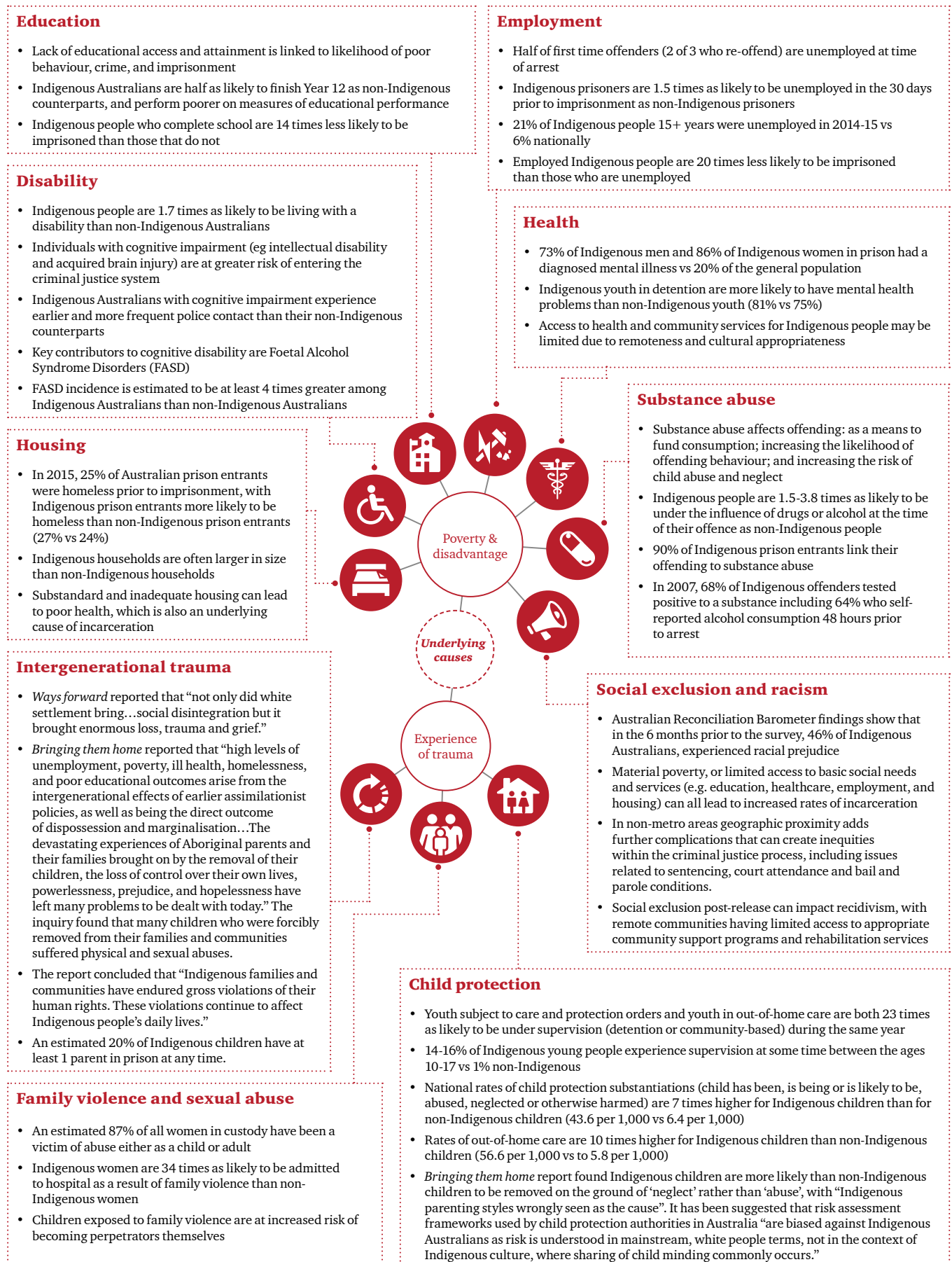
19. [www.alrc.gov.au/inquiries/indigenous-incarceration](http://www.alrc.gov.au/inquiries/indigenous-incarceration). Accessed January 2017.



## 2.3 Key drivers of Indigenous incarceration

The key drivers that lead to, or increase the likelihood of, Indigenous incarceration can be separated into either underlying causes (Figure 12) or additional factors related to the justice system (Figure 13).

Figure 12: Underlying causes of Indigenous incarceration



The key underlying causes, as identified in the literature, are the level of disadvantage, poverty (with associations between education, health, employment and substance abuse, and risk of incarceration the strongest), social exclusion, racism, and experiences of trauma.

Additional factors related to the justice system such as relationship with the justice system, legal policy settings, and access to legal assistance, are also important in determining risk of incarceration (Figure 13).

Figure 13: Additional factors of Indigenous incarceration related to the justice system



These underlying causes and additional factors related to the justice system can begin to influence the future trajectory of an individual from birth (or earlier) and potentially put them on a pathway towards offending and imprisonment.

Given the current trends being seen in these key drivers, and considering the already high rates of Indigenous incarceration, there is a risk that the over-representation of Indigenous people in incarceration will continue to increase in future if these key drivers are not sufficiently addressed to break this cycle.

A more detailed summary of these key drivers is presented in Appendix A.

# 3. Economic and social costs of high Indigenous incarceration rates

## 3.1 Introduction

This section explores the immediate and long term consequences and costs of Indigenous incarceration to the individual, families and to society. While some of these costs can be quantified financially, there are numerous other consequences which heavily impact on Indigenous people and their families, that can best be described qualitatively.

These include the experiences of an individual while incarcerated, the difficulties that may be encountered as part of their transition back into the community, and the consequences to families and communities which can have an intergenerational effect. Exposing children to underlying causes and additional factors related to the justice system, perpetuating the cycle of disadvantage and incarceration. These consequences are not costed in our economic modelling outlined below, but are explored separately in sections 3.3 and 3.4.

## 3.2 Economic and fiscal costs of Indigenous incarceration

The economic costs of Indigenous incarceration capture the costs incurred by governments and communities as a result of interactions with the justice system. For the purpose of this analysis, these costs have been categorised as:

- **Economic costs** – includes loss of productive output during incarceration, the cost of crime incurred by victims, the cost of increased mortality, forgone taxes and the extra burden of tax collection (dead weight loss).<sup>20</sup>
- **Fiscal costs** – which include:
  - Justice costs: costs directly related to the justice system, including police, courts and prison costs, which are incurred before and during incarceration

- Welfare costs: long term costs, including welfare payments upon release from prison, child protection costs related to providing out-of-home care placements for children whose parents are incarcerated, potential costs of social housing and homelessness services which arise as a result of incarceration and are incurred post release from prison.

The components of each of these costs and the estimate of each cost is outlined in Table 1. This analysis does not explore the efficiency of government spending or make a determination of expenditure that is productive or unproductive.

Our modelling takes a conservative approach, using either average impacts or lower bounds of initiatives when estimating the potential magnitude of effect and savings to the economy.

20. For the purpose of the modelling exercise, these costs were further categorised into short term costs which are incurred during incarceration, and long term costs which are incurred on an ongoing basis by Indigenous people who have been or are currently incarcerated.

Table 1: Economic costs components

Category	Cost component	Description	Estimate (\$2015/16)
<b>Fiscal cost – Justice</b>	<b>Police</b>	The average police expenditure per recorded offender (on average each offender has 2.1 offences recorded against them each year).	\$20,815 per recorded alleged offender
	<b>Finalisations (court)</b>	The average cost of an Indigenous person's court finalisation (the completion of a matter, i.e. a verdict of not guilty, final sentencing, or conclusion of final appeal so that the matter ceases to be an item of work to be dealt with by the court) and associated legal costs – estimate weighted based on courts most likely to be used for the finalisation of Indigenous people's matters. Legal costs may be borne by Legal Aid, Aboriginal legal service or by private practitioners.	\$9,128 per finalisation
	<b>Prison (remand/sentenced)</b>	The cost of providing prison services per prisoner/detainee per day (estimate includes costs for prisoner transport and health expenses where possible)	\$312 per prisoner per day (~\$114,000 p.a.)
	<b>Juvenile detention</b>	The average cost of providing juvenile detention services per child or young person per day	\$1,428 per detainee per day (~\$521,000 p.a.)
	<b>Juvenile supervision</b>	The average cost of providing juvenile supervision services per child or young person per day	\$124 per supervisee per day (~\$45,000 p.a.)
	<b>Community orders</b>	The cost of providing community order services per adult per day	\$23 per offender per day (~\$8,000 p.a.)
	<b>Mandated community service</b>	The cost of providing community service placements and supervision per adult offender per day and the cost of estimated lost wages due to people who have offended undertaking unpaid work	\$108 per offender per day (~\$27,000 p.a.)
<b>Fiscal cost – Welfare</b>	<b>Welfare</b>	The likely welfare costs incurred post release as incarcerated people are less likely to be employed upon release. This estimate has been weighted by the proportion of the population who are expected to be unemployed due to their stay in prison	\$3,031 per person incarcerated per annum
	<b>Homelessness</b>	The likely homelessness costs incurred post release as incarcerated people are less likely to have stable housing upon release. This cost relates only to the fiscal cost of providing social housing and homelessness services (importantly this cost excludes costs to the individual or potential externalities of increased homelessness)	\$460 per incarcerated individual per annum
	<b>Outside of home care</b>	The cost of children being placed in out-of-home care when their primary carer is incarcerated. This estimate is only applied to women who are incarcerated and is a conservative estimate	Between \$16,641 and \$39,617 per child per annum (depending on jurisdiction)
<b>Fiscal cost – Taxation</b>	<b>Foregone taxation</b>	The likely lost income tax that results from incarcerated people being less likely to be employed while in and following imprisonment. The estimate is provided separately for men and women accounting for differences in expected unemployment rates and differences in expected salaries (if working) for men and women	Outside prison: \$444 per male per annum, \$183 per female per annum. Inside prison: \$1,129 per male per annum, \$466 per female per annum.
<b>Economic costs</b>	<b>Cost of crime</b>	The average cost incurred by victims of crime perpetrated by Indigenous person who has offended including: <ul style="list-style-type: none"> <li>Property damage</li> <li>Medical costs</li> <li>Lost output</li> </ul> Intangible costs that have been quantified – fear, pain, suffering, reduced quality of life	\$10,666 per incident
	<b>Loss of productive output</b>	Incarcerated people are not employed and are less likely to be employed upon release resulting in loss of productive output. The estimate is provided separately for men and women accounting for differences in expected unemployment rates and differences in expected value added (if working) for men and women	Outside prison: \$10,900 per male per annum, \$5,259 per female per annum. Inside prison: \$27,746 per male per annum, \$13,385 per female per annum.
	<b>Excess burden of tax</b>	The government incurs costs in raising revenue to fund expenditure on the justice system, welfare, social services and child protective services. Furthermore the economy incurs costs that relate to lost consumer and producer surplus as a result of the taxes levied by governments. These costs are referred to as the excess burden of tax or the deadweight loss. <p>In order to account for these costs a flat rate of 29% uplift has been added to all fiscal costs. The 29% is made up of a 27.5%<sup>21</sup> deadweight loss that is borne by consumers and producers and a 1.25%<sup>22</sup> administration uplift that is borne by the ATO in order to collect taxes.</p>	29% applied to all fiscal costs <sup>23</sup>

Source: All inputs are based on PwC analysis of data collected from ABS, ROGS and other sources. See Appendix B for a detailed description of cost estimates.

21. Industry Commission (Now referred to as Productivity Commission) (2003) Evaluation of the Pharmaceutical Industry Investment Program.

22. ATO 2000-01 cited within Access Economics. The cost of Domestic Violence to the Australian Economy: Part 2 page 65.

23. Access Economics. The cost of Domestic Violence to the Australian Economy: Part 2 page 66 table 35.

### 3.2.1 The incarcerated population will continue to grow

Total economic and fiscal costs are also driven by the current and projected cohort of incarcerated Indigenous individuals. This includes estimates of the number of Indigenous prisoners, number of Indigenous people serving community corrections orders and the number of Indigenous children in juvenile detention/supervision. The current cohort was established using the following publicly available data:

- ABS – Prisoner Census
- ABS – Recorded Crime
- ABS – National Aboriginal and Torres Strait Islander Social Survey
- Productivity Commission – Report on Government Services.

The future cohort of incarcerated individuals was forecast based on:

- The current growth rate for the Indigenous population (2.2 per cent)<sup>24</sup>

- An estimate of the current new entrant rate – this was used to determine the number of people entering the prison system for the first time in their lives each year
- Estimates of the current recidivism rates – these were used to forecast the number of existing prisoners returning to prison over their lifetimes.

A detailed description of the approach undertaken is provided in Appendix B.

### 3.2.2 The current cost of Indigenous incarceration is \$7.9 billion and growing

Based on the costs outlined in Table 1 and forecasts of the incarcerated Indigenous population, it is estimated that (all figures are in real \$2015/16 and undiscounted unless otherwise stated):

- Indigenous incarceration is currently costing the Australian economy \$7.9 billion per annum (in 2016)

- These costs are expected to grow to \$9.7 billion per annum in 2020 and \$19.8 billion per annum by 2040 as a result of a growing incarcerated population
- The total cost of Indigenous incarceration between 2018 and 2092 is \$345 billion (discounted to today's terms).

Within the total economic costs of Indigenous incarceration (all figures are in real \$2015/16 and undiscounted unless otherwise stated):

- Justice system costs total \$3.9 billion in 2016, growing to \$4.9 billion by 2020, and \$10.3 billion by 2040
- Welfare system costs total \$0.06 billion in 2016, growing to \$0.07 billion by 2020, and \$0.11 billion by 2040
- Economic costs total \$3.9 billion in 2016, growing to \$4.7 billion by 2020, and \$9.3 billion by 2040.

Table 2: Estimated economic costs

Cost item	Annual impact in 2016 (\$m, undiscounted)	Annual impact in 2020 (\$m, undiscounted)	Annual impact in 2040 (\$m, undiscounted)	Total impact 2018-2092 (PV \$2016, \$m)
<b>Economic costs</b>	<b>3 882.8</b>	<b>4 719.1</b>	<b>9 345.7</b>	<b>163 983.5</b>
Cost of crime	1 556.7	1 940.7	4 065.6	70 565.1
Loss of productive output	1 177.9	1 349.3	2 296.9	41 606.0
Excess burden of tax	1 148.2	1 429.1	2 983.2	51 812.4
<b>Fiscal costs</b>	<b>4 010.1</b>	<b>4 990.3</b>	<b>10 414.4</b>	<b>180 888.2</b>
Justice	3 931.3	4 901.1	10 267.2	178 203.5
Welfare – Human services	20.3	22.6	35.4	654.0
Welfare – Social services	5.6	6.2	9.7	179.3
Welfare – Centrelink	36.6	40.8	63.9	1 180.3
Foregone taxation	16.2	19.6	38.1	671.2
<b>Total economic and fiscal costs</b>	<b>7 892.9</b>	<b>9 709.4</b>	<b>19 760.1</b>	<b>344 871.7</b>

Source: PwC analysis, ABS, ROGS. See Appendix B for a detailed description of cost estimates. Note: all costs include the present discounted value of the lifetime costs of Indigenous people who have entered prison for the first time in that year. The full lifetime costs are only included in the year that an Indigenous person enters prison for the first time and not recounted if that person re-enters prison in the future.

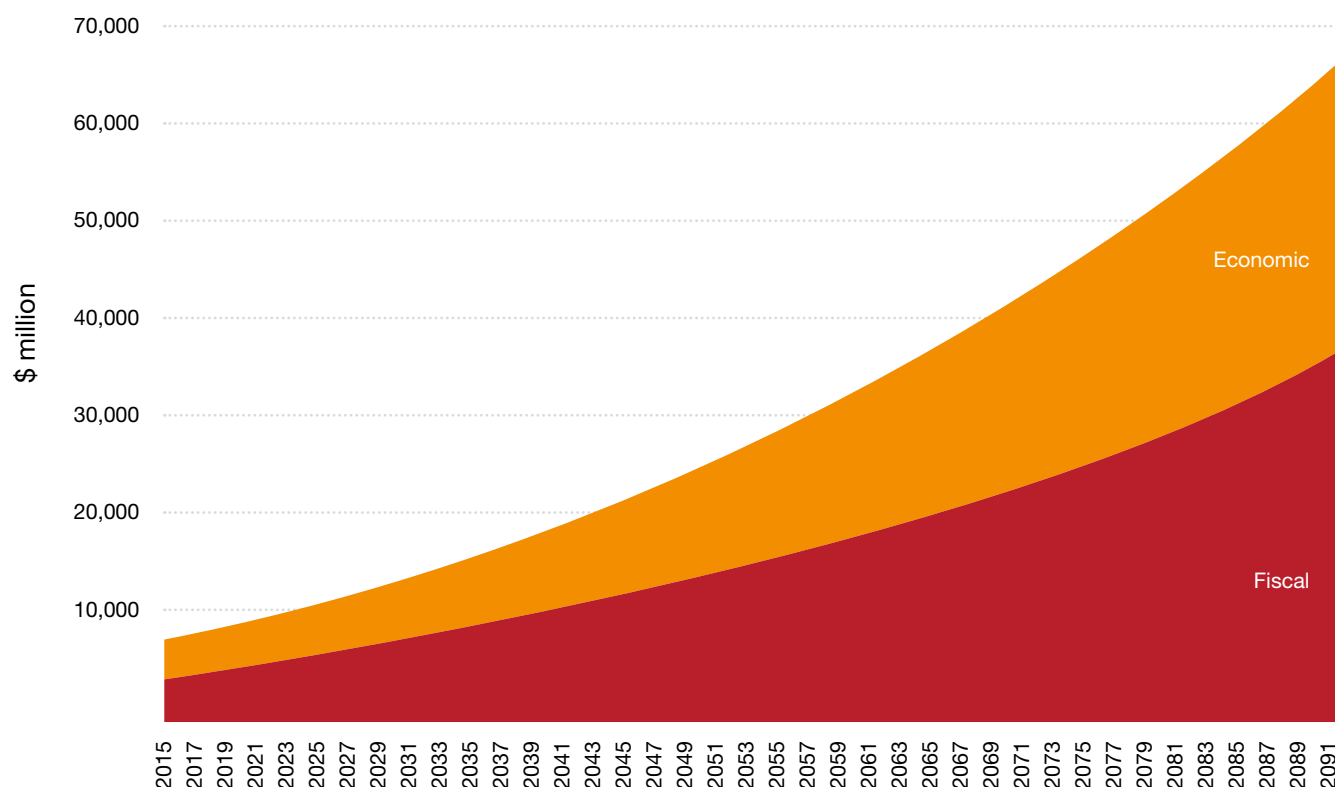
24. ABS (2009). Experimental Estimates and Projections: Aboriginal and Torres Strait Islander Australians 1991-2021. Canberra: ABS.

These results are based on the assumption that the current rate of new entries into the prison system and recidivism rates are maintained, rather than increasing as they have over recent years. These input assumptions result in average growth in the number of Indigenous people who are incarcerated of 3.0 per cent between 2016 and 2092.

Growth rates are initially projected to be high before converging to the Indigenous population growth rate. The growth in the incarceration rate per 100,000 Indigenous persons eventually stabilises at approximately 3,850 per 100,000 closer to 2092 which is higher than the current rate of 2,217 per 100,000.

Table 2 and Figure 14 (page 28) show the estimated fiscal and economic costs.

Figure 14: Economic and fiscal costs of Indigenous incarceration (\$million, 2016 dollars)



Source: PwC analysis, ABS, ROGS. See Appendix B for a detailed description of cost estimates

Note: Fiscal costs = direct costs to the taxpayer for services and programs delivered by government with tax payer funds. Other economic costs – total quantifiable costs to the economy (excluding fiscal). In addition to fiscal costs these costs refer to the indirect costs of loss of productive output and excess tax burden due to government need to collect greater tax revenues to fund activities.



### 3.2.3 Justice system costs account for the majority of economic costs

Figure 15 shows the estimated costs incurred by the justice system. Justice system costs account for the majority of economic costs in 2016 and can be further broken down into:

- Police costs – \$1.5 billion.
- Court costs (finalisations) – \$0.7 billion. These costs are relatively low compared to police costs as the majority of Indigenous people's court cases are finalised in the magistrate's courts, where the average length of time to hear cases is 5-15 minutes and are relatively inexpensive.
- Prison related expenditure – \$1.2 billion.
- Juvenile detention and supervision – \$0.3 billion. These costs are driven by the high cost of providing juvenile detention services (\$1,428 per day per child or young person versus \$314 per day per adult).
- Community corrections and mandated community service orders – this was estimated to be \$0.2 billion. These costs are relatively low compared to prison costs as a result of a significantly smaller cohort and lower costs (\$312 per day per prisoner versus \$108 per day per offender for mandated community service and \$23 per day per offender for community orders).

### 3.2.4 Fiscal costs vary significantly by jurisdiction

Figure 16 outlines the estimated fiscal costs at a jurisdictional level. Figure 17 shows costs at a per capita level. These results show that:

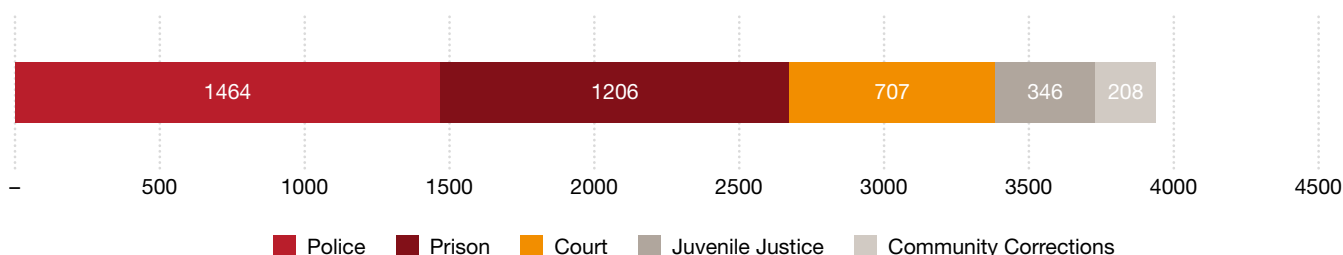
- WA has the highest total fiscal cost of Indigenous incarceration, totaling \$1.1 billion in 2016. This is driven by higher operating costs (police) and a large cohort of individuals in the justice system (see Appendix B).
- The estimated fiscal cost for Qld is \$1.0 billion, which is driven by relatively high juvenile justice costs and a large Indigenous incarcerated population.
- The estimated fiscal cost for NSW is \$0.9 billion, which is driven by relatively high court costs of legal representation during court proceedings based on NSW legal aid annual reports.
- The NT incurs the highest estimated cost per capita (\$1,716) – four times greater than WA.

### 3.2.5 The Australian Capital Territory (ACT)

In 2016, there were 101 Indigenous people incarcerated in the ACT, including seven women.<sup>25</sup> This analysis excludes the costs related to the incarceration of these people for the following reasons:

- Prior to 2009 the ACT did not operate a prison and instead housed prisoners within NSW facilities. Following the opening of the prison in 2009 there was a period of volatility in prisoner numbers.<sup>26</sup>
- The ABS randomly adjusts data in order to protect confidentiality. For small numbers such as those for ACT, this can significantly skew data.<sup>27</sup>
- The local police in the ACT are operated as part of the Australian Federal Police (AFP) who also have responsibility for federal policing activities such as national security and terrorism investigation. While the Productivity Commission excludes, where possible, the costs of national policing activities in their comparison of policing expenditure, the result is costs that are 3-4 times higher than other jurisdictions indicating that these costs may be skewed. The inclusion of these costs would distort the overall cost analysis.

Figure 15: Justice system costs in 2016 (\$million)



Source: PwC analysis, ABS, ROGS, see Appendix B for a detailed description of cost estimates

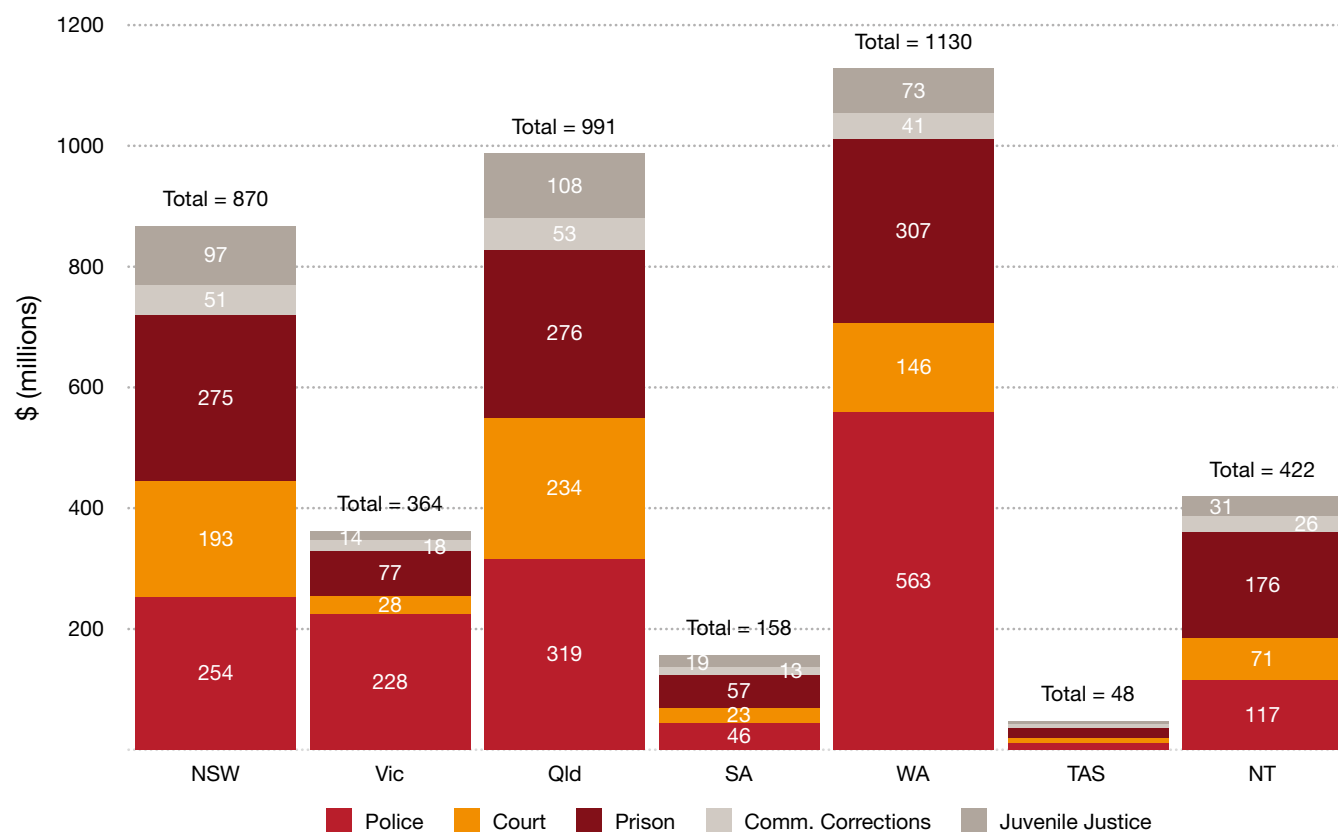
25. Australian Bureau of Statistics (2016) Prisoners: 4517.0.

26. Australian Bureau of Statistics (2016) Prisoners: 4517.0, Explanatory Notes.

27. Ibid.



Figure 16: Fiscal costs by jurisdiction in 2016 (justice costs only)

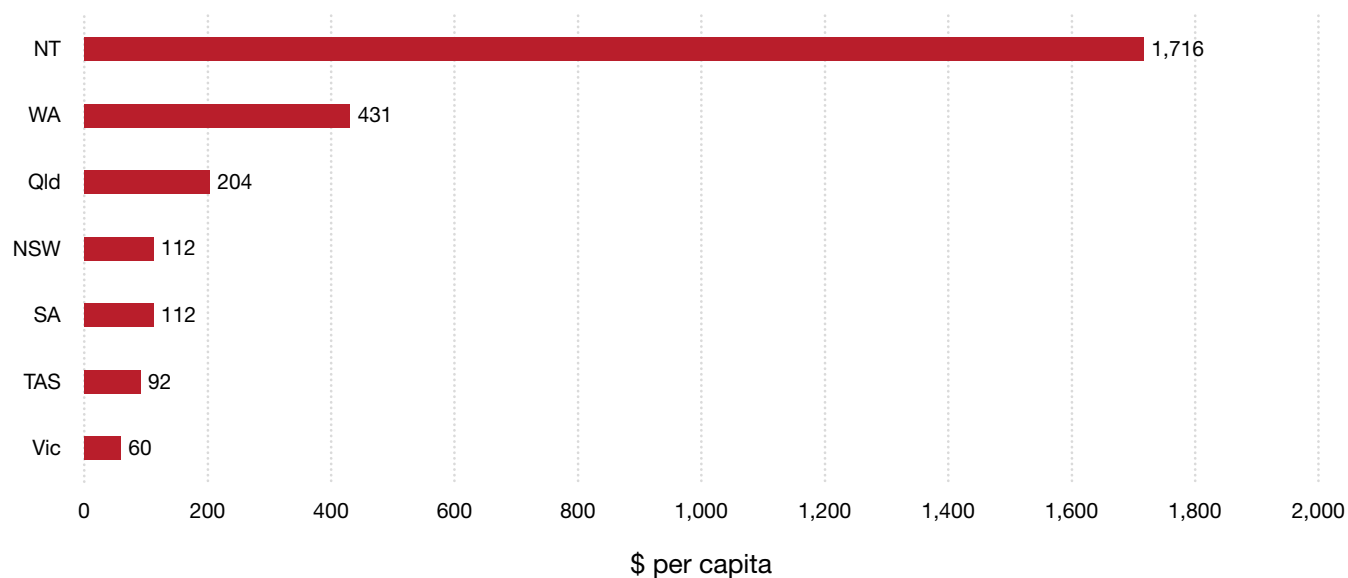


Source: PwC analysis based on cost estimates from Productivity Commission, Report on Government Services, 2017.

Note: out-of-home care costs are small and have been excluded from this chart

Tasmania figures: police: \$12m, court: \$11m, prison: \$15m, community corrections: \$8m, juvenile justice: \$3m

Figure 17: Fiscal costs per capita (all Australians) in 2016 (justice costs only)



Source: PwC analysis

### 3.3 Consequences of Indigenous incarceration

In addition to the economic and fiscal costs of Indigenous incarceration, there are significant consequences for individuals, families and communities.

#### Financial security and welfare

Contact with the criminal justice system can have a number of challenging impacts upon release, including social exclusion and high financial costs for the offender, particularly for Indigenous women. Interaction with the criminal justice system can have indirect costs through increased marginalisation and a reduction in employment opportunities for those who have offended.<sup>28</sup>

The initial 6 to 12 months post-release is a high risk period for recidivism. This is due to a number of factors, some of which include, Indigenous people who have completed their sentence may have low literacy and numeracy skills which can significantly impact their access to basic needs, they may not have identification documents required to open bank accounts, access Centrelink support, and complete housing and job applications. The lack of income and access to these services places a substantial burden on Indigenous families to provide financial assistance and support.<sup>29</sup>

#### Access to Accommodation

In 2015, 38 per cent of Indigenous prisoners being released expected to be homeless compared to 28 per cent of non-Indigenous prisoners being released.<sup>30</sup> Accessing safe, stable and affordable accommodation is critical to successful reintegration into the community with unstable housing or homelessness a key risk factor for recidivism.<sup>31</sup>

Poor tenant history, substance or alcohol abuse, gambling, violence, racism and poor payment history contribute to poor housing arrangements of people who have completed their sentence. Indigenous people who cannot source appropriate housing are often found living on the streets, which increases their likelihood of coming into contact with the criminal justice system.<sup>32</sup>

Indigenous women face greater challenges in sourcing suitable accommodation upon release and are likely to experience higher levels of debt, depression, isolation, poor mental health and social exclusion compared to Indigenous men who have offended.<sup>33</sup> There are currently a lack of suitable post-release support programs and services to address these risks.

#### Social exclusion

Indigenous prisoners returning to the community, particularly remote communities, face many practical challenges upon release from prison. To begin with, many Indigenous prisoners require repatriation back to their communities. However, the level of support provided for repatriation differs between jurisdictions.

For those who are unable to return to their communities, they may be at greater risk of homelessness, and therefore reoffending.<sup>34</sup> Once individuals return to their communities, relationships that may be strained or broken need to be rebuilt for successful reintegration.

Supportive social networks for Indigenous people such as access to family and similar ethnic groups is critical for a successful transition back into the community. A Canadian study found that Indigenous people who had offended who successfully reintegrated into their communities identified family members, friends and elders as playing a key role.<sup>35</sup>

In the absence of adequate support, individuals may experience social exclusion caused by stigma, limited access to education, training and employment opportunities, and limited access to substance abuse treatment programs.<sup>36</sup>

In addition to existing exclusion factors such as racism, the delivery of rehabilitation programs to assist Indigenous offenders returning to the community can be made more difficult due to the fact that Indigenous people who have offended are more likely than non-Indigenous people who have offended to be incarcerated for less than 12 months, or to be held on remand. The short-term nature of these sentences and of remand limit an offender's eligibility for certain rehabilitation programs, with some programs not offered to those on remand, and others only offered to those serving a sentence of minimum duration (due to these programs exceeding one year in duration).

28. AIHW, and AIFS (2013). Diverting Indigenous offenders from the criminal justice system. Closing the Gap Clearinghouse, Resource sheet no. 24. Canberra: AIHW.

29. <http://guides.dss.gov.au/guide-social-security-law/3/1/4>. Accessed January 2017.

30. AIHW (2015). The health of Australia's prisoners 2015. Cat no PHE 207. Canberra: AIHW.

31. Baldry, E, McDonnell, D, Maplestone, P, and Peeters, M (2002). Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration of ex-prisoners? Presented at Housing, crime and stronger communities conference. Canberra: AIC; Baldry, E, McDonnell, D, Maplestone, P, and Peeters, M (2006). Ex-prisoners, homelessness and the state in Australia. Australian and New Zealand Journal of Criminology, 39(1): 20-33.

32. Schetzer, L (2013). Beyond the prison gates: the experiences of people recently released from prison into homelessness and housing crisis. Sydney: Public Interest Advocacy Centre.

33. Ibid.

34. North Australian Aboriginal Justice Agency (NAAJA), Central Australian Aboriginal Legal Aid Service (CAALAS), and Criminal Lawyers Association of the NT (CLANT) (2016). Joint submission to NT Department of Correctional Services. [www.clant.org.au/images/images/Prisons\\_submission\\_280816.pdf](http://www.clant.org.au/images/images/Prisons_submission_280816.pdf). Accessed March 2017.

35. Heckbert, D, and Turkington, D (2001). Turning points: a study of related factors related to the successful reintegration of Aboriginal offenders. Ottawa: Correctional Service of Canada, <http://trove.nla.gov.au/work/32848293?selectedversion=NBD27194334>. Accessed January 2017.

36. Barrow Cadbury Commission 2005. Lost in transition: a report of the Barrow Cadbury Commission on young and the criminal justice system. London: Barrow Cadbury Trust, [www.t2a.org.uk/wp-content/uploads/2016/02/Lost-in-Transition.pdf](http://www.t2a.org.uk/wp-content/uploads/2016/02/Lost-in-Transition.pdf). Accessed January 2017.

Access to re-integration support services and programs within the community can be hindered if individuals have limited access to transport to attend the program. The difficulty in recruiting and retaining suitably qualified Indigenous workers to facilitate and run these programs is also a challenge.<sup>37</sup>

The social exclusion and isolation experienced as a result of imprisonment also leads to loss of connectedness to culture. The literature suggests that connection to culture for Indigenous people serves as a protective factor, helping to build resilience and strength in identity (explored further in section 4).

### Health and wellbeing

Prisoners are at greater risk of poor mental health, drug and alcohol abuse, physical and sexual violence, blood-borne virus infection, and isolation and marginalisation.<sup>38</sup> However, there is a lack of suitable and culturally aware and responsive services and programs that exist for Indigenous people to access treatment and rehabilitation while in custody.<sup>39</sup> Limited access to post-release Indigenous-specific programs and services has also been noted.<sup>40</sup> The delivery of culturally aware and responsive programs has been found to be inconsistent and intermittent, with many prisons not delivering any, while others offer them only sporadically.<sup>41</sup>

A study from WA found that Indigenous men who have completed a sentence had higher mortality rates compared to non-Indigenous prisoners. People who have completed a sentence also had higher levels of psychiatric mortality and morbidity than the general community. Indigenous women leaving prison were more likely to die after release from prison compared to their non-Indigenous counterparts. The risk of mortality was highest soon after release. Deaths due to injury or poisoning, or acute and chronic effects of alcohol or drug addiction, accounted for over 60 per cent of all deaths.<sup>42</sup>

### Education and employment

Access to education and employment facilitate successful reintegration into the community and is a protective factor against recidivism.<sup>43</sup> A Qld study found that people who had offended who participated in a training program had lower rates of re-offending.<sup>44</sup> Similarly, a WA study found that people who had offended who participated in training courses were more likely to feel positive and optimistic about their future employment prospects than those who did not take part.<sup>45</sup>

## 3.4 Intergenerational impact of Indigenous incarceration

The effects of Indigenous incarceration are often intergenerational. Incarceration can break down family and community connections that guide people away from participating in criminal activity, removing parents who could otherwise provide parental guidance for their children. Incarceration can also disrupt an Indigenous person's connection to culture and land, which are significant influencers of Indigenous identity and individual wellbeing.<sup>46</sup> Communities and families become less capable of managing social order through family or community groups and crime rates continue to rise.<sup>47</sup> It impacts a family's strength and stability and can often result in the loss of employment or income, intensify debt issues and potentially result in the loss of housing and family connections.<sup>48</sup>

Children are three times as likely to be removed from their families if a parent is, or has been incarcerated.<sup>49</sup> One study found that almost half (48 per cent) of boys aged 0-10 years old who had been separated from their families due to incarceration were themselves convicted as an adult compared to 25 per cent of boys who were separated for other reasons. It was estimated that 20 per cent of Indigenous children have at least one parent in prison at any time.<sup>50</sup>

37. Operational Strategy and Research (2010). Rehabilitative needs and treatment of Indigenous offenders in Qld. Brisbane: Qld Corrective Services, Department of Community Safety, [www.healthinfonet.ecu.edu.au/key-resources/bibliography/?lid=22793](http://www.healthinfonet.ecu.edu.au/key-resources/bibliography/?lid=22793). Accessed January 2017.
38. Ogloff, JRP, Davis, MR, Rivers, G, and Ross, S (2007). The identification of mental disorders in the criminal justice system. Trends and Issues in Crime and Criminal Justice no. 334. Canberra: AIC.
39. Operational Strategy and Research (2010). Rehabilitative needs and treatment of Indigenous offenders in Qld. Brisbane: Qld Corrective Services, Department of Community Safety, [www.healthinfonet.ecu.edu.au/key-resources/bibliography/?lid=22793](http://www.healthinfonet.ecu.edu.au/key-resources/bibliography/?lid=22793). Accessed January 2017; Balanced Justice (2013). Indigenous overrepresentation in prisons. Balanced Justice, [www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html](http://www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html). Accessed January 2017; Victorian Ombudsman (2015). Investigation into the rehabilitation and reintegration of prisoners in Victoria. Melbourne: Victorian Ombudsman.
40. Graffam, J, and Shinkfield, A (2012). Strategies to enhance employment of Indigenous ex-offenders after release from correctional institutions. Closing the Gap Clearinghouse, Resource sheet no. 11. Canberra: AIHW.
41. Victorian Ombudsman (2015). Investigation into the rehabilitation and reintegration of prisoners in Victoria. Melbourne: Victorian Ombudsman.
42. Hobbs, M, Krazlan, K, Ridout, S, Mai, Q, Knuiman, M, and Chapman, R (2006). Mortality and morbidity in prisoners after release from prison in WA 1995-2003. Research and Public Policy Series no. 71. Canberra: AIC.
43. National Research Council (2008). Parole, desistance from crime, and community integration. Committee on Community Supervision and Desistance from Crime. Committee on Law and Justice, Division of Behavioural and Social Sciences and Education. Washington DC: The National Academies Press, [www.nap.edu/catalog/11988/parole-desistance-from-crime-and-community-integration](http://www.nap.edu/catalog/11988/parole-desistance-from-crime-and-community-integration). Accessed January 2017.
44. Callan, V, and Gardner, J (2007). The role of VET in recidivism in Australia. In Vocational Education and Training for Adult Prisoners and Offenders in Australia: Research Readings, 34-46, [www.voced.edu.au/content/ngv%3A22818](http://www.voced.edu.au/content/ngv%3A22818). Accessed January 2017.
45. Giles, M, Tram Le, A, Allan, M, Lees, C, Larsen, A, and Bennett, I (2007). The role of education and training in prison to work transitions. In Vocational Education and Training for Adult Prisoners and Offenders in Australia: Research Readings, 67-77, [www.voced.edu.au/content/ngv%3A18122](http://www.voced.edu.au/content/ngv%3A18122). Accessed January 2017.
46. Clear Horizon (2013). Wulunggo Ngalu Learning Place: Final evaluation report. Melbourne: Department of Justice, [https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlpl\\_evaluationfinal.pdf](https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlpl_evaluationfinal.pdf). Accessed January 2017.
47. Law Council of Australia (2015). Inquiry into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Legal\\_assistance\\_services/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legal_assistance_services/Submissions). Accessed January 2017.
48. Baldry, E, McDonnell, D, Maplestone, P, and Peeters, M (2010). Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration for ex-prisoners? AHURI Final Report no. 46. Melbourne: Australian Housing and Urban Research Institute.
49. Dodson, M, and Hunter, B (2006). Selected crime and justice issues for Indigenous families. Family Matters, 75: 34-41. Canberra: AIFS.
50. Quilty, S (2005). The magnitude of experience of parental incarceration in Australia. Psychiatry, Psychology and Law, 12(1): 256-257.

Modelling suggests that at any point in time, 4-14 per cent of Indigenous men and 0-2 per cent of Indigenous women are missing from their communities.<sup>51</sup> This means that as many as one in seven Indigenous men are in prison at any given time.

Having an incarcerated family member is strongly correlated with potential arrest and incarceration of the remaining family members.<sup>52</sup> Children of people who had offended are at a significantly higher risk of developing behaviour problems, experiencing psychosocial dysfunction, experiencing stigmatisation and discrimination, and suffering from negative health outcomes.<sup>53</sup> These children are more likely to be incarcerated compared with children of parents who had not offended.<sup>54</sup>

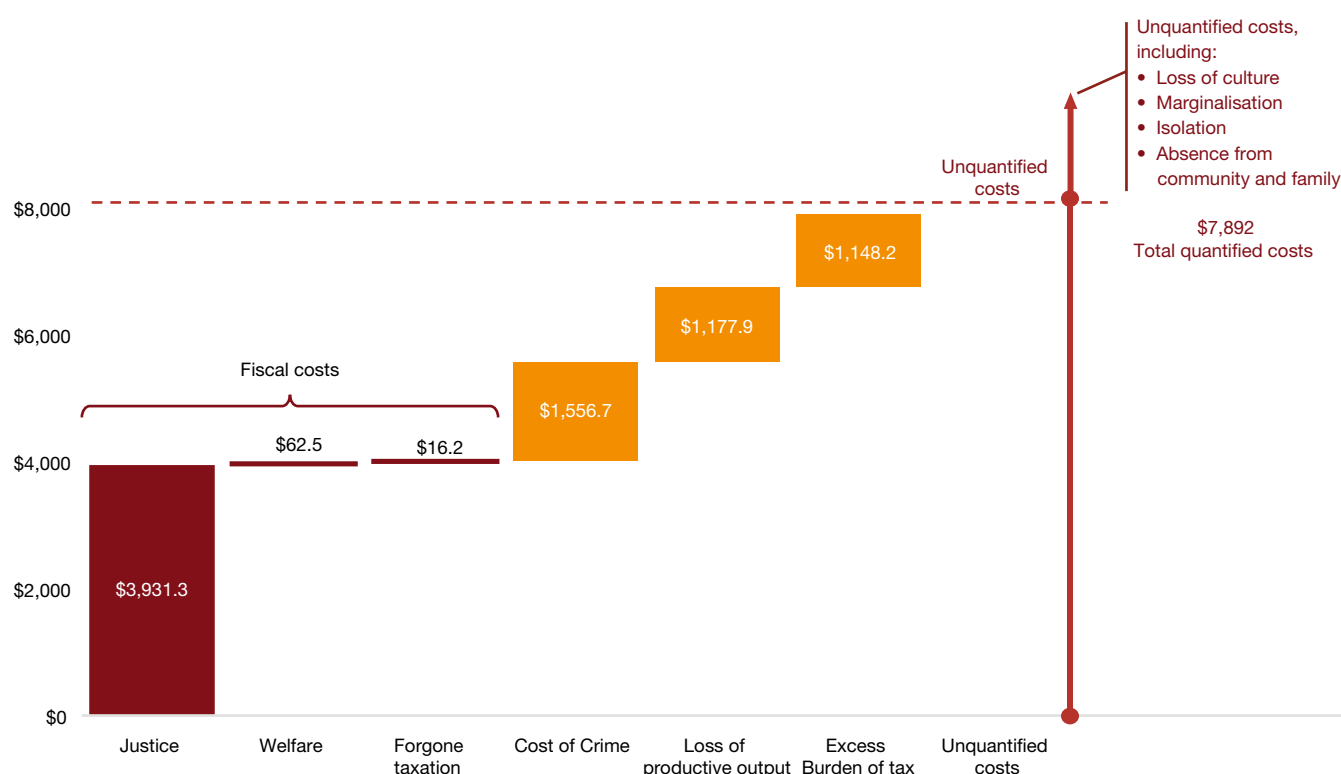
### 3.5 Conclusion

There are considerable costs and consequences associated with Indigenous incarceration. On an annual basis, Indigenous incarceration is estimated to be costing the Australian economy \$7.9 billion per annum. If nothing is done to address disproportionately high rates of Indigenous incarceration, incarceration, we estimate this will cost the Australian economy at least \$9.7 billion in 2020 and \$19.8 billion in 2040.

In addition to the economic and fiscal costs of Indigenous incarceration, there are significant consequences for individuals, families and communities impacting on this generation and the next. Those who have been incarcerated are at greater risk of poor housing, financial stress, low levels of educational attainment, poor employment prospects, and therefore poor health and wellbeing.

This also places them at higher risk of reoffending and entrenching the intergenerational cycle of poverty. Incarceration also impacts on families and communities. Family and community networks can be disrupted. Incarceration can also lead to loss of culture, identity and connection to the land. This has a devastating impact on individual's resilience and self-determination. Children with a parent in prison can be particularly vulnerable, increasing the risk of going on to have contact with the justice system themselves, and repeating the cycle of criminal activity and incarceration.

Figure 18: Estimated costs of Indigenous incarceration in 2016



51. Payer, H, and Taylor, AJ (2015). Who's missing? Social and demographic impacts from the incarceration of Indigenous people in the NT. Northern Institute, Research Brief, Issue 5.

52. Standing Committee on Social Issues (1997). A report into children of imprisoned parents. Sydney: Parliament of NSW, [www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5517/Compiled%20report.pdf](http://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5517/Compiled%20report.pdf). Accessed January 2017.

53. Lee, AF (2005). Children of inmates: what happens to these unintended victims? *Corrections Today*, 67(3): 84.

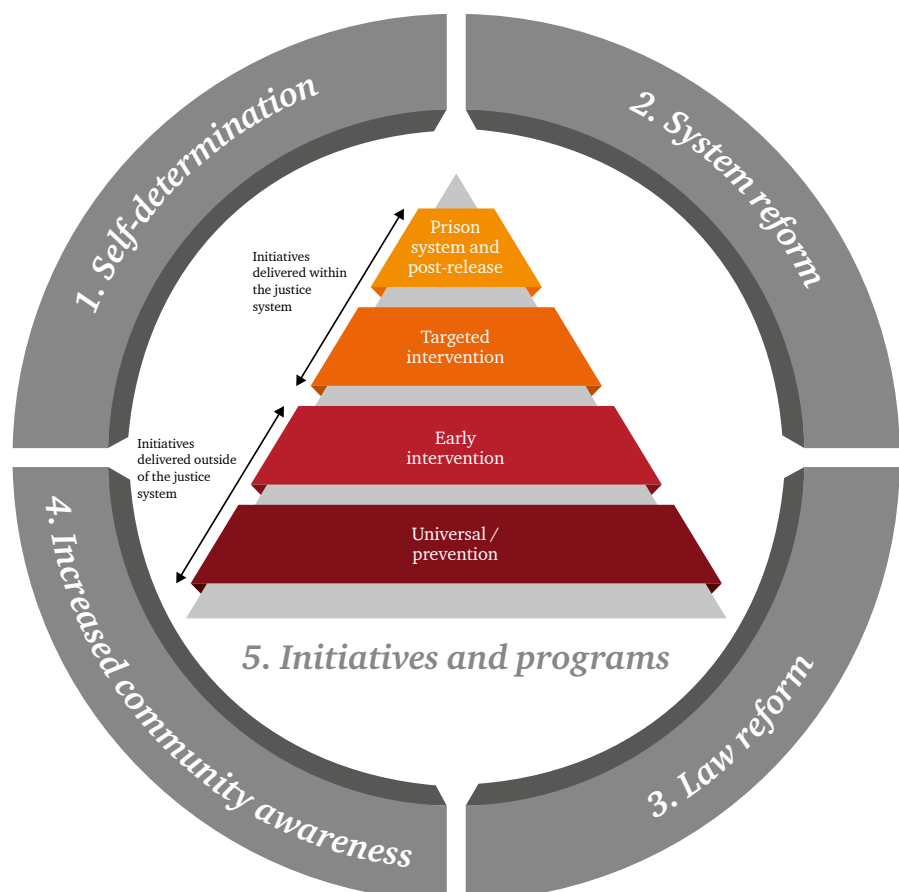
54. NSW Department of Juvenile Justice (2003). NSW young people in custody health survey: key findings report. Sydney: NSW Department of Juvenile Justice.

## 4. Key elements for a holistic approach

While the rates of Indigenous incarceration have worsened over the last 26 years, much thought and effort has gone into finding ways to reverse this disturbing trend. Shifting the focus towards initiatives that address the key drivers of Indigenous incarceration should form part of a new approach. However, this will not be enough to be effective on its own. In order to close the gap between the rates at which Indigenous and non-Indigenous people are imprisoned, holistic, system-wide approaches are needed.

Through our research we have identified a number of key elements to reducing the rates of Indigenous incarceration (Figure 19).

Figure 19: Responses and solutions: a holistic response is needed





## 4.1 Self-determination

The importance of community involvement in the design and delivery of programs is repeatedly recognised throughout the literature.<sup>55</sup> Indigenous community involvement should go beyond consultation, and move towards community ownership and control, thus contributing to empowerment and self-determination.

In 2007, the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous Peoples which affirms the minimum standards for the survival, dignity, security and wellbeing of Indigenous peoples worldwide and enshrines Indigenous peoples' right to be different.<sup>56</sup> The Declaration acknowledges the right of Indigenous peoples of self-determination, and that "by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".<sup>57</sup>

The right to exercise self-determination has been described as people having the right to make decisions concerning their own lives, their own communities, and the right to retain their culture and to develop it.<sup>58</sup> Self-determination for Indigenous people is internationally regarded as the most effective factor in producing better health and social outcomes for Indigenous people.<sup>59</sup>

Self-determination in relation to the justice system requires that Indigenous communities are endowed with both the capability and authority to develop their own justice solutions to relevant issues, or to participate in key decision-making processes.<sup>60</sup>

Evidence reveals that when Indigenous people make their own decisions about what development approach to take, they consistently out-perform external decision-makers on matters as diverse as government, natural resource management, economic development, healthcare and social service provision. In the public health sector in particular, there is substantial literature to show that those with the least control over their lives have the poorest health.<sup>61</sup>

The *Bringing them home* report suggests that self-determination should be recognised for all Indigenous communities, and that Commonwealth, state and territory governments should be working with Aboriginal Community Controlled Organisations (ACCOs) such as the Secretariat of National Aboriginal and Islander Child Care (SNAICC), the National Aboriginal & Torres Strait Islander Legal Services (NATSILS) (formerly National Aboriginal and Islander Legal Service Secretariat) and Aboriginal Community Controlled Health Organisations (ACCHOs).<sup>62</sup>

### 4.1.1 Connectedness to culture and cultural strengthening

It has long been argued that culture is a protective factor "central to identity...who we are, how we think, how we communicate, what we value and what is important to us", and that denying cultural identity is detrimental to development and wellbeing.<sup>63</sup> In contrast, "children who grow and develop within families and communities and who are strong in their culture will have a high self-esteem and a nourished sense of identity" as a result of the protective environment this cultural connectedness provides.<sup>64</sup> There is now a growing body of evidence supporting the notion that connectedness to culture and cultural strengthening leads to better outcomes for Indigenous people.<sup>65</sup>

Early studies from North America found that connectedness to culture and cultural strengthening among Native American Indians was a protective factor against alcohol abuse and suicide, and was associated with improved educational outcomes.<sup>66</sup> In Canada, community level data showed that Indigenous communities where there is greater cultural continuity have significantly lower rates of youth suicide.<sup>67</sup>

55. Richards, K, Rosevear, L, and Gilbert, R (2011). Promising interventions for reducing Indigenous juvenile offending. Indigenous Justice Clearinghouse, Brief 10.
56. Australian Human Rights Commission (2007). UN declaration on the rights of Indigenous peoples, [www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/un-declaration-rights](http://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/un-declaration-rights). Accessed March 2017.
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58. RCIADIC (1991). RCIADIC: National reports [Vol 1-5], and regional reports. Canberra: Australian Government Publishing Service.
59. Weightman, M (2013). The role of Aboriginal Community Controlled Health Services in Indigenous health. Australian Medical Student Journal, 4(1), [www.amsj.org/archives/3012](http://www.amsj.org/archives/3012). Accessed March 2017.
60. Allison, F, and Cunneen, C (2013). Indigenous Justice Agreements. Indigenous Justice Clearinghouse, Current Initiatives Paper 4.
61. Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.
62. Human Rights and Equal Opportunity Commission (1997). Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. Canberra: Commonwealth Government of Australia.
63. Bamblett, M (2006). Self-determination and culture as protective factors for Aboriginal children. Developing practice, 14: 9-18.
64. Ibid.
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67. Chandler, MJ, Lalonde, CE, Sokol, BW, and Hallett, D (2003). Personal persistence, identity development, and suicide: a study of Native and Non-native North American adolescents. Monographs of the Society for Research in Child Development, 68(2); Hallett, D, Chandler, MJ, and Lalonde, C (2007). Aboriginal language knowledge and youth suicide. Cognitive Development, 22(3): 392-399.



Similarly, a study of Indigenous youth in Arctic Norway found an association between connectedness to culture and decreased mental health problems.<sup>68</sup>

In Australia, data from the 2002 National Aboriginal and Torres Strait Islander Social Survey (NATSISS) suggests that stronger attachment to traditional culture is associated with better outcomes for Indigenous Australians on a range of indicators such as: self-assessed health, educational attainment, employment status, the probability of having been arrested and alcohol abuse.<sup>69</sup> These findings were reinforced by results from the 2008 NATSISS, where cultural participation and identity were again found to have positive associations with mainstream outcomes.<sup>70</sup>

The importance of cultural connectedness and cultural strengthening as key elements to improving the social and emotional wellbeing of Indigenous people in Australia is recognised by Australian governments, acknowledging that “keeping Indigenous culture strong is a necessary part of the solution to Indigenous disadvantage in Australia and to providing a positive future for Aboriginal and Torres Strait Islander children”.<sup>71</sup>

#### 4.1.2 Community control and ownership

ACCOs have been operating in Australia for 40 years. Across each state and territory, ACCOs have been established to deliver culturally aware and responsive health, legal, housing, childcare and other human services to Indigenous people. It is estimated that between 51-61 per cent of Indigenous people visit an ACCO in Australia each year.<sup>72</sup>

ACCOs are underpinned by the principle of self-determination as they are run by Indigenous people and employ Indigenous people or culturally aware non-Indigenous people, empowering communities to determine their own political, economic, social and cultural development, and symbolising the ability of Indigenous communities to respond to their own health, social and wellbeing needs.<sup>73</sup>

These community owned, culturally aware and responsive environments provides a safe setting for Indigenous people to access services as there exists a long-standing trust and respect between ACCOs and communities. Drawing on community knowledge, ACCOs are able to determine what services are necessary, giving them the ability to offer services specific to the needs of the community.<sup>74</sup> By enabling Indigenous communities to take charge of their own affairs a holistic, comprehensive, and culturally aware and responsive approach to health and social needs can be met.<sup>75</sup>

Ultimately, strategies to address the high rates of Indigenous incarceration should be developed, implemented and owned by Indigenous communities. Under such a scenario, ACCOs would need to play a key role.

### 4.2 System reform

Research points to the interlinked nature of the causes and factors impacting on over-representation of Indigenous Australians in prison. These include poverty, disadvantage, lower levels of educational attainment, higher incidence of mental and cognitive disabilities (including foetal alcohol syndrome disorder and acquired brain injuries), higher incidence of involvement with the child protection system, lack of employment opportunities and access to housing. Tackling these will require system-wide reform.

#### 4.2.1 Justice targets and accountability

The National Indigenous Reform Agreement (NIRA) on Closing the Gap recognised the need to direct efforts towards seven strategic platforms or ‘Building Blocks’ in order to overcome Indigenous disadvantage. COAG endorsed these building blocks, acknowledging that a long-term, generational commitment would be required. However, while the NIRA included health, education and employment targets, there were no targets specific to justice or incarceration.<sup>76</sup>

68. Bals, M, Lene Turi, A, Skre, I, and Kvernmo, S (2011). The relationship between internalizing and externalizing symptoms and cultural resilience factors in Indigenous Sami youth from Arctic Norway. *International Journal of Circumpolar Health*, 70(1): 37-45.

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70. Dockery, A.M. (2011). Traditional culture and the wellbeing of Indigenous Australians: an analysis of the 2008 NATSISS. CLMR Discussion Paper 2011/01, Centre for Labour Market Research, Curtin University, May.

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72. Alford, K (2014). Investing in Aboriginal Community Controlled Health makes economic sense. National Aboriginal Community Controlled Health Organisation, [https://nacchocommunique.files.wordpress.com/2014/04/nacho\\_14\\_economic-value-exec-summary\\_020414.pdf](https://nacchocommunique.files.wordpress.com/2014/04/nacho_14_economic-value-exec-summary_020414.pdf). Accessed March 2017.

73. [www.naccho.org.au](http://www.naccho.org.au). Accessed March 2017; Australian Human Rights Commission. Right to self determination. [www.humanrights.gov.au/right-self-determination](http://www.humanrights.gov.au/right-self-determination). Accessed March 2017.

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75. Ibid.

76. Council of Australian Governments (COAG) (2012). National Indigenous Reform Agreement (Closing the Gap). Canberra: COAG.

In 2011, a Parliamentary Inquiry recommended that measurable justice targets be included in the Closing the Gap Strategy.<sup>77</sup> While this is yet to be acted upon, a number of individuals and organisations have continued to advocate for this to occur. In 2014, Social Justice Commissioner Mick Gooda expressed his view that targets were needed that include indicators for rates of imprisonment, recidivism, victimisation, child protection system, use of diversionary programs, successful transitions to school and employment.<sup>78</sup>

As part of a blueprint for change, the Change the Record coalition proposed that Australian governments work with Indigenous communities and organisations to set justice targets, and reduce the disproportionate rates of violence experienced by Indigenous people. The target they propose is to halve the gap in the rates of imprisonment between Indigenous and non-Indigenous people by 2030, before closing the gap by 2040.<sup>79</sup>

In 2016, the Australian Senate passed a motion which called on Commonwealth, state and territory governments to adopt a set of justice targets aimed at closing the gap in rates of incarceration between Indigenous and non-Indigenous Australians for which all levels of government should be held accountable.<sup>80</sup> Whether this translates to a Closing the Gap justice target remains to be seen. Some jurisdictions have taken it upon themselves to introduce justice targets.

Under the Victorian Aboriginal Justice Agreement and the Victorian Aboriginal Affairs Framework, VIC has set targets of closing the gap in the rates of Indigenous young people under supervision, adults in prison, and adults returning to prison within two years of release by the year 2031.<sup>81</sup>

The NT government's Aboriginal Affairs Monitoring, Evaluation and Reporting Framework proposes justice targets to halve the rates of Indigenous adult incarceration, Indigenous youth detention, and Indigenous adult recidivism by the year 2030.<sup>82</sup>

In the ACT Indigenous justice targets have recently been introduced. There are a set of indicators that underpin three key objectives: to reduce over-representation of Indigenous people in prison by reducing recidivism and increasing access to diversionary programs; improving access to justice services; and improving data collection and reporting.<sup>83</sup>

NSW and SA have recently introduced state-wide justice targets, although these are not Indigenous-specific.<sup>84</sup>

As the Closing the Gap strategy demonstrates, the existence of targets makes the gap that exists between Indigenous and non-Indigenous Australians, and any progress or lack thereof, clearly visible. The use of such targets, and other benchmarks and indicators, encourages a focus on outcomes. In the case of Closing the Gap, targets have also helped build cooperation and secure investment in an attempt to achieve outcomes.<sup>85</sup>

Establishing a Closing the Gap justice target could lead to better cooperation, long term strategies and investments, a focus on outcomes, and greater accountability to help drive a reduction in the rates of Indigenous incarceration in Australia.

#### 4.2.2 Data and evaluation

This project has had to rely on the use of publicly available data in order to develop an economic model to quantify the costs of Indigenous incarceration in Australia. In doing so, a large number of gaps in the provision of publicly available data has been observed. A number of issues with the reliability and comparability of data has also been encountered.

To begin with, there are a number of areas for which data is not available (for example, recidivism rates of Indigenous people, the frequency of imprisonment, and the length of time a recidivist spends outside of prison between sentences). This may be due to data not being collected, or if it has been collected, it has not been made publicly available.

At both the national level, as well as by states and territories, it is not always possible to access data reported by Indigenous status. An example of this is data on criminal finalisations. Whereas some jurisdictions report this data by Indigenous status, others do not, making it difficult to both compare and determine nationally.

Being able to compare data across states and territories is further complicated by the fact that legal and policy settings differ by jurisdiction, as do some of the definitions used to categorise individuals, their offence, etc. An example of this is for recidivism.

77. Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

78. Aboriginal and Torres Strait Islander Social Justice Commissioner (2014) Social justice and native title report 2014. Australian Human Rights Commission, [www.humanrights.gov.au/sites/default/files/document/publication/SJNTR%20FINAL.pdf](http://www.humanrights.gov.au/sites/default/files/document/publication/SJNTR%20FINAL.pdf). Accessed March 2017.

79. Change the Record Coalition (2015). Blueprint for change. The Change the Record Coalition Steering Committee, [www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint\\_web.pdf](http://www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint_web.pdf). Access 20 January 2017

80. [www.amnesty.org.au/good-news-senate-passes-motion-calling-national-justice-targets](http://www.amnesty.org.au/good-news-senate-passes-motion-calling-national-justice-targets). Accessed March 2017.

81. Koori Justice Unit, Victorian Department of Justice (2013). Victorian Aboriginal Justice Agreement Phase 3 (AJA3): a partnership between the Victorian Government and Koori community. Melbourne: State Government of Victoria.

82. Office of Aboriginal Affairs, NT Government (2016). Aboriginal affairs: monitoring, evaluation and reporting framework. Darwin: Government of the NT, <http://ais.nt.gov.au/?a=228592>. Accessed March 2017.

83. ACT Aboriginal and Torres Strait Islander Justice Partnership 2015-18. Canberra: ACT Government.

84. NSW Department of Premier and Cabinet (2015). NSW: making it happen. Sydney: State Government of New South Wales; South Australian Department for Correctional Services (2016). Reducing reoffending: 10% by 2020. Strategic policy panel report. Adelaide: Government of South Australia.

85. Aboriginal and Torres Strait Islander Social Justice Commissioner (2014) Social justice and native title report 2014. Australian Human Rights Commission, [www.humanrights.gov.au/sites/default/files/document/publication/SJNTR%20FINAL.pdf](http://www.humanrights.gov.au/sites/default/files/document/publication/SJNTR%20FINAL.pdf). Accessed March 2017.

There is no common definition used to describe recidivism, which has been used at times to describe reoffending, reconviction or reimprisonment, and within different periods of time.

There is also a lack of data sharing between jurisdictions which can impact on data relating to reoffending. If an offender moves from one jurisdiction to another before reoffending, they may be captured as a new prison entrant as opposed to a recidivist.

While there may be data available based on incidence, there is a lack of publicly available, linked data that follows large cohorts of prisoners and their families longitudinally. In NSW, the Mental Health Disorders and Cognitive Disabilities study linked criminal justice and human services datasets for 2,731 people in prison in NSW with known mental health disorder or cognitive disability.<sup>86</sup> This has allowed for individual case studies to be developed assessing the costs and benefits of prison compared to diversion or prevention initiatives,<sup>87</sup> and for whole of life pathways to be analysed for people with mental health disorder or cognitive disability in NSW prisons.<sup>88</sup> Similarly, linking NSW justice data has enabled the development of a model that projects the flow of prisoners based on a number of policy settings and assumed input parameters.<sup>89</sup>

If this were replicated across all jurisdictions, and for whole prison populations, this would provide a better understanding (and quantification) of the associations and pathways between key drivers such as parental incarceration, child protection, out-of-home care, youth offending, detention of children and young people, adult offending, imprisonment, and re-offending of people in prison in Australia, including analysis by sub-groups.

As an extension from these data issues is the limited number of evaluations that are publicly available on initiatives to reduce the high rates of Indigenous incarceration. There are few examples of rigorously evaluated initiatives to draw from, and even fewer that are Indigenous and/or Australian-specific. A 2016 report examining rehabilitation programs for Indigenous prisoners in all Australian jurisdictions reached a similar conclusion, finding little to no publicly available information on the effectiveness of prisoner rehabilitation programs for Indigenous people who had offended.<sup>90</sup>

The lack of long term, stable funding compromises the ability to achieve outcomes, and presents a barrier to rigorous evaluations of Indigenous-led services and initiatives.<sup>91</sup> The ACCO sector also acknowledges that there is a lack of evaluation and reporting capability within the sector to support evaluation requirements.<sup>92</sup>

In order to better understand the key drivers and pathways that lead to Indigenous incarceration, and to help identify potential initiatives that may be able to reduce the rates of Indigenous incarceration, improved access to quality data is needed. A greater focus on mixed methods evaluations would add to the knowledge base and help identify key or promising areas for future investment. Standardised data collection, evaluation and reporting mechanisms need to be agreed upon and established by all levels of government and the ACCO sector. Investment in ACCOs and peak Indigenous bodies is also required in order to build evaluation and reporting capability and capacity of these organisations.

### 4.2.3 Cultural competency

The optimal scenario is one in which Indigenous communities own and deliver their own services and initiatives. However, where this is not possible, non-Indigenous or mainstream services need to be culturally aware and responsive.

It is widely accepted that connecting to culture should form a key component of Indigenous diversionary programs. There is clear recognition of the importance of culturally safe interventions, “which centre on culturally based forms of identity, belonging, stability and protection which create meaning and connection for Aboriginal peoples. This is viewed as the central element in building resilience, meaning and purpose for Aboriginal and Torres Strait Islander people across the entire community, not solely in the criminal justice system.”<sup>93</sup>

86. Baldry, E, McCausland, R, Dowse, L and McEntyre, E (2015). A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system. Sydney: UNSW.

87. McCausland, R, Balry, E, Johnson, S, and Cohen, A (2013). People with mental health disorders and cognitive impairment in the criminal justice system: cost-benefit analysis of early support and diversion. Sydney: University of New South Wales and PwC.

88. Baldry, E, McCausland, R, Dowse, L and McEntyre, E (2015). A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system. Sydney: UNSW.

89. Halloran, N, Watson, E, and Weatherburn, D (2017). The NSW prison population simulation model: a policy analysis tool. Contemporary Issues in Crime and Justice no. 203. Sydney: NSW Bureau of Crime Statistics and Research.

90. Jones, C., and Guthrie, J (2016). Rehabilitation programs and Indigenous prisoners. Australian Institute of Judicial Administration.

91. Victorian Aboriginal Community Controlled Health Organisation (VACCHO) 2016. Response to Department of Health and Human Services' Discussion Guide for the Aboriginal Health and Wellbeing Strategic Plan. VACCHO position paper, [www.vaccho.org.au/assets/01-RESOURCES/TOPIC-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf](http://www.vaccho.org.au/assets/01-RESOURCES/TOPIC-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf). Accessed March 2017.

92. Ibid.

93. Clear Horizon (2013). Wulungga Ngalu Learning Place: final evaluation report. Melbourne: Victorian Department of Justice, [https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp\\_evaluationfinal.pdf](https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp_evaluationfinal.pdf). Accessed March 2017.

Many Indigenous people are reluctant to obtain essential services from mainstream providers, often due to limited cultural competence and experiences of racism within mainstream service providers. A lack of knowledge of Indigenous culture or lack of training concerning cultural sensitivity can result in Indigenous people feeling misunderstood or embarrassed after experiences with mainstream service providers. These experiences can lead to future and continued avoidance of mainstream service providers.<sup>94</sup>

Cultural awareness and responsiveness of non-Indigenous services and staff is required to increase the likelihood of Indigenous people accessing services, and the effectiveness of these services. For a service or initiative to be culturally aware and responsive, the systems employed and the staff responsible for planning and delivery must possess a certain minimal standard of cultural knowledge, skills and behaviour required to provide a basis for adequate service delivery.<sup>95</sup>

### 4.3 Law reform

There is substantial evidence that ‘tough on crime’ policies disproportionately affect Indigenous people. We have set out below some examples of laws that research has found to disproportionately impact on Indigenous people. This is not intended to be a comprehensive list as we understand that ‘laws and legal frameworks that contribute to over-representation’ will be the focus of the Australian Law Reform Commission’s Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples.

#### 4.3.1 Mandatory sentencing

A Law Council of Australia report highlights the association between mandatory sentencing laws and the disproportionate rates of Indigenous incarceration. When mandatory sentencing laws for assault were introduced in the NT, Indigenous men were 68 times as likely to be convicted of assault as non-Indigenous men.<sup>96</sup> Indigenous men made up 91 per cent of those convicted of a violent offence, and were 20 times as likely to be convicted as non-Indigenous men. Similarly, when mandatory sentencing was in place in the NT in 1997, Indigenous adults were 8.6 times as likely as non-Indigenous adults to receive a mandatory prison term.<sup>97</sup>

In June 2013, WA had the highest ratio of Indigenous to non-Indigenous imprisonment rates in Australia (21 times higher for Indigenous Western Australians). At that time, the most common offences in WA were acts intended to cause injury, unlawful entry with intent and robbery, extortion and related offences – all of which were mandatory sentencing offences.<sup>98</sup>

#### 4.3.2 Fine default

Where a person is unable or refuses to pay a fine imposed by a court, further penalties can apply, including imprisonment. A review of fine defaulters in the WA prison system by the Office of the Inspector of Custodial Services found that while the overall number of fine defaulters in WA prisons is low (1 in 500 people in prison), Indigenous women in particular are disproportionately represented in the fine default population.<sup>99</sup>

There have been some measures introduced as alternatives to imprisonment that have been successful in reducing the number of fine default imprisonments, for example wheel clamping of vehicles, removal of number plates and seizures of goods.<sup>100</sup>

A study on the decision to impose a monetary order in the Qld Magistrates Court found that when sentenced under similar circumstances, Indigenous defendants were more likely to be fined than non-Indigenous defendants.<sup>101</sup> Consultations undertaken as part of this study with Indigenous criminal justice groups, judges/magistrates and police prosecutors indicated that this pattern reflects the logistical difficulties in supervising and managing community-based sentencing options in non-urban locations where many Indigenous defendants reside.<sup>102</sup>

#### 4.3.3 Sentencing

Once an offender pleads or is found guilty, the judge or magistrate has the discretion to take into account any relevant factors (within legally prescribed limits) in deciding the sentence. In 2013, the High Court of Australia found that disadvantage faced by Indigenous Australians should be taken into account in sentencing, on a case-by-case basis.<sup>103</sup>

Mandatory sentencing laws vary across jurisdictions and set minimum terms of imprisonment for some offences, limiting the judge or magistrate’s discretion in considering the offender’s circumstances. The Law Council of Australia finds that mandatory sentencing contributes to the over-representation of Indigenous people in the prison system.<sup>104</sup>

94. Weightman, M (2013). The role of Aboriginal Community Controlled Health Services in Indigenous health. Australian Medical Student Journal, 4(1), [www.amsj.org/archives/3012](http://www.amsj.org/archives/3012). Accessed March 2017.

95. Victorian Aboriginal Community Controlled Health Organisation (VACCHO) 2016. Response to Department of Health and Human Services’ Discussion Guide for the Aboriginal Health and Wellbeing Strategic Plan. VACCHO position paper, [www.vaccho.org.au/assets/01-RESOURCES/TOPI-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf](http://www.vaccho.org.au/assets/01-RESOURCES/TOPI-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf). Accessed March 2017.

96. Law Council of Australia (2014). Policy discussion paper on mandatory sentencing. Law Council of Australia, [www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS\\_Discussion\\_Paper\\_Final\\_web.pdf](http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS_Discussion_Paper_Final_web.pdf). Accessed March 2017.

97. NT Office of Crime Prevention (2003). Mandatory sentencing for adult property offenders – the NT experience. Darwin: Government of the NT.

98. Law Council of Australia (2014). Policy discussion paper on mandatory sentencing. Law Council of Australia, [www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS\\_Discussion\\_Paper\\_Final\\_web.pdf](http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS_Discussion_Paper_Final_web.pdf). Accessed March 2017.

99. Office of the Inspector of Custodial Sentences (2016), Fine defaulters in the Western Australia prison system.

100. Ibid.

101. Bond, C, and Jeffries, S (2013). Differential sentencing of Indigenous offenders: what does research tell us? Indigenous Law Bulletin, 8(7): 15-18.

102. Ibid.

103. *Bugmy v The Queen* [2013] HCA 37.

104. Law Council of Australia (2014). Policy discussion paper on mandatory sentencing. Law Council of Australia, [www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS\\_Discussion\\_Paper\\_Final\\_web.pdf](http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/discussion%20papers/MS_Discussion_Paper_Final_web.pdf). Accessed March 2017.



Further, Indigenous women generally serve shorter sentences than their non-Indigenous counterparts, which suggests that they are being imprisoned for more minor offences, especially public order offences. Data indicates that the median sentence for Indigenous women was half the length of non-Indigenous women's sentences (18 vs 36 months).<sup>105</sup> The NSW Legislative Council Select Committee on the Increase in Prisoner Population recommended that short prison sentences for Indigenous women be abolished.<sup>106</sup>

#### 4.3.4 Bail and remand

Bail enables a person in custody who is charged with a criminal offence to be released based on conditions, including the condition that they will appear in court at a later date. Bail laws differ across jurisdictions.

Rates of custodial remand of Indigenous youth who had offended are much higher than for non-Indigenous youth who had offended. On an average night in June 2015, over half (55 per cent) of those in juvenile detention were un-sentenced, with 58 per cent of this population being Indigenous.<sup>107</sup> Common barriers to being granted bail for Indigenous children and young people include inadequate or unsafe housing, inadequate guardianship/supervision to ensure the conditions of bail are enforced, and mental health issues.<sup>108</sup> The statistics are similar for Indigenous adults. In 2015, 2,667 (or 27 per cent) of the un-sentenced prison population were Indigenous.<sup>109</sup>

The number of Indigenous youth and adults on remand poses as a barrier to accessing therapeutic programs that may be available to sentenced prisoners.

While the reason for this is due to the difficulty in planning and providing programs to individuals when it is not known how long they will be detained, or what the outcomes of their charge will be, this influences the risk of reoffending, and therefore recidivism.<sup>110</sup>

One response to the issues and challenges surrounding bail in NSW was the use of special officers placed in all Children's Courts (and Magistrates Courts in some instances) whose role is to provide the court with options and to mobilise resources to support young people having difficulty meeting bail requirements.<sup>111</sup> SMS court date notifications and initiatives that offer transport to and from court are suggested measures to help reduce the structural inequalities in relation to bail that will in turn reduce Indigenous remand rates.<sup>112</sup>

#### 4.4 Increasing community awareness

Perceived crime rates are key factors in driving policies and decision making on legislation, policing, and sentencing. The Australian public and the media are able to influence decision makers, which is why during periods of increased crime rates, or in the aftermath of crimes that draw particular attention, governments often face pressure to get 'tough on crime'.<sup>113</sup> However, there is a discrepancy between the public's perception of crime and what the statistics reveal.

Surveys of public confidence in the criminal justice system show that people believe courts and the sentences they hand down are too lenient. For example, in 2014, 66 per cent of NSW residents responded that they believed sentences handed down are too lenient.<sup>114</sup>

This may be explained, at least in part, by the sense that crime rates have increased. Between 2001 and 2003, NSW and WA residents responded that they believed crime rates had increased when, with the exception of shoplifting in NSW, all other types of crime in both jurisdictions had in fact either decreased or remained the same.<sup>115</sup>

Reducing the rates at which Indigenous people are imprisoned will require understanding within communities about the key drivers that lead to offending in the first place, and the effectiveness that policy and programmatic responses have in addressing this issue.

Unlocking the facts and building community awareness is therefore the first step in securing longer term change.

There is the potential to build greater awareness based on the facts. These include the social injustice and economic costs of not fixing this situation that can be used by individuals and communities to support and push for reform to create the change required.

#### 4.5 Initiatives and programs

Reducing the rates at which Indigenous people are imprisoned requires a system-wide and holistic response. Part of this includes the use of programmatic initiatives, including those with custodial or justice settings. While these initiatives are important and play a role in assisting those who have already come into contact with the justice system, our analysis on the key drivers of Indigenous incarceration suggests that a wider range of initiatives is required. Section 5 explores in more detail current initiatives that have shown the potential to reduce the disproportionately high rates at which Indigenous people in Australia are incarcerated.

105. Bartels, L (2012). Sentencing of Indigenous women. Indigenous Justice Clearinghouse, Brief 14.

106. Ibid.

107. Australian Institute of Health and Welfare (AIHW) (2016). Youth detention population in Australia 2016. Bulletin 138. Canberra: AIHW.

108. Ibid.

109. Australian Bureau of Statistics (ABS) (2015). Prisoners in Australia. Call number 4517.0.

110. Richards, K, and Renshaw, L (2013). Bail and remand for young people in Australia: a national research project. Research and Public Policy Series no. 125. Canberra: AIC.

111. Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

112. Ibid.

113. Cunneen, C (2013). Time to arrest rising Aboriginal prison rates. Crime and Justice, Insight 8: 22-24; Balanced Justice (2013). Indigenous overrepresentation in prisons. Balanced Justice, [www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html](http://www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html). Accessed January 2017; Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

114. Indermaur, D, and Roberts, L (2005). Perceptions of crime and justice. In Australian Social Attitudes: the first report. Chapter 9: 141-160; Halstead, I (2015). Public confidence in the NSW criminal justice system: 2014 update. Contemporary Issues in Crime and Justice no. 182. Sydney: NSW Bureau of Crime Statistics and Research.

115. Indermaur, D, and Roberts, L (2005). Perceptions of crime and justice. In Australian Social Attitudes: the first report. Chapter 9: 141-160.

# 5. Initiatives to address the disproportionate rates of incarceration

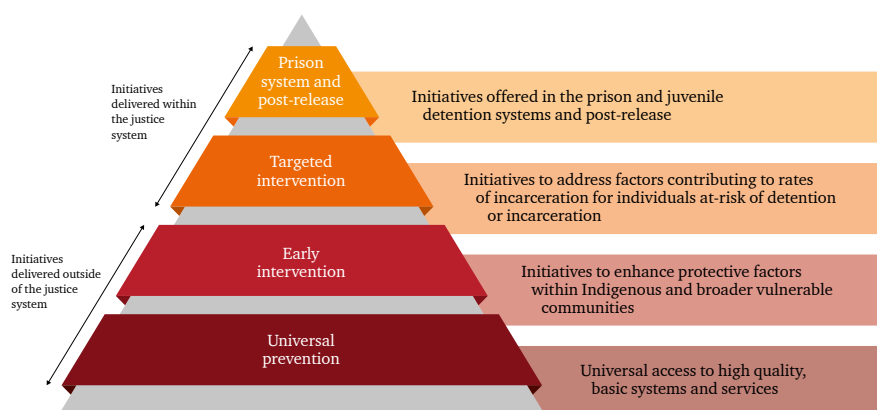
## 5.1 Introduction

To many people, justice system initiatives can often be associated with those that are delivered within custodial settings. However, as the key drivers in previous sections suggest, initiatives to reduce the rates of Indigenous incarceration can range from being universal and preventive in nature (i.e. universal access to good quality services such as education and health) to initiatives delivered to distinct cohorts of people.

We have developed a framework to categorise initiatives into one of four groups based on:

- When initiatives apply relative to proximity to being incarcerated
- Whether they are preventive or interventionist
- The degree to which they target specific cohorts or populations
- Purpose of initiatives i.e. enhance protective factors or reduce the influence of additional factors related to the justice system.

Figure 20: Framework for categorising initiatives





Development of the framework was influenced by prevention models, in recognition of the need to shift towards addressing the key drivers which lead to Indigenous incarceration, and the need to take a social determinants approach.<sup>116</sup> The framework is also able to give a sense of an individual's proximity and their risk of being incarcerated, as well as the size of the overall population for which each category applies.

The types of initiatives that exist within each category are described below. Case studies are presented of initiatives that are either promising examples of Indigenous-specific initiatives, or have been subject to evaluation and show evidence of impact in reducing the rates of incarceration.

## 5.2 Approach

A desktop review of publicly available literature was conducted to identify initiatives with the potential to reduce the rates of Indigenous incarceration, either in Australia or internationally. Where possible, Indigenous and/or Australia-specific initiatives were prioritised. The process for selecting initiatives placed a greater emphasis on the rigor of the evaluation and the reliability of the data than on how the outcomes were achieved. The criteria used to prioritise initiatives was:

- Whether initiatives had been evaluated
- The study design used for evaluation (e.g. randomised controlled trial, case-control study, retrospective, prospective, etc.)
- Dose/duration of initiative
- Duration of follow-up to observe the magnitude and sustainability of effect
- Generated quantitative data demonstrating statistically significant impact

Initiatives presented as case studies are either promising examples of Indigenous-specific initiatives, or have demonstrated potential to reduce the rates at which Indigenous people are imprisoned. Where quantitative data on outcomes from these case studies is available, these have been used as inputs into the economic model to estimate the potential benefits of being implemented (section 6). While these are not the only initiatives that have the potential to reduce the rates of incarceration, they have the strongest evidence base. They represent initiatives which have been subject to sufficient evaluation and offer a (conservative) indication of the reduction in incarceration that could be expected from investment and implementation. A more extensive list of initiatives that showed promise, but did not meet the threshold for modelling, are summarised in Appendix C.

Despite efforts to identify and include Indigenous-specific initiatives in the modelling, the lack of sufficient data in relation to Indigenous-specific and/or culturally aware and responsive initiatives necessitated the use of mainstream initiatives. This reiterates that there is a lack of long term, stable funding to both achieve and evaluate outcomes of Indigenous-led services and initiatives.<sup>117</sup> In other sectors, information suggests that the performance of Indigenous controlled and Indigenous-specific services can outperform mainstream services.<sup>118</sup>

Once scenarios were broadly defined, any scenarios that did not provide direct causality between initiatives and the effect on rates of incarceration were linked using additional statistics, and through the use of plausible assumptions.

## 5.3 Universal prevention

Universal prevention refers to strategies that are designed to indiscriminately reach entire populations. Examples of universal prevention include access to high quality early childhood education, education, healthcare and appropriate accommodation.

Lack of access to education, employment, health and adequate housing (in terms of both quality and density) are all underlying causes associated with incarceration. Ensuring equitable and universal access to quality services such as healthcare, education, housing and employment (or income support) could be expected to reduce the rates of Indigenous incarceration. However, as the 2016 *Overcoming Indigenous disadvantage* report demonstrates, the gap between Indigenous and non-Indigenous Australians persists in terms of access to and outcomes associated with early childhood development, education, physical and mental health, employment, income support, and housing in many areas.<sup>119</sup>

As the international evidence demonstrates, children who fall behind and experience developmental vulnerability during early childhood are at significant risk of being left behind, experiencing long term and cascading impacts not just to learning, but also to health, wellbeing, and development. This extends into adolescence and throughout adulthood and can often result in poor mental and physical health, anti-social and behavioural problems, and poor participation in education and employment – all of which are underlying causes for offending and incarceration.<sup>120</sup>

116. JHSIG (2016). Incarceration of Aboriginal and Torres Strait Islander people policy. PHAA, Policy at a Glance, [www.phaa.net.au/documents/item/1704](http://www.phaa.net.au/documents/item/1704). Accessed January 2017.

117. Victorian Aboriginal Community Controlled Health Organisation (VACCHO) 2016. Response to Department of Health and Human Services' Discussion Guide for the Aboriginal Health and Wellbeing Strategic Plan. VACCHO position paper, [www.vaccho.org.au/assets/01-RESOURCES/TOPIC-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf](http://www.vaccho.org.au/assets/01-RESOURCES/TOPIC-AREA/POLICY/RESPONSES/2016/VACCHO-DHHS-STRAT-PLAN-2016.pdf). Accessed March 2017.

118. Lavoie, JG, O'Neil, J, Sanderson, L, Elias, B, Mignone, J, Bartlett, J, Forget, E, Burton, R, Schmeichel, C, and McNeil, D (2005). The evaluation of the First Nations and Inuit Health Transfer Policy. Winnipeg: Centre for Aboriginal Health Research, University of Manitoba; Panaretto, KS, Wenitong, M, Button, S, and Ring, IT (2014). Aboriginal Community Controlled Health Services: leading the way in primary care. *Medical Journal of Australia*, 200(11): 649-65; Australian Institute of Health and Welfare (AIHW) (2015). Healthy futures – Aboriginal Community Controlled Health Services: report card. Cat. no. IHW 150. Canberra: AIHW.

119. Steering Committee for the Review of Government Service Provision (2016). *Overcoming Indigenous disadvantage: Key indicators 2016*. Canberra: PC.

120. Reviewed in: Boivin, M, and Hertzman, C (2012). Early Childhood Development: adverse experiences and developmental health. Royal Society of Canada – Canadian Academy of Health Sciences Expert Panel. Ottawa: Royal Society of Canada; Moore, T, McDonald, M, and McHugh-Dillon H (2014). Early childhood development and the social determinants of health inequities: A review of the evidence. Parkville, VIC: Centre for Community Child Health at the Murdoch Children's Research Institute and the Royal Children's Hospital; and Sweeny, K (2014). The influence of childhood circumstances on adult health. Australian Health Policy Collaboration Technical paper No. 2014-01. Melbourne: Australian Health Policy Collaboration.

Based on the Australian Early Development Census (AEDC), just under half of Indigenous children entering school are classified as developmentally vulnerable in at least one or more domains (physical health and wellbeing; social competence; emotional maturity; language and cognitive skills; and communication skills and general knowledge) compared with one in five non-Indigenous children. Similarly, one quarter of Indigenous children entering school are classified as developmentally vulnerable in at least two or more domains compared with one in ten non-Indigenous children.<sup>121</sup>

Providing universal access to quality early childhood education has the potential to reduce the presence and/or impact of factors that lead to offending and incarceration later on in life, therefore reducing the rates of Indigenous incarceration.

#### 5.4 Early intervention

Early intervention is characterised as initiatives aimed at enhancing protective factors for populations living within vulnerable communities. Examples would include targeted education, health, social and emotional wellbeing, housing, employment and support initiatives, or pathways to prevention, mentoring or sporting initiatives. For Indigenous people, evidence is accumulating that connectedness to culture and cultural strengthening is also an important protective factor.<sup>126</sup>

To address the over-representation of Indigenous people in incarceration, Indigenous-specific services with a focus on reducing or mitigating against levels of disadvantage, improving Indigenous child development and enhancing protective factors that reduce the risk of offending behaviour is required.<sup>127</sup>



## Case study:

### *Preschool and early childhood development\**

The Effective Pre-school, Primary and Secondary Education (EPPSE) evaluation in the UK followed 3,000 children longitudinally from the start of their pre-school education (i.e. three years old), monitoring their development through school until they made their post-16 education, training or employment choices. A sample of children with no pre-school exposure was used as a control cohort to determine the impact of preschool.<sup>122</sup>

Children who received early childhood education and care had higher educational performances, were more likely to continue secondary education, and demonstrated better self-regulation and social behaviour.<sup>123</sup>

By age 16, those who attended pre-school were 2.79 times more likely to pursue the highest level of secondary education (0.18 times as likely to pursue lower academic, and 0.56 times as likely to pursue vocational routes). A dose response was observed with those who attended preschool for more than 3 years being the most likely to pursue higher academic routes (4.38 times as likely). Those who attended pre-school between 2-3 years of age were three times as likely to take a higher academic route, than those who had not attended pre-school.<sup>124</sup>

By age 16, the study also observed a strong correlation between educational performance and the likelihood of being in trouble with police. Students ranked in the highest quintile for educational performance were only 0.14 times as likely (or seven times less likely) to have been in trouble with the police before as those in the lowest quintile.<sup>125</sup>

\* Used as an input to the economic modelling

121. Department of Education and Training (2016). Australian Early Development Census National Report 2015. Canberra: Commonwealth of Australia.

122. Sammons, P, Sylva, K, Melhuish, E, Siraj, I, Taggart, B, Smees, R, and Toth, K (2014). Effective pre-school, primary and secondary education (EPPSE 3-16+) project: influences on students' dispositions and well-being in Key Stage 4 at age 16. London: Institute of Education.

123. Ibid.

124. Taggart, B, Sammons, P, Siraj, I, Sylva, K, Melhuish, E, Toth, K, Smees, R, and Hollingworth, K (2014). Effective pre-school, primary and secondary education (EPPSE 3-16+) project: Post age 16 destinations. London: Institute of Education.

125. Sammons, P, Sylva, K, Melhuish, E, Siraj, I, Taggart, B, Smees, R, and Toth, K (2014). Effective pre-school, primary and secondary education (EPPSE 3-16+) project: influences on students' dispositions and well-being in Key Stage 4 at age 16. London: Institute of Education.

126. Colquhoun, S, and Dockery, AM (2012). The link between Indigenous culture and wellbeing: qualitative evidence for Australian Aboriginal peoples. Centre for Labour Market Research and School of Economics and Finance, Curtin University, [http://ceebi.curtin.edu.au/local/docs/2012.01\\_LSIC\\_qualitative\\_CLMR1.pdf](http://ceebi.curtin.edu.au/local/docs/2012.01_LSIC_qualitative_CLMR1.pdf). Accessed April 2017.

127. House Standing Committee on Aboriginal and Torres Strait Islander Affairs (2011). Doing time – Time for doing: Indigenous youth in the criminal justice system. Canberra: Parliament of Australia.

By addressing the social determinants of crime – unemployment, homelessness, health and education issues – there is the potential to target and improve the trajectories of vulnerable individuals, and build strong, safe and cohesive communities.<sup>128</sup>

An example of this may be earlier diagnosis of cognitive disability in children to identify those requiring support, and to keep their development on education on track.<sup>129</sup>

Early intervention programs also exist which identify and address behaviours that are likely to lead to contact with the criminal justice system before they escalate. Common examples are evidence-based education and vocational programs that target disaffected youth.<sup>130</sup>



## Case study:

### *Ngaripirliga'ajirri (Exploring Together)*

Exploring Together was implemented on the Tiwi Islands as a partnership between the Tiwi Health Board and University researchers in response to social problems affecting young Tiwi people, their parents, and their families. The 10-week program was offered in three Tiwi Island primary schools between 2000 and 2004 to provide social skills training for children and parenting training for adults. The community were engaged in the implementation process in order to adequately tailor the program to the local context and culture.<sup>131</sup>

Although the program was not designed with the intention of reducing the rates of children and young people's offending, an evaluation found that statistically significant reductions in aggressive behaviour, and improved communication and relationships between parents and their children were observed.<sup>132</sup>



## Case study:

### *Intensive early childhood intervention\**

The Perry Preschool Project (PPP) is an early childhood intervention that commenced in 1962 for disadvantaged children in the US. PPP targets 3-4 year old children at risk of school failure or delinquency, and provides intensive, high-quality preschool education to improve an individual's capacity for future success in school and in life.<sup>133</sup> PPP has been subject to numerous and ongoing longitudinal studies and evaluations, which suggest that investment in the early years (birth to age five) directly influences future economic, health and social outcomes (including criminal activity) for participants.<sup>134</sup>

A cohort of 123 high risk (low socioeconomic status and with IQ scores of 70-85) African-American children were followed from 3-4 years of age, with 58 children receiving the intervention while the remaining 65 children served as the matched control group. The intervention group spent two years attending the program.<sup>135</sup>

Children were followed-up regularly with outcomes monitored for: social responsibility, including delinquency and adult offending; scholastic success, including secondary school graduation rates, grade point average, and postsecondary education; and socioeconomic success, measured in terms of employment, earnings, and welfare assistance.<sup>136</sup>

PPP attendance was associated with reduced likelihood of arrest for violent crimes, property and drug crimes, overall arrests, and subsequent prison or jail sentences up to age 40.<sup>137</sup> By age 23, 31 per cent who attended PPP had ever been arrested, compared with 51 per cent of the control group.<sup>138</sup> At age 27, the control group were arrested twice as often as the PPP group (4.0 versus 1.8 arrests per person), with 35 per cent of the control group considered people who had frequently offended (five or more arrests) compared with only 7 per cent of the PPP group.<sup>139</sup>

Longitudinal studies of PPP suggest that high-quality, intensive preschool for high risk children has the potential to reduce the likelihood of criminal activity in adulthood. The returns are estimated to be substantially larger than the initial investment.<sup>140</sup>

\* Used as an input to the economic modelling

128. Kelly, M, and Tubex, H (2015). Stemming the tide of Aboriginal incarceration. The University of Notre Dame Australia Law Review, 17; Roth, L (2016). Justice reinvestment. NSW Parliamentary Research Service, e-brief 07/2016, [www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf](http://www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf). Accessed January 2017; JHSIG (2016). Incarceration of Aboriginal and Torres Strait Islander people policy. PHAA, Policy at a Glance, [www.phaa.net.au/documents/item/1704](http://www.phaa.net.au/documents/item/1704). Accessed January 2017.

129. Baldry, E, McCausland, R, Dowse, L and McEntyre, E (2015). A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system. Sydney: UNSW.

130. JHSIG (2016). Incarceration of Aboriginal and Torres Strait Islander people policy. PHAA, Policy at a Glance, [www.phaa.net.au/documents/item/1704](http://www.phaa.net.au/documents/item/1704). Accessed January 2017.

131. Robinson, G, and Tyler, W (2008). Ngaripirliga'ajirri: the implementation of Exploring Together on the Tiwi Islands. Australian e-Journal for the Advancement of Mental Health, 7(1).

132. Ibid.

133. Heckman, JJ, and Masterov, DV (2007). The productivity argument for investing in young children. Review of agricultural economics, 29(3): 446-493.

134. Heckman, JJ (2012). Invest in early childhood development: reduce deficits, strengthen the economy. The Heckman Equation, [http://cccns.org.au/rattlerresources/heckman\\_equation.pdf](http://cccns.org.au/rattlerresources/heckman_equation.pdf). Accessed March 2017.

135. Heckman, JJ, and Masterov, DV (2007). The productivity argument for investing in young children. Review of agricultural economics, 29(3): 446-493.

136. Parks, G (2000). The High/Scope Perry Preschool project. Juvenile Justice Bulletin, [www.ncjrs.gov/pdffiles1/ojdp/181725.pdf](http://www.ncjrs.gov/pdffiles1/ojdp/181725.pdf). Accessed March 2017.

137. Schweinhart, LJ. The High/Scope Perry Preschool study through age 40: summary, conclusions, and frequently asked questions. Peel Family Early Years, [www.peelearlyyears.com/pdf/Research/INTERNATIONAL%20Early%20Years/Perry%20Project.pdf](http://www.peelearlyyears.com/pdf/Research/INTERNATIONAL%20Early%20Years/Perry%20Project.pdf). Accessed March 2017.

138. Parks, G (2000). The High/Scope Perry Preschool project. Juvenile Justice Bulletin, [www.ncjrs.gov/pdffiles1/ojdp/181725.pdf](http://www.ncjrs.gov/pdffiles1/ojdp/181725.pdf). Accessed March 2017.

139. Schweinhart, LJ. The High/Scope Perry Preschool study through age 40: summary, conclusions, and frequently asked questions. Peel Family Early Years, [www.peelearlyyears.com/pdf/Research/INTERNATIONAL%20Early%20Years/Perry%20Project.pdf](http://www.peelearlyyears.com/pdf/Research/INTERNATIONAL%20Early%20Years/Perry%20Project.pdf). Accessed March 2017.

140. Ibid.



## Case study:

### Enhanced maternal and child health intervention\*

The Nurse-Family Partnership (NFP) is an initiative delivered to mothers with a sociodemographic risk characteristic (defined in the study as low-income, unmarried, or teen mothers) with no previous births. NFP is designed to improve the health and development of mothers and infants, therefore improving their future life prospects, through the provision of prenatal and infancy home visiting by nurses (a mean of 9 during pregnancy and an additional 23 from the child's birth to their second birthday). The NFP initiative was evaluated using a randomised control trial of 324 women and their children, who were followed for 15 years.<sup>141</sup>

The NFP study found that the number of women who were visited by nurses during pregnancy and infancy were identified as perpetrators of child abuse and neglect in 0.29 verified reports compared with 0.54 for women who did not receive home visits through the NFP.<sup>142</sup> The NFP home visits were also associated with a reduction in the number of arrests for parents. The self-reported number of arrests was 0.18 for those who received home visits compared to 0.58 for those who did not.

New York State records suggest the effect seen may have been greater, with 0.16 arrests for those who received home visits compared with 0.90 for those who did not. Fewer subsequent pregnancies, and reduced time receiving welfare (60 months for those who received home visits compared to 90 months for those who did not) were also recorded. All of the effects observed were shown to be statistically significant.<sup>143</sup>

It was concluded that prenatal and early childhood home visitations by nurses has the potential to improve outcomes for at-risk mothers and their children, including a reduction in likelihood of child abuse and neglect, reduced reliance on social security, and a reduction in offending. Subsequent findings for this cohort found that children of mothers who received home visits reported fewer sexual partners and fewer convictions and violations of probation at 15 years of age.<sup>144</sup>

The promising results of the NFP initiative has led to it being adapted, developed and trialled in the Netherlands, Germany, England, Canada, and Australia.<sup>145</sup> In Australia, the NFP initiative has been implemented in four Indigenous communities. Although outcomes data is not yet available, a preliminary evaluation indicated that three of the four sites were beginning to observe benefits.<sup>146</sup>

\* Used as an input to the economic modelling

Outcomes from the PPP case study suggest that if a similar initiative were to be developed in Australia that targets at risk Indigenous children, one of the benefits would likely be reduced likelihood of criminal activity, and therefore reduced contact with the justice system and probability of being incarcerated.

### 5.5 Targeted intervention

Targeted interventions are initiatives designed to address factors contributing to the rates of incarceration for individuals who have become at-risk of detention or incarceration. Examples of these may include: legal services and support; diversionary/healing programs as alternatives to custody; community corrections; specialist courts; community policing; and community justice groups.

To help overcome the complexities Indigenous people are confronted with when they come into contact with the justice system, services can be specifically designed to assist Indigenous people navigate through the justice system, such as Aboriginal Liaison Officers, or in the case of in Canada, Aboriginal caseworkers who prepare pre-sentencing reports to help guide judicial officers consider an individual's background before considering sentencing options.<sup>147</sup> This has been replicated elsewhere, including in NSW, SA and Qld.<sup>148</sup>

Specialist problem-solving courts such as drug, alcohol, mental health and Koori courts are used as an alternative to mainstream courts in order to identify vulnerable people for whom typical responses may be ineffective or inappropriate.

141. Olds DL, Eckenrode J, Henderson CR Jr, Kitzman H, Powers J, Cole R, Sidora K, Morris P, Pettitt LM, and Luckey D (1997). Long-term effects of home visitation on maternal life course and child abuse and neglect. Fifteen-year follow-up of a randomized trial. *Journal of the American Medical Association*, 278 (8): 637-643.

142. Ibid.

143. Ibid.

144. Ibid.

145. Ibid.

146. Ernst and Young (2012). Stage 1 evaluation of the Australian NFP program: final report. Canberra: Office for Aboriginal and Torres Strait Islander Health, Department of Health and Ageing, Commonwealth Government of Australia.

147. Williams, MS, and Gilbert, R (2011). Reducing the unintended impacts of fines. Indigenous Justice Clearinghouse, Current Initiatives Paper 2; Hopkins, A (2012). The national crisis of Indigenous incarceration: is taking Indigenous experience into account in sentencing part of the solution? *Legaldade*, 27(2): 4-7.

148. KPMG (2010). Evaluation of the Community Justice Group program: final report. Brisbane: Qld Department of Justice and Attorney General, [www.justice.Qld.gov.au/\\_data/assets/pdf\\_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf](http://www.justice.Qld.gov.au/_data/assets/pdf_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf). Accessed April 2017.



Instead, people who have offended may be given sentences that address the causes of offending, such as treatment programs for addiction.<sup>149</sup> Koori courts are alternative sentencing courts for Indigenous people who have offended that involves Indigenous Elders and respected community members in the process of sentencing. While the sentencing options are the same as those of mainstream courts, these courts create an environment that is more culturally aware and responsive for Indigenous people.<sup>150</sup>

People who have offended may also be referred to diversion programs that provide an opportunity to avoid a criminal record or have a reduced sentence by meeting certain treatment or training requirements. This diversion towards treatment and rehabilitation is a more effective, and cost effective alternative to imprisonment.<sup>151</sup> Although there is limited evidence on what is good practice, there is recognition that mainstream diversion and healing programs do not have equitable participation rates or outcomes for Indigenous peoples. The complexity of experiences for many Indigenous people and the importance of culture has led to Indigenous-specific diversion and healing programs being explored.<sup>152</sup>



## Case study:

### *Wulgunggo Ngalu Learning Place (WNLP)*

WNLP is a voluntary, live-in diversion program that is grounded in Indigenous culture and values. WNLP can accommodate up to 18 Koori men serving community correction orders. Participants live at WNLP for approximately three months (depending on individual circumstances) to complete the program. Participation may be either through self-referral or by Community Corrections Officers.<sup>153</sup>

The aim of the WNLP program is to assist participants to complete their community correction orders and reduce the likelihood of future offending, through the use of cultural strengthening and rehabilitative support. The program has a focus on health and wellbeing, life skills, education, vocational training and work readiness, and strengthening the positive cultural identity of participants. There was extensive Koori input into WNLP's design, and continued involvement in oversight and governance.<sup>154</sup>

A qualitative evaluation found evidence that WNLP led to increased completion of community correction orders, cultural strengthening of participants, and improved social and emotional wellbeing.<sup>155</sup>

In 2010, WNLP received an International Corrections and Prisons Association award in the 'community corrections' category.<sup>156</sup>

149. Williams, MS, and Gilbert, R (2011). Reducing the unintended impacts of fines. Indigenous Justice Clearinghouse, Current Initiatives Paper 2.

150. Smart Justice (2011). Ending over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system. Smart Justice, [www.smartjustice.org.au](http://www.smartjustice.org.au). Accessed January 2017; AIHW, and AIFS (2013). Diverting Indigenous offenders from the criminal justice system. Closing the Gap Clearinghouse, Resource sheet no. 24. Canberra: AIHW.

151. AIHW, and AIFS (2013). Diverting Indigenous offenders from the criminal justice system. Closing the Gap Clearinghouse, Resource sheet no. 24. Canberra: AIHW.

152. Clear Horizon (2013). Wulgunggo Ngalu Learning Place: Final evaluation report. Melbourne: Department of Justice, [https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp\\_evaluationfinal.pdf](https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp_evaluationfinal.pdf). Accessed January 2017.

153. Ibid.

154. Ibid.

155. Ibid.

156. Ibid.



## Case study:

### *Court Integrated Service Program (CISP)\**

CISP, which operates in four Victorian Magistrates' Courts, was established in 2006 with the aim of improving treatment, court, sentence and re-offending outcomes for participants. CISP offers integrated case management to clients at the pre-trial or bail stage through a team-based approach (including Indigenous services such as Koori Liaison Officers). The program provides a wide range of services to clients and the courts, such as assessment, referral, reporting, supervision, and direct support, across a variety of service sectors, including mental health, acquired brain injury, alcohol and drug, accommodation, employment and social support.<sup>157</sup>

CISP is accessible to anyone with a court proceeding by way of referral. Referrals can be made by the police, legal representatives, magistrates, court staff, support services, family, friends, or the person themselves.<sup>158</sup> In 2009 an evaluation was conducted of CISP comparing a cohort of 200 clients across three venues with 200 comparison people who had offended. Clients who identified as Indigenous made up 8.1 per cent of all CISP clients. The evaluation found a statistically significant difference in the likelihood of recidivism, with recidivism less likely among CISP clients than in the comparator group (50 per cent versus 64 per cent).<sup>159</sup> A separate economic evaluation of the program conducted by PwC found CISP to be cost-effective.<sup>160</sup>

\* Used as an input to the economic modelling



## Case study:

### *Juvenile justice in the US\*<sup>161</sup>*

A range of studies indicate that a reduction in crime rates among children and young people translates to a reduction in adult crime. A meta-analysis of initiatives targeting young people who had offended found that recidivism can be reduced by 18-91 per cent.<sup>162</sup> One initiative that has been shown to be effective in reducing offending of children and young people is Multi-Systemic Therapy (MST).

MST addresses antisocial behaviours in young people using intensive community and family-based interventions. A randomised clinical trial in the US tracked long-term criminal activity among 176 serious and violent adolescent people who had offended who received either MST or individual therapy.<sup>163</sup>

The study found that MST participants had significantly lower recidivism rates at mean follow-up of 14 years than their counterparts who did not receive MST (50 per cent versus 81 per cent). MST participants were also found to have 54 per cent fewer arrests and 57 per cent fewer days of confinement in adult detention facilities.<sup>164</sup>

\* Used as an input to the economic modelling

157. Ross, S (2009). Evaluation of the Court Integrated Services Program: final report. Melbourne: Magistrates' Court of Victoria, [www.magistratescourt.vic.gov.au/sites/default/files/Default/CISP\\_Evaluation\\_Report.pdf](http://www.magistratescourt.vic.gov.au/sites/default/files/Default/CISP_Evaluation_Report.pdf). Accessed March 2017.

158. Ibid.

159. Ibid.

160. Ibid.

161. Allard, T, Oglivie J, and Stewart, A (2007). The efficacy of strategies to reduce juvenile offending. Justice Modelling @ Griffith, [www.griffith.edu.au/\\_\\_data/assets/pdf\\_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf](http://www.griffith.edu.au/__data/assets/pdf_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf). Accessed March 2017; AIHW (2012). Indigenous young people in the juvenile justice system. AIHW Bulletin no. 109. Cat. No. AUS 164. Canberra: AIHW; Schaeffer, CM, and Borduin, CM (2005). Long-term follow-up to a randomized clinical trial of multisystemic therapy with serious and violent juvenile offenders. *Journal of Consulting and Clinical Psychology*, 73(3): 445-453.

162. Allard, T, Oglivie J, and Stewart, A (2007). The efficacy of strategies to reduce juvenile offending. Justice Modelling @ Griffith, [www.griffith.edu.au/\\_\\_data/assets/pdf\\_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf](http://www.griffith.edu.au/__data/assets/pdf_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf). Accessed March 2017.

163. Schaeffer, CM, and Borduin, CM (2005). Long-term follow-up to a randomized clinical trial of multisystemic therapy with serious and violent juvenile offenders. *Journal of Consulting and Clinical Psychology*, 73(3): 445-453.

164. Ibid.





## Case study:

### *Aboriginal justice strategy in Canada\**

In Canada, an Aboriginal Justice Strategy (AJS) has been in place since 1991 (originally called the Aboriginal Justice Initiative), to support a range of community-based justice initiatives such as diversion programs, community participation in the sentencing of people who had offended, and mediation and arbitration mechanisms for civil disputes. The AJS is designed to be flexible, allowing communities to tailor initiatives to their own needs so long as they meet a set of criteria, and are rigorously analysed.

Roughly 80 per cent of community-based justice initiatives funded through the AJS are diversionary in nature.<sup>165</sup>

The Department of Justice evaluated the 8-year re-offending patterns of 3,361 participants who took part in one of five AJS initiatives compared to 885 individuals who participated in an initiative that did not form part of the AJS. The study found that those who participated in the AJS initiatives were half as likely to re-offend compared with the comparison group.<sup>166</sup>

\* Used as an input to the economic modelling

### *5.6 Prison system and post-release*

Prison system and post-release initiatives are designed for individuals who have already entered into the prison system, but are targeted at addressing or reducing the key drivers that could lead to reoffending and recidivism. These may be initiatives to maintain and improve the health and wellbeing of Indigenous prisoners while they remain incarcerated, provide them with education, skills training or employment opportunities, or offer them transition support as they prepare to, and then re-enter, the community. Post-release employment programs have been estimated to reduce rates of recidivism by between 5 and 10 per cent.<sup>167</sup>

Where they exist, Indigenous-specific services within prisons often focus on the cultural needs of Indigenous people who have offended and encourages them to maintain a connection to their culture. Prisons with these services use approaches to improve the incarceration experience of Indigenous people who have offended including: access to Aboriginal support officers, options to share a cell with a friend or a relative, traditional cooking pits, cultural workshops and self-training to improve mental health and decrease self-harm.<sup>168</sup>

Transition support initiatives have been developed to provide assistance to prisoners as they attempt to re-integrate into the community. An example of this is Prisoner Throughcare, which aims to support prisoners and youth detainees before and after release from prison in order to reduce reoffending.<sup>169</sup> Transition support for specific populations have also been developed, such as for Indigenous women with children.<sup>170</sup> Similarly, providing better support to Indigenous parolees can lead to lower rates of breach and recidivism.<sup>171</sup>

165. Evaluation Division (2011). Aboriginal Justice Strategy evaluation: final report. Office of Strategic Planning and Performance Management, Department of Justice, Canada, [www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/11/ajs-sja/ajs-sja.pdf](http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/11/ajs-sja/ajs-sja.pdf). Accessed March 2017.

166. Ibid.

167. Reviewed in: Young, MC (2014). The returning prisoner and the future of work. Position paper. [www.law.northwestern.edu/legalclinic/prison/documents/ReturningPrisonerandtheFutureofWork.pdf](http://www.law.northwestern.edu/legalclinic/prison/documents/ReturningPrisonerandtheFutureofWork.pdf). Accessed March 2017.

168. [www.creativespirits.info/aboriginalculture/law/mental-health-at-its-worst-in-prison](http://www.creativespirits.info/aboriginalculture/law/mental-health-at-its-worst-in-prison). Accessed January 2017.

169. Australian Indigenous HealthInfoNet (2015). Prisoner Throughcare. [www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=1791](http://www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=1791). Accessed March 2017; [www.indigenous.gov.au/news-and-media/stories/providing-culturally-relevant-support-indigenous-prisoners-and-juvenile](http://www.indigenous.gov.au/news-and-media/stories/providing-culturally-relevant-support-indigenous-prisoners-and-juvenile); [www.naaja.org.au/our-services/indigenous-throughcare-project](http://www.naaja.org.au/our-services/indigenous-throughcare-project); [www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=1791](http://www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=1791); Griffiths, A, Zmudzki, F, and Bates, S (2017). Evaluation of ACT Extended Throughcare pilot program – Final report. Sydney: University of New South Wales.

170. Bartels, L (2012). Sentencing of Indigenous women. Indigenous Justice Clearinghouse, Brief 14.

171. Trotter, C (2012). Effective community-based supervision of young offenders. Trends & issues in crime and criminal justice no. 448. Canberra: AIC.



## Case study:

### **Fairbridge Bindjareb Project (FBP)**

The Fairbridge Bindjareb Project (FBP) began operating in WA in 2010 as a collaboration between Fairbridge WA Inc., the WA Department of Corrective Services, and industry partners. FBP is an Indigenous-specific initiative designed and operated by Indigenous people.<sup>172</sup>

The aim of FBP is to provide industry training that leads to work opportunities and careers in the resource sector and associated industries for Indigenous people in custody. It is designed to provide holistic support and healing to participants, with a focus on personal development that is culturally aware and responsive and helps to facilitate sustainable employment and meaningful life change.<sup>173</sup>

A 2016 economic evaluation assessed outcomes for 35 FBP graduates of whom 29 were employed (83 per cent), 1 was unemployed (3 per cent) and 5 had returned to prison (14 per cent). Compared with Indigenous people who had offended who had not been part of the FBP initiative, a 68 per cent increase in employment and a 42 per cent reduction in the rates of recidivism were estimated.<sup>174</sup>



## Case study:

### **Throughcare**

Throughcare is a program designed to provide person-centred case management support to those who are imprisoned by improving community integration post-release, and by improving the social and health outcomes of participants. In doing so, the program is aimed at reducing the rates of recidivism.<sup>175</sup>

A program evaluation of the ACT Extended Throughcare program found that return to custody reduced by 22.6 per cent among Throughcare clients over a three year period.<sup>176</sup>

Through the Aboriginal and Torres Strait Islander Legal Service, a prisoner Throughcare program has been implemented to specifically support Indigenous prisoners and youth detainees successfully reintegrate back into the community.<sup>177</sup>



## Case study:

### **Dilly Bag**

The Dilly Bag Program is an intensive women's cultural strengthening program delivered by the Aboriginal Family Violence Prevention and Legal Service (Victoria) that targets Indigenous women in prison. The program assists Indigenous women with recovery from trauma they may have experienced in their lives. Dilly Bag builds on cultural strength and experiences to explore ways to increase self-esteem and enhance emotional, physical and spiritual wellbeing, which strengthens the ability of Indigenous women to reduce their vulnerability to family violence. It is a residential program in a community setting that highlights the important roles Indigenous women play in their community as leaders and nurturers.

Dilly Bag was developed in response to an identified gap in therapeutic programs that provide culturally-based healing for Indigenous women where the program has been developed and delivered for and by Indigenous women. An external evaluation of the program determined that it has significant beneficial impacts, including increased self-esteem and well-being, strengthened relationships and networks, increased knowledge and understanding of family violence and the supports available, and significant changes to participants' lifestyles such as living arrangements, matters relating to custody of children and personal care.

172. Deloitte (2016). A cost benefit analysis of the Fairbridge Bindjareb project. Deloitte, [www2.deloitte.com/au/en/pages/economics/articles/fairbridge-bindjareb-project-reducing-offender-recidivism.html](http://www2.deloitte.com/au/en/pages/economics/articles/fairbridge-bindjareb-project-reducing-offender-recidivism.html). Accessed March 2017.

173. Ibid.

174. Ibid.

175. Griffiths, A, Zmudzki, F, and Bates, S (2017). Evaluation of ACT Extended Throughcare pilot program – Final report. Sydney: University of New South Wales.

176. Ibid.

177. Australian Indigenous HealthInfoNet (2015). Prisoner Throughcare. [www.healthinonet.ecu.edu.au/key-resources/programs-projects?pid=1791](http://www.healthinonet.ecu.edu.au/key-resources/programs-projects?pid=1791). Accessed March 2017.



## Case study:

### **Stan Daniels Healing Centre<sup>178</sup>**

The Stan Daniels Healing Centre is a 72-bed facility that accommodates either conditionally released offenders or residents with inmate status. The centre offers Aboriginal specific programs to address social, educational, emotional, physical and spiritual needs. Violent behaviours, grief and loss, human sexuality and parenting skills are some of the topics covered by the centre. While staying at Stan Daniels, participants have the chance to work within the community thanks to the Job Placement Services.

### **5.7 Justice Reinvestment**

Justice Reinvestment is an approach originating from the US, where funding that would usually be spent on keeping individuals in prisons is redirected to address the key drivers of crime in communities with high rates of offending and incarceration.<sup>179</sup> In US interpretations of Justice Reinvestment, investment may be redirected towards other areas of the justice system, or to healthcare, housing, education or job training.

In the US, there is evidence to suggest that Justice Reinvestment has had an impact on reducing the rates of incarceration and recidivism, and generating cost savings. The states of Kansas and Texas were able to halt the growth in their prison populations by re-orienting investment towards substance abuse programs, halfway houses for those on parole, and increasing access to education opportunities in prisons. Kansas saw a 7.5 per cent reduction in their prison population, and decreases in both parole revocation and reconviction by 48 per cent and 35 per cent, respectively. The state of Kansas reportedly saved \$80.2 million over 5 years while Texas achieved a saving of \$210.5 million in 2008-2009 through Justice Reinvestment.<sup>180</sup>

Twenty-seven states in the US are now part of the Justice Reinvestment Initiative.<sup>181</sup>

Justice Reinvestment has received considerable support in Australia, and has been recommended as an approach for governments and communities by the Australian Human Rights Commission, Aboriginal and Torres Strait Islander Social Justice Commissioner's 2009 Social Justice Report, in a strategic review of the NSW juvenile justice system, by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, and by the Senate Standing Committee on Legal and Constitutional Affairs to name a few.<sup>182</sup>

In Australia, Justice Reinvestment is considered to be community development initiatives that aim to address the key drivers of crime.<sup>183</sup> The concept is that, while there will continue to be a need to fund and operate prisons, diversion programs and other justice services, addressing the key drivers will be a more effective and cost effective approach to reducing the disproportionate rates of Indigenous people in incarceration.

Justice Reinvestment in Australia began with an initiative in Bourke, NSW, with sites in SA, ACT, and the NT following. The Just Reinvest NSW trial in Bourke has an Indigenous focus, and will include economic modelling to quantify savings.<sup>184</sup> While Justice Reinvestment approaches in the US tend to be 'top down' exercises, Justice Reinvestment in Bourke has included working with local ACCOs to co-design and implement policies and initiatives as part of the process, in order to tailor initiatives to the local community's needs. NSW Police and the Human Rights Commissioner support the initiative.<sup>185</sup>

By addressing the social determinants of crime – unemployment, homelessness, health and education issues – justice reinvestment has the potential to improve the life outcomes of individuals and build strong, safe and cohesive communities.

178. Native Counselling Services of Alberta. Stan Daniels Healing Centre. [www.ncsa.ca/programs/corrections/stan-daniels-healing-centre](http://www.ncsa.ca/programs/corrections/stan-daniels-healing-centre). Accessed April 2017.

179. Balanced Justice (2013). Indigenous overrepresentation in prisons. Balanced Justice, [www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html](http://www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html). Accessed January 2017; Smart Justice (2015). Justice reinvestment: investing in communities not prisons. Smart Justice, [www.smartjustice.org.au](http://www.smartjustice.org.au). Accessed January 2017; Roth, L (2016). Justice reinvestment. NSW Parliamentary Research Service, e-brief 07/2016, [www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf](http://www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf). Accessed January 2017.

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181. Roth, L (2016). Justice reinvestment. NSW Parliamentary Research Service, e-brief 07/2016.

182. Ibid.

183. KPMG (2016). Unlocking the future: Maranguka Justice Reinvestment project in Bourke – Preliminary assessment. Just Reinvest NSW, [www.justreinvest.org.au/wp-content/uploads/2016/11/KPMG-Preliminary-Assessment-Maranguka-Justice-Reinvestment-Project.pdf](http://www.justreinvest.org.au/wp-content/uploads/2016/11/KPMG-Preliminary-Assessment-Maranguka-Justice-Reinvestment-Project.pdf). Accessed March 2017.

184. Law Council of Australia (2015). Inquiry into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Legal\\_assistance\\_services/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legal_assistance_services/Submissions). Accessed January 2017; Roth, L (2016). Justice reinvestment. NSW Parliamentary Research Service, e-brief 07/2016, [www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf](http://www.parliament.nsw.gov.au/researchpapers/Documents/Justice%20reinvestment.pdf). Accessed January 2017.

185. Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

## 5.8 Conclusion

This section proposes a framework to categorise initiatives to reduce the over-representation of Indigenous people in prison. Case studies have been identified that have shown promise in reducing the rates at which Indigenous people in Australia are imprisoned.

Case studies with quantitative outcomes have been used as inputs into the economic model to estimate the potential benefits of being implemented (section 6). While these are not the only initiatives that have the potential to reduce rates of incarceration, they have the strongest evidence base in terms of rigor of evaluation and reliability of findings to inform the modelling assumptions:

- Universal prevention – access to quality early childhood education and care has been shown to improve educational outcomes, which itself has a protective effect, reducing the likelihood of future offending and incarceration
- Early intervention initiatives:
  - Early childhood interventions such as intensive, high-quality preschool can directly influence future economic, health and social outcomes for at-risk youth, including reducing the likelihood of engaging in criminal activity and of incarceration
  - Prenatal and early childhood home visitations by nurses has the potential to improve outcomes for at-risk mothers and their children, including a reduction in likelihood of child abuse and neglect, reduced reliance on social security, and a reduction in offending.
- Targeted intervention initiatives:
  - Providing holistic support and integrated case management to persons in contact with the justice system through initiatives such as CISP can reduce the likelihood of recidivism and the seriousness of future offences
  - Multisystemic therapy has been shown to reduce antisocial behaviours in young people and lower recidivism rates amongst young people who had offended, which translates to fewer arrests and reduced time in custody as an adult
  - Aboriginal Justice Strategy diversion initiatives have generated significant reductions in recidivism rates for program participants
- Prison system and post-release initiatives – providing holistic and culturally aware and responsive support and healing to participants, including supporting pathways to future employment, can reduce recidivism rates and improve post-release employment outcomes.

Despite efforts to identify and include Indigenous-specific initiatives in the modelling, the lack of sufficient data in relation to Indigenous-specific and/or culturally aware and responsive initiatives necessitated the use of mainstream initiatives. This does not mean that Indigenous-specific initiatives are not, and cannot be effective. While there are a number of Indigenous-led and specific initiatives that show promising practice, evaluations of these initiatives are lacking.

In other sectors, information suggests that the performance of Indigenous controlled and Indigenous-specific services can outperform mainstream services.<sup>186</sup> Delivering Indigenous-specific initiatives through Indigenous controlled organisations provides a safe environment for Indigenous people to access services. These organisations are better equipped to determine the services that are required for the community, and allowed these Indigenous communities to take charge and respond to health and social needs.<sup>187</sup>

186. Lavoie, JG, O'Neil, J, Sanderson, L, Elias, B, Mignone, J, Bartlett, J, Forget, E, Burton, R, Schmeichel, C, and McNeil, D (2005). The evaluation of the First Nations and Inuit Health Transfer Policy. Winnipeg: Centre for Aboriginal Health Research, University of Manitoba; Panaretto, KS, Wenitong, M, Button, S, and Ring, IT (2014). Aboriginal Community Controlled Health Services: leading the way in primary care. Medical Journal of Australia, 200(11): 649-65; Australian Institute of Health and Welfare (AIHW) (2015). Healthy futures – Aboriginal Community Controlled Health Services: report card. Cat. no. IHW 150. Canberra: AIHW.

187. Weightman, M (2013). The role of Aboriginal Community Controlled Health Services in Indigenous health. Australian Medical Student Journal, 4(1), www.amsj.org/archives/3012. Accessed March 2017.

## 6. *Estimated impact of initiatives*

### 6.1 *Introduction*

Section 5 describes a range of initiatives that could be considered to reduce the over-representation of Indigenous Australians in the justice system. This section estimates the potential fiscal (financial effects for government) and economic impacts of implementing these initiatives in Australia.

Using the framework described in section 5 we have estimated the impact that implementing a range of initiatives would have on the costs of Indigenous incarceration (described in section 3) by considering initiatives grouped into the following scenarios:

1. Universal prevention – initiatives that provide universal access to high quality, basic systems and services
2. Early intervention – initiatives that enhance the protective factors within vulnerable communities
3. Targeted intervention – initiatives that address factors contributing to rates of incarceration for individuals at-risk of detention or incarceration
4. Prison system and post-release interventions – initiatives that are

offered in the prison detention system and post-release

5. Cumulative – the result of implementing initiatives in universal prevention, early intervention, targeted intervention and prison system and post-release concurrently
6. Closing the gap – a potential scenario where the Indigenous incarceration rate is reduced to the non-Indigenous incarceration rate by 2040, meeting the target proposed as part of a blueprint for change by Change the Record.<sup>188</sup>

#### 6.1.1 *Inputs*

These scenarios were developed by conducting a broad literature review of initiatives undertaken both in Australia and internationally (the findings of which are set out in section 5) and adapting from these studies to our initiatives framework (pyramid) and our cost model. The initiatives are considered to either have an effect on:

- the new entrant rate, which refers to the proportion of the total Indigenous population entering into the adult prison system for the first time.
- recidivism rates, which vary

according to the length of time since release, and is currently 87 per cent of adult prisoners (see table 10 in Appendix B for recidivism rates by year since imprisonment which were used in the modelling). It should be noted that these rates reflect the adult population. The impacts for the juvenile costs are scaled relative to the adult costs.

Based on findings from the literature, Table 3 summarises the inputs used for each scenario and how these translate into impacts for the economic model via the new entrant rate or the recidivism rates.

188. Change the Record Coalition (2015). Blueprint for change. The Change the Record Coalition Steering Committee, [www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint\\_web.pdf](http://www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint_web.pdf). Access 20 January 2017



Table 3: Summary of key findings from literature review by scenario

Scenario	Summary of scenario	Study findings	Adaption for modelling inputs	Change to modelling inputs	
				Recidivism rates	New entrant rate
1 Universal	All four year olds attend early childhood education	Access to early childhood education results in higher and long lasting educational attainment with increased rates of participation in the final year of secondary school. High school completion is negatively correlated with incarceration rates among Indigenous Australians. A 10% point increase in the access to ECEC may be correlated with a 3.4% point increase in high school completion and a 0.11% decrease in the new entrant rate of the treatment cohort. See section 5.3 for further detail.	A key assumption in the modelling is that 47% of Indigenous four year old children who are not currently attending a minimum of 15 hours of preschool per week would attend 15 hours of preschool under this scenario. <sup>189</sup>	No change	The new entrant rate of 0.3% declines to 0.19% as of the year 2032
2 Early	Maternal and child health care is provided to all vulnerable Indigenous mothers	The provision of home visits by a trained child and maternal health nurse for vulnerable mothers both before and after the birth of their child has been associated with a reduction in offending rates of between 18-91%. <sup>190</sup> In order to model this scenario PwC have taken an average of three evaluated studies that were shown to reduce children's interaction with the justice system. See section 5.4 for further detail.	Under this scenario we assume that 63.30% of the Indigenous population who currently live in an area that is classified within the bottom three deciles of the SEIFA index would receive home visits.	No change	The new entrant rate of 0.3% declines to 0.25% as of the year 2036
3 Targeted	Holistic case management and interventions in juvenile justice	Holistic case management and support for people who had offended has been shown to reduce reoffending in participants.  Additionally cognitive behavioral therapy and multi-systemic therapy have been shown to reduce reoffending in children and young people, and therefore break the cycle prior to offending as adults. See section 5.5 for further detail.	Under this scenario we have assumed that holistic case management would be provided to all children and young people who had offended and that CBT and MST would be provided to all children and young people who are detained.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 43% (year 1) and 2% (year 4)	The new entrant rate of 0.3% declines to 0.28% as of the year 2019
4 Prison system and post-release	Employment programs	Increased emotional healing and job readiness training while in prison has been shown to reduce recidivism in adult prisoners. See section 5.6 for further detail.	Under this scenario we have assumed that all Indigenous adult prisoners would be offered this program.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 56% in year 1 and remains at 6% in year 4	No change
5 Cumulative	Concurrent implementation of all four initiatives	All four initiatives are implemented in 2018 and start to take effect as program participants reach adulthood (ie 2019 for targeted and prison system programs and later for universal and early intervention programs)	A key assumption under this scenario is that participation in multiple programs across the lifespan does not affect the outcomes of subsequent program participation.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 43% (year 1) and 2% (year 4)	The new entrant rate of 0.3% declines to 0.19% as of the year 2036
6 Closing the gap	Equalising the Indigenous and non-Indigenous incarceration rates	NA	Under this scenario we have assumed that the government sets a COAG target of closing the gap in incarceration rates nationally by the year 2040.	NA – we have made no assumption about the mechanism with which this occurs under this scenario	NA – we have made no assumption about the mechanism with which this occurs under this scenario

Sources: PwC analysis, see section 5 for full detail of case studies used to inform these scenarios. How these scenarios impact upon the economic and fiscal costs described in section 3 is described below.

189. Based on 84 per cent of Indigenous four year olds currently enrolled, of which 63 per cent attend the minimum number of hours, [www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument). Accessed March 2017.

190. Allard, T, Oglivie J, and Stewart, A (2007). The efficacy of strategies to reduce juvenile offending. Justice Modelling @ Griffith, [www.griffith.edu.au/\\_data/assets/pdf\\_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf](http://www.griffith.edu.au/_data/assets/pdf_file/0013/208120/Efficacy-of-Strategies-to-Reduce-JJ-Offending-2007-Report.pdf). Accessed March 2017.



### 6.1.2 Limitations

This report aims to quantify the potential impacts and potential cost savings of implementing different types of initiatives to reduce the rates of Indigenous incarceration in Australia. However, it does not take into consideration the costs of the initiatives. While a cost-benefit analysis could be undertaken to determine the potential return on investment, this is beyond the scope of this project.

Evidence suggests that prevention and early intervention generates greater returns on investment than prison system and post-release initiatives.<sup>191</sup> Initiatives designed for children and young people who have offended produce greater benefit-to-cost ratios than prevention programs. However, as with our analysis, most studies estimating costs and benefits only consider criminal behaviour and reduced criminal outcomes. When benefits that extend beyond criminal outcomes are considered, preschool and early childhood initiatives produce some of the greatest returns on investment.<sup>192</sup>

It is also important to highlight that this report examines specific initiatives that fall within each category. These initiatives were chosen for the rigour of their evaluation data and are not suggested to represent the most successful initiatives, although they do have well documented quantifiable success. These initiatives are also not representative of all possible initiatives which could be implemented, and which could be effective at reducing the rates of Indigenous incarceration.

The modelling assumes that the magnitude of effect observed in rigorously controlled evaluation environments would be replicated nationally. This would require perfect implementation and strict fidelity of each initiative, which does not usually occur. It also assumes a consistent magnitude of effect, whereas the impact of initiatives will likely differ amongst cohorts based on gender, culture, disability, etc.

### 6.1.3 Second generation effects

It is well documented that there are significant second generation effects associated with incarceration (discussed in section 3). At a high level, children of parents who have been incarcerated are more likely to be incarcerated within their lifetime than children of parents who have not been incarcerated. This link is primarily explained through parental absence due to incarceration and children being removed from their families (into out of home care) due to incarceration. As such it is possible that by reducing the rate of recidivism of prisoners and thereby increasing the proportion of parents who are with their families, reducing the number of children in out of home care, it may be possible to reduce the rate of new entry into the prison system of children in the second generation.

For the purposes of this analysis the flow on effects of reduced recidivism onto the second generation have not been analysed. As such the scenarios presented below of targeted intervention and prison system and post release represent conservative estimates of the potential cost savings associated with reducing the rate of recidivism.

The reasons for excluding the flow on effect to the second generation are as follows:

- As this report relies on publicly available data it is not possible to observe the number of prisoners who have children (or how many children they have) in each year or the proportion of those prisoners who have children who are incarcerated for the first time compared to those who are returning to prison.

- It is not possible to observe or estimate the number of children who are removed from their families due to a parent's incarceration. For example if one parent is incarcerated this may or may not result in the child's removal from their family as the child may be cared for by a second parent, close relatives or their community.
- No evidence was available detailing the number of removals that could be avoided if a child's parent did not return to prison.

## 6.2 Universal initiative – universal access to four year old pre-school

Under the scenario where universal access to early childhood education and care is provided, a reduction in the new entrant rate of 0.11 percentage points has been modelled for children attending early childhood education and care once they reach adulthood. A key assumption in the modelling is that 47 per cent of Indigenous four year old children who are not currently attending a minimum of 15 hours of preschool per week would attend 15 hours of preschool under this scenario.<sup>193</sup> This is estimated to reduce the cost of Indigenous incarceration by \$4.0 billion in 2040 and by \$60.8 billion in total (present value terms). Due to the long-term nature of the returns (as they do not accrue on average until children reach adulthood, at which point the costs begin to accrue in the illustrative model developed for this report), the full avoided costs accumulate from the year 2032. This potential cost saving does not account for possible cost savings outside of the justice system, including greater employment prospects, improved health outcomes, increased school attendance etc.

191. Aos, S, Phipps, P, Barnoski, R, and Lieb, R (2001). The comparative costs and benefits of programs to reduce crime. Washington State Institute for Public Policy. [www.wsipp.wa.gov/ReportFile/756/Wsipp\\_The-Comparative-Costs-and-Benefits-of-Programs-to-Reduce-Crime-v-4-0\\_Full-Report.pdf](http://www.wsipp.wa.gov/ReportFile/756/Wsipp_The-Comparative-Costs-and-Benefits-of-Programs-to-Reduce-Crime-v-4-0_Full-Report.pdf). Accessed April 2017; Dossetor, K (2011). Cost-benefit analysis and its application to crime prevention and criminal justice research. Technical and Background Paper no. 42. Canberra: AIC.

192. Ibid.

193. Based on 84 per cent of Indigenous four year olds currently enrolled, of which 63 per cent attend the minimum number of hours, [www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument). Accessed March 2017.

Table 4: Annual and total avoided costs attributed to universal prevention

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV \$2016, \$m)
<b>Economic costs</b>	–	<b>2 017.7</b>	<b>29 880.3</b>
Cost of crime	–	751.4	11 921.9
Loss of productive output	–	701.9	9 098.0
Excess burden of tax	–	564.5	8 860.5
<b>Fiscal costs</b>	–	<b>1 971.8</b>	<b>30 943.6</b>
Justice	–	1 923.8	30 334.3
Human services	–	12.8	157.5
Social services	–	3.5	43.2
Centrelink	–	23.2	284.2
Foregone taxation	–	8.5	124.5
<b>Total avoided economic and fiscal costs</b>	–	<b>3 989.5</b>	<b>60 823.9</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

### 6.3 Early intervention – comprehensive child and maternal health visits

Under the scenario where vulnerable mothers (defined as living within an area with a SEIFA decile between one and three) are provided with comprehensive maternal and child health visits up until the child is two years old, a reduction in the new entrant rate of 0.05 percentage points has been modelled for children who received the early intervention once they reach adulthood. This is estimated to reduce the cost of Indigenous incarceration by \$1.4 billion in 2040 and by \$26.0 billion in total (present value terms). Due to the long-term nature of the returns (as they do not accrue on average until the treatment population reach adulthood, at which point the costs begin to accrue in the illustrative model developed for this report), the full avoided costs accumulate from the year 2036. This potential cost saving does not account for possible cost savings outside of the justice system, including greater employment prospects, improved health outcomes, increased school attendance etc.

Table 5: Annual and total avoided costs attributed to early interventions

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV, \$m)
<b>Economic costs</b>	–	<b>759.5</b>	<b>12 698.3</b>
Cost of crime	–	246.4	5 183.6
Loss of productive output	–	330.2	3 705.3
Excess burden of tax	–	182.9	3 809.4
<b>Fiscal costs</b>	–	<b>639.6</b>	<b>13 302.7</b>
Justice	–	616.3	13 056.6
Human services	–	6.5	62.8
Social services	–	1.8	17.2
Welfare	–	11.7	113.4
Foregone taxation	–	3.3	52.7
<b>Total avoided economic and fiscal costs</b>	–	<b>1 399.1</b>	<b>26 001.0</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

## 6.4 Targeted intervention – holistic case management and cognitive behavioural therapy/multisystemic therapy for children and young people who offend

Under the scenario where children and young people who offend are provided with cognitive behavioural therapy or multisystemic therapy, and holistic case management and support is provided to all people who had offended (children, young people and adults), a reduction in the new entrant rate of 0.02 percentage points has been modelled for children and young people receiving the targeted intervention once they reach adulthood, and a reduction in the recidivism rates over four years of between 4-15 percentage points in each year. This is estimated to reduce the cost of Indigenous incarceration by \$10.6 billion in 2040 and by \$153.6 billion in total (present value terms). The avoided costs begin to accrue from one year post implementation (2019 in this illustrative model).

## 6.5 Prison system and post-release interventions – employment and healing program

Under the scenario where healing and employment programs are provided for all prisoners, a reduction in the recidivism rate of 0.1-2 percentage points per annum has been modelled over two years. This is estimated to reduce the cost of Indigenous incarceration by \$1.5 billion in 2040 and by \$22.5 billion in total (present value terms). The avoided costs begin to accrue from one year post implementation (2019 in this illustrative model).

Table 6: Annual and total avoided costs attributed to targeted interventions

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV, \$m)
<b>Economic costs</b>	<b>349.5</b>	<b>4 630.4</b>	<b>67 047.0</b>
Cost of crime	142.1	2 365.7	34 100.2
Loss of productive output	102.8	544.7	8 147.7
Excess burden of tax	104.7	1 720.0	24 799.1
<b>Fiscal costs</b>	<b>365.6</b>	<b>6 000.5</b>	<b>86 515.8</b>
Justice	358.8	5 974.3	86 115.8
Human services	1.7	2.7	46.1
Social services	0.5	0.7	12.6
Welfare	3.2	4.9	83.2
Foregone taxation	1.5	17.8	258.0
<b>Total avoided economic and fiscal costs</b>	<b>715.2</b>	<b>10 630.9</b>	<b>153 562.7</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

Table 7: Annual and total avoided costs attributed to prison system and post release interventions

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV, \$m)
<b>Economic costs</b>	<b>33.1</b>	<b>636.5</b>	<b>9 645.5</b>
Cost of crime	17.4	334.1	5 063.0
Loss of productive output	3.1	59.8	906.6
Excess burden of tax	12.6	242.6	3 676.0
<b>Fiscal costs</b>	<b>44.0</b>	<b>846.2</b>	<b>12 822.6</b>
Justice	43.8	843.8	12 786.0
Human services	–	–	–
Social services	–	–	–
Welfare	–	–	–
Foregone taxation	0.1	2.4	36.6
<b>Total avoided economic and fiscal costs</b>	<b>77.0</b>	<b>1 482.7</b>	<b>22 468.2</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

## 6.6 Cumulative scenario

Under a potential scenario where interventions from universal prevention, early intervention, targeted intervention and prison system and post release are implemented concurrently we assume that the cost savings from initiatives are phased in overtime (prison system and targeted interventions begin to accrue in 2019, universal prevention in 2032 and early intervention in 2036).

We estimate the cost saving in 2020 would be \$1.1 billion, by the year 2040 it would be \$14.4 billion and in total over the period to 2092, it is estimated at \$217.7 billion (present value terms).

The cumulative scenario assumes that the effect size of different initiatives is not influenced by participation in multiple initiatives over the lifespan.

## 6.7 Closing the gap

Under a hypothetical scenario where the Indigenous incarceration rate is reduced to the non-Indigenous incarceration rate by the year 2040 (154.4 per 100,000 adults<sup>194</sup> or 14.5 per 100,000 youths<sup>195</sup>), in the year 2040, approximately 1,206 Indigenous people would be imprisoned Australia-wide.

We estimate the savings to the economy in 2020 would be \$3.0 billion, by the year 2040 it would be \$18.9 billion and in total over the period to 2092 is estimated at \$265.8 billion.

The closing the gap scenario assumes a decline in the incarceration rate of Indigenous people from 2017 to 2040 at a national level. It is noted that individual jurisdictions have different incarceration rates for Indigenous people and therefore the gap differs by jurisdiction.

Table 8: Annual and total avoided costs attributed to the cumulative effect of all four interventions

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV, \$m)
<b>Economic costs</b>	<b>533.6</b>	<b>6 634.5</b>	<b>91 433.3</b>
Cost of crime	244.8	3 047.0	42 964.9
Loss of productive output	122.0	1 359.8	17 198.8
Excess burden of tax	166.8	2 227.7	31 269.6
<b>Fiscal costs</b>	<b>582.4</b>	<b>7 774.9</b>	<b>126 247.0</b>
Justice	574.8	7 691.7	125 222.7
Human services	1.7	18.4	214.6
Social services	0.5	5.0	58.8
Welfare	3.2	33.2	387.3
Foregone taxation	2.2	26.5	363.5
<b>Total avoided economic and fiscal costs</b>	<b>1 116.0</b>	<b>14 409.4</b>	<b>217 680.3</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

Table 9: Annual and total avoided costs attributed to closing the gap

Cost item	Annual impact in 2020 (\$m)	Annual impact in 2040 (\$m)	Total impact 2018-2092 (PV, \$m)
<b>Economic costs</b>	<b>1 410.7</b>	<b>8 909.5</b>	<b>124 987.9</b>
Cost of crime	613.9	3 888.5	54 899.3
Loss of productive output	345.4	2 162.8	29 752.9
Excess burden of tax	451.4	2 858.2	40 335.7
<b>Fiscal costs</b>	<b>1 575.8</b>	<b>9 977.9</b>	<b>140 805.6</b>
Justice	1 553.7	9 839.7	138 913.3
Human services	5.3	33.1	449.7
Social services	1.5	9.1	123.3
Welfare	9.6	59.8	811.7
Foregone taxation	5.7	36.3	507.7
<b>Total avoided economic and fiscal costs</b>	<b>2 986.6</b>	<b>18 887.4</b>	<b>265 793.5</b>

Sources: PwC analysis. See Table 1 and Table 3 for inputs.

194. ABS (2016). Prisoners in Australia, 2016. Canberra: ABS.

195. PC (2017). Report on government services (RoGS) 2017 – volume F: youth justice. Canberra: PC.

## 6.8 Conclusion

The potential avoided costs under six different scenarios have been modelled. Each of these individual scenarios could be expected to have a different impact on the rates of Indigenous incarceration in Australia (Figure 21). Modelled outcomes are based on a large number of assumptions and as such are highly uncertain. The cost savings presented here are indicative but actual results may vary.

Key findings of this comparison are:

- Incrementally closing the gap between Indigenous and non-Indigenous rates of incarceration by 2040 could generate savings to the economy of \$3.0 billion in 2020 and \$18.9 billion in 2040
- The most effective scenario modelled is the cumulative scenario as this scenario represents investing in all four categories of initiatives and reducing both the new entry rate and rate of recidivism over time
- The most effective single impact modelled is the targeted intervention scenario (3) because the initiative begins to take effect sooner and the effect impacts on both the new entrant rate of adults who have offended and the recidivism rate

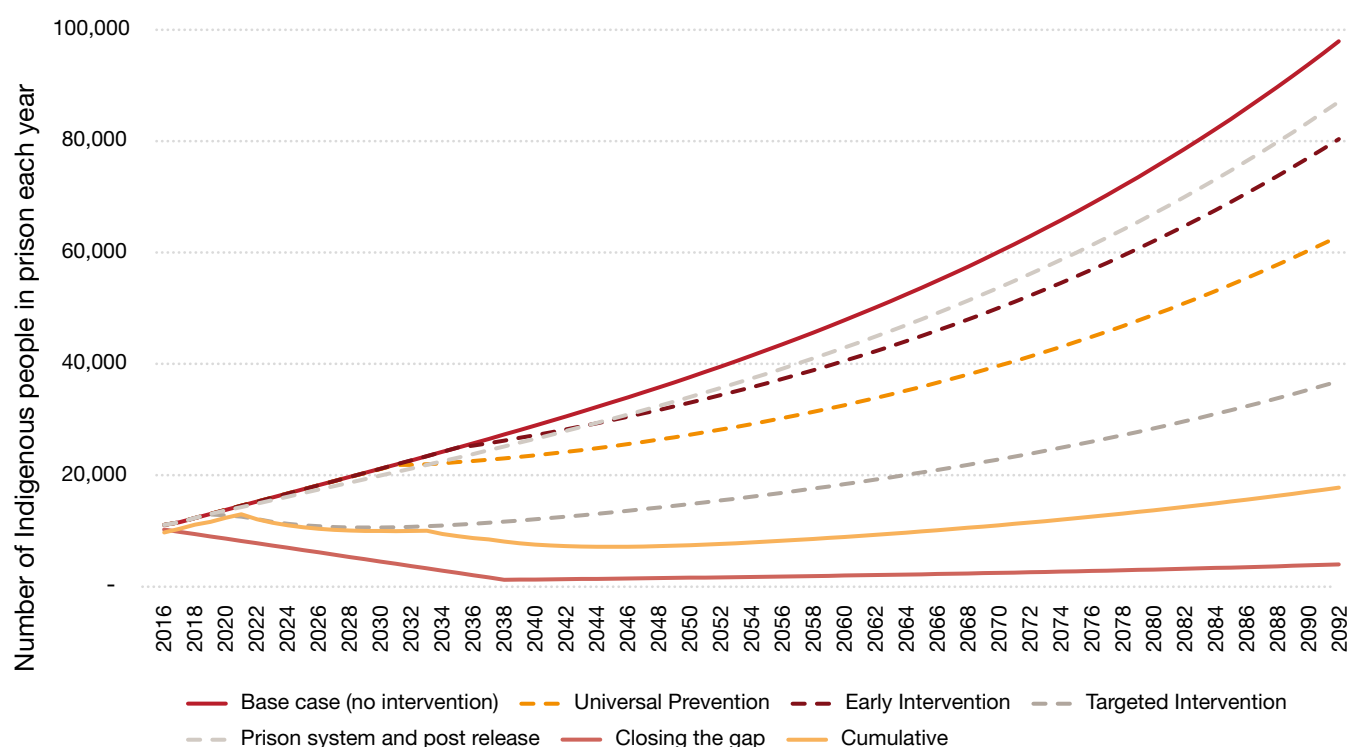
- The least effective impact modelled is the prison system and post release scenario (4) as the expected effect size, when scaled across Australia, is small and only effects the recidivism rate of people who have offended who have already entered the system. This scenario has no impact on the new entrant rate of adults who have offended
- The modelled effects of the early intervention scenario (2) commence last (at 2036) due to the individual age at which the intervention begins, at birth. The effect size of this intervention is smaller than universal prevention; 0.05 percentage point reduction in the rate of entry into the justice system, as it is targeted at a smaller sub-cohort of the Indigenous population
- Universal prevention and early intervention become more effective than the prison system and post release scenario in the longer term. This is because the effect size is larger as both scenarios impact on the number of people entering the prison system for the first time each year whereas the prison system scenario only impacts on the recidivism rate.

In the shorter term (2016-2034) the prison system scenario is more effective as there is a delay in the effect of four year old pre-school and maternal and child health visits starting due to the young age at which the cohort is impacted (4 years old and birth, respectively). Furthermore the universal scenario which is modelled only estimates the avoided cost of providing early childhood education to children and does not address the full suite of universal underlying causes of incarceration and the early intervention scenario only estimates the avoided cost of providing maternal and child health visits, not the full suite of possible early intervention programs

- No modelled scenario has shown sufficient impact in order to close the gap.

These results demonstrate that, while investment is needed in initiatives that reduce the rates of reoffending, there are also opportunities to invest in smarter ways through a focus on prevention and early intervention initiatives, which have the potential to generate significant long term savings and social benefits.

Figure 21: Number of Indigenous children, young people and adults in prison each year, by scenario





## 7. Implications and next steps

This report highlights the persistent and increasing over-representation of Indigenous Australians in incarceration. At the time of the Royal Commission into Aboriginal Deaths in Custody 26 years ago (1991), Indigenous Australians made up 13 per cent of the prison population. Today they represent 27 per cent of the prison population.

This continued over-representation of Indigenous men, women and children in prison and in detention has consequences for all Indigenous people – individuals, families and communities – impacting on culture, health, and social wellbeing. Children with a parent in prison can be particularly vulnerable, increasing the risk of themselves going on to have contact with the justice system, thus continuing a cycle of contact with the criminal justice system and consequent incarceration.

In order to break the cycle of Indigenous incarceration, the key drivers must be addressed that lead to people offending and coming into contact with the justice system in the first place. This will require a more holistic approach, with greater investment in prevention and early intervention.

The key underlying causes, as identified in the literature, are the level of disadvantage (with associations between education, health, employment and substance abuse and risk of incarceration the strongest), social exclusion, and experiences of trauma.

Additional factors related to the justice system such as relationship with the justice system, legal policy settings, and access to legal assistance, are also important in determining risk of incarceration.

### 7.1 Key findings

The over-representation of Indigenous people in prison has a number of costs and consequences, to the individual, to families and to society. The impact on individuals and families can have an intergenerational effect, exposing children to underlying causes and additional factors related to the justice system, perpetuating the cycle of disadvantage and incarceration.

An economic model has been developed to quantify the economic and fiscal costs of Indigenous incarceration to Australia, and to quantify the potential benefits of reducing the over-representation of Indigenous people imprisoned.

Our modelling shows that each year, the economic and fiscal cost of Indigenous incarceration to Australia is estimated to be \$7.9 billion per year. If the current situation is allowed to continue, it is expected to cost the Australian economy \$9.7 billion in 2020 and \$19.8 billion in 2040.

Closing the gap so that the Indigenous incarceration rate is reduced to the non-Indigenous incarceration rate by the year 2040 would generate economic savings of \$18.9 billion in 2040.

The potential economic cost savings from implementing a set of evidence informed initiatives together could generate up to \$14.4 billion in savings in the year 2040. However, this would still not be sufficient to close the gap between the rates at which Indigenous and non-Indigenous people are incarcerated.

In order to close the gap between the rates at which Indigenous and non-Indigenous people are imprisoned, holistic, system-wide approaches are needed. Through our research we have identified a number of key elements to reducing the rates of Indigenous incarceration.

#### Key elements to addressing Indigenous incarceration

- **Self-determination:** Like all Australians, Indigenous people have a right to determine their own political, economic, social and cultural development. This human right is an essential approach to overcoming Indigenous disadvantage and includes building connections to culture and a strong role for Aboriginal Community Controlled Originations (ACCOS) in the formation of any solutions.
- **System reform:** The key drivers of over-representation of Indigenous people in prisons will not be addressed by a single initiative or program. Instead, whole of system solutions are required across a range of traditional government policy and portfolio areas, including education, health, human services, welfare and justice.



- **Law reform:** This includes consideration of changes to laws and legal policy settings which contribute to the over-representation of Indigenous people in prison.
- **Increased community awareness:** Despite landmark reports, inquiries and reviews such as the Royal Commission into Aboriginal Deaths in Custody, understanding in the Australian community of the issues, causes, rates and consequences of over-representation of Indigenous men, women, children and young people is limited. The facts need to be unlocked. In order for change to happen, there needs to be broader community awareness.
- **Initiatives and programs:** In addition to broader system level reform, specific initiatives and programmatic responses are required – particularly Indigenous community controlled and led initiatives. These are required across the full spectrum including prevention, early intervention, targeted intervention to in prison programs and post release.

## 7.2 Recommendations

1. **The right of Indigenous communities to self-determination should underpin the development, implementation and ownership of strategies and initiatives to address the high rates of Indigenous incarceration.**

Real change requires a strong partnership and genuine relationship between funders, the justice sector, the broader service system and the Indigenous community including Indigenous organisations. This can only be achieved when Indigenous people have a meaningful stake in the implementation, design, delivery and evaluation of solutions.

A practical first step to achieve a more meaningful role, and voice, for Indigenous communities in the implementation of strategies and initiatives is for all governments to implement policies that allow for greater self-determination, including policies that make Indigenous organisations the preferred provider of choice for Indigenous services.

2. **A national set of Closing the Gap justice targets should be established to encourage a focus on outcomes, and to improve accountability by making visible any progress, or lack thereof, in reducing the rates at which Indigenous people are incarcerated.**

The Commonwealth and state and territory Governments should initiate this process through consultation with the justice sector, Indigenous organisations, and other key service sector stakeholders to agree on a set of national justice targets as part of Closing the Gap.

3. **Mainstream services need to be culturally aware and responsive to increase access to, and the effectiveness of, services to reduce the rates of Indigenous incarceration.**

Many mainstream funding agreements and grants already specify that they must deliver culturally aware and responsive services for Indigenous people. This needs to be made more transparent with funded services being required to more comprehensively demonstrate how their services are culturally aware and responsive and being accessed by Indigenous people. Funding bodies should be required to report on how the agencies they fund to deliver services on their behalf are delivering culturally aware and responsive services, and that action is being taken to address any shortcomings.

4. **There needs to be a greater focus, and investment in, prevention and early intervention initiatives that address the key drivers of Indigenous incarceration.**

To achieve change in this area, it is critical that there be investment in prevention and early intervention initiatives and programs, which will deliver significant results over the long term.

The environment needs to be created to give license to decision makers to invest in prevention and early intervention. This requires a sustained education campaign to broaden and deepen community understanding of key drivers that lead to Indigenous people coming into contact with the justice system in the first place, which would assist decision makers to invest in prevention and early intervention initiatives.

To kickstart this process a summit of key stakeholders, led and convened by Indigenous organisations, should be held to identify and set priorities for innovative future investment and public awareness. An existing opportunity for this, which could be built upon, is the ongoing work of the Redfern Statement Alliance, led by Indigenous peak bodies.

5. **There needs to be an enhanced focus on initiatives such as throughcare and re-integration programs that reduce the likelihood of reoffending.**

For those who are imprisoned, there needs to be greater opportunities to access and participate in programs and initiatives that improve the ability of individuals to re-integrate into the community and contribute meaningfully. These need to be tailored specifically for Indigenous people.

An initial step would be for governments to work closely with Indigenous organisations to identify, customise and implement initiatives that reduce the likelihood of reoffending.

**6. Greater innovation, increased investment and better evaluation of new and existing initiatives is required to improve access to quality data and add to the existing knowledge base on initiatives that have the potential to reduce the rates of Indigenous incarceration.**

To bring the sustained focus needed, an independent, data and research central agency with Indigenous oversight could be established. The role of this body would be to coordinate, commission, review and evaluate initiatives and programs designed to reduce the rates of incarceration for Indigenous people focusing on evidence and impact. The central agency could also focus on improving the quality of data to better support decision making and measurement progress.

This entity should have flexible and sustained funding to invest in innovation, both within the justice system, and solutions that sit outside of it. It should be a clearing house for 'what works'. The entity would not deliver initiatives itself, but would commission others to do so.

The performance of such an agency should be monitored and tied to Closing the Gap justice targets.

### **7.3 Next steps**

Our modelling is not a cost benefit analysis, it is an assessment of the potential savings to the economy. Future work could build on our model to include a full cost benefit analysis that would take into consideration the costs of implementing and operating initiatives, as well as the estimated benefits. A more granular analysis (either quantifying the economic and fiscal costs, or a full cost benefit analysis) could also be done by jurisdiction.

The Royal Commission into the Protection and Detention of Children in the NT and Australian Law Reform Commission Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples are currently underway. We hope that our work will be able to inform these reviews.

### **7.4 Commitment to action**

As part of our commitment to action on addressing the high rates at which Indigenous Australians are incarcerated, PwC is supporting the Korin Gamadji Institute and the Wirrpanda Foundation to develop a business case and to implement a Girls Football Academy in 2017.

Indigenous women are currently the fastest growing cohort of the incarcerated population in Australia.

The Girls Football Academy will initially focus on working with women Indigenous students across years 7 to 12 at four to six schools across VIC and WA for a pilot period of two years.

The Girls Football Academy is a new and innovative approach to increasing the levels of school attainment and completion among young Indigenous women, using sport as a mechanism to increase wellbeing and as an early intervention initiative.

The development of the academy is in collaboration with Richmond Football Club and the West Coast Eagles Football Club.

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# Appendix A

## Key drivers of Indigenous incarceration

### 1. Introduction

The disproportionate rates of Indigenous incarceration are unlikely to reduce unless the underlying causes are addressed.

The main underlying causes that lead to, or increase the likelihood of, Indigenous incarceration can be separated into either risk factors or additional factors related to the justice system.

Figure 22: Key drivers of Indigenous incarceration



## 2. Underlying causes

### Social circumstances

As an ongoing consequence of Indigenous people's experiences of colonisation, and the social impacts that followed, Indigenous people are the most disadvantaged group in Australia. It is important to acknowledge and understand these effects, and how they continue to impact Indigenous people, in order to determine how to effectively improve their social circumstances and reduce offending.<sup>196</sup>

The social inequities that exist increase the risk of Indigenous people offending, and in turn contribute to the higher incidence of incarceration.<sup>197</sup> People who are incarcerated, whether Indigenous or non-Indigenous, are typically from a disadvantaged community or a low socio-economic background.<sup>198</sup>

Tackling social disadvantage, increasing income equality and providing stable accommodation, employment and education opportunities can directly influence rates of offending.<sup>199</sup>

### Education

Indigenous Australians are only half as likely to finish year 12 as non-Indigenous counterparts, and on a national level, perform poorly compared to non-Indigenous students on every measure of educational performance.<sup>200</sup>

*“As a society Australia is better at keeping Indigenous people in prison or detention than keeping them in school or tertiary education”.<sup>201</sup>*

This contributes to the rates of Indigenous incarceration with education performance and outcomes having been linked to likelihood of imprisonment, with involvement in crime and juvenile behaviour higher among children and young people who are poorly engaged in school, leave school early or perform poorly at school.<sup>202</sup> One study found that youth who reported below average school performance were 1.4 and 1.5 times as likely to be involved in assault and property crime as those with average or above average school performance.<sup>203</sup>

The rate of imprisonment decreases significantly from 2,217 per 100,000 Indigenous people who do not complete school to 164 per 100,000 population for those who do.<sup>204</sup>

### Employment

Unemployment is an indicator of imprisonment with half of those who had offended for the first time and two-thirds of those who re-offend estimated to be unemployed at the time of their arrest.<sup>205</sup> The NSW Inmate Health Survey found that 50 per cent of men and 67 per cent of women were recorded as being unemployed six months prior to their offence, while 30 per cent of men and 44 per cent of women had been unemployed for five years or more.<sup>206</sup>

A significant factor in the high Indigenous incarceration rate is high unemployment, with Indigenous prisoners 1.5 times as likely to have been unemployed in the 30 days prior to imprisonment as non-Indigenous prisoners.<sup>207</sup>

Compared to their non-Indigenous counterparts, 21 per cent of Indigenous people 15 years or older were unemployed in 2014-15 compared 6 per cent nationally.<sup>208</sup> Employment reduces the likelihood of imprisonment with Indigenous people 20 times less likely to be imprisoned than those who are unemployed.<sup>209</sup>

### Housing

In 2015, 25 per cent of prison entrants in Australia were homeless prior to imprisonment, with Indigenous prison entrants more likely to be homeless than non-Indigenous prison entrants (27 per cent compared to 24 per cent).<sup>210</sup>

Housing is also a significant factor affecting the health of Indigenous people with Indigenous households often larger in size compared to non-Indigenous households.<sup>211</sup> Substandard and inadequate housing can lead to poor health outcomes,<sup>212</sup> which is also a risk factor for incarceration.

196. La Macchia, M (2016). An introduction to over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system. Australian Policy Online, <http://apo.org.au/node/68258>. Accessed January 2017.

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200. Cunneen, C (2013). Time to arrest rising Aboriginal prison rates. *Crime and Justice*, Insight 8: 22–24.

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205. Borzycki, M (2005). Interventions for prisoners returning to the community. Canberra: AIC.

206. Hudson, S (2013). Panacea to prison? Justice reinvestment in Indigenous communities. Centre for Independent Studies, Policy Monographs, [www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities](http://www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities). Accessed January 2017.

207. AIHW (2015). The health of Australia's prisoners 2015. Cat no PHE 207. Canberra: AIHW.

208. ABS (2015). Labour force, Australia, Aug 2015. [www.abs.gov.au/ausstats/abs@.nsf/lookup/6202.0Media%20Release1Aug%202015](http://www.abs.gov.au/ausstats/abs@.nsf/lookup/6202.0Media%20Release1Aug%202015). Accessed January 2017; ABS (2016). National Aboriginal and Torres Strait Islander Social Survey, 2014–15. [www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4714.0~2014-15~Main%20Features~Education~5](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4714.0~2014-15~Main%20Features~Education~5). Accessed January 2017.

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212. Carson, B, Dunbar, T, Chenhall, RD, and Baillie, R, eds. (2007). Social determinants of Indigenous health. Crows Nest, NSW: Allen and Unwin.



## Health

Compared to 20 per cent of the general population, 73 per cent of Indigenous men and 86 per cent of Indigenous women in prison had a diagnosed mental illness.<sup>213</sup> A study of Indigenous youth in detention in Australia suggests that Indigenous youth are more likely to have mental health problems than non-Indigenous youth (81 per cent compared to 75 per cent).<sup>214</sup>

Poor mental health is one of the greatest burdens of disease contributing to the health gap between Indigenous and non-Indigenous Australians.<sup>215</sup>

Health and community services may not be accessible or user-friendly for Indigenous people. This can be due to a number of factors including the remoteness of the recipient, the cultural awareness and responsiveness of the health service that considers the needs of Indigenous people and the cost to access these health services.<sup>216</sup>

## Substance abuse

The abuse of substances such as alcohol and illicit drugs is high amongst Australian prisoners. While Indigenous people in prison are more likely to have consumed high risk levels of alcohol in a 12-month period, illicit drug use is more common amongst non-Indigenous people in prison.<sup>217</sup>

Substance abuse contributes to the disproportionate rates of Indigenous incarceration. For example, Indigenous women are 1.5 to 3.8 times more likely to be under the influence of drugs or alcohol at the time of their offence as non-Indigenous women.<sup>218</sup>

The association between drug and alcohol abuse and Indigenous incarceration is evident with the fact that up to 90 per cent of Indigenous prison entrants link their offending to substance abuse.<sup>219</sup> In the 2007 Drug Use Monitoring in Australia project 68 per cent of adult Indigenous people who had offended tested positive to a range of substances including 64 per cent who self-reported alcohol consumption 48 hours prior to their arrest.<sup>220</sup>

Substance abuse can directly affect rates of offending: as a means to fund the consumption of substances; altering behaviour to increase the likelihood of offending; and increasing the risk of child abuse and neglect.<sup>221</sup>

## Disability

Based on the 2009 NATSISS, 21.1 per cent of Indigenous people have a disability relating to sight, hearing, speech; physical; intellectual; psychological; or head injury, stroke or brain damage.<sup>222</sup> After age-standardising, Indigenous people were 1.7 times as likely as non-Indigenous people to be living with disability.<sup>223</sup>

Cognitive impairment in particular, such as intellectual disability and acquired brain injury, is associated with a greater risk of entering the criminal justice system.<sup>224</sup> Undiagnosed cognitive disability in children can lead to disengagement or expulsion from school at a relatively young age. People with cognitive disabilities are more likely to come to the attention of police, be charged, imprisoned, and spend longer in custody. For many of these individuals, their cognitive disability make them unable or unfit to plead.<sup>225</sup>

Once in prison, those with a cognitive disability are less likely to be granted parole, and have poorer access to treatment programs than those without cognitive impairment.<sup>226</sup> Many remain underdiagnosed, or do not meet the criteria for receiving support and assistance from state disability services and the National Disability Insurance Scheme (NDIS). As a result, thousands of people with mental and cognitive disability are in prison instead of being supported in the community, despite being unfit for detention. A disproportionate number of these are Indigenous.<sup>227</sup>

It is estimated that 8 per cent of Indigenous Australians have an intellectual disability compared with 2.9 per cent of the general population.<sup>228</sup> Indigenous Australians with cognitive disability who are imprisoned have contact with police two years earlier, and experience custody and first conviction earlier than their non-Indigenous counterparts.<sup>229</sup>

213. Balanced Justice (2013). Indigenous overrepresentation in prisons. Balanced Justice, [www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html](http://www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html). Accessed January 2017.

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216. Australian Indigenous HealthInfoNet (2016). Summary of Aboriginal and Torres Strait Islander Health, 2015. [www.healthinfo.net.au/health-facts/summary#fnl-2](http://www.healthinfo.net.au/health-facts/summary#fnl-2). Accessed January 2017.

217. AIHW (2015). The health of Australia's prisoners 2015. Cat no PHE 207. Canberra: AIHW.

218. Johnson, H (2004). Key findings from the Drug Use Careers of Female Offenders study. Trends & issues in crime and criminal justice no. 289. Canberra: AIC.

219. Ibid.

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227. Ibid.

228. ABS (2016). National Aboriginal and Torres Strait Islander Social Survey, 2014-15. Canberra: ABS.

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A key contributing factor towards cognitive disability is Foetal Alcohol Syndrome Disorders (FASD). FASD are cognitive disorders that can occur in individuals as a result of prenatal exposure to alcohol. While it is difficult to determine, the incidence of FASD is estimated to be at least 4 times greater among Indigenous Australians (2.76 to 4.7 per 1,000 births) than non-Indigenous Australians (0.06 to 0.68 per 1,000 live births).<sup>230</sup>

### Social exclusion

Social exclusion in the form of material poverty, or limited access to basic social needs and services (e.g. education, healthcare, employment, and housing) can all lead to increased rates of incarceration, particularly for Indigenous youth.<sup>231</sup>

While this lack of access to services is common to most disadvantaged communities across Australia, it is often more pronounced in non-metropolitan areas where geographical proximity adds further complication. With 24 per cent of Indigenous people living in remote or regional Australia (compared to 1.4 per cent of the total Australian population) Indigenous people are more likely to encounter barriers such as distance, cost of travel, access to transport and weather conditions that affect road access. This can create inequities within the criminal justice process, including issues related to sentencing, court attendance and bail and parole conditions.<sup>232</sup>

Social exclusion also presents a significant issue post-release and can impact rates of recidivism, with remote communities having limited

access to appropriate community support programs and rehabilitation services. Continual contact with the justice system reinforces the cycle of disadvantage for individuals and communities.<sup>233</sup>

### Experiences of trauma

#### Intergenerational trauma

The RCIADIC report stated that “while Aboriginal people were dispossessed of their land without benefit of treaty, agreement or compensation... little known is the amount of brutality and bloodshed that was involved in enforcing on the ground what was pronounced by the law.”<sup>234</sup>

The *Ways forward* report highlights that “not only did white settlement bring such social disintegration but it brought enormous loss, trauma and grief through the...lack of recognition of human status; loss of land; loss of hunting grounds and hence starvation; social fragmentation, war; loss of good health; enforced relocations onto missions and reserves; loss of freedom; loss of cultural and legal norms; loss of citizenship; loss of control over their lives and the environment; and forced removal of children.”<sup>235</sup>

Linking the impact of historical events to the current levels of disadvantage and trauma experienced by Indigenous people, the *Bringing them home* report concluded that “high levels of unemployment, poverty, ill health, homelessness, and poor educational outcomes arise from the intergenerational effects of earlier assimilationist policies, as well as being the direct outcome of dispossession and marginalisation...

The devastating experiences of Aboriginal parents and their families brought on by the removal of their children, the loss of control over their own lives, powerlessness, prejudice, and hopelessness have left many problems to be dealt with today.”<sup>236</sup> The inquiry found that many of the children who were forcibly removed from their families and communities suffered physical and sexual abuses at the hands of institutions and foster families.

The report concluded that “Indigenous families and communities have endured gross violations of their human rights. These violations continue to affect Indigenous people’s daily lives. They were an act of genocide, aimed at wiping out Indigenous families, communities, and cultures.”<sup>237</sup>

#### Family and domestic violence and sexual abuse

Indigenous women and children in particular are at increased risk of being victims of family violence, with Indigenous women 34 times as likely to be admitted to hospital as a result of family violence compared with non-Indigenous women.<sup>238</sup>

Studies indicate that violent and abusive behaviours that occur in a domestic setting can be normalised by children, increasing the risk that children who have been exposed to family violence will go on to be perpetrators of family violence themselves, and therefore more likely to come into contact with the justice system.<sup>239</sup> Many Indigenous people who offend have long histories of childhood and adult sexual or physical abuse.<sup>240</sup>

230. House of Representatives Standing Committee on Social Policy and Legal Affairs (2012). FASD: the hidden harm – Inquiry into the prevention, diagnosis and management of Fetal Alcohol Spectrum Disorders. Canberra: Department of the House of Representatives.

231. Butler, T, and Milner L (2003). The 2001 NSW inmate health survey. Sydney: NSW Corrections Health Service, [www.justicehealth.nsw.gov.au/2nd\\_level/pubs.html](http://www.justicehealth.nsw.gov.au/2nd_level/pubs.html). Accessed January 2017; La Macchia, M (2016). An introduction to over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system. Australian Policy Online, <http://apo.org.au/node/68258>. Accessed January 2017.

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234. RCIADIC (1991). Royal Commission into Aboriginal Deaths in Custody: National reports [Vol 1-5], and regional reports. Canberra: Australian Government Publishing Service.

235. Swan, P, and Raphael, B (1995). Ways forward: National Aboriginal and Torres Strait Islander mental health policy – National consultancy report. Canberra: Australian Government Publishing Service.

236. Human Rights and Equal Opportunity Commission (1997). Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. Canberra: Commonwealth Government of Australia.

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238. Change the Record Coalition (2015). Blueprint for change. The Change the Record Coalition Steering Committee, [www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint\\_web.pdf](http://www.reconciliation.org.au/wp-content/uploads/2016/11/Change-the-Record-Blueprint_web.pdf). Access 20 January 2017.

239. Macklin, A, and Gilbert, R (2011). Working with Indigenous offenders to end violence. Indigenous Justice Clearinghouse, Brief 11.

240. Lawrie R, (2003). Speak out speak strong. Rising imprisonment rates of Aboriginal women. Indigenous Law Bulletin 5 (24), [www.austlii.edu.au/au/journals/IndigLawB/2003/24.html](http://www.austlii.edu.au/au/journals/IndigLawB/2003/24.html). Accessed January 2017; Johnson, H (2004). Key findings from the Drug Use Careers of Female Offenders study. Trends & issues in crime and criminal justice no. 289. Canberra: AIC.

In NSW it was estimated that 69 per cent of Indigenous women in custody had been abused as a child, with three-quarters of these women experiencing sexual abuse. Of these, 68 per cent still required counselling or support to deal with their experience. In addition, 73 per cent of Indigenous women in custody had been abused as adults, with 42 per cent of these experiencing sexual assault. At least 80 per cent of the women surveyed said that their experience of abuse was an indirect cause of their offending.<sup>241</sup> However, this is likely an underestimate.<sup>242</sup> A 2003 study of the general population of women in Australian prisons reporting that 87 per cent were victims of sexual, physical or emotional abuse in either childhood (63 per cent) or adulthood (78 per cent), with the majority being victims of multiple forms of abuse.<sup>243</sup> This same study found that 71 per cent of Australian women in prison were mothers. A greater proportion of Indigenous women in prison were mothers than their non-Indigenous counterparts (77 per cent compared to 69 per cent).<sup>244</sup>

### Child protection

Young people involved in the child protection system are more likely to come into contact with the justice system than the general population. In 2013-14, youth who were the subject of care and protection orders and youth in out-of-home care were both 23 times more likely to be under youth justice supervision (either in detention or under community-based supervision) during the same year.<sup>245</sup>

According to the Overcoming Indigenous Disadvantage report, 30 per cent of NSW children in out of home care are Indigenous.<sup>246</sup> In Victoria (VIC), Indigenous children were 9 times more likely to be the subject of child protection notifications compared with non-Indigenous children.<sup>247</sup>

It is estimated that at a population level, 14-16 per cent of Indigenous young people experience supervision at some time between the ages 10-17, compared with just over 1 per cent of non-Indigenous young people.<sup>248</sup>

Nationally, the rates of child protection substantiations indicating a “child has been, is being or is likely to be, abused, neglected or otherwise harmed” were 7 times higher for Indigenous children than for non-Indigenous children (43.6 per 1,000 compared to 6.4 per 1,000) in 2015-16.<sup>249</sup> As a result, Indigenous children were 10 times likely to be in out-of-home care than non-Indigenous children (56.6 per 1,000 compared to 5.8 per 1,000).<sup>250</sup>

However, the *Bringing them home* report found that Indigenous children are more likely than non-Indigenous children to be removed on the ground of ‘neglect’ rather than ‘abuse’, with “Indigenous parenting styles wrongly seen as the cause”.<sup>251</sup>

It has been suggested that the structured risk assessment frameworks used by most child protection authorities in Australia “are biased against Indigenous Australians as risk is understood in mainstream, white people terms, not in the context of Indigenous culture, where sharing of child minding commonly occurs.”<sup>252</sup>

Reducing the rates of child protection substantiations within Indigenous communities would likely reduce the rates of offending and incarceration.<sup>253</sup>

## 3. Additional factors related to the justice system

### Relationship with the justice system

#### Previous contact with the justice system

A consequence of persistently high rates of Indigenous incarceration is that it has become common for families and individuals to have direct knowledge and experience of prison through a spouse, parent, child, friend or neighbour.<sup>254</sup> It has been suggested that a life spent in contact with the justice system has become ‘normalised’. The prospect of imprisonment no longer serves as a deterrent, instead becoming a fact of life or even a rite of passage.<sup>255</sup>

241. Sentencing Advisory Council (2013). Comparing sentencing outcomes for Koori and non-Koori adult offenders in the Magistrates’ Court of VIC. Melbourne: State Government of VIC.
242. Stathopoulos M, Quadara, A, Fileborn, B and Clark, H (2012). Addressing women’s victimisation histories in custodial settings. Australian Centre for the Study of Sexual Assault Issues No. 13. Melbourne: Australian Institute of Family Studies, Commonwealth of Australia.
243. Johnson, H (2004). Drugs and crime: a study of incarcerated female offenders. Research and public policy series no. 63. Canberra: AIC.
244. Ibid.
245. AIHW (2016). Young people in child protection and under youth justice supervision 2013–14. Data linkage series no. 21. Cat. no. CSI 22. Canberra: AIHW.
246. Manuell, J (2009). The Fernando principles: the sentencing of Indigenous offenders in NSW. NSW Sentencing Council, [www.publicdefenders.nsw.gov.au/Documents/sentencing\\_indigenous\\_offenders\\_nsw.pdf](http://www.publicdefenders.nsw.gov.au/Documents/sentencing_indigenous_offenders_nsw.pdf). Accessed January 2017.
247. Sentencing Advisory Council (2013). Comparing sentencing outcomes for Koori and non-Koori adult offenders in the Magistrates’ Court of VIC. Melbourne: State Government of VIC.
248. AIHW (2012). Indigenous young people in the juvenile justice system. AIHW Bulletin no. 109. Cat. No. AUS 164. Canberra: AIHW.
249. AIHW (2017). Child protection Australia 2015–16. Table 3.5: Children aged 0–17 who were the subjects of substantiations of notifications received during 2015–16, by Indigenous status, states and territories (number and number per 1,000). Child Welfare series no. 66. Cat. No. CWS 60. Canberra: AIHW.
250. Ibid.
251. Human Rights and Equal Opportunity Commission (1997). Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. Canberra: Commonwealth Government of Australia.
252. Stanley, J, Cadd, M, and Pocock, J (2003). Child sexual abuse in Indigenous communities. Child sexual abuse: Justice response or alternative resolution conference convened by the Australian Institute of Criminology.
253. Weatherburn, D (2014). Arresting Incarceration: Pathways out of Indigenous imprisonment. Aboriginal Studies Press.
254. Hudson, S (2013). Panacea to prison? Justice reinvestment in Indigenous communities. Centre for Independent Studies, Policy Monographs, [www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities](http://www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities). Accessed January 2017.
255. House Standing Committee on Aboriginal and Torres Strait Islander Affairs (2011). Doing time – Time for doing: Indigenous youth in the criminal justice system. Canberra: Parliament of Australia; Hudson, S (2013). Panacea to prison? Justice reinvestment in Indigenous communities. Centre for Independent Studies, Policy Monographs, [www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities](http://www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities). Accessed January 2017; Rowse, T (2015). Historical reasoning about Indigenous imprisonment: a community of fate? Australian Review of Public Affairs, 13(1): 1-21.

## Contact with the juvenile justice system

Contact with the juvenile justice system is a strong predictor of incarceration as an adult. 86 per cent of Indigenous children and young people who offend have contact with the justice system as adults, compared with 75 per cent of non-Indigenous children and young people who offend, while 65 per cent of Indigenous children and young people who offend go on to serve prison terms, compared with 41 per cent of non-Indigenous children and young people.<sup>256</sup>

## Police

Interaction with police is typically the first point of contact between an individual and the criminal justice system. In many cases, police have discretion as to whether an individual should be charged and referred to a court or a conference or whether they should be cautioned. Australian Institute of Criminology research has shown that Indigenous youth who offend are less likely to receive a police caution and are more likely to be referred to court, compared to non-Indigenous youth who offend, who are more likely to receive a caution. After controlling for demographic and case variables, the discrepancy reduced, but remained statistically significant.<sup>257</sup> While the research remains inconclusive,<sup>258</sup> some argue that this residual difference is the result of unconscious bias.<sup>259</sup>

Language barriers and a lack of access to interpreter services has been highlighted as one issue that impacts on interactions between police and Indigenous people.<sup>260</sup>

Lack of sufficient cultural awareness and community engagement training for police deployed in Indigenous communities has also been found to be a factor impacting on interactions and community relationships with police.<sup>261</sup>

## Courts

A number of studies have investigated the level of disparity observed in Indigenous sentencing outcomes in both higher (i.e. District and Supreme) and lower (i.e. Magistrates) courts. After adjusting for a range of offender and case characteristics, studies in NSW, Qld and Western Australia (WA) suggest there is no significant difference in the likelihood of imprisonment between Indigenous and non-Indigenous people who have offended in the higher courts of Australia. If anything, evidence suggests there is a greater level of leniency afforded to Indigenous people who have offended in the higher courts compared with non-Indigenous people who have offended under similar circumstances.<sup>262</sup>

However, studies of sentencing in NSW, SA and Qld lower courts suggest that imprisonment is a more likely outcome for Indigenous people who have offended than for comparable non-Indigenous people who have offended, even after adjusting for offender and case characteristics (1.15 to 1.48 times as likely in NSW, 0.82 to 1.53 times as likely in SA).<sup>263</sup>

It has been suggested that in the higher courts, there are comparatively lengthier periods of time allowed for an appropriate sentence to be considered by judges.

On the other hand, the disparity witnessed in lower courts is likely the result of magistrates having to make sentencing decisions under tighter time constraints and with less information. It is thought that under these circumstances, perceptions or stereotypes of Indigenous people may be more likely to influence sentencing than in the higher courts.<sup>264</sup>

Indigenous people who have offended receive shorter terms of imprisonment than non-Indigenous people who have offended in the lower courts after adjusting for other factors, although, this varied by jurisdiction.<sup>265</sup> There was no significant difference between imprisonment terms for Indigenous and non-Indigenous people who have offended in the higher courts.<sup>266</sup>

## Recidivism

A substantial contributor to the disproportionately high rates of Indigenous incarceration is the equally disproportionate rates of recidivism, with 75 per cent of Indigenous people who have offended having a previous conviction compared to 42 per cent of non-Indigenous people who have offended. Furthermore, 22 per cent of Indigenous people who offend have had at least five prior convictions compared with 5 per cent of non-Indigenous who offend.<sup>267</sup>

256. Justice Health Special Interest Group (JHSIG) (2016). Incarceration of Aboriginal and Torres Strait Islander people policy. Public Health Association of Australia (PHAA), Policy at a Glance, [www.phaa.net.au/documents/item/1704](http://www.phaa.net.au/documents/item/1704). Accessed January 2017.

257. Snowball, L (2008). Diversion of Indigenous juvenile offenders. Canberra: AIC.

258. Ibid.

259. Cunneen, C (2006). Racism, discrimination and the over-representation of Indigenous people in the criminal justice system: some conceptual and explanatory issues. *Current Issues in Criminal Justice*, 17(3): 329-346.

260. Heske, C (2008). Interpreting Aboriginal Justice in the Territory. *Alternative Law Journal*, 33(1).

261. Allen Consulting Group (2010). Independent review of policing in remote Indigenous communities in the NT.

262. Bond, C, and Jeffries, S (2013). Differential sentencing of Indigenous offenders: what does research tell us? *Indigenous Law Bulletin*, 8(7): 15-18.

263. Jeffries, S, and Bond, C (2012). Indigenous disparity in lower court imprisonment decisions: a study of two Australian jurisdictions, 1998 to 2008. *Trends & issues in crime and criminal justice* no. 447; Bond, C, and Jeffries, S (2013). Differential sentencing of Indigenous offenders: what does research tell us? *Indigenous Law Bulletin*, 8(7): 15-18.

264. Ibid.

265. Sentencing Advisory Council (2013). Comparing sentencing outcomes for Koori and non-Koori adult offenders in the Magistrates' Court of VIC. Melbourne: State Government of VIC; Hudson, S (2013). Panacea to prison? Justice reinvestment in Indigenous communities. Centre for Independent Studies, Policy Monographs, [www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities](http://www.cis.org.au/publications/policy-monographs/panacea-to-prison-justice-reinvestment-in-indigenous-communities). Accessed January 2017.

266. Sentencing Advisory Council (2013). Comparing sentencing outcomes for Koori and non-Koori adult offenders in the Magistrates' Court of VIC. Melbourne: State Government of VIC.

267. Ibid.



## Legal policy settings

During periods of increased crime rates, or in the aftermath of crimes that draw particular attention, governments can often face pressure from the public and the media to implement or extend ‘tough on crime’ responses such as increased arrests, tougher sentencing laws and practices, mandatory sentencing, and tougher bail eligibility and conditions.<sup>268</sup> While these may be politically expedient, there is no evidence to suggest that these policy responses have any beneficial impact on reducing the rates of offending.<sup>269</sup>

In the largest study conducted into the reasons for reduction in the rate of crime in the United States (US), policing technology, reduced alcohol consumption, and increased levels of employment and income were seen to have the greatest impacts, while increasing imprisonment and tougher laws had no impact.<sup>270</sup>

Rather than impacting on rates of crime, ‘tough on crime’ responses can lead to increased rates of incarceration as a result of more people being remanded in custody and for longer periods of time, more people being sentenced to imprisonment as opposed to non-custodial sentences, and longer sentences for those who are imprisoned.<sup>271</sup> The high rates of Indigenous people who offend suggest that Indigenous people are disproportionately affected.<sup>272</sup> This can be seen in a number of states where rates of Indigenous incarceration increased as a consequence of ‘tough on crime’ policy measures, but the cause has not been attributable to an increased number of Indigenous people who have offended being convicted of a crime.<sup>273</sup>

In the longer term, exposing people who have offended (whether Indigenous or not) to harsh prison environments may harden their anti-social attitudes and behaviours and lead to future reoffending and re-incarceration.<sup>274</sup>

## Legal assistance and the legal assistance sector

Indigenous people who have offended can often have complex legal needs, requiring culturally appropriate legal support for clients with high levels of disadvantage, poor housing and low levels of education. In remote Indigenous communities, English proficiency may also be low. Unfortunately, current levels of funding to Aboriginal and Torres Strait Islander Legal Services, Legal Aid Commissions, Family Violence Prevention Legal Services and Community Legal Centres has been unable to keep pace with rising delivery costs and levels of need. The Legal Australia-Wide Survey found that Indigenous Australians have particularly high levels of unmet legal need.<sup>275</sup>

In order to address the most pressing gaps in services (for both Indigenous and non-Indigenous people), the Productivity Commission recommended Australian, state and territory Governments provide an additional \$200 million per year to civil legal assistance.<sup>276</sup>

The result of an under-resourced Indigenous legal assistance sector is that problems, when they arise, may go unresolved or be dealt with inadequately. As these problems escalate and multiply, they can lead to significant issues such as homelessness, loss of income or work, substance abuse, and future criminal behaviour and imprisonment.<sup>277</sup> A common example of how this can occur is with fine defaults.

While the ability of an offender to pay the fine is now taken into consideration when determining whether to impose a fine and how much, many people who have offended may be reluctant to disclose their financial circumstances. In other cases, fines may be imposed as they are mandatory, or because no other sentencing option is available.<sup>278</sup>

A survey in NSW found that 40 per cent of the Indigenous community had outstanding debts with the state, many of which were fine-related. When fines are not paid, further penalties may be imposed, leading to escalating debt and often escalating penalties. While imprisonment for fine default only has declined in most jurisdictions, it is not clear how many people are imprisoned for breaching a community service order consequent to a fine default.<sup>279</sup>

While fines can be contested in court, Indigenous people almost never contest, likely due to a lack of information and difficulty in negotiating the fines enforcement system. Others are deterred from contesting fines from fear of incurring further costs.<sup>280</sup>

268. Cunneen, C (2013). Time to arrest rising Aboriginal prison rates. Crime and Justice, Insight 8: 22-24; Balanced Justice (2013). Indigenous overrepresentation in prisons. Balanced Justice, [www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html](http://www.balancedjustice.org/indigenous-overrepresentation-in-prisons.html). Accessed January 2017; Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

269. Law Council of Australia (2015). Inquiry into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. [www.apl.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Legal\\_assistance\\_services/Submissions](http://www.apl.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legal_assistance_services/Submissions). Accessed January 2017.

270. Ibid.

271. Cunneen, C (2013). Time to arrest rising Aboriginal prison rates. Crime and Justice, Insight 8: 22-24; Law Council of Australia (2015). Inquiry into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. [www.apl.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Legal\\_assistance\\_services/Submissions](http://www.apl.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legal_assistance_services/Submissions). Accessed January 2017.

272. La Macchia, M (2016). An introduction to over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system. Australian Policy Online, <http://apo.org.au/node/68258>. Accessed January 2017; Debus, B (2016). The things which must be done. Aboriginal incarceration: the urgent need for Aboriginal community solutions. Whitlam Institute, Perspectives.

273. Cunneen, C (2013). Time to arrest rising Aboriginal prison rates. Crime and Justice, Insight 8: 22-24.

274. AIHW, and Australian Institute of Family Studies (AIFS) (2013). Diverting Indigenous offenders from the criminal justice system. Closing the Gap Clearinghouse, Resource sheet no. 24. Canberra: AIHW.

275. Law Council of Australia (2015). Inquiry into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. [www.apl.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Legal\\_assistance\\_services/Submissions](http://www.apl.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legal_assistance_services/Submissions). Accessed January 2017.

276. PC (2014). Access to justice arrangements: overview. Inquiry report no. 72. Canberra: PC.

277. Ibid.

278. Williams, MS, and Gilbert, R (2011). Reducing the unintended impacts of fines. Indigenous Justice Clearinghouse, Current Initiatives Paper 2.

279. Ibid.

280. Ibid.



# Appendix B

## Methodology and technical notes

### 1. The task

PwC has estimated the full economic costs of Indigenous incarceration including costs borne by the government, individuals, and society. We have considered the full costs and impacts of incarceration at each stage; starting with the costs of crime to victims and society and concluding with the costs of lifetime impacts on people who have been incarcerated. Further costs are incurred by society and families, these costs are discussed qualitatively within the report but are not considered within the economic modelling discussed below.

We have calculated the potential avoided costs which would be expected to arise from a selection of policy initiatives that have been shown to reduce the incidence of the onset of offending behaviour or recidivism.

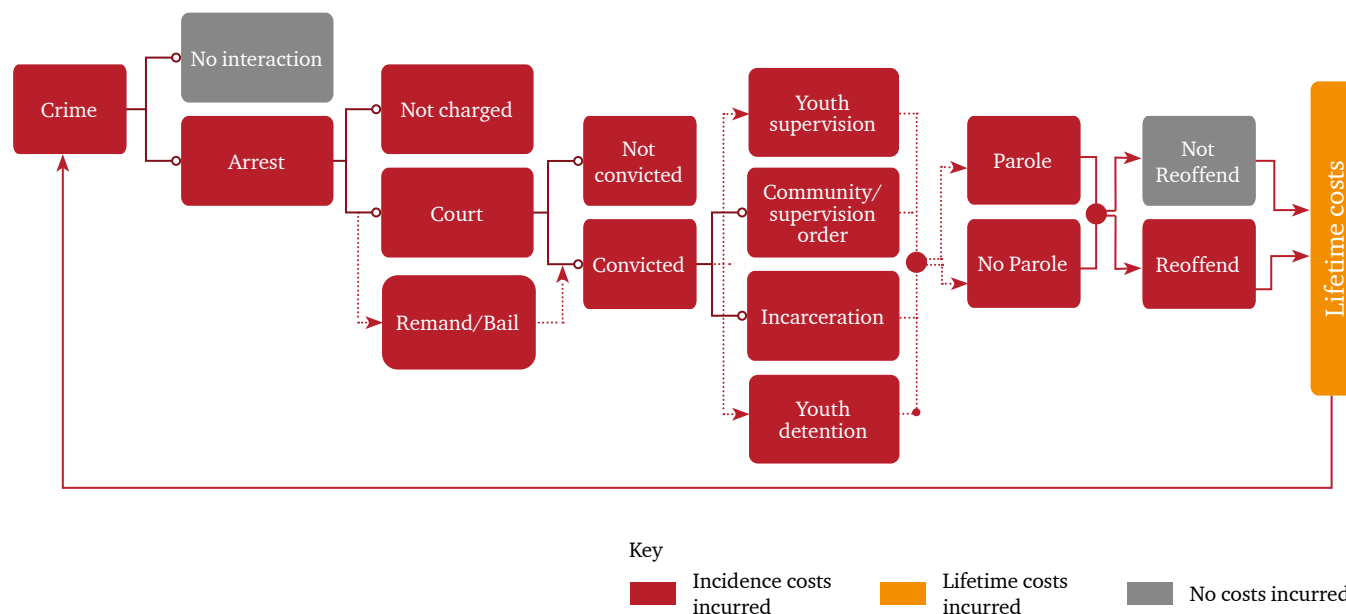
The costs have been projected over a long time frame which allows us to estimate the lifetime effects of incarceration and allows sufficient time to capture the full evolution of initiatives that might reduce the prevalence of Indigenous incarceration. The analysis therefore extends over a period of 76 years.

### Scope

The analysis was completed by jurisdiction and accounts for gender differences where data was available. The model is forward looking, projecting growth in the number of Indigenous people who are incarcerated each year in line with a range of assumptions (see below).

The following diagram (Figure 23) summarises the potential pathways and interactions with the justice system that have been modelled. Each node within the diagram represents a potential interaction with the justice system that has costs for society, the government or the individual. In addition to these interactions we have considered the lifetime economic impacts of incarceration.

Figure 23: Pathways through the justice system



2. Approach

The approach can be broken up into two streams of analysis; total cost and the potential cost savings under various scenarios. The key elements of these streams and summarised in Figure 24.

Total cost

The costs analysis is made up of three major categories of inputs; volume inputs, incidence costs and lifetime costs.

Population projection

Volume inputs refer to the number of interactions that Indigenous people have with the justice system each year. This includes, for example, the number of crimes that are allegedly committed by Indigenous people, the number of court cases involving an Indigenous defendant that are finalised each year and the average number of Indigenous people who are incarcerated each day within a year. Volume inputs are projected out to the year 2092 based on expected rates of population growth, recidivism rates and rates of new entry into prison. The first step in this is to gather estimates of the population out to 2092.

The Australian Bureau of Statistics (ABS) has only published a projection of the Indigenous population in Australia to the year 2026. Under this analysis the ABS has assumed that the population will grow at an average rate of 2.2 per cent per annum. In order to project the size of the Indigenous population to the year 2092, we assume that the population continues to grow at a constant rate of 2.2 per cent per annum. Additionally we assume that the population has an approximate gender ratio of 0.50.

Throughout this analysis, crude rates of incarceration in the Indigenous and non-Indigenous populations have been used, crude rates refer to the basic division of the number of people in prison divided by the total adult Indigenous population, these rates are not age standardised. The ABS recognises that significant differences in the age profile of Indigenous Australians contribute to higher crude rates of incarceration due to crime being highly correlated with age.

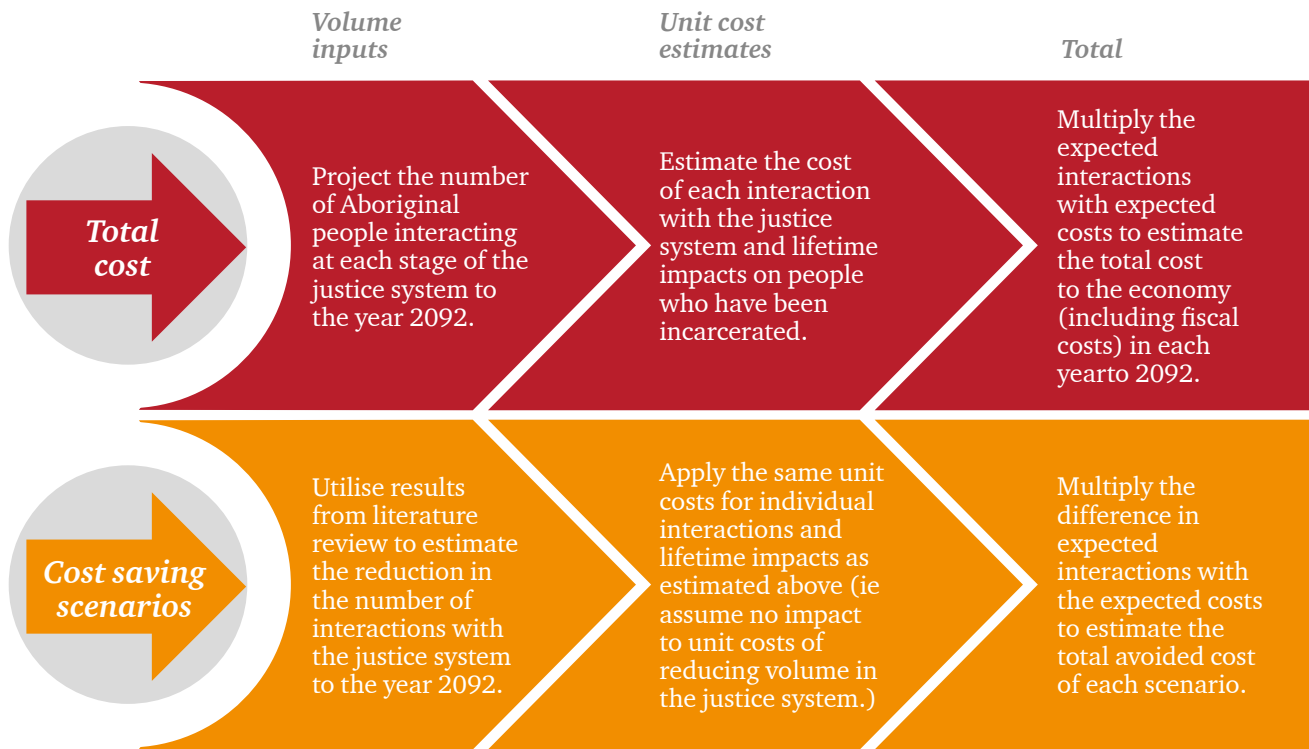
It is plausible that over the period of 76 years that this analysis covers, significant changes to the age profile of Indigenous Australians may take place. Therefore we assume that changes to birth rates or life expectancies that are estimated by the ABS in 2026 continue to 2092.

Volume inputs – estimating the cohorts

For the purposes of this analysis, we have disaggregated the cohort of people in prison into an illustrative model, the different cohorts of possible people who have offended are summarised in Figure 25:

- Everyone who enters adult prison will incur some incidence cost and a lifetime cost
- All crimes that are alleged to be committed, court finalisations, time spent on remand and community orders (including bail and parole) incur some incidence cost.

Figure 24: Summary of approach



- Everyone who reoffends will incur additional incidence costs
- We estimate the prison element of the incidence cost based on the average number of people who are in prison on a given day
- We estimate the potential cost savings through reductions in the rate of new entry or the rate of recidivism.

Those people who have been to prison at least once in their life are then considered to be part of the ‘been to prison’ cohort, even if they do not go back to prison at any time in the future. All of the people in this cohort are assumed to experience lifetime effects of their time in prison.

The assumptions that underpin the rate at which people enter prison as new entrants, return to prison or remain in prison from one year to the next are summarised in Table 10.

The estimate of cohorts (described above) are utilised to project the number of Indigenous people who are expected to be in prison in each year between 2016 and 2092. This projection is used to estimate the annual growth rate in the number of prisoners. These year on year growth rates have been applied to the remaining volume inputs in order to estimate the number of interactions at each stage of the justice system (see Figure 23 for a summary of the stages). The starting cohort is the most recent available estimate for all volume inputs, in most cases this is 2016 however in some cases only the 2015 cohort was available.

The implicit assumption is that there is no change in the proportionality of interactions throughout the system. For example if we were to assume that there were three times as many court finalisations (the completion of a matter, i.e. a verdict of not guilty, final sentencing, or conclusion of final appeal so that the matter ceases to be an item of work to be dealt with by the court) as people in prison in the year 2016, we would assume that in all years between 2016 and 2092 there would always be three times as many finalisations as people in prison.

Figure 25: Impacted cohorts within the Indigenous population

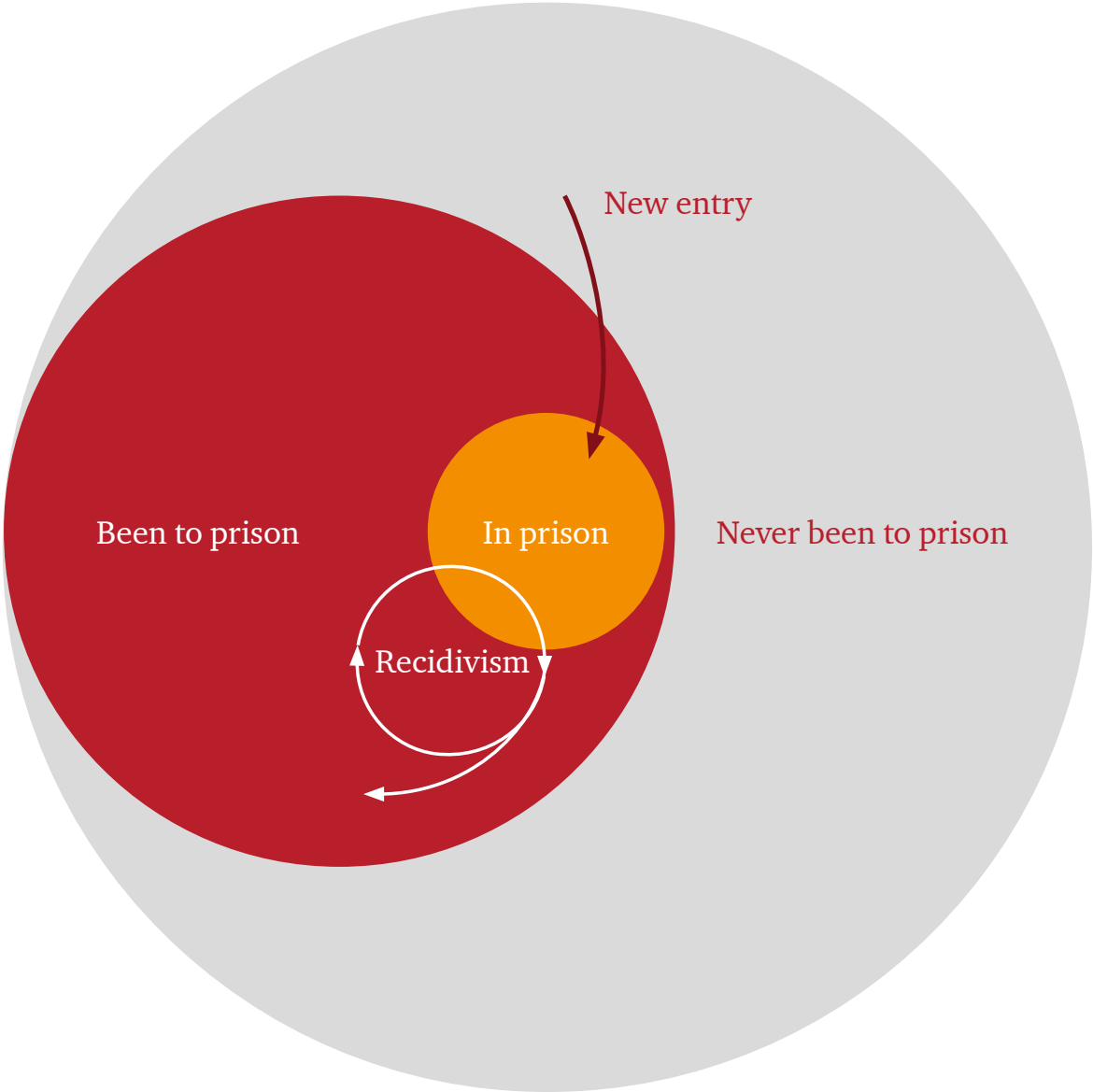


Table 10: Cohort assumptions

Description	Assumption	Population
New entry as a proportion of the total population	0.3% <sup>281</sup>	Total Indigenous population
Recidivism within one year of release	58% <sup>282</sup>	Indigenous people who have been to prison
Recidivism between one and two years from release	15% <sup>282</sup>	Indigenous people who have been to prison
Recidivism between two and three years from release	8% <sup>282</sup>	Indigenous people who have been to prison
Recidivism between three and four years from release	6% <sup>282</sup>	Indigenous people who have been to prison
Proportion of Indigenous prison population who are released within one year of entering prison	41% <sup>283</sup>	Indigenous people who are in prison

The annual cohort projections are multiplied by unit costs (incidence or lifetime costs) to estimate the annual cost.

### Calculating the new entrant rate

The ABS does not publish statistics on the rate at which Indigenous people are entering prison for the first time and as such it was necessary to estimate this rate. The estimation is based on the following two data tables:<sup>284</sup>

1. Indigenous prisoners by most serious offence category and expected time to serve
2. Prisoners sentenced in the last 12 months by prior conviction and most serious offence category

By multiplying the number of Indigenous prisoners sentenced in the last 12 months by the proportion who do not have a prior conviction gives an estimate of the number of Indigenous people who were in jail on the 30th of June in each year (census date) who were new entrants to the prison system. This measure does not account for a number of Indigenous people who would be expected to enter prison for the first time and leave prior to the census date and so is an underestimate of the new entry rate.

In order to account for these people we have utilised the proportion of Indigenous people who are expected to serve sentences less than 12 months and multiplied this with the proportion of Indigenous people in each offence category who are serving their first sentence in order to estimate the number of additional Indigenous people who are entering prison for the first time within a year but are not captured by the census.

This estimation method was repeated for the year 2006 to 2016 and an average of approximately 0.3% of the total adult Indigenous population per year was used for the analysis.

### Incidence costs

Incidence costs refer to the cost that is incurred (on average) for each interaction that an Indigenous person has with the justice system. For example incidence costs include the average cost of incarceration per person per day, the average cost of legal representation and court costs per finalisation or the average cost to victims and society of crimes committed. Where applicable the costs are weighted by the types and prevalence of offences that are committed by Indigenous people. For example Indigenous people are over-represented in traffic related offences but under-represented in fraud offences and the majority of Indigenous defendants have their matters finalised in the magistrate's courts rather than in other higher courts.

Table 11 provides a detailed description of the incidence cost estimates used in the model. We have estimated unit costs for the year 2016 where possible, where 2016 data was not available we have indexed estimates using the ABS consumer price index, all costs are stated in 2015-16 dollars.

Fiscal costs refer to direct government expenditure on services. In the table below, fiscal costs to justice refer to the services within justice that are funded by the government and by extension by tax payers.

281. PwC calculation from data presented within Australian Bureau of Statistics (2010 - 2016) Prisoners: 4517.0.

282. Weatherburn, D, Jones, C, Snowball, L, and Hua, J (2008). The NSW drug Court: a re-evaluation of its effectiveness. Contemporary Issues in Crime and Justice no. 121. Sydney: NSW Bureau of Crime Statistics and Research. Presented within Australian national Council on Drugs: national Indigenous Drug and Alcohol Committee (2013). An economic analysis for Aboriginal and Torres Strait Islander offenders: Prison vs residential treatment / Deloitte Access Economics.

283. PwC calculation from data presented within Australian Bureau of Statistics (2016) Prisoners: 4517.0, Table 11.

284. ABS (2016) Prisoners: 4517.0.

Table 11: Incidence costs

Category	Cost component	Description	Estimated by	Estimate (\$2015/16)
Fiscal cost – Justice	Police	The average police expenditure per recorded offender (on average each offender has 2.1 offences recorded against them each year).	Dividing total police expenditure in each jurisdiction <sup>285</sup> by the number of recorded offenders in that jurisdiction, jurisdiction and scaling down by 20% based on the proportion of time that police in Australia spend on criminal matters compared to traffic and commuter services. <sup>286</sup>	\$20,815 per alleged offender
	Finalisations (court)	The average cost of an Indigenous person's court finalisation and associated legal costs – estimate weighted based on courts most likely to be used for Indigenous finalisations. Legal costs may be borne by Legal Aid, Aboriginal legal service or by private practitioners.	Weighted average finalisation costs for Indigenous finalisations is calculated by: 1. Calculating the proportion of Indigenous finalisations that are finalised in each court type in each jurisdiction. <sup>287</sup> 2. Multiplying the proportion of finalisations within a court type by the average cost of a finalisation in that court within that jurisdiction. <sup>288</sup> 3. Adding two times the estimated average cost of legal representation for a defendant in each jurisdiction (see table 12 on estimates by jurisdiction). This estimate has been used as no data was available on the costs of prosecution. Given that the burden of proof lies with the prosecution it is likely that the defence costs are an under estimate of the full costs of prosecution. <sup>289</sup>	\$9,128 per finalisation
	Prison (remand/sentenced)	The cost of providing prison services per prisoner/detainee per day (estimate includes costs for prisoner transport and health expenses where possible)	Estimate of recurrent expenditure (refers to expenditure on goods, services and up keep that are likely to occur each year, this includes recurrent capital expenditure but not once off capital projects <sup>290</sup> ) per prisoner, per day excluding costs of prisoner transport and health costs <sup>291</sup> was added to the real recurrent expenditure on transport and health costs by jurisdiction (divided by the number of prisoners) to give a total cost of services provided per prisoner per day. <sup>292</sup>	\$312 per prisoner per day (~\$114,000 p.a.)
	Juvenile detention	The average cost of providing juvenile detention services per detainee per day	Source data utilised. <sup>293</sup>	\$1,428 per detainee per day (~\$521,000 p.a.)
	Juvenile supervision	The average cost of providing juvenile supervision services per offender per day	Source data utilised. <sup>294</sup>	\$124 per supervisee per day (~\$45,000 p.a.)
	Community orders	The cost of providing community order services per adult offender per day. This includes the cost of providing supervision for bail and parole.	Source data utilised. <sup>295</sup>	\$23 per offender per day (~\$8,000 p.a.)

285. Productivity Commission (2017) Report on Government Services, Table 6A.10: Real recurrent expenditure on policing by State (2015-16 dollars).

286. Australian Bureau of Statistics (2016) Recorded Crime:4510.0 Table 6 and Table 23; AIC (2015). Criminal Justice System Costs. [www.aic.gov.au/publications/current%20series/rpp/121-140/rpp129/21-criminal-justice-system.htm](http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp129/21-criminal-justice-system.htm). Accessed May 2017.

287. PwC calculation based on data presented in Australian Bureau of Statistics (2016) Criminal Courts Australia Table 12. Note: No data on Indigenous finalisations was available for Victoria, Western Australia or Tasmania – for these states the average proportion of finalisations that were classified as Indigenous for the remaining states was applied. Where there is a lack of data to show how many court finalisations are Indigenous related we have used the ratio of the proportion of Indigenous court finalisations relative to the proportion of Indigenous prisoners (in the jurisdictions where data is available) and apply that to the proportion of Indigenous prisoners in states where we have data gaps

288. Productivity Commission (2017) Report on Government Services, Table 7A.34: Real recurrent expenditure per finalisation, criminal (2015-16 dollars).

289. See table Table 13 for legal representation assumptions and their sources.

290. Note: as the cohort of prisoners grow it may be necessary for additional correctional facilities to be built, the potential cost of this is not included in this estimate.

291. Productivity Commission (2017) Report on Government Services, Table 8A.18: Net recurrent expenditure per prisoner/detainee and per offender per day (2015-16 dollars)

292. Productivity Commission (2017) Report on Government Services, Table 8A.1: Real recurrent expenditure (\$'000), 2015-16 dollars, Note: Transport and health costs are not fully disaggregated in any jurisdiction. In all jurisdictions the estimate of these costs is likely to be an underestimate as a large amount of the cost is borne by departments other than the Department of Justice.

293. Productivity Commission (2017) Report on Government Services, Table 17A.24: Cost per young person subject to detention-based supervision, 2015-16 dollars.

294. Productivity Commission (2017) Report on Government Services, Table 17A.23: Cost per young person subject to community-based supervision, 2015-16 dollars.

295. Productivity Commission (2017) Report on Government Services, Table 8A.1: Net recurrent expenditure per prisoner/detainee and per offender per day, 2015-16 dollars



Category	Cost component	Description	Estimated by	Estimate (\$2015/16)
	<b>Mandated community service</b>	The cost of providing community service placements and supervision per adult offender per day and the cost of estimated lost wages due to people who have offended undertaking unpaid work. We assume that people who have offended undertaking community service would be otherwise employed. <sup>296</sup>	<p>The cost of providing community order services was added to the cost of individuals providing free community service instead of paid work.</p> <p>The cost of unpaid work was calculated as the proportion of mandated community service orders given to Indigenous people that are expected to be completed (approx. 60%<sup>297</sup>) multiplied by the hours ordered to be worked per day (approx. 7.5 hours<sup>298</sup>) and the minimum wage (\$17.70 per hour).<sup>299</sup></p>	\$108 per offender per day (~\$27,000 p.a.)
<b>Fiscal cost – child protection</b>	<b>Out of home care</b>	The cost of children being placed in out-of-home care when their primary carer is incarcerated. This estimate is only applied to women who are incarcerated and is a conservative estimate	<p>The children of parents who are incarcerated are at an elevated risk of being placed in out of home care. In 2015 54% of Indigenous prisoners reported having at least one child. Prisoners who had children had an average of 1.1 dependent children.<sup>300</sup> In 2012 a third of incarcerated women in NSW reported living with their children prior to incarceration.<sup>301</sup></p> <p>For the purposes of this model we assume that the children of mothers who are the primary carer prior to incarceration are likely to be placed in kinship or out-of-home care placements while their primary carer is in prison.</p>	Between \$16,641 and \$39,617 per child per annum (depending on jurisdiction) <sup>302</sup>
<b>Fiscal cost – Foregone taxation</b>	<b>Foregone taxation (inside jail)</b>	The likely lost income tax that results from incarcerated people being less likely to be employed following imprisonment. The estimate is provided separately for men and women accounting for differences in expected unemployment rates and differences in expected salaries (if working) for men and women.	<p>Unemployment is also associated with lost income tax collected by the government.</p> <p>We have conservatively assumed that Indigenous people who are working would earn minimum wage (\$17.70 per hour). This is an average annual income of \$34,331 per Indigenous working man and \$26,415 per Indigenous working woman. The average annual lost taxation per working individual is \$3,103 for men and \$1,599 for women. These are also weighted by the expected proportion of people who have completed their sentence who are unemployed due to prison (22%).</p>	\$1,129 per male per annum and \$466 per female per annum.
<b>Economic costs</b>	<b>Loss of productive output (inside jail)</b>	People who are in prison are unable to participate in the workforce resulting in lost economic output.	<p>The loss of productive output is equal to the value that would have been generated had a person in prison had been employed instead. This is calculated by multiplying the proportion of Indigenous people who were employed when entering prison, by their estimated value added per hour.</p> <p>On entering prison approximately 44 per cent<sup>311</sup> Table S21 of the 65 per cent of men and 52 per cent of women<sup>313</sup> participating in the workforce are expected to be unemployed. The cost of the lost productive output is the value of their possible contribution if they were employed. This is estimated at \$39.30 per hour for males and \$30.80 per hour for women. This is based on the income share to labour of the average value added in the industries that Indigenous males and females work in (the ABS estimates that on average 58% of the value added in an hour is attributable to labour, as opposed to capital (this assumes that capital is fully utilised)<sup>319</sup>. This is also based on 37.3 hours of labour per week for males and 28.7 hours per week for females</p>	\$27,746 per male per annum and \$13,385 per female per annum.

296. Productivity component is an economic cost – this component will be split out in the final report]

297. Productivity Commission (2017) Report on Government Services, Table 8A.20: Completions rates of community corrections orders 2015-16.

298. PwC assumption that this is a full day of 7.5 hours of work.

299. Fair Work, (2016), accessed: <http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/minimum-workplace-entitlements/minimum-wages>

300. AIHW (2015). The health of Australia's prisoners 2015. Cat no PHE 207. Canberra: AIHW.

301. Productivity Commission (2017) Report on Government Services, Table 16A.1: State and Territory Government real recurrent expenditure on child protection services, per notification, per investigation and per substantiation (2015-16 dollars).

302. Meeting the needs of children of incarcerated mothers: the application of attachment theory to policy and programming. D. Kenny. The department of corrective services NSW, October 2012.

303. AIC (2015), Counting the costs of crime in Australia: A 2011 estimate.

Category	Cost component	Description	Estimated by	Estimate (\$2015/16)
	<b>Cost of crime</b>	<p>The average cost incurred by victims of crime perpetrated by Indigenous people who have offended including:</p> <ul style="list-style-type: none"> <li>• Property damage</li> <li>• Medical costs</li> <li>• Lost output</li> </ul> <p>Intangible costs that have been quantified – fear, pain, suffering, reduced quality of life</p>	<p>The economic cost of crime is calculated as a weighted average of the incidence costs of crimes that fall into the broad Australia and New Zealand Society Of Criminology (ANZSOC) categories.<sup>303</sup></p> <p>The weights are calculated based on the proportion of Indigenous people who have offended whose most serious offence falls within a category.<sup>304</sup></p> <p>The estimate is inflated to 2015-16 dollars utilising CPI.<sup>305</sup></p>	\$10,666 per incident

## Legal representation costs

This section provides additional detail on the method of estimating court finalisations that have been introduced in table 11.

No national estimate of the cost of legal representation for Indigenous people or for prosecution of Indigenous people was available. As legal aid organisations and Aboriginal legal services are funded and operated as not for profit organisations within each state and territory the reporting requirements and operational activities of each organisation varies widely.

It was necessary to calculate costs differently based on the available data, as described below.

No estimate of the costs associated with the prosecution of Indigenous people was available. As a proxy we have used the estimated costs of criminal defence as an estimate of the potential costs of prosecution. We acknowledge that this is likely to be a conservative estimate given that the burden of proof lies with the prosecution who may be expected to incur significantly higher costs in investigation and preparation of a case. These costs feed into the *finalisations (court)* cost component as outlined in table 11.

In order to arrive at the national estimate of \$9,128 per finalisation we have taken two times the legal representation costs and added the costs incurred by the court system per finalisation.

Table 12: Legal representation cost calculations

Jurisdiction	Cost estimate	Calculation method and limitations	Source
<b>New South Wales</b>	\$6,802 per case	The estimate was calculated by taking the total remuneration paid to the top 20 private contractors of legal aid in NSW and dividing this estimate by the total number of cases handled by these private contractors. This method does not account for potential differences in the case complexity that is handled by private contractors compared to internal legal aid staff and does not account for differences in complexity that may occur between Indigenous and non-Indigenous defendants.	<sup>306</sup>
<b>Victoria</b>	\$1,871 per case	The estimate was calculated by taking the total remuneration paid to the top 20 private contractors of legal aid in Victoria and dividing this estimate by the total number of cases handled by these private contractors. This method does not account for potential differences in the case complexity that is handled by private contractors compared to internal legal aid staff and does not account for differences in complexity that may occur between Indigenous and non-Indigenous defendants.	<sup>307</sup>
<b>Western Australia</b>	\$3,787 per case	Western Australian legal aid reports on the average cost per legal representation as a key performance indicator, this estimate was used. This estimate does not account for differences in complexity that may occur between Indigenous and non-Indigenous defendants.	<sup>308</sup>
<b>South Australia</b>	\$1,336 per case	South Australian legal aid provides a line item on their financial report outlining expenditure on criminal law services that are handled in house and through private contract. This estimate is an average of the total expenditure divided by the number of cases handled. This method does not account for differences in complexity that may occur between Indigenous and non-Indigenous defendants.	<sup>309</sup>
<b>Queensland, Tasmania and Northern Territory</b>	\$3,910 per case	No financial data was available which could disaggregate costs attributed to criminal case services compared to legal advice services, duty lawyer services etc for Northern Territory legal aid. This estimate is based on a weighted average of estimates that were available in NSW, Vic, SA and WA.	NA

304. ABS (2016). Recorded Crime – Offenders, 2015–16, Cat. 4519.0, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4519.0>.

305. ABS (2017). Consumer Price Index, Cat. 6401.0, <http://www.abs.gov.au/ausstats/abs@.nsf/products/902A92E190C24630CA2573220079CCD9?OpenDocument>.

306. Legal Aid NSW, (2016), Annual Report, [www.legalaid.nsw.gov.au/\\_data/assets/pdf\\_file/0017/25901/Legal-Aid-NSW-Annual-Report-2015-2016.pdf](http://www.legalaid.nsw.gov.au/_data/assets/pdf_file/0017/25901/Legal-Aid-NSW-Annual-Report-2015-2016.pdf), pg. 184.

307. Legal Aid Victoria, (2015), Annual Report, <http://annualreport.vla.vic.gov.au/private-practitioners>.

308. Legal Aid WA, (2015), Annual Report, [www.legalaid.wa.gov.au/LegalAidServices/About/Documents/Annual%20Report%202014-15.pdf](http://www.legalaid.wa.gov.au/LegalAidServices/About/Documents/Annual%20Report%202014-15.pdf), pg. 33.

309. Legal Aid SA, (2015), Annual Report, [www.lsc.sa.gov.au/resources/www\\_2016\\_AR38th\\_WEB.pdf](http://www.lsc.sa.gov.au/resources/www_2016_AR38th_WEB.pdf), pg 42 and 69.

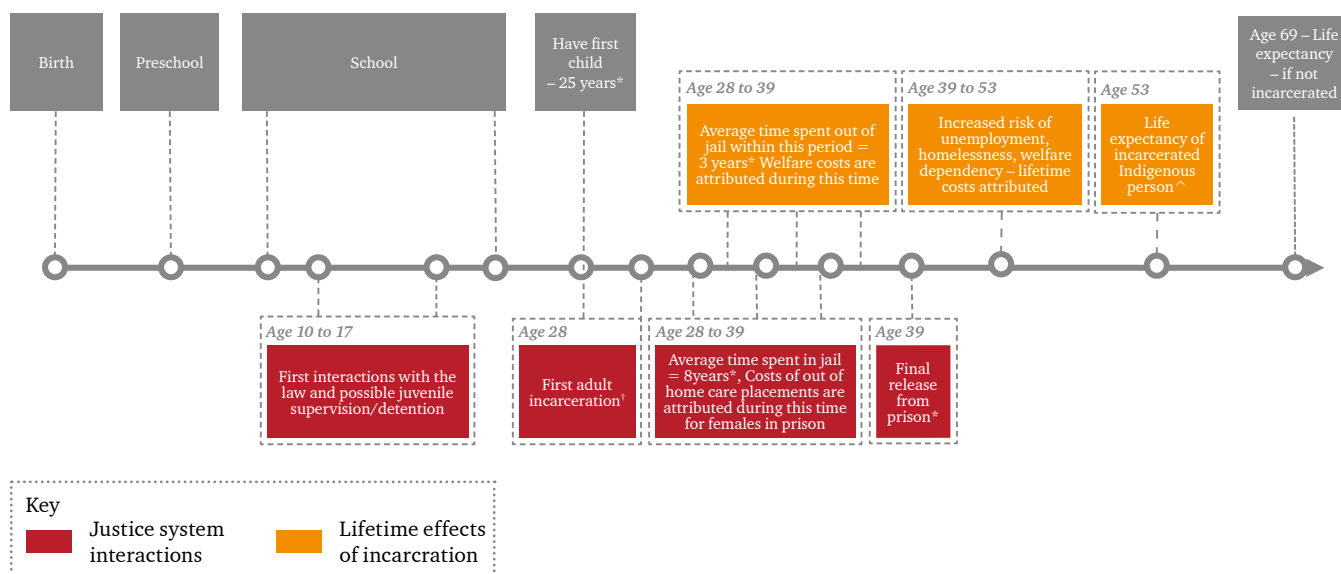
## Lifetime costs

Lifetime costs refer to costs that are incurred over the period of a person's life due to their experience of being incarcerated. This includes the cost associated with increased prevalence of homelessness, increased unemployment rates and increased mortality due to time spent in prison.

These costs are attributed to each person who enters prison at least once within their life, based on the statistically 'average' experience of Indigenous people moving through the justice system. This is not the pathway that Indigenous people take, but it is based on the available statistics for Indigenous people.

These costs are not attributed to children and young people who are never incarcerated as adults or people who only receive a community sentence without a period of incarceration. Estimates of lifetime costs are therefore conservative.

Figure 26: Statistically average life pathway of an Indigenous person who offends



Source: \*AIHW report (2010), Australia's Mothers and Babies, pg 19., ^ Patterson, E., 2013, The Dose – Response of Time Served in Prison on Mortality: New York State, 1989-2003, American Journal of Public Health, 103:3, 523-528, † ABS, National Aboriginal Torres Strait Islander Social Survey, Summary Results, Australia 2014-15, Cat 4714.0 Table 15.3, accessed: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4714.02014-15?OpenDocument>, 13/02/2017

The types of lifetime costs and how they have been attributed to Indigenous who have completed a sentence are outlined in Table 13. As costs are attributed over a number of years (the time frame of the costs are outlined in Figure 26) following incarceration, we calculate a discounted sum and attribute that costs in the year that the offender first enters the system. This means that costs are calculated and attributed in terms that are equivalent to the incidence costs.

Table 13: Lifetime costs

Category	Cost component	Description	Estimated by	Estimate (\$2015/16)
Fiscal costs – Welfare	Welfare	The likely welfare costs incurred post release as incarcerated people are less likely to be employed upon release. This estimate has been weighted by the proportion of the population who are expected to be unemployed following their stay in prison.	<p>Indigenous people who have been incarcerated are more likely to be unemployed as Indigenous people who have not been to prison.<sup>310</sup></p> <p>PwC has assumed that Indigenous people who have completed a sentence are 50 percent more likely to be unemployed and would be enrolled in 'New Start' allowance which entitles recipients to between \$13,536 and \$13,982 per annum<sup>311</sup> depending if they have dependent children.</p> <p>The estimate per prisoner represents only the additional probability that someone is seeking welfare compared to the average for Indigenous Australians. This does not represent the entire cost of welfare but the additional expected costs.</p> <p>The estimate is weighted by the proportion of prisoners who have dependent children (in 2015 approximately 54% of all prison entrants reported having dependent children<sup>312</sup>) and the expected unemployment rate of Indigenous men and women who are entering prison is 44.0%.<sup>312</sup> PwC assumes that approximately 22.0% of Indigenous people participating in the workforce who were incarcerated will be reliant on welfare once released following their stay in prison, while it is expected that a greater number will be reliant on welfare due to other reasons.</p>	\$3,031 per person per annum
	Homelessness services	The likely homelessness services costs incurred post release as incarcerated people are less likely to have stable housing upon release. This cost relates only to the fiscal cost of providing social housing and homelessness services (importantly this cost excludes costs to the individual or potential externalities of increased homelessness).	<p>Indigenous people who have completed a sentence are at a greater risk of being homeless or having unstable housing post-release from prison. 27% of Indigenous prison entrants were homeless in the four weeks prior to their imprisonment compared to 38% of Indigenous prison discharges who were expecting to be homeless on release.<sup>312</sup> We assume that approximately 11% of prisoners are likely to be homeless on release.</p> <p>The cost of homelessness includes the cost of homelessness services and social housing. We assume that 30% of people experiencing homelessness on release from prison are provided with social housing while the remainder are provided with homelessness services.</p> <p>On average the cost of homelessness services per client per annum across Australia are \$2,735.<sup>314</sup> The average cost of social housing per dwelling per annum across Australia is \$7,567.<sup>315</sup></p>	\$460 per incarcerated person per annum

310. Australian Bureau of Statistics, National Aboriginal and Torres Strait Islander Social Survey 2002, Catalogue 4714.0, 2004. Pg. 14. [http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/AE3942DB21AD4A27CA256EBB0079843D/\\$File/47140\\_2002.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/AE3942DB21AD4A27CA256EBB0079843D/$File/47140_2002.pdf)

311. Department of Social Services, (2016), [www.dss.gov.au/sites/default/files/documents/10\\_2016/dss\\_annual\\_report\\_2015-16.pdf](http://www.dss.gov.au/sites/default/files/documents/10_2016/dss_annual_report_2015-16.pdf)

312. AIHW (2015). The health of Australia's prisoners 2015. Cat no PHE 207. Canberra: AIHW.

313. ABS (2014). NATSISS. [www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4714.02014-15?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4714.02014-15?OpenDocument). Accessed March 2017.

314. Productivity Commission (2017) Report on Government Services, Table 19A.3: Total recurrent expenditure on homelessness services, 2015-16 dollars.

315. Productivity Commission (2017) Report on Government Services, Table 18A.44: real government expenditure on public housing 2006-07 to 2015-16 (\$ per dwelling), 2015-16 dollars.

Category	Cost component	Description	Estimated by	Estimate (\$2015/16)
Economic cost	Loss of productivity output (outside jail)	Incarcerated people are less likely to be employed upon release resulting in lost productivity. The estimate is provided separately for men and women accounting for differences in expected unemployment rates and differences in expected salaries (if working) for men and women.	<p>The loss of productive output is equal to the value added that would have been generated had a person who has completed a prison sentence been employed instead. This is calculated by multiplying the proportion of Indigenous people who are not employed, due to prison, by their estimated value per hour.</p> <p>As noted above, Indigenous people who have been incarcerated are more likely to be unemployed than Indigenous people who have not been to prison. PwC assume that Indigenous people who have been to prison are 50 per cent more likely to be unemployed than they were prior to their first sentence. On entering prison approximately 44 per cent<sup>311, Table S21</sup> of the 65 per cent of men and 52 per cent of women<sup>313</sup> participating in the workforce are expected to be unemployed. Therefore on exit we assume that an additional 22 per cent of people will be unemployed. The cost of the lost productive output is the value of their possible contribution if they were employed. This is estimated at \$39.30 per hour for males and \$30.80 per hour for women. This is based on the income share to labour of the average value added in the industries that Indigenous males and females work in (the ABS estimates that on average 58% of the value added in an hour is attributable to labour, as opposed to capital (this assumes that capital is fully utilised).<sup>318</sup> This is also based on 37.3 hours of labour per week for males and 28.7 hours per week for females.<sup>317</sup></p>	\$5,259 per woman and \$10,900 per man per annum
Fiscal cost – Taxation	Foregone taxation (outside jail)	The likely lost income tax that results from incarcerated people being less likely to be employed following imprisonment. The estimate is provided separately for men and women accounting for differences in expected unemployment rates and differences in expected salaries (if working) for men and women.	<p>Unemployment is also associated with lost income tax collected by the government.</p> <p>We have conservatively assumed that Indigenous people who are working would earn minimum wage (\$17.70 per hour). This is an average annual income of \$34,331 per Indigenous working man and \$26,415 per Indigenous working woman. The average annual lost taxation per working individual is \$3,103 for men and \$1,599 for women.</p> <p>These are also weighted by the expected proportion of people who have completed their sentence who are unemployed due to prison (22% as above).</p>	\$183 per female incarcerated individual and \$444 per male incarcerated individual per annum
	Excess burden of tax	The government incurs costs in raising revenue to fund expenditure on the justice system, welfare, social services and child protective services. Furthermore the economy incurs costs that relate to lost consumer and producer surplus as a result of the taxes levied by governments. These costs are referred to as the excess burden of tax or the deadweight loss.	In order to account for these costs a flat rate of 29% uplift has been added to all fiscal costs. The 29% is made up of a 27.5% <sup>319</sup> deadweight loss that is borne by consumers and producers and a 1.25% <sup>320</sup> administration uplift that is borne by the ATO in order to collect taxes.	29% applied to all fiscal costs <sup>321</sup>

316. ABS, (2016) Labour Force:6291.0.55.001, Table 9

317. Fair Work, (2016), accessed: <http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/minimum-workplace-entitlements/minimum-wages>

318. ABS (2016). Estimates of industry multifactor productivity ABS (2016). 81550 - Australian Industry, 2014-15; ABS (2011). Census, employment by industry, sex and Aboriginal and Torres Strait Islander status.

319. Industry Commission (Now referred to as Productivity Commission) (2003) Evaluation of the Pharmaceutical Industry Investment Program.

320. ATO 2000-01 cited within Access Economics. The cost of Domestic Violence to the Australian Economy: Part 2 page 65

321. Access Economics. The cost of Domestic Violence to the Australian Economy: Part 2 page 66 table 35



## Bringing the cohort and costs together

The projected cohort of people and interactions in each year is combined with the cost estimates to estimate the total costs of Indigenous incarceration in each year. For example the cost per finalisation is multiplied by the estimate of the volume of Indigenous people's finalisations in each year to estimate the total cost of Indigenous people's finalisations. This is undertaken for all stages of interaction, as described in Figure 23.

In order to estimate the total lifetime costs in each year the total number of new entrants in each year is

multiplied by the total discounted value of the lifetime costs of a statistically average offender (see Figure 26).

### Cost saving scenarios

Four benefit scenarios are modelled, based on the four tiers of the framework that PwC has used to categorise initiatives (see Figure 18 in section 5).

The cost saving scenarios were informed by a thorough literature review of evaluated initiatives and programs that have been shown to have positive impacts in reducing recidivism or offending behaviour. Effect sizes sourced from the literature review were weighted

by the population expected to be influenced by the various initiatives and transformed into a decrease in either recidivism rates or the rate of new entry into the system. The rate of growth of the cohorts in the system was re-estimated based on the new recidivism and entry parameters under each scenario. The total volume of interactions was then projected.

Therefore total cost savings reported under each scenario are driven by changes to the number of Indigenous people who are expected to be interacting with the justice system. We assume that the unit costs of each interaction remain unaffected.

Table 14: Summary of key findings from literature review by scenario

Scenario	Summary of scenario	Study findings	Adaption for modelling inputs	Change to modelling inputs	
				Change to rates of recidivism	Change to new entrant rate
				Recidivism is defined as the rate at which people who have offended are released from jail, return to jail	The new entrant rate is defined as the rate at which members of the Indigenous population who have never been to prison, go to prison for the first time
1 Universal	All four year olds attend early childhood education	Access to early childhood education results in higher and long lasting educational attainment with increased rates of participation in the final year of secondary school. High school completion is negatively correlated with incarceration rates among Indigenous Australians. A 10% point increase in the access to ECEC may be correlated with a 3.4% point increase in high school completion and a 0.11% decrease in the new entrant rate of the treatment cohort. See section 5.3 for further detail.	A key assumption in the modelling is that 47% of Indigenous four year old children who are not currently attending a minimum of 15 hours of preschool per week would attend 15 hours of preschool under this scenario. <sup>322</sup>	No change	The new entrant rate of 0.3% declines to 0.19% as of the year 2032
2 Early	Maternal and child health care is provided to all vulnerable Indigenous mothers	The provision of home visits by a trained child and maternal health nurse for vulnerable mothers both before and after the birth of their child has been associated with a reduction in offending rates of between 18-91%. <sup>323</sup> In order to model this scenario PwC have taken an average of three evaluated studies that were shown to reduce children's interaction with the justice system. See section 5.4 for further detail.	Under this scenario we assume that 63.30% of the Indigenous population who currently live in an area that is classified within the bottom three deciles of the SEIFA index <sup>324</sup> would receive home visits.	No change	The new entrant rate of 0.3% declines to 0.25% as of the year 2036

322. PwC calculation based on data presented within ABS, 4240.0 Preschool Education, [www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument)

323. Allard, T, Oglivie J and Stewart, A (2007), The Efficacy of Strategies to Reduce Juvenile Offending. Produced for the Department of Communities by Justice Modelling @ Griffith, Griffith University.

324. Department of Prime Minister and Cabinet, 2014, ABS, 4240.0 Preschool Education, [www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4240.0Main+Features12016?OpenDocument)

Scenario	Summary of scenario	Study findings	Adaption for modelling inputs	Change to modelling inputs	
				Change to rates of recidivism	Change to new entrant rate
3 Targeted	Holistic case management and interventions in juvenile justice	Holistic case management and support for people who had offended has been shown to reduce reoffending in participants.  Additionally cognitive behavioral therapy and multi-systemic therapy have been shown to reduce reoffending in children and young people, and therefore break the cycle prior to offending as adults. See section 5.5 for further detail.	Under this scenario we have assumed that holistic case management would be provided to all children and young people who had offended and that CBT and MST would be provided to all children and young people who are detained.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 43% (year 1) and 2% (year 4)	The new entrant rate of 0.3% declines to 0.28% as of the year 2019
4 Prison system and post-release	Employment programs	Increased emotional healing and job readiness training while in prison has been shown to reduce recidivism in adult prisoners. See section 5.6 for further detail.	Under this scenario we have assumed that all Indigenous adult prisoners would be offered this program.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 56% in year 1 and remains at 6% in year 4	No change
5 Cumulative	Concurrent implementation of all four initiatives	All four initiatives are implemented in 2018 and start to take effect as program participants reach adulthood (ie 2019 for targeted and prison system programs and later for universal and early intervention programs)	A key assumption under this scenario is that participation in multiple programs across the lifespan does not affect the outcomes of subsequent program participation.	Recidivism rates in year 1 of 58% and 6% in year 4 decline to 43% (year 1) and 2% (year 4)	The new entrant rate of 0.3% declines to 0.19% as of the year 2036
6 Closing the gap	Equalising the Indigenous and non-Indigenous incarceration rates	NA	Under this scenario we have assumed that the government sets a COAG target of closing the gap in incarceration rates nationally by the year 2040.	NA – we have made no assumption about the mechanism with which this occurs under this scenario	NA – we have made no assumption about the mechanism with which this occurs under this scenario

Sources: PwC analysis, see section 4 for full detail of case studies used to inform these scenarios.

## Closing the gap

The final scenario which has been estimated represents the total costs saving that could be achieved through reducing the incarceration rate of Indigenous people to the incarceration rate of non-Indigenous people in Australia by the year 2040. In order to estimate this scenario, we assume that the Indigenous incarceration rate would decline at a constant rate between 2016 and 2040, reaching the same rate as non-Indigenous Australians by the year 2040.

This scenario has been estimated at a national level. As Indigenous incarceration rates vary between jurisdictions, the actual rate of decline required by individual jurisdictions to meet the ‘close the gap’ scenario target would also vary. Were all states and territories to achieve closing the gap on Indigenous incarceration by the same year, analysis of the actual rate of change required could be undertaken to inform that discussion.

### 3. Limitations of the modelling

This analysis has excluded some items. Below we describe what have we left out and why.

- Health costs – While both physical and mental health impacts are recognised as a potential cost of incarceration both to the individual and to the health system, health impacts for Indigenous people have not been included in this modelling. Health impacts have been excluded due to some competing evidence that suggests that for many prisoners having access to stable housing, food and medical care may have a positive short term impact on their health. This effect is confounded with the potential for people in prison to contract chronic illnesses such as HIV or Hepatitis C. As no conclusive evidence could be found this effect has been ignored and as such estimates of lifetime costs should be considered conservative.
- Mental health costs – Mental health impacts are also recognised as potential costs of incarceration. Costs of mental health inpatient visits are expected to decline due to incarceration however the cost of outpatient services are expected to increase. As this effect is also confounded and evidence suggests that the difference in costs is minimal, these costs have also been excluded from the analysis, again this makes the estimate of costs a conservative one.

In addition there are a number other limitations to the modelling:

- Data gaps on costs – As this study has been undertaken independent of government, we have had to rely on publicly available data sets. Overseas, governments have been able to provide whole of government data at an individual level to consultancies in order to analyse the impacts of different interventions.



This data includes information such as the interactions of incarcerated people within the justice system (eg how long individuals have been incarcerated for, the number of times they have reoffended, the types of programs they have participated in during their time in jail) or with other government agencies (eg individual access to welfare, school attendance, interaction with foster care). Without this information we use publicly available data. In a number of areas however, there are gaps and a number of assumptions have been made due to the apparent absence of information. Key areas of these gaps are:

- Data on rates of reoffending of Indigenous Australians over a longer timeframe by different types of crime, gender, state etc
- Data on the proportion of incarcerated Indigenous Australians who offend for the first time.
- Data on the number of people who have ever been convicted is not publicly available due to ‘clean slate’ policies.
- Quality of evidence on interventions – As mentioned in sections 4 and 4, there are a number of limitations underpinning the evidence of potential cost saving initiatives. These include:
  - A lack of longitudinal statistically robust studies of Indigenous incarceration interventions
  - A lack of longitudinal studies in the mainstream incarceration interventions particularly in relation to universal prevention interventions

- Estimated cost savings are not exhaustive – The analysis of the potential cost savings that may arise from the interventions, as set out in section 6, is not a cost benefit analysis and does not include all benefits within the analysis. It does not include the costs of the implementation of an intervention because the roll out of the select examples at a national level in a culturally aware and responsive way would require a separate costing exercise. Further to this, if the costs of the roll out were to be undertaken, the full spectrum of benefits should also be considered. For example, evidence suggests that universal prevention through access to early childhood education and care would lead to educational and health benefits as well as reduced justice system costs.

# Appendix C

## Summary of assessed initiatives

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<div>  <b>Universal Prevention</b> </div>									
<b>Effective Pre-school, Primary and Secondary Education</b> <sup>325</sup>	×	Delivery of early childhood education starting at preschool	✓	Retrospective case control	3,000 children aged 3 years old	1-3 years	To age 16 years	<ul style="list-style-type: none"> <li>• ↑ pursuit of highest level of secondary education (2.79 times)</li> <li>• ↑ higher academic results</li> <li>• ↑ self-regulation and social behaviour</li> <li>• ↓ likelihood of being in trouble with police if in highest quintile of academic performance, compared to lowest (7 times less likely)</li> </ul>	✓
<div>  <b>Early Intervention</b> </div>									
<b>Perry Preschool Project</b> <sup>326</sup>	×	Intensive early childhood education intervention	✓	Matching case control	123 at-risk African American children aged 3-4 years old	2 years	To age 40 years	<ul style="list-style-type: none"> <li>• ↓ arrests at age 23 (31% vs 51% ever been arrested)</li> <li>• ↓ lifetime arrests than the no-program group at age 40 (36% vs. 55% arrested 5 or more times)</li> <li>• ↓ sentenced to prison or jail by age 40 (28% vs. 52% ever sentenced)</li> <li>• ↓ served sentences by age 40 (9% vs 21% ever served)</li> </ul>	✓

325. Sammons, P, Sylva, K, Melhuish, E, Siraj, I, Taggart, B, Smees, R, and Toth, K (2014). Effective pre-school, primary and secondary education (EPPSE 3-16+) project: influences on students' dispositions and well-being in Key Stage 4 at age 16. London: Institute of Education.

326. [http://jenni.uchicago.edu/papers/Heckman\\_Masterov\\_RAE\\_2007\\_v29\\_n3.pdf](http://jenni.uchicago.edu/papers/Heckman_Masterov_RAE_2007_v29_n3.pdf); <https://highscope.org/documents/20147/43324/perry-preschool-summary-40.pdf/f09ff063-ecfc-c266-f8b8-5ef0ee164a39>

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Nurse-Family Partnership<sup>327</sup></b>	✗	Provision of prenatal and infancy home visits by nurses	✓	Randomised control trial	324 women and their first born children	2 years	15 years after birth	<ul style="list-style-type: none"> <li>• ↓ perpetration of child abuse and neglect (29% vs 54% verified reports)</li> <li>• ↓ arrests for mothers (18% vs 58% arrested)</li> <li>• New York State records suggest number of arrests may have been greater (16% vs 90%)</li> <li>• ↓ sexual partners, fewer convictions and violations of probation for children at 15 years of age</li> </ul>	✓
<b>BackTrack<sup>328</sup></b>	✗	Holistic youth intervention, including education, employment readiness training and psychological support	✓	Retrospective (no control group – general population proxy)	At-risk young people aged 14-17 years old. Number unknown.	NA	7 years after implementation	<ul style="list-style-type: none"> <li>• ↓ trend in rates of break and entering in Armidale</li> <li>• ↑ trend in rates of break and entering in Tamworth</li> <li>• ↓ trend in rates of malicious damage in Armidale and Tamworth</li> <li>• ↓ trend in rates of assault in Armidale and Tamworth</li> <li>• ↓ trend in rates of trespass in Armidale</li> <li>• ↑ trend in rates of trespass in Tamworth</li> </ul>	✗
<b>Kanyirninpa Jukurrpa On-Country Programs<sup>329</sup></b>	✓	On-Country programs, including ranger employment, return to Country trips and culture and heritage programs	✓	Retrospective	Community-wide	2010-2014	5 year period	<ul style="list-style-type: none"> <li>• ↑ social return on investment (3:1)</li> <li>• ↓ crime and imprisonment rates</li> <li>• \$3.7 million estimated savings from reduced imprisonment</li> <li>• \$4.2 million estimated savings from reduction in alcohol-related crime</li> <li>• ↑ employment</li> <li>• ↑ cultural strengthening</li> </ul>	✗
<b>Pathways to Prevention Project<sup>330</sup></b>	✓	Transition to school program for preschools, play groups and parents to support communication, social skills and behaviour management	✓	Randomised control trial	510 preschool children (average age 4 years and 8 months) at the beginning of preschool year	2002-2003	1 year period, at end of preschool year	<ul style="list-style-type: none"> <li>• ↑ language skills</li> <li>• ↑ teacher-related behaviour for boys</li> <li>• No change in teacher-related behaviour for girls</li> <li>• ↑ readiness for formal schooling for boys</li> <li>• No change in readiness for formal schooling for girls</li> </ul>	✓

327. Olds DL, Eckenrode J, Henderson CR Jr, Kitzman H, Powers J, Cole R, Sidora K, Morris P, Pettitt LM, and Luckey D (1997). Long-term effects of home visitation on maternal life course and child abuse and neglect. Fifteen-year follow-up of a randomized trial. *Journal of the American Medical Association*, 278 (8): 637-643.

328. Semczuk, M, Shakeshaft, A, Knight, A, Maple, M, McKay, K, and Shakeshaft, B (2012). An analysis of the relationship between a community-based prevention program for young people with multiple and complex needs and the prevalence of crime. Monograph Report Number 65. Sydney: University of NSW.

329. Social Ventures Australia (SVA) Consulting (2014). Social, economic and cultural impact of Kanyirninpa Jukurrpa's on-country programs. <http://socialventures.com.au/assets/2014-KJ-SROI-Report-FINAL.pdf>. Accessed March 2017.

330. Homel, R, Freiberg, K, Lamb, C, Lech, M, Batchelor, S, Carr, A, Hay, I, Teague, R, and Elias, G (2006). The Pathways to Prevention project: doing developmental prevention in a disadvantaged community. Trends and Issues in Crime and Criminal Justice no. 323. Canberra: AIC.



Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Aboriginal Power Cup</b> <sup>331</sup>	✓	Sport based intervention program to enhance engagement of Indigenous youth in education and to provide positive role models	✓	Matching case control	33 participants from schools that participated in the program	2010-2011	1 year period	<ul style="list-style-type: none"> <li>• ↑ school engagement and career pathways</li> <li>• ↑ engagement with Indigenous culture</li> <li>• ↑ community involvement</li> </ul>	✗
<b>Wanga Indingii Program</b>	✓	Prevention program run by NSW Police to reduce crime and promote positive role models in Indigenous communities	✗	NA	NA	NA	NA	• NA	✗
<b>Friday Night Live at Yugambeh</b>	✓	Targets at risk youth to divert them from criminal behaviour	✗	NA	NA	NA	NA	• NA	✗
<b>Panyappi Indigenous Youth Mentoring Project</b> <sup>332</sup>	✓	Mentor program for Indigenous children and young people to promote self-determination	✓	Retrospective (no control group)	15 Indigenous children and young persons	2004	NA	<ul style="list-style-type: none"> <li>• ↑ family relationships</li> <li>• ↑ engagement with school</li> </ul>	✗
<b>Ngaripirli-ga'ajirri (Exploring Together)</b> <sup>333</sup>	✓	10-week prevention program for Tiwi Island primary schools offering social skills training for students and parents	✓	Randomised control trial	48 primary school students from years 4-6 over two terms	2006	6 month period	<ul style="list-style-type: none"> <li>• ↓ in children's problem behaviour</li> <li>• ↑ communication between parents and children</li> <li>• Results sustained after 6 months</li> </ul>	✓
<b>Balunu Healing Camps</b> <sup>334</sup>	✓	Intensive family support for Indigenous adolescents and school children	✓	NA	NA	NA	NA	• Evaluation not publically available	NA
<b>Kanyirninpa Jukurrpa</b> <sup>335</sup>	✓	Programs to assist Martu communities to re-engage with their country and culture	✓	Retrospective (pre-implementation baseline)	NA	2010-2014	5 year period	<ul style="list-style-type: none"> <li>• Reinforcement of traditional authority structure</li> <li>• ↑ connection to country</li> <li>• ↓ time in jail</li> </ul>	NA
<b>Warlpiri Youth Development Aboriginal Corporation Youth Development Program</b> <sup>336</sup>	✓	Promotes positive future pathways for young people	✓	Retrospective (general Indigenous population proxy)	91 participants	2015	10 year period	<ul style="list-style-type: none"> <li>• ↑ employment outcomes</li> <li>• ↑ health</li> <li>• ↓ re-offending</li> </ul>	✗

331. Stewart, J, Hedwards, B, Richards, K, Willis, M, and Higgins, D (2014). Indigenous youth justice programs evaluation. Canberra: AIC.

332. Richards, K, Rosevear, L, and Gilbert, R (2011). Promising interventions for reducing Indigenous juvenile offending. Indigenous Justice Clearinghouse, Brief 10. [www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/brief010.pdf](http://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/brief010.pdf). Accessed March 2017.

333. Robinson, G, and Tyler, W (2008). Ngaripirli-ga'ajirri: the implementation of Exploring Together on the Tiwi Islands. Australian e-Journal for the Advancement of Mental Health, 7(1).

334. Blignault, I, Zulumovski, K, Haswell, MR, Fitzpatrick, S, and Jackson Pulver, L (2013). Case study of the Balunu Indigenous Youth Healing program: strengths, challenges and implications for policy and practice. Sydney: Muru Marri, School of Public Health and Community Medicine, UNSW.

335. SVA Consulting (2014). Proving the value of Indigenous on-country programs. [www.socialventures.com.au/work/kanyirninpa-jukurrpa](http://www.socialventures.com.au/work/kanyirninpa-jukurrpa). Accessed March 2017; SVA Consulting (2014). Social, economic and cultural impact of Kanyirninpa Jukurrpa's on-country programs. <http://socialventures.com.au/assets/2014-KJ-SROI-Report-FINAL.pdf>. Accessed March 2017.

336. Shaw, G (2015). An evaluation of the Warlpiri Youth Development Program, incorporating the WETT Youth Development Program. <http://wydac.org.au/home/wp-content/uploads/2015/11/An-evaluation-of-the-Warlpiri-Youth-Development-Aboriginal-Corporation-Youth-Development-Program.pdf>. Accessed March 2017.

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Warddeken Indigenous Protected Areas</b> <sup>337</sup>	✓	Indigenous ranger program providing opportunities for parolees returning to country to gain employment and receive mentoring by Senior Rangers and Elders	✓	Retrospective (pre-implementation baseline)	NA	2009-2015	NA	<ul style="list-style-type: none"> <li>• ↑ employment for parolees</li> <li>• ↓ re-offending</li> <li>• ↑ pride and interaction with others</li> <li>• ↑ connection with identity and country</li> </ul>	NA
<b>Community Art's Network program: Strong Culture, Strong Community</b> <sup>338</sup>	✓	Improve wellbeing and resilience within Indigenous communities through participation in culture and arts	✓	Retrospective	NA	2012-2015	NA	<ul style="list-style-type: none"> <li>• ↑ school attendance</li> <li>• Re-engage in learning process</li> <li>• Improved career paths</li> <li>• ↑ health outcomes</li> <li>• ↑ social interactions</li> <li>• ↑ identity in Indigenous culture</li> </ul>	✗
<b>Clontarf Academy</b> <sup>339</sup>	✓	Improved educational outcomes and retention for Indigenous students through sport	✓	Retrospective (no control group)	245 students	NA	NA	<ul style="list-style-type: none"> <li>• ↑ school attendance</li> <li>• ↑ educational outcomes</li> <li>• ↑ school retention</li> <li>• Improved attitudes towards school</li> </ul>	✗
<b>Weave Youth and Community Services: Kool Kid Club</b> <sup>340</sup>	✓	Educational outreach program that provides free after school and holiday programs for children aged 7-13 years	✓	Qualitative	NA	NA	NA	<ul style="list-style-type: none"> <li>• Sustains intergenerational connections</li> <li>• ↑ sense of belonging to community</li> <li>• ↑ sense of support</li> </ul>	NA
<b>Youth Development Unit, Arnhem Land</b> <sup>341</sup>	✓	Provision of training to prevent substance misuse and increase respect for culture	✓	Qualitative	NA	2003-2005	2 years after Unit's formation	<ul style="list-style-type: none"> <li>• ↑ recreation and training opportunities</li> <li>• ↑ skill development</li> <li>• ↑ communication with local agencies</li> <li>• ↓ youth substance abuse</li> <li>• ↑ respect for culture and Elders</li> </ul>	✗
<b>Yiriman Project</b> <sup>342</sup>	✓	Intergenerational "on-Country" cultural program for young Indigenous people	✓	Retrospective (general pop proxy)	40 case studies	2009-2013	NA	<ul style="list-style-type: none"> <li>• ↑ employment</li> <li>• ↑ cultural knowledge</li> <li>• ↑ skillset</li> <li>• ↑ focus on future goals</li> <li>• ↑ training opportunities</li> <li>• ↑ feeling of being supported</li> </ul>	✗

337. SVA Consulting (2016). Consolidated report on Indigenous Protected Areas following Social Return on Investment analyses. [www.socialventures.com.au/assets/Consolidated-SROI-Report-on-IPA-WoC.pdf](http://www.socialventures.com.au/assets/Consolidated-SROI-Report-on-IPA-WoC.pdf). Accessed March 2017.

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342. Palmer, D (2016). We know they healthy cos they on country with old people: demonstrating the value of the Yiriman Project. [www.parliament.wa.gov.au/parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/CE6B9A9ADF67A1C48257FD8000CE525/\\$file/Submission+to+Inquiry.pdf](http://www.parliament.wa.gov.au/parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/CE6B9A9ADF67A1C48257FD8000CE525/$file/Submission+to+Inquiry.pdf). Accessed March 2017.

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Red Dust Healing</b>	✓	Healing program that deals with key areas of identity, family roles and impacts of colonisation	✗	NA	NA	NA	NA	• NA	✗
<b>Uncle Alfred Smallwood's Men's Group</b>	✓	Mentoring program for young adults in the justice system trying to re-engage with community and culture	✗	NA	NA	NA	NA	• NA	✗
<b>Wayne Parker's Boxing Program</b>	✓	A boxing program in Townsville to provide training and mentoring to help local children learn cultural identity and discipline	✗	NA	NA	NA	NA	• NA	✗
<b>Mona Horsemanship Program</b>	✓	Teaches Indigenous young people at risk of being in the justice system meal preparation, cultural education and farming skills	✓	Evaluation not available	NA	15 weeks	NA	• NA	NA
<b>Alive and Kicking Goals (Broome, WA)<sup>343</sup></b>	✓	Youth suicide prevention amongst Indigenous youth through football and peer education	✓	Retrospective (general pop proxy)	644 participants were included in the trial, 421 of which were Indigenous	2009-2010	NA	<ul style="list-style-type: none"> <li>• 100% retention rate</li> <li>• ↑ community connectedness</li> <li>• ↑ cultural continuity</li> <li>• ↑ sense of purpose</li> </ul>	✗
<b>Woorabinda Early intervention Panel Coordination Service<sup>344</sup></b>	✓	Program to assess needs and make referrals for at risk young Indigenous people and their families	✓	Retrospective (general pop proxy)	18 participants	2006-2012	Follow up as at 31 October 2012	<ul style="list-style-type: none"> <li>• 27.8% of participants did not re-offend</li> <li>• ↑ positive behaviour</li> <li>• ↑ skills</li> <li>• ↑ belief in ability of parents to support their children</li> </ul>	✗
<b>Save a Mate Our Way Program<sup>345</sup></b>	✓	Supports Indigenous people to develop strategies to prevent and reduce harms associated with alcohol and drug use	✓	Evaluation unavailable	NA	NA	NA	• NA	✗

343. Tighe, J, and McKay, K (2014). Alive and Kicking Goals: Preliminary findings from a Kimberley suicide prevention program. *Advances in Mental Health*, 10(3): 240-245.

344. Stewart, J, Hedwards, B, Richards, K, Willis, M, and Higgins, D (2014). Indigenous youth justice programs evaluation. Canberra: AIC.

345. [www.beyondblue.org.au/about-us/research-projects/research-projects/talk-out-loud-save-a-mate-evaluation](http://www.beyondblue.org.au/about-us/research-projects/research-projects/talk-out-loud-save-a-mate-evaluation). Accessed March 2017.

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Geraldton Streetworker Aboriginal Corporation</b>	✓	Offers pre-employment skills, self-esteem building and recreational skills for at risk young people, including youth on community-based court orders	✗	NA	NA	NA	NA	• NA	✗
<div>  <b>Targeted Intervention</b> </div>									
<b>Court Integrated Service Program<sup>346</sup></b>	✗	Improving treatment, court, sentence and re-offending outcomes for participants	✓	Case control	200 clients across three venues with a control group of 200 who were not program clients. 8.1% of control group were ATSI	Varied	2.5 years	• ↓ recidivism rates (50% vs 64%)	✓
<b>Multi-Systemic Therapy (MST)<sup>347</sup></b>	✗	Aggression and antisocial behaviour	✓	Randomised clinical trial	176 serious and violent adolescents who had offended aged 11-15 years old	Mean hours= 20.7	Mean= 14 years	<ul style="list-style-type: none"> <li>• ↓ recidivism rates (50% vs 81%)</li> <li>• ↓ arrests (54% less)</li> <li>• ↓ days of confinement in adult detention facilities (57% fewer days)</li> </ul>	✓
<b>Aboriginal Justice Strategy (Canada)<sup>348</sup></b>	✓	Community-based diversion programs; community participation in offender sentencing	✓	Retrospective randomised allocation	3,361 AJS participants, compared to 885 non-AJS individuals	Varied	8 years	• ↓ recidivism rates (50% less likely)	✓
<b>Queensland Community Justice Groups<sup>349</sup></b>	✓	Primary prevention activities such as conflict resolution, conducting night patrols, and settling family disputes.	✓	Retrospective (no control group – historical comparison)	NA	NA	NA	• A 2010 evaluation found that the data collected by the program did not provide solid quantitative evidence as to whether the program was effective in achieving its outcomes	✗
<b>Nhulunbuy Community Court<sup>350</sup></b>	✓	Culturally aware and responsive courts that engage communities. Court proceedings conducted in local languages	✓	Retrospective randomised allocation	Indigenous people who had offended	NA	<2 years	• ↓ recidivism (40% vs 60% in standard Magistrates Court)	✗

346. Ross, S (2009). Evaluation of the Court Integrated Services Program: final report. Melbourne: Magistrates' Court of Victoria, [www.magistratescourt.vic.gov.au/sites/default/files/Default/CISP\\_Evaluation\\_Report.pdf](http://www.magistratescourt.vic.gov.au/sites/default/files/Default/CISP_Evaluation_Report.pdf). Accessed March 2017.

347. Schaeffer, CM, and Borduin, CM (2005). Long-term follow-up to a randomized clinical trial of multisystemic therapy with serious and violent juvenile offenders. *Journal of Consulting and Clinical Psychology*, 73(3): 445-453.

348. Evaluation Division (2011). Aboriginal Justice Strategy evaluation: final report. Office of Strategic Planning and Performance Management, Department of Justice, Canada, [www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/11/ajs-sja/ajs-sja.pdf](http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/11/ajs-sja/ajs-sja.pdf). Accessed March 2017.

349. KPMG (2010). Evaluation of the Community Justice Group program: final report. Brisbane: Qld Department of Justice and Attorney General, [www.justice.qld.gov.au/\\_data/assets/pdf\\_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf](http://www.justice.qld.gov.au/_data/assets/pdf_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf). Accessed April 2017.

350. Aquilina, H, Sweeting, J, Liedel, H, Hovane, V, Williams, V, and Somerville, C (2009). Evaluation of the Aboriginal sentencing court of Kalgoorlie: final report. Shelby Consulting. [www.courts.dotag.wa.gov.au/\\_files/Kalgoorlie\\_Sentencing\\_Court\\_Report.pdf](http://www.courts.dotag.wa.gov.au/_files/Kalgoorlie_Sentencing_Court_Report.pdf). Accessed March 2017.

Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Tiwi Islands Youth Development and Diversion Unit</b> <sup>351</sup>	✓	Prevention activities – youth justice conferencing, school/ education, cultural activities, sport and recreation	✓	Retrospective (no control group – ATSI general pop proxy)	Youth at risk of entering the criminal justice system	Varied	1 year	<ul style="list-style-type: none"> <li>20% of participants re-offended within a year, which is estimated to be less than expected. There was no control group or local recidivism data to give context to the significance of the outcomes</li> </ul>	✗
<b>Bail support services</b> <sup>352</sup>	✗	Divert young people from custodial remand with a focus on those with fresh charges	✓	Retrospective analysis	Youth who have breached their bail conditions or are at risk of breaching bail conditions	NA	6 months	<ul style="list-style-type: none"> <li>↓ short-term custodial remands (17% reduction) in the first 6 months of the program's operation</li> <li>21 young people diverted from custody between November 2011 and April 2012</li> </ul>	✗
<b>Wulgunggo Ngalu Learning Place (WNLP)</b> <sup>353</sup>	✓	Diversion from custody, community correction order completion, cultural strengthening and holistic development	✓	Retrospective (no control group)	28 Indigenous men serving community orders while at WNLP	1-5 months	NA	<ul style="list-style-type: none"> <li>Qualitative evaluation found evidence of: <ul style="list-style-type: none"> <li>↑ community order completion</li> <li>↑ cultural strengthening</li> <li>↑ wellbeing</li> </ul> </li> </ul>	✗
<b>Queensland Murri Court</b> <sup>354</sup>	✓	Links Indigenous defendants to cultural support services	✓	Matching case control	1,918 referral cases	2007-2008	6 month period	<ul style="list-style-type: none"> <li>↑ referrals to Murri court by 32%</li> <li>↑ number of sittings by 59%</li> <li>No short-term impact on rate of reoffending</li> </ul>	✗
<b>Aggression Replacement Training</b>	✗	A 10 week intervention program designed to teach youth prosocial behaviour, anger control and reasoning training	✓	Matching case control	NA	July 2010 to May 2011	Between 3 – 12 months	<ul style="list-style-type: none"> <li>↑ anger management</li> <li>↑ prosocial skill competency</li> <li>↑ cognitive factors contributing to aggressive and violent behaviour among Indigenous and non-Indigenous participants</li> <li>Non-Indigenous participants, on average, achieve a greater degree of positive impact</li> </ul>	✗
<b>Community Night Patrols</b> <sup>355</sup>	✓	Services operate to patrol the streets at night for safety of community in Indigenous communities in the NT	✗	NA	NA	NA	NA	<ul style="list-style-type: none"> <li>NA</li> </ul>	✗

351. Stewart, J, Hedwards, B, Richards, K, Willis, M, and Higgins, D (2014). Indigenous youth justice programs evaluation. Canberra: AIC.

352. AIC (2015). Bail support services and programs. Canberra: AIC. [www.aic.gov.au/publications/current%20series/rpp/121-140/rpp125/11\\_bail\\_support.html](http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp125/11_bail_support.html). Accessed March 2017.

353. Clear Horizon (2013). Wulgunggo Ngalu Learning Place: Final evaluation report. Melbourne: Department of Justice, [https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp\\_evaluationfinal.pdf](https://assets.justice.vic.gov.au/corrections/resources/dfe31119-db0b-42b3-9d96-ff074ab47c54/wnlp_evaluationfinal.pdf). Accessed January 2017.

354. Morgan, A, and Louis, E (2010). Evaluation of the Queensland Murri Court: final report. Technical and Background Paper 39. Canberra: AIC.

355. Cooper, T, Sims, M, Scott, J, Henry, P, Barclay, E, and Love, T (2014). Evaluation of Indigenous Justice Programs Project D: safe Aboriginal Youth Patrol programs in NSW and Northbridge Policy and Juvenile Aid Group in WA. Canberra: Attorney-General's Department, Commonwealth of Australia.



Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Lajamanu Kurdiji Law and Justice Group</b> <sup>356</sup>	✓	Community group that promote respect for Indigenous and non-Indigenous law and justice	✓	Retrospective (general ATSI proxy)	NA	2010-2013	NA	<ul style="list-style-type: none"> <li>• ↓ crime rates</li> <li>• ↑ conflict management</li> <li>• ↓ violence</li> <li>• ↓ alcohol and drug abuse</li> </ul>	✗
<b>NT Early Intervention Youth Boot Camp Program</b> <sup>357</sup>	✓	Program to reduce likelihood of criminal behaviour for youth at risk of long term criminal career through a boot camp and community integration	✓	Retrospective (no control group)	22 participants	2015	90 day period	<ul style="list-style-type: none"> <li>• ↑ consequential thinking</li> <li>• ↑ prosocial behaviour</li> <li>• ↑ anger management</li> <li>• ↑ school attendance</li> <li>• ↓ reoffending</li> </ul>	✗
<b>Youth Justice Conferencing</b> <sup>358</sup>	✗	A forum for youth to address criminal and antisocial behaviour with people such as parents, victims and their supporters and qualified facilitator	✓	Matching case control	590 people who had offended for the first time who attended court and 3,830 who had a proven outcome at court	April 1998 – April 1999	27-39 months	<ul style="list-style-type: none"> <li>• ↓ reoffending (15-20%)</li> </ul>	✓
<b>Western Australian Diversion Program</b> <sup>359</sup>	✗	People who had offended were referred to the program while on bail and placed on an individual support plan	✓	Matching case control and retrospective (general Indigenous population proxy)	134 people who had offended	6-8 weeks	NA	<ul style="list-style-type: none"> <li>• ↑ likelihood of being placed on a Community Based Order or fined rather than placed on an Intensive supervision Order</li> <li>• ↓ re-arrests</li> <li>• ↓ imprisonment post-program</li> <li>• ↓ re-offending (30% vs 87% control)</li> </ul>	✗
<b>Mornington Island Restorative Justice Projects</b> <sup>360</sup>	✓	Mediation to strengthen local capacity to manage conflicts without resorting to the justice system	✓	Qualitative	Whole community	NA	NA	<ul style="list-style-type: none"> <li>• ↓ involvement of the justice system</li> <li>• ↑ sense of belonging to community</li> <li>• ↑ cultural knowledge and understanding</li> </ul>	✗
<b>Koori Youth Court pilot (NSW)</b>	✓	Dedicated court for young Indigenous people who had offended to ensure cultural relevance and reduce re-offending rates	✗	NA	NA	NA	NA	<ul style="list-style-type: none"> <li>• NA</li> </ul>	✗


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Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Wirrpanda Foundation's Moorditj Ngoorndiak program</b>	✓	Indigenous designed and run mentoring program to reduce crime among Indigenous youth	✗	NA	NA	NA	NA	• NA	✗
<b>Clean Slate Without Prejudice</b>	✓	Routine and boxing program for children in Redfern Koori community in partnership with police to reduce children getting involved in crime	✗	NA	NA	NA	NA	• NA	✗
<b>Bushmob</b>	✓	20 bed residential treatment facility for young people to promote self-respect and skill building to deter from involvement in crime	✓	Evaluation not publically available	NA	NA	NA	• NA	✗
<b>Healing Land, Healing People</b>	✓	Mentoring and teaches respect for land, self and culture to youth at risk of offending	✗	NA	NA	NA	NA	• NA	✗
<b>Queensland Remote Justices of the Peace (Magistrates Court) Program<sup>361</sup></b>	✓	Helps Indigenous people in remote communities overcome disadvantage they may face when dealing with the criminal justice system	✓	Retrospective (general pop proxy and no control group)	NA	2007-2009	NA	<ul style="list-style-type: none"> <li>• ↑ access to justice for Indigenous community</li> <li>• ↑ community empowerment</li> <li>• No difference in the rate of offending</li> </ul>	✗
<b>Kalgoorlie Community Court<sup>362</sup></b>	✓	Sentencing court for Indigenous peoples designed to be culturally inclusive and reduce recidivism	✓	Qualitative	NA	NA	NA	<ul style="list-style-type: none"> <li>• ↑ understanding of process</li> <li>• ↑ feeling of mutual respect with justice system</li> <li>• ↑ ownership over actions</li> <li>• ↑ feeling of shame for actions</li> </ul>	✗
<div>  <b>Prison System and Post-Release</b> </div>									
<b>Fairbridge Bindjareb Project (FBP)<sup>363</sup></b>	✓	Culturally aware and responsive holistic support, personal development	✓	Retrospective (no control – general ATSI prisoner pop as proxy)	35 FBP graduates (minimum security rating and voluntary participants)	NA	2 years	• ↓ recidivism (14% vs 55%)	✗

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Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>The Torch</b> <sup>364</sup>	✓	Arts programs and provision of post-release support to reduce recidivism	✓	Retrospective (no control – general ATSI prisoner pop as proxy)	26 Indigenous prisoners	NA	1.5 years	<ul style="list-style-type: none"> <li>• ↓ recidivism</li> <li>• ↑ participation in other prison programs</li> <li>• ↑ sense of wellbeing and confidence</li> </ul>	✗
<b>Kunga Stopping Violence program</b> <sup>365</sup>	✓	Healing program for women in prison who have been victims of violence	✓	Qualitative/ process	10 Indigenous women prisoners	4 weeks	NA	<ul style="list-style-type: none"> <li>• No statistical outcomes measured</li> <li>• ↑ understanding of violence and anger</li> <li>• ↑ awareness of how to deal with experiences in a healthy way</li> </ul>	NA
<b>NAAJA Throughcare Project (NT)</b> <sup>366</sup>	✓	Reduce repeat offending by addressing ‘throughcare’ needs of adult prisoners and youth detainees by case managing from prison to return to the community	✗	NA	NA	NA	NA	<ul style="list-style-type: none"> <li>• NA</li> </ul>	NA
<b>ATSILS Qld Throughcare Project</b> <sup>367</sup>	✓	Reduce reoffending through intensive case management supporting prisoners and youth detainees before and after release from prison	✗	NA	NA	Average of 6 months	NA	<ul style="list-style-type: none"> <li>• NA</li> </ul>	NA
<b>ACT Extended Throughcare pilot program</b> <sup>368</sup>	✗	Supports reintegration of people who have offended return to the community	✓	Mixed methods (no control group – prior cohort and pre – and post-program comparison of study group used)	Study group of 616 prisoners, including 108 men and 21 women Indigenous prisoners	Up to 12 months	Up to 3 years	<ul style="list-style-type: none"> <li>• ↓ return to custody compared with pre-study</li> <li>• ↑ return to custody compared with prior control</li> <li>• ↑ time to reoffending (4.99 months vs 7.57 months) compared with pre-study</li> <li>• ↑ return to custody for Indigenous men compared with prior control</li> <li>• ↓ return to custody for Indigenous women compared with prior control</li> </ul>	NA

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Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Cobham Juvenile Justice Centre's Aboriginal Cultural Program</b> <sup>369</sup>	✓	Teaches young people who offend about their culture, self-respect and respect for others to help them stay on the right track	✗	NA	NA	NA	NA	• NA	NA
<b>Beechworth Correctional Centre's Madong Kurradba site</b> <sup>370</sup>	✗	Helps prisoner reintegration with environment and structure that reflects life in the general community	✗	NA	NA	NA	NA	• NA	NA
<b>Sentenced to a Job</b> <sup>371</sup>	✓	Scheme to employ low-security prisoners within the last 12 months of sentence with the aim of helping with post-prison employment	✗	NA	NA	NA	NA	• NA	NA
<b>Corrections Services Employment Pilot Program (CSEPP)</b> <sup>372</sup>	✗	Reduce reoffending of moderate to high risk cohort through employment preparation and placement, and referral to support services	✓	Retrospective (no control – unmatched, non-program clients comparator)	600 program clients over a 2-year period	12 months commencing pre-release	12 months	<ul style="list-style-type: none"> <li>• ↓ number of offences per day (0.0065 vs 0.0089)</li> <li>• ↓ rated severity of offences</li> <li>• ↓ number of different offence types</li> </ul>	✓
<b>Aboriginal Cultural Immersion Program</b> <sup>373</sup>	✓	Focus on raising awareness and understanding of cultural identity, increase self-confidence, responsibility and progression to other programs	✗	NA	NA	1 week	NA	<ul style="list-style-type: none"> <li>• ↑ empowerment, cultural pride, cultural identity, respect, and sense of community responsibility</li> </ul>	NA
<b>Koori Cognitive Skills Program</b> <sup>374</sup>	✓	Foundation program to prepare and motivate participation in more targeted, intensive interventions	✗	NA	NA	60 hours over 8-16 weeks	NA	• NA	NA

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Initiative	ATSI specific	Focus	Evaluated	Study design	Cohort	Dose	Follow-up	Outcomes	Statistically significant
<b>Roebourne DECCA Program</b> <sup>375</sup>	✓	Focus on increasing employment of prisoners and building skills and capacity for community reintegration	✗	NA	75 Indigenous participants in high labour demand region in the Pilbara	NA	2 years	<ul style="list-style-type: none"> <li>• ↑ work readiness, self-esteem, motivation and self-responsibility</li> <li>• ↓ recidivism over a 2-year period compared to overall recidivism rate in WA (32% vs 42%)</li> </ul>	NA
<b>Aboriginal Reconnect Program</b> <sup>376</sup>	✓	Improve health and wellbeing through Indigenous culture, outdoor activity and wilderness therapy to assist reintegration	✗	NA	32 Indigenous prisoners between 2006 and 2011	2 x 3-day camps	NA	<ul style="list-style-type: none"> <li>• No statistical outcomes measured</li> <li>• ↑ awareness of culture and identity</li> <li>• ↑ engagement and participation in Indigenous-specific throughcare programs</li> <li>• ↑ self-discipline, self-expression, confidence, self-esteem, motivation and social interaction</li> </ul>	NA

375. Ibid.

376. CIRCA (2013). Evaluation of Indigenous justice programs project B: Offender support and reintegration – Final report. Canberra: Attorney-General's Department, Commonwealth of Australia. La Macchia, M (2016). An introduction to over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system. Australian Policy Online, <http://apo.org.au/node/68258>. Accessed January 2017.



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# About Us

## **PricewaterhouseCoopers Australia (PwC)**

PwC is Australia's largest professional services firm. PwC brings the power of a global network of firms to help Australian businesses, not-for-profit organisations and governments assess their performance and improve the way they work.

At PwC, our purpose is to build trust in society and solve important problems. We are part of a network of firms in 157 countries with more than 208,000 people who are committed to delivering quality in assurance, advisory and tax services.

Our people come from a diverse range of academic backgrounds, including arts, business, accounting, tax, economics, engineering, finance, health and law. From improving the structure of the Australian health system, to performing due diligence on some of Australia's largest deals, and working side-by-side with entrepreneurs and high-net-worth individuals, our teams bring a unique combination of knowledge and passion to address the challenges and opportunities that face our community.

## **PwC's Indigenous Consulting (PIC)**

PIC is a national Indigenous consulting business. It is the result of a unique partnership between a group of Indigenous Australians and PwC. The unique power of PIC is the combination of Indigenous expertise and experience, with PwC's world-leading professional services capability.

PIC is majority owned, led and staffed by Indigenous Australians, with Supply Nation certification. PIC has a passionate belief that Indigenous people should have the opportunity to fulfil their aspirations. PIC uses its professional expertise to assist communities, governments, and businesses to achieve the outcomes they are looking for.

PIC specialises in providing advice and developing strategies to help realise the commercial and community potential of Indigenous policies, programs, projects, organisations and businesses. PIC has worked with over 700 Indigenous communities, spanning every Australian state and territory.

## **Richmond Football Club/ Korin Gamadji Institute**

Korin Gamadji Institute (KGI) is the part of Richmond Football Club (Richmond) that supports cultural affirmation and leadership development for Indigenous leaders nationally. Richmond has a demonstrated history of achievement and leadership across Indigenous affairs, and is one of only seventeen organisations across Australia who have an Elevate Reconciliation Action Plan.

In 2017, Richmond will host the annual Dreamtime at the 'G game during the Sir Doug Nicholls round of the Australian Football League (AFL).

## **Change the Record**

The Change the Record Coalition is a group of leading Aboriginal and Torres Strait Islander, legal, community and human rights organisations working collaboratively to address the disproportionate rates of violence and imprisonment experienced by Aboriginal and Torres Strait Islander people.

The Change the Record campaign is underpinned by two overarching goals: close the gap in rates of imprisonment by 2040; and cut the disproportionate rates of violence to at least close the gap by 2040, with priority strategies for women and children.

The Change the Record Coalition is calling for greater investment in early intervention, prevention and diversion strategies. These are smarter solutions that increase safety, address the root causes of violence against women, cut reoffending and imprisonment rates, and build stronger and safer communities.

[www.changetherecord.org.au](http://www.changetherecord.org.au)

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