



JUSTICE
REFORM
INITIATIVE

JAILING
IS
FAILING

A Strategy for the Justice Reform Initiative

BREAKING THE CYCLE OF INCARCERATION

July 2021

Introduction

The Justice Reform Initiative is an alliance of people who share long-standing professional experience, lived experience and/or expert knowledge of the justice system, who are further supported by a movement of Australians of good-will from across the country who all believe jailing is failing, and that there is an urgent need to reduce the number of people in Australian prisons.

We believe that the over-use of prisons is fundamentally harmful to those in prison, their family and friends, and the broader community.

We believe that prisons are ineffective as a deterrent, ineffective at reducing crime, and ineffective at addressing the drivers of criminal justice system involvement.

We believe that the over-use of incarceration is a waste of human potential and a misuse of taxpayer dollars.

The evidence shows that the majority of people entering prison usually arrive there because of an underlying cycle of disadvantage, and that prison both exacerbates and entrenches that cycle of disadvantage which needs to be broken.

We believe the moment has come for change; a combination of political, economic and social forces are coalescing to create an opportunity to genuinely challenge and respond to our reliance on incarceration and offer up an alternative vision.

We want to build on: the emergence of a powerful network of advocates in Australia; green shoots of cross-party support for change; a strong precedent for cross-party support in the United States of America; and a large and compelling evidence base outlining how to build alternatives to incarceration and pathways out of the prison system. And we want to respond to the need for governments to address rising debt in the post-pandemic context with more economically efficient approaches.

All of this means that the time is right and there is a window of opportunity to make fundamental change and break the cycle of incarceration in Australia.

We want to halve the number of people in Australian prisons by 2030.

WHY US?

The Justice Reform Initiative has a unique contribution to make to the collective effort of many organisations, groups and individuals dedicated to breaking the cycle of incarceration. The unique capability of the group is defined by:

1.

The unprecedented breadth of supporters and patrons who are part of the Initiative, combined with the extraordinary support of the Paul Ramsay Foundation (alongside the generosity of other foundations and donors), means that collectively we have access to most of the key decision-makers in every jurisdiction in Australia – all sides of politics, the judicial system, experts and advocates 'on the ground' in every state and territory, and the wider community.

2.

The multi-partisan and cross-community nature of the Initiative means its voice can be unambiguously targeted to a mainstream audience and cannot be easily stereotyped or associated with one side of politics or another. This capacity to appeal to a mainstream audience and all sides of politics is a fundamental pre-determinant for successful, sustainable long-term reform that is not vulnerable to being unwound in the future.

3.

This is the only dedicated initiative in Australia which has the over-use of incarceration in Australia as its focus across all over-represented cohorts. This fact allows the Justice Reform Initiative to set up a broader paradigm that jailing is failing a very wide range of people (taxpayers, people with mental illness, people with disabilities, women, children, First Nations communities, victims of crime, and multiple other disadvantaged groups).

4.

The depth of expertise of the alliance of the Justice Reform Initiative means that we are genuinely well placed to utilise the already strong evidence base and promote (in partnership with subject-matter experts) concrete alternative strategies to reduce the number of people in prison.

The Justice Reform Initiative is ultimately focused on building a movement, rather than simply building an organisation. Our ambition is for this movement to be diverse but coherent: including victims of crime, and the voices of those who have been to prison; united in a vision to reduce the numbers of people incarcerated, but with acknowledgement that there are different strategies, processes and approaches towards achieving this reduction.

Together we want to break cycles of recidivism and build safer communities. We want a system where complex and intergenerational disadvantage is no longer 'managed' in criminal justice system settings. And we want to build communities, where there is the capacity, resourcing and support to genuinely address the drivers of imprisonment.

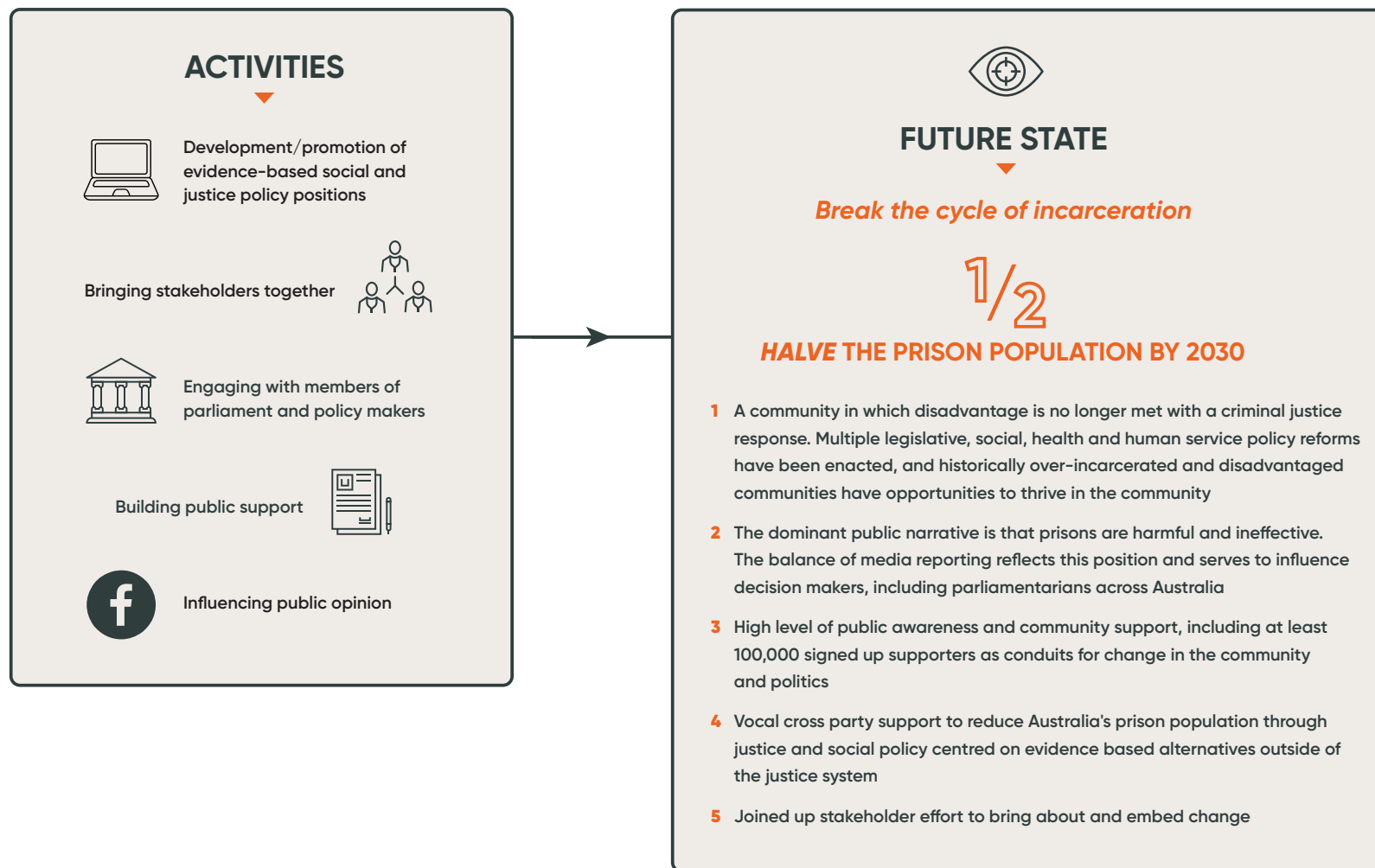
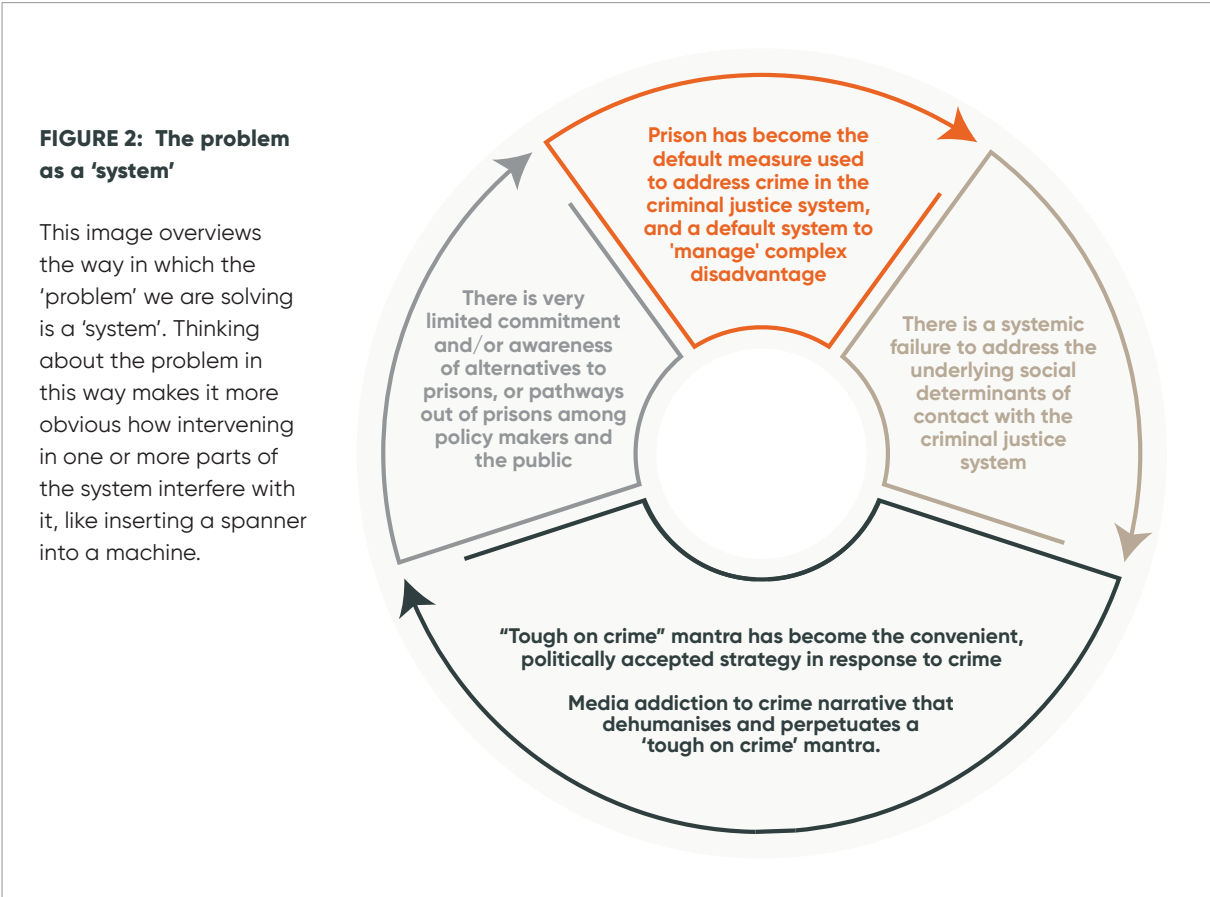


FIGURE 1: Activities and Future State

Current state: The problem we are solving

OVERVIEW OF THE PROBLEM WE ARE SOLVING

1. Prison has become both the default measure used to address crime in the criminal justice system, and a default system to 'manage' complex disadvantage. However prisons do not work to deter crime or to address the drivers of crime.
2. There is a systemic failure to address the underlying social determinants of contact with the criminal justice system.
3. Being perceived to be tough on crime has become the convenient, politically-accepted strategy in response to crime, partly driven by the media's addiction to sensationalised reporting of crime which dehumanises and further perpetuates the 'tough on crime' mantra.
4. Despite an extraordinary body of evidence, there remains very limited commitment to and/or awareness of building genuine alternatives to prisons, or pathways out of prisons, on the part of policy makers and the general public.



The future state: What does success look like?

A community in which disadvantage is no longer met with a default criminal justice response:

People who are born into circumstances of disadvantage have the opportunity to thrive in the community and are not driven into further disadvantage by the justice system. Multiple legislative, social, health and human service policy reforms have been enacted, and historically over-incarcerated and disadvantaged communities have opportunities to live full, connected and meaningful lives in the community.

High level of public awareness and support:

The Justice Reform Initiative has strong community and public support. It will have grown its public supporter list to over 100,000 people and this audience is actively engaged in the effort to educate our community about the need to reduce Australia's prison population, while also working to hold governments to account on their policy position and commitments.

Joined up stakeholder effort to achieve and embed change:

There will be a joined-up effort by a broad range of advocacy and reform groups in Australia, unified by a single purpose to reduce Australia's prison population, even if various groups have a different approaches or population focuses (e.g., Indigenous, women, mental health).

Strong cross-party political support:

There will be vocal cross-party support for a push to halve Australia's prison population by 2030 through a combination of:

- a. justice policy reform which sees a significant reduction in the use of incarceration and functions to funnel people out of the criminal justice system and into the community where there is access to all necessary supports.
- b. dedicated programs designed to create sustainable pathways out of prison, with funded wrap-around support for people to re-enter the community such as housing, education and employment services.
- c. initiatives designed to tackle stigma and discrimination about people who have been in prison which are aimed at creating a sense of belonging; and
- d. a significant increase in effort to tackle the social drivers of contact with the criminal justice system and the cycle of incarceration including by closing the gap and investment to eliminate or reduce intergenerational poverty.

The dominant public narrative is that prisons are harmful and should not be the default response to how we respond to disadvantage and/or most crime, and the balance of media reporting has tipped our way:

The dominant public narrative about the criminal justice system is that our prisons are fundamentally harmful and should genuinely only be used as a last resort (in line with existing sentencing principles). It is accepted that prisons do not work to deter, rehabilitate or improve community safety and that over-incarceration is an extremely ineffective use of taxpayer dollars.

**THE JUSTICE REFORM INITIATIVE AGENDA:
A COMMUNITY WHERE DISADVANTAGE IS NO
LONGER MET WITH A DEFAULT CRIMINAL JUSTICE
SYSTEM RESPONSE**

The key strategies that the Justice Reform Initiative will adopt to bring about change include bringing stakeholders together, influencing public opinion, building public support, shaping media narratives and shifting the existing political appetite for incarceration. In order to halve the prisoner population by 2030, it is the intention of the Justice Reform Initiative to create an environment in which a diverse range of justice reform and justice advocacy work is able to find a space, be supported, elevated and implemented.

However, alongside influencing the environment in which reform can take place, this plan also paves the way for the articulation of a clear national justice reform agenda. There are multiple reform pathways for achieving a reduction in the prisoner population and multiple groups and advocates working in this space with different advocacy and reform priorities.

The Justice Reform Initiative will work to support existing campaign and advocacy work in this space, as well as providing leadership and coordination in those areas of justice reform that we identify have not to date received sufficient attention or coordination.

As a national voice with an unprecedented breadth of supporters and patrons, the initiative will hold formal positions and/or comment on a range of reform issues. The development of a clear agenda for justice reform in Australia will assist in building priority areas of focus for reform and will constitute an important political tool in terms of having a clear alternate vision for how to break the incarceration cycle.

Our reform agenda will be centred on an ambition to halve the Australian prison population by 2030 and will be articulated in a series of position papers (which will also be used to develop political briefing papers and media stories), with both concrete reform strategies and concrete alternatives clearly articulated.

These position papers will form the basis of a vision paper – *A Justice Roadmap for Reform: Reducing Incarceration in Australia* – and will assist in government relations and targeted stakeholder engagement and advocacy.

Our reform position papers will collate existing evidence and be developed in consultation with a broad range of stakeholders, including people with lived experience of incarceration, as well as academics, advocates and service delivery providers, and will include principles for good practice strategies and concrete examples of alternatives.

Some strategies will exist within the broad purview of law reform (changes to bail, alternative sentencing practices, parole, law reform, specialist courts, restorative justice), while other alternatives will be focused on breaking cycles of disadvantage, by identifying evidence-based community driven pathways out of the criminal justice system.

We will stay closely connected with emerging research into pathways in and out of the criminal justice system, including emerging research about the specific experiences and needs of potentially over-criminalised groups (e.g. LGBTQI communities). We will be responsive to new evidence in informing and building our priority justice reform areas.

Priority areas for reform to reduce the numbers of people incarcerated in Australia:

1. Building pathways out of the criminal justice system, with a focus on the following groups:

- **First Nations communities**
- **People with disabilities**
- **People with mental illness**
- **Women** (with a focus on women who are also victims of violence)
- **Children and young people** (with a particular focus on raising the age of criminal responsibility to 14).



2. Addressing the wide-spread problem of recidivism as a consequence of homelessness on release from prison.

3. Reducing recidivism by breaking entrenched cycles of imprisonment and exclusion/discrimination from employment opportunities or other forms of civic and community participation.



4. Breaking the cycle of First Nations criminal justice system involvement (with a focus on supporting the leadership of First Nations led campaigns and communities).



5. Building diversionary, post-release and reintegration services and pathways across Australia that are systemic and of a scale to support the majority of people leaving prison and at risk of going to prison.

6. Expanding and improving alternative processes for people facing court or in conflict with the law; including restorative justice conferencing and processes, Indigenous sentencing and other specialist courts, and diversionary models that focus on referral into services and/or treatment.



7. Reducing the number of people sent to prison on remand.



8. Capping the expansion of the number of prison beds (including through stopping the building of new prisons and investing instead in much-needed infrastructure and services outside of the prison system).



9. Improving the opportunities all people have while in prison to access fair and respectful treatment, meaningful education, meaningful work, and access to high-quality healthcare, welfare and legal support, all of which should be targeted towards building pathways out of prison and reducing recidivism.



10. Rethinking our approach to policing: including shifting 'law and order' approaches to policing and advocating for lessons learned in jurisdictions where approaches to policing have reduced imprisonment.



11. Drug Law reform including advocating for evidence-based public health responses which divert people who use drugs away from the criminal justice system

12. Sentencing reform to ensure both that the principle of imprisonment as a last resort is embedded in sentencing practice, and that sentencing practice is underpinned and informed by an evidence base focused on the reduction of incarceration and recidivism.



FIGURE 3: Summary of preconditions for change

JUSTICE REFORM	<ul style="list-style-type: none"> • The Justice Reform Initiative has a public and accessible clearly articulated reform vision and set of priority reforms for reducing the prisoner population. • This vision is supported by a diverse range of stakeholders who have consulted on the papers, including subject matter experts and experts with lived experience. • Political leaders and decision makers have received briefings on the reform agenda, have increased their awareness about alternatives to incarceration, and support evidence-based justice reform which seeks to reduce the prisoner population
POLITICAL SUPPORT	<ul style="list-style-type: none"> • Maximising cross-party commitment to change, and resources to give effect to the changes we're seeking, confirmed with clear public statements on those commitments. • A commitment by MPs to evidence-based law making, and evidence-based policy in criminal justice. A greater understanding on the part of parliamentarians of the policy and economic arguments, as well as an understanding of the political opportunity and shifts in community attitudes that make change politically desirable, not just morally and economically desirable. • Create the space for political champions to be identified and emerge, who can take up the cause and drive change in every party room, or as independents, and across Australia have groups on all sides of politics and in every state and territory, and federally. supporting our work. • A demonstrable appetite for reform in the community, recognising that we are competing for political attention with a wide range of worthy causes and hard-nosed political decision makers have to make decisions about where to play. • Public support and commitment at the level of political party organisations – i.e. Labor, Liberal, National and Greens party Conferences and National policy platforms amended to reflect our reforms so that political support is reflected in their own grass roots organisations.
PUBLIC NARRATIVES AND THE MEDIA	<ul style="list-style-type: none"> • There is a sustained public conversation about the issue in the media, driven by us, but equally by a diverse range of voices capable of connecting with multiple audiences. • The weight of opinion in the public narrative coalesces around the idea that jailing is failing those in contact with the criminal justice system and the rest of the community through increased repeat offending and wasted taxpayer dollars. • Mainstream opinion leaders are identified and vocal on the issue, including respected justice experts, media personalities and others who have a mainstream audience. • The media is more receptive and either acts as a leader or comes on board as political/public interest increases. • Media with the most historically extreme views shift approach as political support for tough on crime wanes. • The general discourse regarding justice by the media, the political class and the community is more informed by a human rights and values-based framework which places the person before the deficit and humanises the people in our criminal justice system.
PUBLIC AWARENESS AND SUPPORT	<ul style="list-style-type: none"> • Strong public awareness of how jailing is failing – not only for people in contact with the criminal justice system, but also how it fails the whole community. • Significant public support for our vision for the future, expressed online in response to our stories and content. • A substantial following and supporter base, capable of being directed at political objectives. • Achievement of national consensus for change and substantial Australian Government leadership and engagement with and backing for the changes including through funding.
JOINED-UP STAKEHOLDER EFFORT	<ul style="list-style-type: none"> • There is genuine coordination and collaboration across the various groups seeking justice reform, unified behind a single purpose. • A diversity of views is accommodated and seen as a strength for the collective work of justice reform, and stakeholder groups maintain a mantra that what unites us is more important than what divides us. • Many opinion leaders are saying that reducing the prisoner population and justice reform is an urgent issue. • There is buy-in from stakeholders including victims of crime, people with lived experience of incarceration, advocacy and reform groups, service delivery organisations, academics, activists, and supporters from diverse backgrounds.



The Justice Reform Initiative is backed by eminent patrons, including former Governors-General Dame Quentin Bryce AD CVO and Sir William Deane AC KBE as patrons-in-chief.

Other patrons include: former justices of the High Court; former judges; respected First Nations leaders; former federal and state parliamentarians from all sides of politics; a former state Chief Justice; a former Federal Police Commissioner; a former Director of Public Prosecutions; and multiple respected community leaders including former Australians of the Year. A full list is available [here](#).

The Justice Reform Initiative deeply appreciates the support of the Paul Ramsay Foundation.

The Initiative respectfully acknowledges and supports the current and longstanding efforts of First Nations people to reduce the numbers of First Nations people incarcerated in Australia and, importantly, the leadership role which First Nations-led organisations such as [Change the Record](#) continue to play on this issue. We also acknowledge the work of many other individuals and organisations seeking change and working to reduce incarceration for specific over-imprisoned populations including women, children and young people, people with mental health conditions, people with disability, and homeless populations.

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