



SOCIAL REINVESTMENT WA
Healthy Families | Smart Justice | Safe Communities

SUBMISSION TO THE CLOSING THE GAP REFRESH COMMITTEE

30th April, 2018
Social Reinvestment WA

Social Reinvestment WA acknowledges the Whadjuk people of the Noongar nation, the traditional custodians of the land in which we work. We pay our respects to their Elders past, present and future, and those of all First Nations people within our country. We remain committed to walking together towards a place of truth, justice, healing, and finally Reconciliation.

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This submission also draws upon previously completed policies and bodies of work belonging to Social Reinvestment WA.

Social Reinvestment WA
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CONTENTS

About Social Reinvestment WA

Executive Summary

Introduction

Target Recommendations:

- Justice Targets

- Family Violence Targets

- Child Protection Targets

- Housing Targets

Self Determination

Justice and Social Reinvestment

Conclusion

ABOUT SOCIAL REINVESTMENT WA

Social Reinvestment WA (SRWA) is an Aboriginal led coalition of not-for-profits, who have a new vision for justice in WA.

A legacy of intergenerational trauma and displacement, systemic discrimination, socio-economic disadvantage, poverty, and inequality has resulted in the unacceptable situation where WA has the highest level of over-representation of Aboriginal people in custody in the nation. SRWA collaborate, research, educate, and advocate to implement holistic, system wide policies and programs prioritising healthy families, implementing smart justice, and creating safe communities, for all Western Australians.

OUR MISSION: To end the over-representation of Aboriginal and Torres Strait Islander people in custody in Western Australia.

OUR VISION:

Healthy Families; Western Australia needs to place the wellbeing of individuals and families at the centre of its approach to crime and justice issues and to support the wellbeing of communities.

Smart Justice; This whole of system approach is needed to address the underlying causes of offending and needs to be monitored and informed by a robust data and research system implementing best practise

Safe Communities; The current 'tough on crime' approach is predicated on a false belief that it makes communities safer. Community safety would be far better served by recognising and addressing the underlying causes of offending and adopting an approach of social reinvestment.

OBJECTIVES: To make WA a leader in promoting healthy families, safe communities, and smart justice by collaborating to successfully advocate for and implement a Social Reinvestment approach in WA:

1. Redirecting government spending to focus on:

- *Supporting families to address the underlying issues that can lead to crime;*
- *Diverting people in contact with the justice system into support programs that will stop them from further offending; and*
- *Assisting people who are imprisoned or transitioning out of prison to rehabilitate, and reintegrate into the community.*

2. Promoting evidence driven collaboration for Holistic Policies and Services Approaches

3. Reforming laws that enable current discriminatory practises.

4. Prioritising Cultural Social and Emotional Wellbeing in our responses.

MEMBERS:

- Aboriginal Legal Service WA
- Aboriginal Family Law Service
- Amnesty International
- Bringing Them Home WA/ Yokai
- Community Legal Services Association WA
- Community Public Sector Union/ Community Services Association
- Create Ranger Parks
- First Nations Deaths in Custody Watch Committee
- MercyCare
- NAIDOC Perth
- Outcare Inc.
- Oxfam Australia
- Reconciliation WA
- Save the Children Australia
- Uniting Church in WA
- WA Council of Social Services
- WA Network of Alcohol and Drug Associations
- White Lion
- Wungening Aboriginal Corporation

EXECUTIVE SUMMARY

This submission was prepared by Social Reinvestment WA in response to the Closing the Gap Refresh “The Next Phase” Discussion Paper, a joint initiative of the Council of Australian Governments.

Social Reinvestment WA (SRWA) is a coalition of 19 non-for-profits in Western Australia campaigning for the implementation of a Social Reinvestment approach to end the overrepresentation of Aboriginal and Torres Strait Islander people in custody in WA. We are proudly led by Aboriginal Co-Chairpersons Glenda Kickett and Daniel Morrison.

The Close the Gap Framework and Strategies have been in place for ten years, and the progress so far has been disappointingly slow. We believe the Closing the Gap Targets are an important tool for encouraging change, but need to be supported by a national structure that ensures accountability for states, territories, and the federal government, ongoing funding and resourcing, and effective implementation of strategies.

Whilst health, education, and employment targets should continue to be included and actioned until completion, SRWA advocates for the addition of new targets that focus on other significant areas of disadvantage faced by Aboriginal people. These areas intersect with the existing target areas, and contribute to further entrenched disadvantage. We must solve complex systemic issues in several areas to succeed in any, and if Closing the Gap is firmly committed to Indigenous equality, Justice, Housing, Child Protection, and Family Violence targets should be included.

Self-determination must be prioritised in the redevelopment of Closing the Gap strategies, with formalised Aboriginal and Torres Strait islander leadership at both a strategic policy level and place-based, community co-design level. Culturally secure and democratic elected Aboriginal leadership will help ensure cultural, social, and emotional wellbeing are prioritised throughout the Closing the Gap implementation processes.

Justice or Social Reinvestment strategies should be utilised as a guides for implementing evidence driven, holistic system reform; supporting at risk communities to address complex issues underlying social exclusion before they lead to crime; and redirecting government spending from the justice system so it can be utilised for early intervention, prevention, and diversion, progressing Closing the Gap targets.

In addition to the continuation and renewal of existing targets and strategies in the areas of health, education, and employment SRWA makes the following recommendations for the Closing the Gap Refresh:

AREA

SRWA RECOMMENDATION

JUSTICE TARGETS

1. Reducing the rate of imprisonment of Aboriginal and Torres Strait Islander people to a level that is commensurate with their population levels.

- 1.1 Implementing justice reinvestment trials in all jurisdictions for the purpose of reducing imprisonment through investing in evidence-based, community co-designed, holistic and culturally competent prevention, diversionary, and rehabilitative programs, within 12 months with:
 - a). Commitment to fund programs for five-year cycles, subject to performance targets.
 - b). National review of programs within three years.¹
- 1.2 Ensure sufficient and sustainable funding for Aboriginal and Torres Strait Islander community controlled legal services to meet the demand for culturally safe legal support.
- 1.3 Eliminate the disproportionate imprisonment of Aboriginal and Torres Strait Islander people for non-violent offences (particularly driving offenses and unpaid fines).
- 1.4 Reduce the population of Aboriginal and Torres Strait Islander persons held on remand without conviction.
- 1.5 Increase access to culturally appropriate diversion options for Aboriginal and Torres Strait Islander people, particularly AOD services.
- 1.6 Increase access to community-based sentencing options for Aboriginal and Torres Strait Islander people, including Work and Development Orders.
- 1.7 Federal, State, and Territory Governments be required to report against justice related targets.

FAMILY VIOLENCE TARGETS

2. To reduce the disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people.

- 2.1 Sufficient and sustainable funding for culturally safe Aboriginal and Torres Strait Islander community controlled support services to meet demand.
- 2.2 Increased access to legal support for victims/survivors of family violence whose children are the subject of a child protection notification.
- 2.3 Start process of delegation of responsibility from government support, transitioning Aboriginal children in out of home care to be case managed by an ACCO, who lead child safety and placement assessments and family led decision making, and other achievements in the NSW and Victorian child protection space.

CHILD PROTECTION TARGETS

3. Reduce the overrepresentation of Aboriginal and Torres Strait Islander children in state care.

- 3.1 Increase support to family and kinship carers and providing access to intensive family support services can keep children safe, connected with family and community, and deliver better life outcomes that reduce the cost of state care.
- 3.2 Providing sufficient resources for investment in culturally competent early intervention and prevention strategies, and to involve Aboriginal community controlled organisations in the provision of those strategies; the provision of out-of-home care services; and for expert advice in regard to the identification of suitable kinship carers and the cultural suitability of proposed placements.

HOUSING TARGETS

4. Reduce the instances of homelessness experienced by Aboriginal and Torres Strait Islander people to levels reflective of their population size.

- 4.1 Invest in social housing for Aboriginal and Torres Strait Islander Australians in identified at risk communities.
- 4.2 Review Department of Housing policies nationally to ensure vulnerable persons are not evicted for arbitrary “strike” rulings, and social and cultural contexts are considered when terminating social housing occupants.
- 4.3 Invest in creation of new bail hostels to ensure un-sentenced children are not remanded in prison whilst awaiting trial due to a lack of adequate or secure accommodation.

SELF-DETERMINATION

5 Self Determination be established as a guiding principle for the co-design, implementation, and leadership of Closing the Gap.

- 5.1 A strategy to develop and build the capacity of Aboriginal Community Controlled Organisations is implemented to increase ACCO services proportionate to need.
- 5.2 The existing statements of national Aboriginal and Torres Strait Islander leadership groups, the *Redfern Statement* and the *Uluru Statement*, be considered guidance for change.
- 5.3 A tripartite co-design structure between democratically elected and culturally secure Aboriginal leaders, and the Federal, and State and Territory governments be established to govern Closing the Gap; With sufficient time allowed for this process, and accountability measures for the Australian government to Aboriginal and Torres Strait Islander people.
- 5.4 Community Co-Design be implemented through place-based collective impact and culturally secure approaches.

JUSTICE REINVESTMENT

- 6.1 The establishment of an independent Justice Reinvestment Body to support Closing the Gap goals.
- 6.2 Closing the Gap utilise a Social Reinvestment approach in implementing Close the Gap strategies.

INTRODUCTION

CLOSING THE GAP IN 2018

It has been ten years since the introduction of the Closing the Gap Goals by the Australian Federal Government to address inequality in health, employment, education and life outcomes between Aboriginal and Torres Strait Islander and non-Indigenous Australians, yet there has been little advancement in most of the target areas. Rather than abandoning these goals, and the intent with which they were initiated, we believe the Close the Gap Refresh is an opportunity to reflect on the past ten years, and reshape the approaches used to achieve the best possible outcomes for Aboriginal and Torres Strait Islander people.

OUR HISTORY

In approaching this topic it is important to consider how we have reached the circumstances of today. Since the arrival of the First Fleet to Australia in 1788, Aboriginal and Torres Strait Islander people have been oppressed and dispossessed from their ancestral homelands, deprived of spiritual connections to Country, and used as both cheap and slave labour by white Settlers. It wasn't until 1967 Aboriginal people were finally recognised as citizens with equal human rights before the law in this country. Between 1905 and 1969 Australian governments systematically removed Aboriginal and Torres Strait Islander children from loving families in an intentional assimilation process. In the words of the Chief Protector of Aborigines they wanted to "breed out the black." Many of these children are still alive today. They and their descendants have been left traumatised by these policies.

The impact that colonisation and the Stolen Generations had upon Indigenous Australians cannot be overstated. These actions wiped out half the previous population of Australia through disease and massacres. Australian's in the past stole generations of wealth and denied opportunity for development to Aboriginal people, whilst simultaneously depriving them of their own language, culture, religion, and Country. The legacy of these events is the largest contributing factor to the gaps that exist today between Aboriginal and non-Aboriginal Australians in areas of wealth, employment, education, health, life expectancy, opportunity, imprisonment, child protection, and violence.

RESPONDING TO COMPLEX NEEDS

Intergenerational trauma, disadvantage and poverty, and subsequent complex needs are the reality of many Aboriginal and Torres Strait Islanders who the *Closing the Gap Statement of Intent* seeks to serve. The complex nature of the needs of these communities and individuals means many Aboriginal and Torres Strait Islander people must often overcome multiple experiences of disadvantage at once, as these disadvantages intersect and are interconnected in causing continuing disadvantage. For instance, children who are failing to attend school may have inadequate support at home due to mental health and/or alcohol or other drug issues, or a parent who has been imprisoned; Families who face homelessness or are in unstable or inadequate accommodation may struggle to access or provide infant health care options.

"Imagine Noah, an Aboriginal child in a remote community, who is born with ear disease. When he starts school, he can't properly hear his teacher's instructions, so falls behind in

reading and writing. He is afraid to speak up and ask for help. He starts to feel stupid, and isolated from his peers. As he gets older and falls further and further behind, he remains undiagnosed, and is held back a class. Unable to hear instructions, Noah is bored and disruptive in class, his teachers and classmates label him a troublemaker. Noah starts skipping school, because “what’s the point anyway?” Despite attending no more than half of Year 9, Noah leaves school in Year 10. With little education, and few job prospects, he starts breaking into houses with a few older boys to make some cash to get by. He is eventually caught and is sent to a juvenile detention facility.”

Multifaceted issues are a common occurrence for Australia’s most disadvantaged people and communities. We cannot ignore the intersection of complex needs in our attempts to Close the Gap.

JUSTICE OUTCOMES

We support the continuation of the existing targets, however believe it is imperative that they expand beyond health, education and employment to systemically address another key social determinant that stands as a barrier to health and opportunity equality – justice outcomes.

In WA, Aboriginal and Torres Strait Islander are just over 3 percent of the population, yet in 2017 they were 73 percent of the children sent to prison. Justice, particularly imprisonment, is another area where the gap between Aboriginal and Torres Strait Islander Australians and the rest of the Australian population is immense. Intersecting with justice outcomes, are three other key target areas which are yet to be addressed by the Closing the Gap framework; The disproportionate instances of family violence inflicted upon Aboriginal and Torres Strait Islander people; The disproportionate rate of children being taken into state care; And the disparately large rates of homelessness experienced. These focus areas for Closing the Gap Refresh recommendations are supported by priorities identified by the *Closing the Gap Refresh Special Gathering Statement*,² and every day are severely impacting the life outcomes and expectancies for Aboriginal and Torres Strait Islander communities.

SUPPORTING THE EFFECTIVE IMPLEMENTATION OF CLOSING THE GAP

To better implement the existing and new goals, the Close the Gap Strategy must be supported by a holistic, collaborative, and community co-designed implementation strategy. Self Determination must be a guiding principle to COAG’s approach, cementing Indigenous leadership and ownership of the strategy. The implementation of new justice targets should be supported by a Justice or Social Reinvestment approach. A national architecture centred on government commitment to implementation must be created to ensure sustainable strategies, and safeguard funding and resources going forward, guaranteeing the capability of actors to achieve these targets and any subsequent strategy.

There is significant work ahead to accomplish all that was set out in the *Closing the Gap statement of Intent*, and at Social Reinvestment WA we believe the bar needs to be set even higher. Overcoming Indigenous disadvantage to close the gaps once and for all is an imperative for the continued progress and development of our country to achieving lasting reconciliation. This is the

² Closing the Gap Refresh (February 2018), ‘Special Gathering Statement’, *Closing the Gap Refresh Building pathways for future prosperity*.

spirit led to the Apology to Australia's Indigenous People, and commitment to Closing the Gap,³ ten years ago.

CLOSING THE GAP TARGET RECOMMENDATIONS

REDUCING THE OVERREPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE IN THE JUSTIC SYSTEM

Social Reinvestment WA is calling for justice targets to be added, along with the existing health and education targets, to the federal government's Close the Gap Framework. We simply cannot talk about addressing the gaps and inequality between Aboriginal and Torres Strait Islander and non-Indigenous Australians without tackling justice disparities.

At June 2017, according to the ABS, Aboriginal and Torres Strait Islander people are 27% of the prisoners in Australia. They are only 2 percent of the national population. The reality is even more stark in Western Australia. At just 3 percent of the WA population, in June 2017 Aboriginal and Torres Strait Islanders comprised 37 percent of the adult prisoner population. The imprisonment rate for Aboriginal adults is 15 times higher than non-Indigenous Western Australians.⁴

According to the most recently published Western Australian statistics, in March 31st 2017; 98 of 134 children in detention in WA are Aboriginal or Torres Strait Islander. Aboriginal kids are 52 times more likely than their white peers to be sent to prison.⁵

Incarceration is incredibly expensive, and it has been estimated that the justice system spent \$3.9 billion in 2016 on Aboriginal and Torres Strait Islander offenders alone.⁶ PWC Consulting and Change the Record in 2017 found that Closing the Gap on Indigenous Incarceration would save \$19 billion dollars by 2040.⁷

The social costs of imprisonment are even greater. Consider damage to communities where adults intermittently leave and return from prison, adults that might serve vital roles. In September of 2017 a mother of five in Perth called the police on a violent family member who would not leave her home. When they arrived, they arrested and immediately imprisoned her for unpaid fines from four years earlier. Her five children were left in the care of her sister, who had children of her own,

⁴ Jessica Kidd (5th December 2014), "Over-representation of Indigenous Australians in prison a catastrophe, says Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner", *ABC News* <<http://www.abc.net.au/news/2014-12-04/number-of-indigenous-australians-in-prison-a-catastrophe/5945504>>

⁵ WA Department of Corrective Services, *Quarterly Statistics*, March 2017.

⁶ Australian Law Reform Commission (28 March, 2018) *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC 133 Summary)*, Available at <<https://www.alrc.gov.au/publications/pathways-justice-summary>>

⁷ PWC Consulting, Change the Record et. al. (May 2017), *Indigenous Incarceration: Unlock the Facts*. Available at <<https://www.pwc.com.au/indigenous-consulting/assets/indigenous-incarceration-may17.pdf>>

and two days later the power was shut off in their home.⁸ Women often act as primary caretakers of young children and elderly relatives. When women are sent to prison for non-violent offenses, communities suffer.

Criminal records also reduce job prospects and opportunities, and thus people who have been in prison return to communities and families and struggle to find work to support themselves or others. A US study found that children whose fathers were incarcerated faced increased risk of depression, anxiety, learning disabilities and obesity, and were more likely to do drugs later in life.⁹

Considering the rates of recidivism in WA prisons are on average 45 percent, prison is clearly not rehabilitating or deterring people from committing further crimes, as much of the same cohort return to prison within two years. Our communities are not becoming safer in the long term by imprisonment.

If we do nothing, the next generations of Aboriginal and Torres Strait Islander people will continue to face an uphill battle to overcome these issues. If we want to begin to Close the Justice Gap, the first step to a solution is creating an effective Target.

20 years ago the *Royal Commission into Aboriginal Deaths in Custody* found that underlying issues behind the over-representation of the Aboriginal men, women and juveniles in the justice system included unemployment, poverty, the inability to pay fines, poor health (particularly mental health), lack of education, alcoholism and drug addiction, race discrimination, homelessness, as well as police practices, prison procedures and judicial processes.¹⁰ RCIADIC recognised that only through addressing the underlying causes for the high representation, would there be any long term reduction in the levels of over-representation.

Alcohol and other drug use issues are among the greatest causes for imprisonment in the general population, and for Aboriginal people. For Stolen Generation children, and the generations after placed in state care, the experiences of abuse left deep scars. Whilst Aboriginal and Torres Strait Islander people are actually less likely to use alcohol or drugs than the general population, those that do use it are more likely to cause serious harm or die from alcohol related causes.¹¹ Some people use alcohol or drugs to cope with these experiences. In 2018 the Telethon Kids Institute found that 9 out of 10 of the children in Banksia Hill Detention Centre suffered from Foetal Alcohol Spectrum Disorder, or another form of severe cognitive impairment.¹² There is currently no Aboriginal-specific AOD residential rehabilitation services funded in the Perth metropolitan region. There is dire need for cultural rehabilitation and healing for Aboriginal AOD users, particularly when

⁸ Calla Wahlquist (29th September 2017), "Aboriginal woman jailed for unpaid fines after call to police", *The Guardian Australia* <<https://www.theguardian.com/australia-news/2017/sep/29/aboriginal-woman-jailed-for-unpaid-fines-after-she-sought-police-help>>

⁹ Olga Khazan (&th April, 2017) "The Prison-Health Paradox", *The Atlantic* <<https://www.theatlantic.com/health/archive/2017/04/the-prison-health-paradox/522090/>>

¹⁰ RCIADIC (29 April 1998.) *Royal Commission into Aboriginal Deaths in Custody*, <<http://www.austlii.edu.au/au/other/IndigLRes/rciadic/>>

¹¹ aboriginal people drinking to harm

¹² Carol Bower, Raewyn Mutch, Rhonda Marriot, Rochelle Watkins, Stephen R. Zubrick, Carmella Pestell, James Fitzpatrick, Peter Collins & Jonathan Carapetis (2018) Banksia hill FASD Project, Telethon Kids Institute <<https://www.telethonkids.org.au/our-research/brain-and-behaviour/disability/alcohol-and-pregnancy-and-fasd-research/banksia-hill-fasd-project/>>

clients are Stolen Generation victims.

Cultural and language barriers lead to the overrepresentation of Aboriginal people in prison. Whilst Aboriginal people in Western Australia speak over 30 different language variants, English is sometimes a second or third language, and there is no state wide Indigenous interpreter service.¹³ Remote communities also face different realities. While driving repeatedly without a license in the city may be cause for fines or prison time, some people living in remote communities are more than 400km away from the nearest licensing centre,¹⁴ and have little real opportunity or access to obtain a license.

Systemic discrimination and racism also contribute to Aboriginal incarceration rates. Aboriginal children are less likely to receive cautions from police officers than their white peers,¹⁵ increasing the likelihood of their imprisonment in WA due to mandatory sentencing laws and three strikes rules. Aboriginal people are also more likely to be imprisoned for unpaid fines, with Aboriginal women overrepresented in the fine default population.¹⁶ Currently in WA fine defaulters are imprisoned at a minimum cost of \$305 a day. Their fine is only reduced by \$250 a day.¹⁷ Taxpayers pay to imprison them, and never recoup the fine. Meanwhile community based sentences such as Work and Development Orders can cost as little as \$43 a day.

Within the Closing the Gap framework there are no specific direct targets related to the Safe Communities building block, and it is imperative that federal, state and territory governments be required to report against specific justice-related targets. This will encourage more accurate data collection and recording and a greater focus on implementing effective strategies to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

Social Reinvestment WA strongly supports the inclusion of specific justice targets in Closing the Gap. In particular, Social Reinvestment WA supports the inclusion of reducing indigenous imprisonment on the Closing the Gap agenda, and the introduction of Justice Reinvestment strategies.

TARGET RECOMMENDATION:

1. Reduce the rate of imprisonment of Aboriginal and Torres Strait Islander people to a level that is commensurate with their population levels.

SUB TARGETS

- 1.1 Implementing justice reinvestment trials in all jurisdictions for the purpose of reducing imprisonment through investing in evidence-based, community co-designed, holistic and

¹³ Aboriginal Legal Service of WA, (August 2016), Addressing Fine Default of Vulnerable and Disadvantaged persons, ALS WA < <http://www.als.org.au/wp-content/uploads/2015/08/Briefing-Paper-August-2016-signed-1.pdf> >

¹⁵ Amnesty International 2015.

¹⁶ Law Society of WA (December 2016) Imprisonment of Fine Defaulters Briefing Paper, < <https://www.lawsocietywa.asn.au/wp-content/uploads/2015/10/Law-Society-Briefing-Papers-Imprisonment-of-Fine-Defaulters.pdf> >

¹⁷ Sophie Stewart (November 2017) SRWA Fine Default Position Paper, Social Reinvestment WA < <https://www.socialreinvestmentwa.org.au/resources/> >

culturally competent prevention, diversionary, and rehabilitative programs, within 12 months with:

- a). Commitment to fund programs for five-year cycles, subject to performance targets
 - b). National review of programs within three years.
- 1.2 Ensure sufficient and sustainable funding for Aboriginal and Torres Strait Islander community controlled legal services to meet the demand for culturally safe legal support.
 - 1.3 Eliminate the disproportionate imprisonment of Aboriginal and Torres Strait Islander people for non-violent offences (particularly driving offenses and unpaid fines).
 - 1.4 Reduce the population of Aboriginal and Torres Strait Islander persons held on remand without conviction.
 - 1.5 Increase access to culturally appropriate diversion options for Aboriginal and Torres Strait Islander people, particularly AOD services.
 - 1.6 Increase access to community-based sentencing options for Aboriginal and Torres Strait Islander people, including Work and Development Orders.
 - 1.7 Federal, State, and Territory Governments be required to report against justice related targets.

REDUCING THE RATES OF FAMILY VIOLENCE EXPERIENCED BY ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

Aboriginal communities experience high levels of family violence. Aboriginal women are ‘35 times more likely to be hospitalised as a result of spouse or partner violence’ than non-Aboriginal women.¹⁸ Indigenous victimisation rates ‘must be addressed in conjunction with offending rates’ because both are symptoms of the disadvantage that affects many Indigenous communities.¹⁹ Social Reinvestment WA emphasises that family violence significantly contributes to both high levels of involvement in the criminal justice system and statutory child protection interventions. The recent symposium convened by the Law Council of Australia called for the Council for Australian Governments (COAG) to develop immediate strategies to address violent offending, particularly violence against Indigenous women and children.²⁰ Effective measures to reduce the incidence of family violence will result in healthier families and safer communities.

Reducing rates of family violence will also reduce the cost burden on the health, justice, and child protection systems. Social Reinvestment WA welcomes the *Safer Families, Safer Communities Kimberley Family Violence Regional Plan 2015–2020*. The plan acknowledges that family violence prevention and intervention must be grounded in Aboriginal law and culture and that community based responses must be developed with Elders, community leaders and community organisations. Healing from past trauma is also a vital component of family violence prevention. Social

¹⁸ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system* (2011) [2.18].

¹⁹ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system* (2011) [2.19].

²⁰ Law Council of Australia, *Indigenous Imprisonment Symposium: Communique* (3 December 2015).

Reinvestment WA urges the Closing the Gap Refresh to consider similar approaches to addressing family violence in Aboriginal communities across the country.

Social Reinvestment WA Supports the calls made by Change the Record nationally²¹ and joins their call for targets in this area.

TARGET RECOMMENDATION:

2. To reduce the disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people.

SUB TARGETS:

- 2.1 Sufficient and sustainable funding for culturally safe Aboriginal and Torres Strait Islander community controlled support services to meet demand.
- 2.2 Increased access to legal support for victims of family violence whose children are the subject of a child protection notification.

REDUCING THE DISPROPORTIONATE RATE OF ABORIGINAL AND TORRES STRAIT CHILDREN IN THE CHILD PROTECTION SYSTEM

The disproportionate rate of removal of Aboriginal children in Western Australia is of great concern. Over 54% (or 2,388 out of 4,503) of children in out of home care in 2017 were Aboriginal, an increase of nine per cent since 2014 and 56 percent in the last five years.²² In developing intensive family support services to improve child safety and reduce removal rates, priority should be given to developing specialist culturally-appropriate services to support Aboriginal families and kinship carers in collaboration with Aboriginal community controlled organisations.²³

Children in foster care exhibited exceptionally poor mental health in comparison to the general population, and present complex behavioural disturbances according to Tarren-Sweeny and Hazell in a 2005 study.²⁴ Aboriginal children from metropolitan areas have the longest histories of alternative care, and a 2000 study found that Aboriginal children in care were also found to be the unhealthiest, and least likely to be referred for reasons of emotional abuse or neglect.²⁵

In terms of education, the CREATE foundation releases an annual report card which found that young people in care face significantly greater educational barriers than their peers. They are less

²¹ See Change the Record Submission to Close the Gap Refresh (2018.)

²² Department for Child Protection and Family Support, *Annual Report 2014-15* (2015), p28.

²³ Noting the current Out of Home Care Strategic Directions 2015-2020 identifies this as a priority www.dcp.wa.gov.au/OOHCreform and the Community Sector Roundtable has been consulted on the discussion paper *Building Capacity with Aboriginal Organisations and Businesses to deliver Child Protection and Family Support Funded Services*, Department for Child Protection and Family Support, (2015).

²⁴ Tarren-Sweeney and Hazell (2005, 2006) in Alexandra Osborn and Leah Bromfield (october 2007) 'Outcomes for Children and Young People in Care', *NCPC Brief No.3* <<https://aifs.gov.au/cfca/publications/outcomes-children-and-young-people-care>>

²⁵ Barber, Delfabbro, and Cooper (2000) in Alexandra Osborn and Leah Bromfield (october 2007) 'Outcomes for Children and Young People in Care', *NCPC Brief No.3* <<https://aifs.gov.au/cfca/publications/outcomes-children-and-young-people-care>>

likely to continue within mainstream education beyond the period of compulsion; more likely to be older than other young people in their grade level; attend on average a larger number of schools; and miss substantial periods of school due to changes in foster placement.²⁶

Child removal contributes to poorer health and educational outcomes for young people. Additionally Young people in the child protection system were 12 times as likely to also be under youth justice supervision,²⁷ and approximately 40 percent of children in the juvenile justice system also had contact with the child protection system.²⁸ Children in these systems experience the multiple barriers to equality in life outcomes.

Previous child removal policies and institutional upbringing denied many Aboriginal people the opportunity to develop parenting skills and learn how healthy children grow and thrive.²⁹ Community-based culturally embedded parenting programs are needed to help undo the intergenerational damage done.³⁰ This work includes re connecting with culture, language and families and building hopeful and optimistic futures for Aboriginal children. The role that extended family plays in supporting vulnerable Aboriginal children is not always fully acknowledged or supported, and Aboriginal grandparent carers often end up in informal care arrangements, which may lack recognition. Inadequate support together with a lack of access to individual advocacy within the child protection and legal systems can result in these arrangements failing and children being removed to out of home care - with poorer outcomes for the children and greater costs to the community. The level of financial and social support provided to family and kinship carers remains inadequate, despite the evidence they are more likely to deliver better and more cost effective outcomes. Many find the assistance they require is not available to them unless their child is the subject of a Care and Protection order. Often foster carers receive the support needed to care for children when it was not afforded to families prior to the removal of their child.³¹

The safety of children is of the utmost importance. Whilst leaving children in a dangerous or neglectful family home is unacceptable, removing children from families and their cultural identity causes additional trauma and damage. Where possible, culturally secure and competent early intervention should be provided to families at risk, and the Aboriginal and Torres Strait Islander Placement Principles³² should be followed to help children remain safe with kin.

Social Reinvestment WA supports Family Matters calls for a commitment from government to reduce the overrepresentation of Aboriginal and Torres Strait Islander children in state care.³³

²⁶ CREATE Foundation, 2006, p. 30.

²⁷ Australian Institute of Health and Welfare 2017. Young people in child protection and under youth justice supervision 2015–16. Data linkage series no. 23. Cat. no. CSI 25. Canberra: AIHW.

²⁸ Australian Institute of Health and Welfare 2017. Young people in child protection and under youth justice supervision 2015–16. Data linkage series no. 23. Cat. no. CSI 25. Canberra: AIHW.

²⁹ *Bringing them home*. National Inquiry in the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Commonwealth of Australia, (1997).

³⁰ *Honouring the Truth, Reconciling the Future, Final Report of Truth and Reconciliation Commission of Canada*. www.trc.ca (Inquiry into the Canadian Indian residential schools program).

³¹ Submission to WACOSS by FinWA and Kinship Connections. September 2015.

³³ Family Matters (February 2018) Target and strategy to eliminate over-representation must follow COAG focus on protecting Australia's children. Available at <<http://www.familymatters.org.au/target-strategy-eliminate-representation-must-follow-coag-focus-protecting-australias-children/>>

TARGET RECOMMENDATION:

3. Reduce the overrepresentation of Aboriginal and Torres Strait Islander children in the state care.

SUB TARGETS:

- 3.1 Increase support to family and kinship carers and providing access to intensive family support services can keep children safe, connected with family and community, and deliver better life outcomes that reduce the cost of state care.
- 3.2 Providing sufficient resources for investment in culturally competent early intervention and prevention strategies, and to involve Aboriginal community controlled organisations in the provision of those strategies; the provision of out-of-home care services; and for expert advice in regard to the identification of suitable kinship carers and the cultural suitability of proposed placements.
- 3.3 Begin a process of delegation of responsibility from government to Aboriginal Community Controlled Organisations, to transitioning Aboriginal children in out of home care to be case managed by an ACCO, who lead child safety and placement assessments and family led decision making, and other achievements in the NSW and Victorian child protection space.

REDUCING EXPERIENCES OF HOMELESSNESS AND INSECURE HOUSING FOR ABORIGINAL AND TORRES STRAIT ISLANDERS

Homelessness is a key contributor to imprisonment, increased health issues, and decreased life expectancies. Secure housing must be addressed by Closing the Gap targets to ensure their success.

Aboriginal Australians are 15 times more likely to be sleeping rough than non-Indigenous Australians,³⁴ and according to the AIHW, 1 in 4 clients during 2016/17 to homelessness services were indigenous.³⁵ Homeless people die 30 years younger on average than those who are not homeless, contributing vastly to decreased life expectancies.³⁶ Appropriate accommodation for adults is also imperative because homelessness may lead to anti-social and criminal behavior.

Department of Communities Housing policy *Disruptive Behaviour Management Strategies* can also contribute to homelessness. Vulnerable and disadvantaged social housing tenants can be evicted as a consequence of unaddressed complex underlying problems, especially for victims of family violence. In this regard, it has been observed that some women will not contact police for assistance due to a fear that they will receive a 'strike' and may be evicted.³⁷ Cultural factors and obligations such as the expectation to host any and all extended family who need shelter together with communal living values, are also routine causes of 'strikes' against Aboriginal families in social

³⁵ AIHW (Feb 2018) Specialist Homeless Services Annual Report, Canberra <<https://www.aihw.gov.au/reports-statistics/health-welfare-services/homelessness-services/overview>>

³⁶ Bethan Thomas (2012), *Homelessness Kills*, University of Sheffield, <http://sasi.group.shef.ac.uk/publications/reports/Crisis_2012.pdf>

³⁷ See WACOSS, *Leaving No-One Behind: A brighter future for our children, families and community*, Pre budget submission for the Western Australia State Budget 2016–2017, 32.

housing.³⁸ The link between housing and child protection policies can also create a vicious circle, for a parent or parents may lose their entitlement to a family home when children are removed, and then be deemed ineligible for family reunification for lack of appropriate housing for their children.

Children with complex needs in the care of the Department of Communities also need appropriate accommodation. According to the Department, residential group homes and family homes for children with challenging behaviours were operating at near full capacity.³⁹ For a number of years, the proportion of un-sentenced children in detention in Western Australia has been between 40–50 percent. The vast majority of these un-sentenced detainees are Aboriginal children. Many are in custody on remand because of a lack of accommodation. Investment in suitable accommodation options such as Aboriginal community controlled bail hostels is a cheaper option than ‘warehousing’ vulnerable and disadvantaged children in detention.

Secure housing is crucial to increasing life expectancies, and outcomes for Aboriginal and Torres Strait Islander people. SRWA support calls by Australia’s housing policy peak National Shelter and Shelter WA, for the Commonwealth government to invest in housing for Indigenous Australians to underpin several Close the Gap Targets.⁴⁰

TARGET:

- 4. Reduce the instances of homelessness experienced by Aboriginal and Torres Strait Islander people to levels reflective of their population size.**

SUBTARGETS:

- 4.1 Invest in social housing for Aboriginal and Torres Strait Islander Australians in identified at risk communities.
- 4.2 Review Department of Communities housing policies to ensure vulnerable persons are not evicted for arbitrary “strike” rulings, and social and cultural contexts are considered when terminating social housing occupants.
- 4.3 Invest in creation of new bail hostels to ensure un-sentenced children are not remanded in prison whilst awaiting trial due to a lack of adequate or secure accommodation.

SELF DETERMINATION & COMMUNITY CO-DESIGN

*This section responds to the discussion questions: * What is needed to change the relationship between government and community?; and * Should Aboriginal and Torres Strait islander culture be incorporated in the Closing the Gap Framework? How?*

Self Determination must be a key principle of any future Closing the Gap endeavours. It has been called for by successive Aboriginal and Torres Strait Islander leaders, and is critical to stepping beyond addressing disadvantage to empowering future capacity. The Closing the Gap framework is

³⁹ Department of Child Protection and Family Support, *Annual Report 2014-2015* (2015) 34.

⁴⁰ WA Housing hub (2018) *Housing Fundamental to Closing the Gap*, <<http://wahousinghub.org.au/display/NEWS/2018/02/12/Housing+fundamental+to+Closing+the+Gap>>

for Aboriginal people- it thus should be created and implemented by and with them. Giving the community power in decision making and leading change for Aboriginal people is crucial to changing the relationships between government and community, and incorporating Aboriginal culture into Closing the Gap. Strategies to support self-determination should involve considering the existing views of democratically chosen and culturally secure Aboriginal leadership groups; developing structures for Aboriginal leadership and co-design of the Closing the Gap Strategy and implementation; and consulting and co-designing with local communities.

Furthermore, mainstream programs and services have mixed success in reaching out to engage Aboriginal service users. While there are some genuine efforts and excellent examples, ultimately an organisation with strong community links, culturally appropriate services and an Aboriginal face behind the counter is more likely to have an impact. If we wish to support Aboriginal families to achieve better life outcomes we need to increase the number and capacity of Aboriginal community controlled organisations delivering community services and to improve the cultural sensitivity and appropriateness of mainstream services if we are to make greater inroads in areas of entrenched disadvantage. We are keen to see government Departments and mainstream community service providers embrace a principled approach to partnering with and supporting Aboriginal community controlled organisations in the delivery of services based on nationally agreed best-practice principles.⁴¹

Australia is home to 17 Aboriginal nation groups, and originally over 500 different tribes each with their own distinct culture, language, and traditions. Diversity today also means there are unique opinions amongst Aboriginal and Torres Strait Islander people concerning Closing the Gap. To begin enabling Self Determination in the Closing the Gap framework, the first point of consultation should be existing collective statements from Aboriginal leaders. *The Redfern Statement*, and *the Uluru Statement from the Heart* should be key directives for government in this area.

Furthermore, SRWA support the Close the Gap 2018 Review recommendations that the Closing the Gap Strategy must be co-designed with Aboriginal leaders and include community consultations. We support their calls for the development of a tripartite co-design structure⁴² between Aboriginal health leaders, and the Federal, and State and Territory governments, with sufficient time allowed for this process, and accountability for the Australian government to Aboriginal and Torres Strait Islander people for its effective implementation. SRWA recommend this expands beyond Aboriginal health leaders, to Aboriginal leaders in justice, child welfare, and other areas relating to the Target recommendations.

Mandating Aboriginal leadership and co-design, and building the capacity of Aboriginal community controlled organisations will help to ensure cultural, social, and emotional wellbeing are effectively integrated in all phases of Closing the Gap.

As previously discussed, individuals and communities at risk of lower life expectancy, and health, employment, and education outcomes are usually experiencing multiple risk factors. However for each individual, and for at risk communities, these complex needs and intersections of disadvantage may differ. To effectively support sustainable, long-term change in communities with

⁴¹ *Principles for a partnership-centred approach for NGOs working with Aboriginal organisations and Communities in the Northern Territory* ('APONT Principles'), Aboriginal Peak Organisations Northern Territory (2013).

⁴² Australian Human Rights Commission, (2018) Closing the Gap 10 Year Review.

varying complex needs, support strategies and services must be designed with that specific community in mind.⁴³ Place based approaches, and collective impact methodologies should be utilized to support true community co-design.

Place-based approaches target an entire community by identifying issues at a local level and working with the community to address complex, intersecting social problems.⁴⁴

SRWA support the use of Save the Children's guiding principles for place based approaches:⁴⁵

- “engaging with community leaders and individuals to deeply understand the aspirations and strengths of the community;
- co-defining objectives and co-designing activities that build upon the aspirations of the community;
- the rigorous use of data to target services and determine the full nature and extent of the issues;
- multi-level interventions which target the protective, risk and stress factors which young people and families experience;
- strong governance structures that cut across levels of government and involve non-government organisations and communities to collaborate and develop action plans; and
- a recognition that lasting change won't come overnight, with a need to establish reasonable timeframes and milestones along the way in partnership with the community.”⁴⁶

‘Collective impact’ methodologies work in conjunction with place based strategies to support communities experiencing multifaceted problems by systematically harnessing stakeholder collaboration across sectors’.⁴⁷

The five elements for participating local organisation in enacting collective impact are:⁴⁸

- a common agenda for change including a shared understanding of the problem and solutions;
- consistent data collection and measurement of results;
- a plan of action which ensures mutually reinforcing activities for each participant;
- open communication between participants to build trust; and
- a backbone organisation which includes staff and specific skillsets to support participating organisations.

⁴³ Wilks, S., Lahaussé, J., & Edwards, B., ‘Commonwealth Place-Based Service Delivery Initiatives: Key Learnings project’, Australian Institute of Family Studies, Research Report No. 32, 2015; The Royal Children's Hospital, Melbourne Centre for Community Child Health, ‘Place based approaches to supporting children and families’, Policy Brief, Vol 23, 11, 2011. Accessed at: https://www.rch.org.au/uploadedFiles/Main/Content/ccch/Policy_Brief_23_-_place-based_approaches_final_web2.pdf; T. Bellefontaine, and R. Wisener, ‘Policy Horizons Canada Evaluation of Place Based Research: Questions for Future Research’, Government of Canada, June, 2011.

⁴⁴ The Royal Children's Hospital, Melbourne Centre for Community Child Health, ‘Place based approaches to supporting children and families’, Policy Brief, Vol 23, 11, 2011, pg 1. Accessed at: https://www.rch.org.au/uploadedFiles/Main/Content/ccch/Policy_Brief_23_-_place-based_approaches_final_web2.pdf

⁴⁵ See Save the Children Submission to Close the Gap Refresh (2018)

⁴⁶ See Save the Children Submission to Close the Gap Refresh (2018)

⁴⁷ J Smart, ‘Collective Impact: evidence and implications for practice’, CFCA Paper, No. 45, Published by the Australian Institute of Family Studies, November 2017. Accessed at: <https://aifs.gov.au/cfca/publications/collective-impact-evidence-and-implications-practice/export>

⁴⁸ Kania, J., & Kramer, M., ‘Collective Impact’, *Stanford Social Innovation Review*, 9(1), 2011, pp. 36-41.

SRWA recommends that self-determination and co-design exist at all levels of implementation of a Closing the Gap Strategy, from local communities, to policy development, and government decision making, to allow the most chance of successful outcomes.

RECOMMENDATIONS:

- 5 **Self Determination be established as a guiding principle for the co-design, implementation, and leadership of Closing the Gap.**

SUB RECOMMENDATIONS

- 5.1 A strategy to develop and build the capacity of Aboriginal Community Controlled Organisations is implemented to increase ACCO services proportionate to need.
- 5.2 The existing statements of national Aboriginal and Torres Strait Islander leadership groups; *the Redfern Statement*; and *the Uluru Statement*, be considered guidance for change.
- 5.3 A tripartite co-design structure between democratically elected and culturally secure Aboriginal leadership groups, and the Federal, and State and Territory governments be established to govern Closing the Gap; With sufficient time allowed for this process, and accountability measures for the Australian government to Aboriginal and Torres Strait Islander people.
- 5.4 Community Co-Design be implemented through place based and collective impact approach.

JUSTICE/SOCIAL REINVESTMENT APPROACHES

*This section in part responds to the Discussion Questions: * To help close the gap, what is needed to support Indigenous community leadership and decision-making? And * How can governments, Aboriginal and Torres Strait Islander people, and businesses work more effectively together?*

The inordinately high rates of incarceration of Aboriginal and Torres Strait islander people in Australia has significant social ramifications and economic costs. Continuing to imprison Indigenous Australians in such disproportionate numbers impacts the healthy functioning of families and communities, and when offenders are non-violent, is detrimental to the wellbeing of individuals and the community at large. The fiscal costs involved are significant. If the \$3.9 Billion spent on Aboriginal and Torres Strait Islander people in the justice system in 2016 could be redirected to early intervention, prevention, and diversionary methods- the progress towards Closing the Gap in all areas would increase immeasurably.

Under a Justice or Social Reinvestment⁴⁹ approach, the enormous resources currently wasted on a failing prison system are freed up to be spent on improving the wellbeing of people, families, and communities. Social Reinvestment strategies work to improve opportunities, health, and education in at risk communities, and allow people to rebuild their lives, so they can contribute to their community.

The Australian Law Reform Commission released in 2018 *Pathways to Justice*; the final report of an inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander people. Their first recommendation is for Governments across jurisdictions to support the establishment of an independent *Justice Reinvestment Body*, to promote the reinvestment of resources from the criminal justice system to community-led place based initiatives that address the drivers of crime and incarceration and to provide expertise on the implementation of justice reinvestment.⁵⁰ This *Justice Reinvestment Body* should be overseen by a board with Aboriginal and Torres Strait Islander leadership. Their second is to support justice reinvestment trials initiated in partnership with Aboriginal communities across Australia.⁵¹

Social Reinvestment WA has developed the following key principles for implementing holistic justice reinvestment approaches in Australia.

“The Social Reinvestment Framework” in brief is:

1. *Redirecting government spending to focus on:*

- *Supporting families to address the underlying issues that can lead to crime;*
- *Diverting people in contact with the justice system into support programs that will stop them from further offending; and*
- *Assisting people who are imprisoned or transitioning out of prison to rehabilitate, and reintegrate into the community.’*

2. *Promoting evidence driven collaboration for holistic policy development and service approaches*

3. *Reforming laws that enable current discriminative practises.*

4. *Prioritising cultural, social and emotional wellbeing in our responses*

RECOMMENDATIONS:

6.3 Social Reinvestment WA recommend that the Closing the Gap Framework supports the establishment of an independent *Justice Reinvestment Body* to support Closing the Gap goals.

⁴⁹ Social Reinvestment is the WA specific approach developed by the SRWA Coalition, based upon justice reinvestment principles, WA’s unique experiences, and collective expertise.

⁵⁰ Australian Law Reform Commission (28 March, 2018) *Pathways to Justice–Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC 133 Summary)*, Available at <<https://www.alrc.gov.au/publications/pathways-justice-summary>>

⁵¹ Australian Law Reform Commission (28 March, 2018) *Pathways to Justice–Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC 133 Summary)*, Available at <<https://www.alrc.gov.au/publications/pathways-justice-summary>>

6.4 Closing the Gap utilise a *Social Reinvestment* approach in implementing Close the Gap strategies

CONCLUSION

The spirit of hope shared by many Australians when the *Closing the Gap Targets and Framework* were first announced following Prime Minister Kevin Rudd's national apology to the Stolen Generations has been dampened by the lack of real progress in the existing target areas.

A renewed commitment must be made by governments if we are to tackle the enormous inequalities faced by Aboriginal and Torres Strait Islander people within our society. The disparate social, economic, and health outcomes experienced by First Australians within our country is a stain upon our national character. As a wealthy nation with the means to right these injustices, we must reflect and work harder together to succeed in the future.

To succeed, a commitment must prioritise self-determination for Aboriginal people in the co-design and implementation of the strategy, and should be guided by Social and Justice Reinvestment principles in its approach to creating long lasting change. It must be supported by architecture that ensures the development of effective implementation strategies, and secure funding, and enable accountability for both state/territory and federal governments to Aboriginal and Torres Strait Islander people.

The interconnected nature of complex issues and multifaceted disadvantage experienced by many Aboriginal and Torres Strait Islander people means we cannot ignore intersecting issues impacting their lives, and must expand the reach of our targets to other social issues. Without evidence driven, holistic, integrated approaches, our solutions are doomed to fail.

Furthermore, we cannot truly close the gap between Aboriginal and Torres Strait Islander and non-Indigenous Australians if we ignore huge disadvantages impacting these communities because they are more difficult or somehow less palatable. Closing the life expectancy gap is a good start, as are overcoming health and educational disadvantage. But we need to do better, we need to strive for equality in all areas today; Justice, Housing, Family Violence, and Child Protection included. In a nation that values equal rights, we are called to unconditionally Close *all* the Gaps.