

# Financial Inclusion for Indigenous Australians in Custody

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First Nations Foundation, on behalf of the Indigenous  
Financial Services Network

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### The Authors



First Nations Foundation was established in 2006 with the vision of enabling Aboriginal and Torres Strait Islander Australians to make informed decisions about their financial wellbeing, in turn securing a sound economic future for themselves and their communities.

First Nations Foundation believes that two paths are considered important in achieving financial inclusion for Aboriginal and Torres Strait Islander Australians:

- the improvement of access to culturally appropriate financial services and products, and
- the delivery of culturally appropriate financial literacy programs.

In pursuit of these goals, as co-chair of the Indigenous Financial Services Network, First Nations Foundation plays a vital leadership role in promoting the development of strong and sustainable relationships between Aboriginal and Torres Strait Islander Australians and the financial sector.

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## Introduction

In 2011, as co-chair of the Indigenous Financial Services Network (IFSN), First Nations Foundation (FNF) was engaged to develop a discussion paper highlighting the financial inclusion needs of Indigenous Australians in custody.

Over-representation in the prison system is an area in which Indigenous people experience significant disadvantage. Whilst being less than 3% of the Australian population, in the latest Australian Bureau of Statistics (ABS) report on Australian prisoners, Indigenous prisoners represented 26% of the total full-time prisoner population (ABS 2011). The recent report 'Doing Time—Time for Doing, Indigenous Youth in the Criminal Justice System' has highlighted alarming statistics on the growing Indigenous juvenile population in our prisons; Australia is currently holding more Indigenous juveniles in its jails than during the *Royal Commission into Aboriginal Deaths in Custody* 20 years ago, and Indigenous juveniles are 28 times more likely than non-Indigenous juveniles to be incarcerated (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs 2011).

While poverty is intrinsically linked with low levels of literacy, education and employment, we also know that economic and social exclusion have been proven to influence crime rates. Genuine employment and training pathways are therefore recognised as important pillars to achieving economic inclusion for Indigenous Australians and ensuring a successful reintegration process from prison back into community. Less recognised however, is the importance of addressing issues of financial hardship and financial exclusion which have occurred as a result of being incarcerated and which can in turn worsen the cycle of economic disadvantage.

*Incarceration can be conceptualised as both an outcome of poverty and as a contributor to financial adversity.*

Watts and Nightingale 1996 in  
Arditti et al. 2003, Page 196

Prisoners, as well as their families and support networks, must work through a range of financial obligations such as a loss of income and Centrelink payments, housing agreements, contractual debts, fines and child support, amongst many others. One study in Queensland revealed 80% of prisoners had some debt when they went into prison, with the average amount owing for men being \$16,060 while women had debts averaging \$3,417 (Stringer 1998, Page 32). Stress associated with financial difficulty has a significant impact upon prisoners' mental health whilst they are in custody and many feel powerless to deal with issues that they know are mounting on the outside. Young Indigenous adults released from prison face an overwhelming range of challenges such as finding accommodation, poor finances, the pressure of meeting social needs, and drug and alcohol addictions, often contributing to high reoffending rates (Gilbert and Wilson 2009). These financial crises have long lasting impacts on both the individuals and their families—from relationship breakdowns to homelessness and un-employability, further diminishing the opportunity for successful reintegration and increasing the chance of reoffending. It is therefore crucial for reintegration programs and education and training pathways to address issues of Indigenous financial inclusion in custody, which will strengthen existing initiatives to reduce recidivism rates and contribute towards broader 'Closing the Gap' objectives.

While achieving financial inclusion for Indigenous Australians requires the engagement of a broad range of sectors and significant changes to the way the financial system interacts with Indigenous people, this report is focused solely on the financial inclusion issues specific to incarcerated Aboriginal and Torres Strait Islander people. The report should be viewed in conjunction with the other work streams of the Indigenous Financial Services Network as a means of establishing Indigenous financial inclusion.

*With financial inclusion as a prerequisite for engagement in modern society, financial exclusion can be seen to underpin many of the factors which increase the risk of offending.*

Bath and Edgar 2010, Page 9

## RECOMMENDATIONS

- 1. IFSN** to develop specific work streams to address the following recommendations:
  - HARDSHIP POLICIES** The Australian Bankers' Association to work with its members and Financial Counselling Australia to establish industry-wide policies which acknowledge the unique hardship challenges facing incarcerated clients and consider waiving interest charges and fees to prevent further hardship. (Page 16)
  - COMMUNICATION** Financial institutions and utilities companies to develop Memorandums of Understanding with state corrections departments, which improve communication channels, processes and coordination to address and prevent debt issues for incarcerated clients. (Page 19)
- 2. REPORTING** Government to develop a strategy to collect data and report on the financial issues leading to Indigenous imprisonment. (Page 14)
- 3. RESEARCH** Government to conduct research to capture Indigenous Australians' first hand experiences of financial inclusion within the justice system and evaluate the capacity of current programs to address their financial inclusion needs. A review into the unique financial inclusion needs of Indigenous youth in incarceration should be included. (Page 5)
- 4. COORDINATION** State justice departments to conduct an inter-departmental review into issues of coordination with the Australian Government Department of Human Services and state housing departments that may be causing additional financial hardship for prisoners and their families. (Page 16)
- 5. FINES** Government to increase funding for the delivery of holistic legal aid services to support Indigenous clients in court to negotiate fines. (Page 14)
- 6. FINANCIAL COUNSELLING** Government to work with Financial Counselling Australia to develop and fund a strategy to increase the delivery of financial counselling services in the prison system, as well as existing outreach services which work with prisoners and their families. (Page 17)
- 7. FAMILY SUPPORT** Government to provide practical financial support to families to help maintain connection to incarcerated family members and reduce the additional financial burden. (Page 11)
- 8. FINANCIAL CAPABILITY** Government to fund professional development training for all prison support staff to build their awareness of financial capability issues and their capacity to support their clients, for example through a modified version of financial counselling training. (Page 9)
- 9. FINANCIAL EDUCATION** Government to fund face to face financial literacy education which specifically addresses the cultural and financial needs of Indigenous prisoners, as a key component of reintegration programs. (Page 17)
- 10. PROGRAM EVALUATION** Government to fund the evaluation of prisoner financial inclusion programs to capture best practise knowledge on what works to reduce Indigenous financial exclusion in custody. (Page 17)
- 11. DELIVERY** Indigenous financial literacy education and training programs to be facilitated or co-facilitated by Indigenous staff to improve cultural relevance and prisoner engagement. (Page 11)
- 12. RESOURCES** Indigenous Financial Services Network members to work with the Indigenous community to develop audio-visual education resources to help Indigenous people manage their finances transitioning into custody and preparing for release. Resources should take into consideration limited literacy and numeracy levels and the principles of Indigenous financial literacy best practise. (Page 16)
- 13. FAHCSIA** to increase the amount entitled through the Centrelink 'Crisis Payment – Prison Release'. (Page 19)

## Process

Desktop research and telephone interviews were conducted to get a broad understanding of the financial support processes in place across government agencies, community organisations and the financial services industry members engaging with Indigenous Australians entering and exiting custody. Interviewing Indigenous prisoners themselves was beyond the scope of this report, but is a much needed perspective that should be documented for further evidence based policy making. Included in our recommendations is a request for Government to undertake further research to capture first hand experiences of these issues and evaluate the capacity of current programs to address Indigenous prisoners' financial inclusion needs.

Key stakeholder discussions included teleconferencing with a network of financial counsellors working with clients in prison settings across Australia, as well as individual conversations with customer service and hardship staff across the financial services industry. The Victorian Department of Justice also hosted a workshop with Corrections Victoria's key stakeholders involved in initiatives to reduce debt and/or provide financial services to prisoners. Workshop participants included the Australian Government Department of Human Services (Centrelink and Child Support), the Energy and Water Ombudsman (Victoria), the Victorian Association for the Care and Resettlement of Offenders (VACRO) and Corrections Victoria's Indigenous and Diversity Unit and Reintegration Branch.

A number of distinct financial inclusion issues were identified as well as recommendations for improving the financial inclusion of Indigenous Australians in contact with the justice system.

**RESEARCH** Government to conduct research to capture Indigenous Australians' first hand experiences of financial inclusion within the justice system and evaluate the capacity of current programs to address their financial inclusion needs. A review into the unique financial inclusion needs of Indigenous youth in incarceration should be included.

## Policy Context

Strengthening both the public and private sectors' responses to the financial inclusion issues identified in this report will contribute towards reducing the alarmingly high rates of recidivism and realising the Government's broader 'Closing the Gap' objectives. These achievements should be viewed as fundamental building blocks to promoting equality and reconciliation with Indigenous Australians. The following policy areas and their practical implementation are key to changing the reality of Indigenous financial inclusion in incarceration.

There is a growing awareness that greater economic disparity contributes to higher crime rates; "in an international context, it is universally accepted, and supported by empirical evidence that there is a strong correlation between poverty and criminal offending" (Quince 2007, Page 11). Further to this, the Federal Government's 'Closing the Gap' policy highlights the economic disparity between Indigenous and non-Indigenous Australians and acknowledges the well-known over-representation of Indigenous Australians in the criminal justice system.

Therefore, a comprehensive way of addressing crime statistics may be “an economic and social policy which works to reduce the gap between rich and poor, thereby limiting the breakdown in social bonds which underpins high levels of delinquency” (Weatherburn 1992, Page 2).

## 1. ‘Closing the Gap’ and Economic Development

### **The Indigenous Reform Agenda**

Closing the Gap is a commitment by all Australian governments to improve the lives of Indigenous Australians, and in particular provide a better future for Indigenous children. A national integrated Closing the Gap strategy has been agreed to by the Council of Australian Governments (COAG), the peak intergovernmental forum in Australia.

COAG recognises that overcoming Indigenous disadvantage will require a sustained commitment from all levels of government to work together and with Indigenous people, with major effort directed to the particular ‘building blocks’ of Early Childhood, Schooling, Health, Economic Participation, Healthy Homes, Safe Communities, and Governance and Leadership. Realising the Closing the Gap targets requires progress in each of these areas concurrently and will not be achieved in isolation.

### **Indigenous Economic Development Strategy 2011-2018**

This Strategy, released by FaHCSIA on 19 October 2011, is the Gillard Government’s map for achieving the long term vision of increased economic participation of Indigenous Australians, by which they can fully share in the financial and social benefits of employment and a strong economy. The Strategy sits within the Government’s broader ‘Closing the Gap’ agenda and includes the following key priorities (Australian Government 2011, Page 5):

- to strengthen foundations to create an environment that supports economic development;
- to invest in education;
- to encourage participation and improve access to skills development and jobs;
- to support the growth of Indigenous business and entrepreneurship; and
- to assist individuals and communities to achieve financial security and independence by increasing their ability to identify, build and make the most of economic assets.

## 2. Financial Inclusion

There has been increasing focus on issues of financial exclusion over recent years both in Australia and overseas. Burkett and Sheehan (2009, Page v) define financial exclusion as, “A process whereby a person, group or organisation lacks or is denied access to affordable, appropriate and fair financial products and services, with the result that their ability to participate fully in social and economic activities is reduced, financial hardship is increased, and poverty (measured by income, debt and assets) is exacerbated. Addressing financial exclusion is not merely about service provision; it also includes capacity building and structural change.”

Today, Aboriginal and Torres Strait Islander people are some of the most financially excluded in Australia. In 2011, the report ‘Measuring Financial Exclusion in Australia’ produced by the Centre for Social Impact for the National Australia Bank highlighted this over-representation. The report found that 19.1% of people who classified as either ‘severely’ or ‘fully’ excluded identified as Indigenous (Connolly et al. 2011, Page 22).

In addition to issues of access and financial knowledge, research has also highlighted the fact that Indigenous Australians face cross-cultural issues which can lead to financial exclusion, such as language barriers and a strong preference for face-to-face banking over electronic services (Gibson 2008, cited in Connolly et al. 2011, Page 22).

To address some of these issues, the Australian Government, financial and not-for-profit sectors have made significant investments in supporting Indigenous financial education schemes, increasing access to micro-finance and asset-building programs. The IFSN co-chaired by Reconciliation Australia and FNF brings together representatives from Indigenous organisations, government agencies, major financial institutions and their peak governing bodies to debate current issues and topical trends which are impacting on the financial inclusion of Indigenous Australians and work collaboratively to achieve defined goals.

### **3. Justice System**

#### **Royal Commission into Aboriginal Deaths in Custody**

Since the *Royal Commission into Aboriginal Deaths in Custody* reported to the Federal Parliament in 1991, policy regarding Indigenous crime has been of particular interest to those working to 'Close the Gap' in Indigenous disadvantage. The Commission did in fact provide "a benchmark in the examination of Indigenous relations with the criminal justice system" (Cunneen 2007). Furthermore, "the Commission found that the most significant contributing factor to bringing Indigenous people into contact with the criminal justice system was their disadvantaged and unequal position within the wider society" (Cunneen 2007), making 339 recommendations to ultimately reduce custody levels, remedy the evident social disadvantage and promote the self-determination of Indigenous Australians.

#### **National Indigenous Law and Justice Framework**

The Australian Government, with the state and territory governments, endorsed the *National Indigenous Law and Justice Framework* in November 2009. The Framework is a national approach to addressing the serious and complex issues that mark the interaction between Aboriginal and Torres Strait Islander peoples and the justice systems in Australia, intended to be flexible to enable implementation that is responsive to local needs and consistent with jurisdictional priorities and resource capacity.

Alongside the Federal Government's national policy framework, each state and territory operates through its own policies and frameworks to address the disadvantages faced by Indigenous offenders and facilitate the process of reintegration. Queensland's recently released *Indigenous Justice Just Futures Strategy*, for example, aims to tackle the underlying problems of Indigenous crime—poverty, unemployment and alcohol and drug abuse (National Indigenous Times 2011).

Since the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC), a number of Aboriginal Justice Agreements (AJAs) have been developed in partnership between state governments and peak Indigenous bodies. Although state governments are no longer obliged to report on their progress of the RCIADIC recommendations, there is no doubt that AJAs have played an important role in state Indigenous incarceration rates, by encouraging Indigenous community engagement, self-management and ownership.

Despite jurisdictional differences in population, geography and policy history, AJAs incorporate the RCIADIC’s “dual focus upon both reform of the criminal justice system and underlying factors contributing to Indigenous incarceration rates” (Allison and Cunneen 2010, Page 653). Financial exclusion and economic disadvantage are key factors in this context, though measures to improve them often fall outside the core business of justice policy; “justice agencies are not going to be able to significantly impact upon, for example, school completion or unemployment rates, although justice agency policies might support these outcomes (for example, by providing educational or vocational training in detention and post-release support)” (Allison and Cunneen 2010, Page 663).

Ultimately, the lack of accountability and coordination in Indigenous strategic policy development has made significant progress in Indigenous justice areas difficult. In addition, the complex interplay between national and state policy has affected the consistency of measures addressing the financial inclusion needs of Indigenous people in custody.

### **Moving through the Justice System**

Going to prison is a significant and difficult life event for both the sentenced individual and their family. In addition to the loss of liberty, there are a number of unintended financial consequences that are not immediately obvious. Stringer argues that the additional punishment of financial stress imposed by imprisonment is highly inequitable (1998, Page 9).

Managing financial matters during a crisis, such as entering prison, can be distressing and difficult (Landvogt 2008, Page 82) and may leave the individual and their family vulnerable to significant financial hardship. Financial inclusion research has highlighted the importance of providing appropriate financial supports to people experiencing major life events, as new information and skills are required to navigate the unfamiliar situation (Landvogt 2008; Arashiro 2011).

Arashiro’s 2011 study ‘Money Matters in Times of Change’ identifies clear recommendations to improve the financial exclusion of Australians undergoing life transitions, arguing that “financial information needs to be accessible at and relevant to the individual’s life stage; access to fair and affordable financial products and services should be universal; hardship responses and policies should be promoted and access facilitated” (Pages viii-ix). The financial needs of Indigenous Australians entering and exiting prison must be recognised as important transitions that require similar strategies to overcome the financial exclusion they experience. The ‘Staying Strong on the Outside: Indigenous Young Adults’ report refers to this holistic approach as ‘throughcare’, noting that “services aimed at reintegration should be provided from the beginning of the sentence and continue post-release until the person is confidently reintegrated into the community” (National Justice Chief Executive Officers Group 2009, Page 16).

*When someone is convicted of a crime, the impact on their finances can be extreme. The loss of liberty is the most severe form of punishment in the UK but with it come many unintended financial consequences. The criminal justice system can increase financial exclusion, and reduce personal responsibility, creating problems with housing, insurance, employment and family relations, and thus contributing to a greater risk of reoffending.*

Bath and Edgar 2010, Page 5

The best practise holistic health care model developed by the Winnunga Nimmityjah Aboriginal Health Service in Canberra places a similar emphasis on the importance of these transitions in breaking the destructive cycle of recidivism. The model was developed on the premise that “post-



Figure 1 Diagram adapted from the Winnunga Nimmityjah Aboriginal Health Service Holistic Health Care for Prison Model

release needs should be addressed as a priority on entry into prison and the focus of imprisonment is release into an environment that is better than the safety and familiarity of prison” (Tongs et al. 2007, Page 8). Critically, having been developed for Indigenous prisoners, the model also highlights the central importance of cultural identity, family, spirituality and health to effective service delivery. It is for these reasons that the model will be used as a framework to discuss Indigenous financial inclusion needs in the justice system.

**FINANCIAL CAPABILITY** Government to fund professional development training for all prison support staff to build their awareness of financial capability issues and their capacity to support their clients, for example through a modified version of financial counselling training.

**At the Heart of it: Cultural Identity, Family, Spirituality and Health**

**Cultural Identity and Spirituality**

Measures to strengthen cultural identity must be placed at the centre of policy and program initiatives designed for the financial inclusion of Indigenous Australians. Without considering the need to support a strong sense of cultural identity, financial inclusion policies and programs for Indigenous prisoners risk being irrelevant and culturally inappropriate.

*A secure and healthy identity is one where people can access knowledge of their language, and cultural norms and practices, which are, in turn, valued, promoted and enforced in our larger society and legal system.*

Quince 2007, Page 3

The importance of cultural identity is reflected in the Winnunga Nimmityjah Aboriginal Health Service Holistic Health Care for Prison Model which argues that identity is “crucial in coping with prison and community life and linked to good health” (Tongs et al. 2007, Page 8). The institutionalisation that occurs from long-term prison sentences, the breakdown of family relationships and support networks, and the cycle of debt and despair many Indigenous prisoners find themselves in, results in a crucial loss of cultural identity and connection to community, without which it is extremely difficult for many Indigenous people to rebuild and take control of their lives.

There are limited examples of holistic and long term reintegration services that address issues of financial inclusion, and even fewer that address the culturally specific needs of Indigenous prisoners.

*The Forensic and Applied Psychology Research Group of the University of South Australia conducted a literature review on the management of Indigenous prisoners, and concluded that both adapted programs and culturally specific programs are required... This report also noted three good practise principles in corrections from the perspective of international human rights standards: equality before the law, recognition of cultural identity and the right to self-determination.*

FAPRG 2001 in Gilbert and Wilson 2009, Page 4

Holistic healing and education programs that recognise the complex context of Indigenous crime rates (historical neglect and abuse, displacement, loss of culture and spirituality, etc.) are vital for engaging Aboriginal and Torres Strait Islander people away from recidivism and into economic development.

Not only may some prison staff have attitudinal barriers to improving the financial situation of prisoners (Stringer 1998, Page

3), but feedback from various stakeholders indicates that there is also limited cultural awareness amongst prison staff. This has a direct role in preventing prisoners from taking up education and training programs, particularly if there is no respectful relationship between facilitator and prisoner and if content has not been adapted to be culturally relevant. The hiring of Indigenous prison employees is therefore crucial for improving the wellbeing of the Indigenous prisoner population and supporting pathways to program engagement. A good example is the network of Aboriginal Wellbeing Officers, Aboriginal Liaison Officers, Indigenous Service Officers and Indigenous Leading Community Corrections Officers who play an important role in the work undertaken by Corrections Victoria in responding to the overrepresentation of Indigenous people in Victoria’s prisons. Victoria in fact now has the one of the lowest Indigenous imprisonment rates in Australia, which is difficult to attribute to any one policy or program but is certainly a reflection of a state Aboriginal Justice Agreement that “meets the highest standards in terms of Indigenous participation, implementation, monitoring and independent evaluation” (Allison and Cunneen 2010, Page 668). Similarly, the use of Aboriginal Liaison Officers has also been successfully reported in Western Australia, Northern Territory, South Australia and New South Wales, in the context of supporting fine defaulters to navigate the justice system and manage their repayment options or negotiate alternative sentencing (Williams and Gilbert 2011, Page 2).

In addition, in 2011 Corrective Services NSW released an *Aboriginal and Torres Strait Islander Employment and Career Strategy* to increase their number of Indigenous employees, improve opportunities for training and career development for existing Indigenous staff and enhance the cultural awareness and inclusivity of their workplace environment. These are important commitments whose consistent application should have long term benefits for New South Wales' Indigenous prisoner population.

**DELIVERY** Indigenous financial literacy education and training programs to be facilitated or co-facilitated by Indigenous staff to improve cultural relevance and prisoner engagement.

### **Family and Health**

Family, kin and Country are central to the wellbeing of Aboriginal and Torres Strait Islander people and as such, the breakdown of these relationships due to time spent in prison can have devastating emotional and practical repercussions on prisoners. Knowing that their families are shouldering the burden of growing debts and costs of living without their support, Indigenous prisoners undergo a significant amount of stress, anxiety and depression. Cutting off these relationships has an adverse effect on an Indigenous person's own sense of identity, confidence and mental well-being. Family visits programs are therefore crucial for maintaining support networks and providing Indigenous prisoners with some stability.

Some prisons and community organisations provide financial support to maintain relationships, including video link ups, funeral plans, travel costs, etc. through programs such as Shine for Kids' Video Visits, supported by Corrective Services NSW, and the Aboriginal Family Visits Program funded by Corrections Victoria and managed by the Victorian Association for the Care and Resettlement of Offenders (VACRO). Correctional jurisdictions funding Indigenous prisoners to attend family funerals acknowledge the importance of supporting the cultural needs of Indigenous prisoners to maintain their family connections and meet their cultural obligations, though this is not yet a policy across all states and territories.

**FAMILY SUPPORT** Government to provide practical financial support to families to help maintain connection to incarcerated family members and reduce the additional financial burden.

### **The Ripple Effect**

The high representation of Indigenous people within the prison system has wide reaching ripple effects on families and communities. Damaged and fractured relationships with family and community leave a lasting legacy of broken trust and respect and increase the risk of family and community violence.

Above all, the sense of shame pervading the experiences of Indigenous people in custody has lasting impacts on their mental wellbeing and confidence to pursue their life aspirations. High levels of anxiety and depression due to frequent and extended contact with the justice system are inextricably linked to high drug and alcohol use and risk of suicide. Mental health issues and alcohol and drug dependencies, already high in Australia's Indigenous population, are often left unaddressed in the cycle of contact with the justice system, with ongoing repercussions for Indigenous social and economic inclusion.

Many families of Indigenous prisoners are faced with a drop in income, loss of child support, growing costs of living and the burden of debts acquired by the imprisoned individual. Repossession of the family home, car or other assets due to debt collection not only impacts on the financial situation of the prisoner but on the wellbeing of their family as well. The loss of income makes it unlikely that debts will be repaid, leading to increased fees and interest. The families of prisoners, who may be struggling already without that individual's income and support, can be forced into further hardship as they struggle to repay existing debts. Similarly, ongoing financial support required by families to pay costs in prison can worsen financial hardship for the families involved. Amongst other financial concerns, a lack of affordable housing for prisoners once they're released increases the risk of homelessness and transience for families.

Financial disadvantage has obvious repercussions for the education opportunities available to Indigenous children of incarcerated parents, as well as their access to basic living needs such as clothing and food. Furthermore, the trauma of witnessing a parent being arrested, the ongoing stress and shame of having a parent incarcerated, and the loss of key family relationships and kinship networks have irreversibly damaging effects on the health and wellbeing of Indigenous children, contributing to an ongoing cycle of disadvantage and recidivism.

### Contact with the Justice System

Financial hardship is a common theme across the experiences of Indigenous people in contact with the justice system. A Prison Debt project coordinated by the Prisoners' Legal Service in Queensland found that "forty-nine per cent of the prisoners interviewed by the project stated that they had committed a crime to repay a debt" (Stringer 1998, Page 1). Not only can debt trigger crime, it has lasting impacts on prisoners throughout the cycle of contact with the justice system.

Imprisonment due to a failure to pay fines is extremely common amongst Indigenous offenders and significantly contributes to increasing their financial exclusion; Williams and Gilbert write, "of concern is the likelihood that many Indigenous people are imprisoned for 'secondary offending', that is offending associated with fine default such as unlicensed or unregistered driving" (2011, Page 5).

*Personal debt and other financial problems can be a cause of an individual offending in the first place, and such problems can severely exacerbate the risk of reoffending on release. Being able to manage debt and other financial problems during a prison sentence or upon release into the community could help to reduce re-offending.*

Consumer Financial Education  
Body (CFEB) 2010, Page 4

The fines enforcement system essentially has disproportionate effects on Indigenous people who, due to a range of statistics, are “less likely to be able to pay their fines and less likely to be able to negotiate the fines enforcement system” (Williams and Gilbert 2011, Page 1). Furthermore, the North Australian Aboriginal Justice Agency reported in 2010 that “Indigenous people who are fined often do not understand the court proceedings and leave without realising they have been fined, or knowing what the options are for paying a fine” (cited in Williams and Gilbert 2011, Page 2). More effective, holistic and personalised case management is required to assist Indigenous fine defaulters in understanding their rights, establishing affordable payment plans and receiving access to equitable justice.

Despite the abolishment across all jurisdictions of automatic imprisonment due to fine default, fine defaulters are still being jailed without an appropriate court hearing process—reducing the opportunity for alternative sentencing and leaving prisoners’ families vulnerable to unnecessary hardship and emotional loss. Lobbyers are calling for a permanent change to state laws to ensure this doesn’t keep happening.

The integration of the Sheriff’s Deemed Service Program into Corrections Victoria’s transitional programs is a good example of positive relationship building between the Indigenous community and the justice system. A recent report on the Aboriginal Credit and Debt Project held in Victoria acknowledges the extensive Aboriginal community engagement undertaken by the Sherriff’s Office in Ballarat in relation to fines and infringements, which has had a positive impact on the local community’s awareness and understanding (Public Interest Law Clearing House 2011, Page 12).

The mere process of being in contact with the justice system initiates a number of legal expenses and fees that many clients are unable to pay. The Victorian Aboriginal Legal Service is one example of a support mechanism available to Aboriginal people in Victoria faced with legal issues, providing legal advice and representation for those going to court or charged with a criminal offence. Victoria Police are in fact required to notify the Victorian Aboriginal Legal Service within an hour when an Indigenous person is taken into custody. There are a number of other community legal services across the states and territories, as well as Public Interest Law Clearing House clinics and state based Legal Aid, who also provide legal advice to Indigenous people entering prison. These support services are crucial for ensuring Indigenous people have access to adequate legal representation and can exercise their rights as Australian citizens to a fair and equitable justice process.

Koori Justice Unit, Victorian Department of Justice

*Local Justice Workers are employed in 10 local Koori community organisations or agencies. They provide support to Koori offenders and clients and contribute to the development of positive relationships between the local Koori community and Sheriff’s Office whereby Koories with outstanding fines can negotiate restoration of those fines. They also promote improved relationships between justice related service provider agencies and local communities.*

Standing Committee of Attorneys-General Working Group on Indigenous Justice 2010, Page 15

**FINES** Government to increase funding for the delivery of holistic legal aid services to support Indigenous clients in court to negotiate fines.

**REPORTING** Government to develop a strategy to collect data and report on the financial issues leading to Indigenous imprisonment.

### Entering Custody

In custody, many prison support services are crisis-focused by necessity, helping individuals and their families navigate the initial crisis period. However, this short-term focus causes longer term issues as debts and other financial commitments are easily forgotten while a prisoner is navigating the difficult and emotional process of entering custody. The financial capability skills needed to negotiate complex financial situations which follow crisis often require the expertise of financial counsellors and assistance of services such as Legal Aid. Although there are a number of financial counsellors working with prisoners across Australia, their numbers are extremely limited. Indigenous financial counsellors are even rarer. Simple, standardised information and resources available specifically to help Indigenous prisoners deal with their financial situation must also be funded and consistently provided to prisons and financial counsellors, preferably of an audio-visual nature. A guide developed by Citizens Advice in the UK provides basic information on how to manage your debts and what processes to follow to minimise the damage, including provision of a sample letter to write to creditors. Without this type of specific support, Indigenous Australians are limited in their ability to deal with their financial situation whilst in custody, and find themselves even more financially disadvantaged on release.

Prisoners have little opportunity or confidence to pursue their financial needs with financial institutions and government agencies, commonly leading to an overall avoidance of financial issues until release. The ability to deal with one's debts is extremely curtailed in custody by limited access to creditors and banks. Prisoners have few opportunities to place calls, which may only be to a pre-approved list of numbers. No calls can be made to businesses or 1800 numbers. Understandably, the few opportunities to make phone calls will go to contacting loved ones, rather than financial institutions and creditors.

In many cases, financial institutions and creditors are therefore unaware their clients are in prison and standard debt collection processes are initiated. Under the National Consumer Credit Protection Act 2009, if someone is unable to keep up repayments because of illness, unemployment or other financial difficulties they are allowed to ask their creditor for a hardship variation. This could include either a request to extend the loan period making smaller repayments over a longer period of time, postponement of repayments for an agreed period of time or a combination of these options. Although the Code of Banking Practice established by the Australian Bankers' Association encourages the sector to treat customers in financial hardship in a sympathetic and positive way, debt negotiations are made complex and difficult by unclear hardship policies in regards to customers who are incarcerated. Hardship variations such as two months' postponement on repayments does not take into account the hardship reality of a customer facing a medium to longer term prison sentence and will do little to help their financial situation.

### *Tim's Story*

*Tim was hearing impaired and in prison and sought assistance with a number of debts owing to utility companies, Centrelink and the DOH.*

*Initially his lawyers were instructed that the value of Tim's debt to the DOH was approximately \$175. However, Time was shocked to discover that in fact the value of the DOH debt was almost \$5,000. This amount appeared to be made up of rent arrears that had accrued during the period between Tim's incarceration and the issue of a possession order. Tim's lawyer made contact with the DOH, but the DOH refused to waive, write off or reduce the debt. Further, the DOH had also taken the unusual step of instructing debt collectors to pursue the debt. Following negotiation with Tim's lawyer, the DOH agreed to cease collection activity until Tim was released from prison.*

Public Interest Law Clearing House 2011, Page 9

The Public Interest Law Clearing House (PILCH) and the Victorian Aboriginal Legal Service piloted an Aboriginal Credit and Debt Clinic in Victoria in 2010, with the aims of providing "free legal assistance to Aboriginal individuals in rural and regional Victoria" and collecting qualitative and quantitative data "on the nature and extent of the unmet legal need of Aboriginal people living in rural and regional areas of Victoria" (PILCH 2011, Page 4). The pilot program included a number of Aboriginal clients in various prisons across Victoria and found overwhelming evidence of unmet legal needs for civil law matters such as infringements and utilities debts, which were causing extreme anxiety and financial stress (PILCH 2011, Page 14). The case study reported by PILCH above highlights a number of common themes of financial exclusion for Indigenous prisoners, including a lack of industry guidelines and the burden of managing contract obligations while in custody.

Although the Australian Government Department of Human Services' Centrelink program has protocols in place with each state correctional jurisdiction to identify when clients are incarcerated, the success of these partnerships depends on each prison's reception processes and their capacity to coordinate with Centrelink, for example, to reduce the accrual of further debt. In Victoria, Centrelink is provided with a daily list of admitted prisoners in order to identify existing clients and address their change in circumstances. However, not every state's prisons provide this type of cross-checking process, so some clients remain overlooked. The process for working through Centrelink protocols can be slow-moving and complex, and the delayed recognition of a client's incarceration can worsen the financial stress of prisoners during their sentence by contributing to debts and depriving families of their entitlements. For example, child support debts are commonly found amongst prisoners in cases where the Child Support Agency (CSA) has not been informed of incarceration in time to prevent the debts accumulating; "if CSA are not informed of the incarceration they will continue to accrue a debt based on the income information that is on their records" (Stringer 1998, Page 59).

In the cases where the prison system fails to identify prisoners as Centrelink clients, these prisoners miss out on receiving the support and advice they really need. A lack of confidence and knowledge of what loans, concessions or payment plan options they are entitled to stops financially excluded prisoners from fully realising their entitlements or managing their debts. Similarly, more support systems to assist prisoners in repaying their fines and navigating the complex process to request an acquittal of a fine would contribute to easing the financial burdens of Indigenous prisoners and increase their chances of successful reintegration upon release (Williams and Gilbert 2011, Page 6).

**RESOURCES** Indigenous Financial Services Network members to work with the Indigenous community to develop audio-visual education resources to help Indigenous people manage their finances transitioning into custody and preparing for release. Resources should take into consideration limited literacy and numeracy levels and the principles of Indigenous financial literacy best practise.

**COORDINATION** State justice departments to conduct an inter-departmental review into issues of coordination with the Australian Government Department of Human Services and state housing departments that may be causing additional financial hardship for prisoners and their families.

**HARDSHIP POLICIES** The Australian Bankers' Association to work with its members and Financial Counselling Australia to establish industry-wide policies which acknowledge the unique hardship challenges facing incarcerated clients and consider waiving interest charges and fees to prevent further hardship.

### Exiting Prison

The frequent and lengthy nature of Indigenous incarceration results in an extremely damaging process of institutionalisation, whereby the familiarity and safety of the prison structure is preferred over the realities and challenges of life outside of prison. This has disastrous impacts on the financial capability of Indigenous people, who consequentially become more deeply mired in the cycle of poverty and disadvantage. Statistics reveal a tragically high rate of recidivism amongst Indigenous Australians and demonstrate that current reintegration programs are not adequately preparing prisoners for their release back into community; “nearly three-quarters (74%) of Aboriginal and Torres Strait Islander prisoners had a prior adult imprisonment under sentence, compared with just under half (48%) of non-Indigenous prisoners” (ABS 2011, Page 51).

It is commonly acknowledged that successful Indigenous reintegration programs must provide effective education and training opportunities. Corrections Victoria's *Koori Education, Training and Employment Strategy (2011-2013)*, for example, aims to reduce reoffending among Koori prisoners and offenders, with the key objectives of improving training and employment outcomes for offenders and increasing the range and quality of employment related training for prisoners. Through flexible approaches aimed at removing identified barriers to vocational education and training participation and employment, and targeted initiatives such as Individual Learning Plans, Recognition of Prior Learning, and intensive language and numeracy support, the Strategy aims to redress Koori disadvantage and support the COAG Closing the Gap in Justice Agreements. The Strategy includes the use of 'Koori Brokers' who refer prisoners externally to job networks, as well as an Indigenous specific transitional support program, Konnect.

Less commonly acknowledged across the justice system is the necessity of considering financial inclusion needs as part of the reintegration process. After lengthy periods of incarceration, prisoners are rarely prepared for the shock of release—everyday financial capability skills need updating in such a rapidly changing society. The cost of living has increased, the purchasing power of money changed, and technology is rapidly transforming the way Government and financial services operate. There is a severe lack of pre-release financial education or information available for Indigenous prisoners to help prepare them to cope financially after release. In addition, the success of Centrelink’s support services for prisoners is dependent on the program’s relationship with each state corrections department and the capacity of prisons to coordinate with Centrelink and identify clients who are about to be released.

The work of outreach services by various community organisations should be recognised for their contribution to supporting Indigenous prisoners’ reintegration and financial inclusion, including numerous local and state based financial counselling programs through Centrecare, the Prisoners’ Legal Service, Care Financial Counselling, and Wesley Mission, amongst others. However, state corrections and relevant Federal Government programs must increase their support for and delivery of financial literacy education and financial counselling as key components of reintegration programs.

Furthermore, these programs must be developed with consideration to the particular challenges of delivering within the prison system. As Gilbert and Wilson discuss, “it can be difficult to attract skilled staff, prisoners are frequently moved as their security classification changes, and administrative and security requirements take priority over educational needs” (2009, Page 6). In addition, Arashiro explains, “providers of financial information and education need to keep in mind that periods of sudden change generate psychological and emotional pressures which demand a differentiated approach in the delivery of financial guidance” (2011, Page 3). This means that prison programs geared toward pre-employment education and training for Indigenous people must specifically cater to their cultural needs and transitional context, and that successful education and training opportunities must also acknowledge the challenge of low literacy and numeracy levels amongst Indigenous prisoners.

**FINANCIAL EDUCATION** Government to fund face to face financial literacy education which specifically addresses the cultural and financial needs of Indigenous prisoners, as a key component of reintegration programs.

**PROGRAM EVALUATION** Government to fund the evaluation of prisoner financial inclusion programs to capture best practise knowledge on what works to reduce Indigenous financial exclusion in custody.

**FINANCIAL COUNSELLING** Government to work with Financial Counselling Australia to develop and fund a strategy to increase the delivery of financial counselling services in the prison system, as well as existing outreach services which work with prisoners and their families.

## In Community

The loss of relationships and the breakdown of family support networks contribute to leaving many Indigenous people released from prison vulnerable to homelessness and crime. The chance of successful reintegration is severely diminished by circumstances of extreme financial hardship. The Centrelink release payment of \$230 falls short of the income support required to find accommodation and cover the most basic costs of living. Unresolved debts and poor credit ratings can also make starting fresh extremely difficult. In addition, “leaving prison with outstanding fines can be a significant obstacle to reintegration, particularly if those fines prevent driving, and the prospect of having wages garnished can be a disincentive to take up employment” (Stringer 1998 cited in Williams and Gilbert 2011, Page 5).

For released offenders with a Centrelink debt who recommence receiving Centrelink payments, Centrelink may make regular deductions from that payment before it is passed on to the recipient, known as ‘withholdings’. It is a general principle that these withholding payments must not cause financial hardship, though because notification of debt recovery often does not reach a client until after deductions have commenced, there may be some discrepancy between Centrelink policy and practise in this sense. In some instances, Centrelink will agree to reduce the rate of payment, defer recovery of the payment, or write off the debt altogether, although this requires significant communication and negotiation with the client. The myriad of challenges that face recently released offenders leave them ill-equipped to negotiate Centrelink debt repayments, further exacerbating their financial exclusion.

*The community may also suffer by the release of significant numbers of prisoners with an unpayable level of debt that they are incapable of managing.*

Stringer 1998, Page 4

Finding accommodation upon release is naturally a high priority for prisoners, though transitional housing is limited and the private rental market is unaffordable for most released prisoners and their families. A study by Baldry et al. revealed “half the Indigenous participants still out of prison at 9 months were homeless” (2006 cited in Gilbert and Wilson 2009, Page 5), statistics that demonstrably increase the chance of reoffending.

With accommodation needs comes the cost of reconnecting utilities, made more difficult if people have unaddressed utilities debts accrued during their sentence. All energy companies are required by law to have financial hardship programs, which can provide some relief to clients struggling to make ends meet following a prison sentence. Arashiro (2011, Page ix) acknowledges the significant improvements in hardship policies in the energy sector and calls for similar developments in other essential services industries. The Energy and Water Ombudsman (Victoria) (EWOV) in 2005 developed a project working with Corrections Victoria and Good Shepherd Youth and Family Services to prevent the accumulation of electricity, gas and water account arrears for clients in prison, and to help reconnect supply when they are released. The process includes prison entry and exit forms for clients to close accounts, nominate representatives, check concessions eligibility and establish new payment arrangements, amongst other useful steps. Concessions for water, gas and electricity are also available through state governments, such as the Department of Human Services in Victoria, which in addition provides short term assistance to eligible clients through the Utility Relief Grant.

Signing a lease, connecting utilities, applying for concessions and opening a bank account are all only achievable with adequate forms of identification—something many Indigenous prisoners struggle with upon release. VACRO has produced a series of ‘Getting Started’ Booklets for prisoners to consider in preparing for release. This includes encouraging prisoners to address ID needs while they are still in custody, when staff can provide a letter of identification from the prison and assistance in applying to Births, Deaths and Marriages. Without adequate identification, difficulty establishing a basic bank account can in turn create a barrier to stable housing and employment, as well as additional access to mainstream financial services and products.

**FAHCSIA** to increase the amount entitled through the Centrelink ‘Crisis Payment – Prison Release’.

**COMMUNICATION** Financial institutions and utilities companies to develop Memorandums of Understanding with state corrections departments, which improve communication channels, processes and coordination to address and prevent debt issues for incarcerated clients.

## Addressing the Issues—Moving Forward

The financial inclusion needs of Indigenous prisoners must be addressed in efforts to reduce recidivism and achieve broader Closing the Gap objectives. Alongside the specific recommendations below, this report urges consideration of the growing call for ‘Justice Reinvestment’ as a means of empowering Indigenous communities to break the cycle of recidivism for their people. Furthermore, the importance of effective partnerships across the government, corporate and community sectors cannot be underestimated in developing sound reintegration programs with lasting effects on recidivism rates and the financial inclusion of Indigenous people.

*Self-determination 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.*

Allison and Cunneen 2010, Page 660

The Institute for Restorative Justice describes justice reinvestment as “a new approach to reducing Indigenous over-representation in the criminal justice system” (Georgatos 2011). Justice reinvestment is about redirecting resources to focus on prevention and community engagement rather than funding incarceration, thereby providing a return on investment for government spending. On top of jail costs, incarceration presents significant indirect costs to government in terms of mental health and wellbeing, unemployment and dysfunctional communities and families.

According to the Australian Human Rights Commission, justice reinvestment is “a restorative form of justice, where communities with an over representation of people in the criminal justice system are assisted with target specific funding for infrastructure and various services” (Georgatos 2011).

In practical terms, communities take on responsibility for diversion programs, preventative crime programs, rehabilitation and education programs, and community counselling programs. Financial literacy best practise (First Nations Foundation 2011) highlights the importance of community-led solutions and complements the notion of justice reinvestment in the context of community led diversion programs, including rehabilitation and education.

### Recommendations

It is important that all sectors see their place in addressing the issues and barriers to financial inclusion facing Indigenous Australians caught in the cycle of recidivism. Whilst the financial sector and Government have made significant investments in supporting Indigenous financial education programs and access to micro-finance and asset-building programs, the unique financial inclusion needs of both Indigenous and non-Indigenous Australians in custody has received little attention.

The recommendations made below must be considered within a framework of empowerment and respect, and we support the guiding principles outlined in the report 'Doing Time–Time for Doing, Indigenous Youth in the Criminal Justice System' (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, 2011):

- engage and empower Indigenous communities in the development and implementation of policy and programs;
- address the needs of Indigenous families and communities as a whole;
- integrate and coordinate initiatives by government agencies, non-government agencies, and local individuals and groups;
- focus on early intervention and the wellbeing of Indigenous children rather than punitive responses; and
- engage Indigenous leaders and elders in positions of responsibility and respect.

### **Recommendations**

**IFSN** to develop specific work streams to address the following recommendations:

**HARDSHIP POLICIES** The Australian Bankers' Association to work with its members and Financial Counselling Australia to establish industry-wide policies which acknowledge the unique hardship challenges facing incarcerated clients and consider waiving interest charges and fees to prevent further hardship.

**COMMUNICATION** Financial institutions and utilities companies to develop Memorandums of Understanding with state corrections departments, which improve communication channels, processes and coordination to address and prevent debt issues for incarcerated clients.

**REPORTING** Government to develop a strategy to collect data and report on the financial issues leading to Indigenous imprisonment.

**RESEARCH** Government to conduct research to capture Indigenous Australians' first hand experiences of financial inclusion within the justice system and evaluate the capacity of current programs to address their financial inclusion needs. A review into the unique financial inclusion needs of Indigenous youth in incarceration should be included.

**COORDINATION** State justice departments to conduct an inter-departmental review into issues of coordination with the Australian Government Department of Human Services and state housing departments that may be causing additional financial hardship for prisoners and their families.

**FINES** Government to increase funding for the delivery of holistic legal aid services to support Indigenous clients in court to negotiate fines.

**FINANCIAL COUNSELLING** Government to work with Financial Counselling Australia to develop and fund a strategy to increase the delivery of financial counselling services in the prison system, as well as existing outreach services which work with prisoners and their families.

**FAMILY SUPPORT** Government to provide practical financial support to families to help maintain connection to incarcerated family members and reduce the additional financial burden.

**FINANCIAL CAPABILITY** Government to fund professional development training for all prison support staff to build their awareness of financial capability issues and their capacity to support their clients, for example through a modified version of financial counselling training.

**FINANCIAL EDUCATION** Government to fund face to face financial literacy education which specifically addresses the cultural and financial needs of Indigenous prisoners, as a key component of reintegration programs.

**PROGRAM EVALUATION** Government to fund the evaluation of prisoner financial inclusion programs to capture best practise knowledge on what works to reduce Indigenous financial exclusion in custody.

**DELIVERY** Indigenous financial literacy education and training programs to be facilitated or co-facilitated by Indigenous staff to improve cultural relevance and prisoner engagement.

**RESOURCES** Indigenous Financial Services Network members to work with the Indigenous community to develop audio-visual education resources to help Indigenous people manage their finances transitioning into custody and preparing for release. Resources should take into consideration limited literacy and numeracy levels and the principles of Indigenous financial literacy best practise.

**FAHCSIA** to increase the amount entitled through the Centrelink 'Crisis Payment – Prison Release'.

Achieving holistic and long term change requires effective partnerships and cross-sectoral collaboration. Allard supports the view that, "improving access to and completion of formal educational qualifications, reducing unemployment, financial stress, welfare dependence and crowded housing should reduce Indigenous offending" (2010, Page 6). For Indigenous Australians leaving prison to be supported through successful reintegration into society, they require the financial resources to meet day to day costs as well as equitable access to fair and affordable financial products. The current reality is that neither of these are realised and financial crisis ensues, leaving people vulnerable to reoffending.

Placing Indigenous financial inclusion needs in custody on the agenda for the 2011 Indigenous Financial Services Network is an important step towards improving recidivism rates and the social

and economic inclusion of Indigenous people. The next step is for Government and industry to commit to putting in place mechanisms to improve the financial capability of Indigenous prisoners, through both education and reintegration programs and by changing the interface between justice system, industry and prisoner.

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