Australian Association for Restorative Justice (Antipodean) Winter 2020
Review of contemporary restorative practice

The *Victorian* **Association for Restorative Justice** was founded in Melbourne in 2005. For a decade, our work to support <u>restorative practices</u> in a range of settings remained focused largely on *Victoria*. In recent years, however, committee members have worked around *Australia*, supporting **networks of restorative practitioners**. Association members agreed that our name should reflect this broader reach. In late 2019, we officially changed to the ***Australian* Association for Restorative Justice** (AARJ) and elected representatives from other states and Territories to the AARJ Committee. Committee members can now work even more productively with colleagues in every Australian jurisdiction. The Association will continue to:

- □ work to increase **the number of skilled** restorative **facilitators**;
- □ support practitioners and program managers to build **regional** restorative **practice networks**;
- □ **connect colleagues** doing restorative work **in specific professions** across different jurisdictions;
- □ convene **forums** to highlight **developments in practice**;
- □ contribute to **policy**; &
- □ refine best-practice **standards**.

We have also provided occasional *newsletters* to our members. We receive consistent feedback from policy-makers, administrators and facilitators that these relatively lengthy pieces are particularly valuable when they identify **underlying patterns** and trends. So, we are now moving to even more substantial – but possibly less frequent - *reviews of contemporary practice*. We will complement these with studies of individual programs, and other practice updates.

As the **scope of our network** has expanded, so has our understanding of **the scope of restorative work**. Restorative *justice* involves meetings held with all the people affected by some particular **criminal incident**. Restorative *practices* involve a much **broader range of evidence-based techniques**, which can help **manage relations in *communities***: *i.e.* **groups of people with *a common*** place of
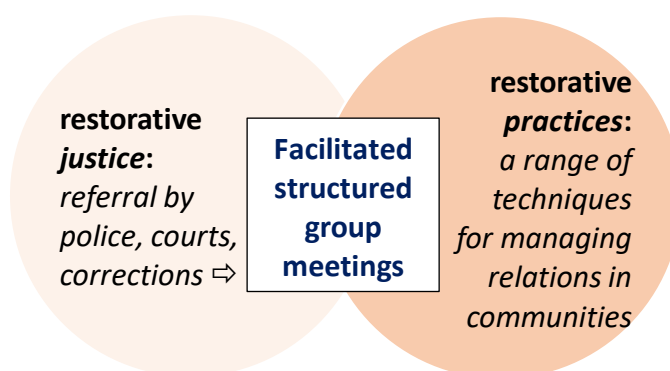
residence, field of practice, ethnicity or belief. Extended families, schools, universities, and other workplaces are thus all *communities*.

> There is growing realisation that **restorative *justice* and restorative *practices*,** which help manage relations in these communities, **can support *significant systemic & cultural change*.**

This **review of current practice**, distributed to members in **mid-2020**, discusses **the potential of restorative justice and restorative practices to help reform our social and political systems**.

The review reflects (from page 3) on **long-term trends in governance** at the national level and, in federal systems, at the level of states or provinces. It examines (from page 9) the role of law-and-order politicking, and how **rising rates of criminalisation and incarceration are symptoms of long-term failure** in other areas of social policy. The review then makes the case (from page 19) for **much broader use of restorative approaches** in communities. Restorative processes can engage citizens across a wide range of applications where government agencies, and other organisations have traditionally done things *to or for* people - either because they have been *unwilling* to **work with people**, or have simply lacked the requisite *knowledge and skills* to do so. The review concludes by describing how agencies are now using restorative practices as a mechanism for **regional service reform**, both in the justice system (from page 38), at the margins, and beyond (from page 41). We will report on some of these important projects in future communication.

Restorative *justice* (i) **diverts** appropriate cases from courts, (ii) supports **sentencing** in courts, and (iii) enables post-sentence **engagement** and pre-release **planning**, by working with most or all of the people who have been affected by a particular case. **Restorative *practices*** are used *on the edges* of the justice system, *and beyond*: in residential-, educational-, and workplace -*communities*. The element common across restorative *justice* and *practices* is the use of **structured, facilitated meetings** that support people to transform *conflict into cooperation*. However, restorative *practices* involve a ***range of* other *processes*** in addition to structured, facilitated group meetings:

restorative *justice*: *referral by police, courts, corrections* ⇨

Facilitated structured group meetings

restorative *practices*: *a range of techniques for managing relations in communities*

> Once these two approaches have been distinguished clearly, they can be connected more effectively. **Restorative *practices in communities*** can **complement restorative work** in the *justice* system.

Demonstration projects in towns and whole regions are now quietly using restorative justice *and* restorative practices in work that contributes to social and systemic reform. These projects are demonstrating that, by increasing the degree of ***coordination* within and between service-providing agencies**, those agencies can better *work with* people to address complex social challenges.

> Our Association is part of this quiet but growing social movement that encourages people to use a
> **restorative approach when responding to harm, preventing harm, and promoting well-being**.
> And since our Association has a strong commitment to **evidence-based practice**,
> we have reflected with care on *what works* in social movements.

An earlier *newsletter* cited Georgetown University's Professor David Cole, who is currently National Legal Director of the America Civil Liberties Union (ACLU). In "The Path of Greatest Resistance", David Cole discusses **common threads in successful social movements**, and finds that they all:

1. Promote "**networked leadership**", combining *local independence* with *some* central guidance: Top-down national structures can undermine people's confidence and enthusiasm. However, some *coordination* is required to effect change across an institution or a profession, let alone change at broader regional, state or *national* levels.
2. Develop **institutions with strong structure, organisation** & **clear lines of responsibility & authority**: An organisation can best respond efficiently and effectively to changing conditions when its members know *who is responsible for what*.
3. Engage actively with the system of **representative democracy**:
   Poor public policy &/or ineffective implementation continue to exasperate. Effective reform nonetheless requires slow, patient work to improve governance in organisations and institutions.

Reassuringly, these **governance principles** align with the **strategy** of our Association.[1] We would add that we advocate to *improve* the system of representative democracy, using restorative practices to increase opportunities for **participatory democracy**.

> The topic of **governance** is a logical starting point for this *review of contemporary restorative practice*.
> It was completed in the first half of 2020, and necessarily starts with broader and sobering problems
> of *national* governance.

NATIONAL GOVERNANCE

In late 2019 and early 2020, the state of Australia's **physical environment** was attracting urgent focus. The summer of 2019-20 ended the hottest, driest year since the current system of official record-keeping began. Even early in the fire-season, the fires had been the most extensive and destructive ever experienced across a landscape formed by fire. Australian writer Richard Flanagan quoted Mikhail Gorbachev, who had observed that, when Soviet authorities met the Chernobyl meltdown with their routine denialism, that "the system as we knew it became untenable." Yet Australia's summer of unprecedented destruction came less than a year after a Federal election in which a majority of voters appear to have chosen business-as-usual denialism. The Coalition won 51.5% share of the national two-party vote in May 2019, against a Labor opposition with an ambitious agenda and an unpopular leader. (A longitudinal study analysing this *almost*-entirely-unpredicted result suggested that public antipathy towards Bill Shorten was the single biggest driver of support for the Coalition during the campaign period. The key campaign failure seems to have been the promotion of
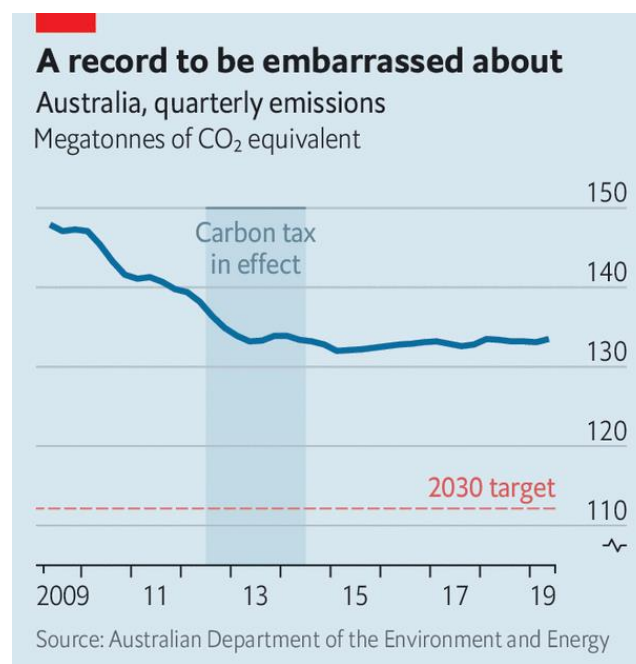
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[1] Coles' own book *Engines of Liberty* identifies the same **three foundational principles** for social movement success as does Zeynep Tufekci's *Twitter and Tear Gas: The Power and Fragility of Networked Protest* & Leslie Crutchfield's *How Change Happens: Why Some Social Movements Succeed While Others Don't*.

Labor's platform, rather than the platform itself.) Labor's national primary vote of 33.3% was its worst result in 85 years - but was consistent with the ongoing secular decline in first preference votes for *both* major parties. Consistent with *international* trends toward **authoritarian populism**, the largest proportional swings were to minor parties of reaction, resentment, and fear. Clive Palmer's spoiler campaign in support of his Galilee Basin mining interests easily outspent any previous Australian election campaign. Meanwhile, Prime Minister Morrison ran a Presidential-style campaign reflecting experience with evangelism and tourism promotion. To deflect disaffection from his incumbent government, he transcended predecessor Tony Abbott's three-word slogans, and adopted instead a *relatively* more sophisticated **three-pronged *rhetorical strategy***.

 By late 2019, the bulk of the population was all-too-familiar with:

▪ the **rhetorical question** "*How good is x?!*"
 where *x* = party candidate, supporter, sports clubs in marginal seats, or *all* "quiet Australians";
▪ the **slogan** "*If you have go, you'll get a go*" -
 which reframes complex economic and cultural phenomena as individual moral failure;
▪ a **mantra** of sound economic management providing "*jobs and growth for hardworking families*" -
 belying the objective data, including from the Productivity Commission, of declining national labour productivity and continuing wage stagnation.

But then drought was followed by the fires - and the government reverted reflexively to **three-word slogans:** *official talking points that flatly contradict objective data*. With CO_2 emissions increasing more rapidly than any time in the last **50 *million* years**, *The Economist* lamented that "Australia expresses pride in its dismal record on greenhouse gases". It offered this visual representation to show that "*meeting and beating*" was doublespeak for **flailing and failing**:

A record to be embarrassed about
Australia, quarterly emissions
Megatonnes of CO_2 equivalent

Carbon tax in effect

2030 target

150
140
130
120
110

2009 11 13 15 17 19

Source: Australian Department of the Environment and Energy

The Economist

The Prime Minster continued to claim that Australia is a "world leader" in renewables investment, even as COAG's Energy Security Board 2020 showed investment in renewable energy in Australia to have slumped by 40% in 2019. CSIRO's Dr Tom Beer, who had officially linked worsening bushfires and climate change more than three decades earlier, pleaded with the government to get serious:

> *Rapid action to deeply reduce greenhouse gas emissions [is] required to stabilise the climate around 2040 or 2050. We must stop jeopardising the future of our children and grandchildren, and that of the ecosystems with which we share our continent.*

But **how to stop jeopardising the future of future generations**? Swings to the incumbent government in the 2019 Federal election were particularly strong in seats and states connected with thermal coal mining. Commentators argued that it was "too easy to attribute [Labor's loss of a supposedly unlosable election] to Queensland". And indeed, larger systemic issues were at play.

Ironically, the Coalition seems to have gained electorally – in the short- to medium-term - from (i) debasing, politicising, and **polarising national discussion around energy**, and (ii) **failing to deliver coherent industrial and regional development policies**. In the absence of coherent policies for energy transition and regional development, many residents in communities most connected to mining seem still to feel that it is just too risky simply to hope and pray for investment in future projects.

The national conversation about regional economic development, and planning for more urgent transition beyond fossil fuels, will intensify. There will be ongoing argument about the degree to which local, state or national governments are responsible. (Constitutional power for the energy sector rests with state governments, and some have been making impressive progress.) There are still significant *technical* challenges in reducing the CO_2 produced by power generation and other sources, let alone actually *drawing down* current levels of atmospheric carbon by sequestering excess CO_2 in soil, rocks, and seaweed. But **the greater challenge is *political***: ending **short-term partisanship** that undermines **rational policy-making**.

It had been looking as though a political solution in Australia would be simply to bypass the national government. As in the rest of the Anglosphere, Australian democracy appears to be in chains. While voices outside the Murdoch-sphere plead for a collaborative, resolute energy plan to address burning rainforests, drying river systems, disappearing species, bleaching reefs, and a collapsing coastline, a revolving door ecosystem of media, think-tanks, consultancies, lobbyists, and ministerial offices blithely serves the vested interests of the industries that have paid for them.

But the problem seems to go **deeper than raw self-interest**. Some complex individual and mas psychology is also at play. People struggle to believe what they wish were not true. And a ***worldview that individuals and corporations should be as-free-as-possible from government*** has supported the curious phenomenon of **governments that are ideologically opposed to the work of government.** More fundamentally, this worldview or belief system **denigrates tangible facts and expertise**. For such a belief system to emerge and flourish in well-established democracies, a number of mutually reinforcing factors have needed to align.

Outside of dictatorships, intellectually incoherent views seem most likely to have enduring impact in "**plurality rule" electoral systems** - those democracies which sustain just two parties - rather than in systems that allow for a degree of **proportional representation**. The US is perhaps the most prominent example of a two-party plurality rule system. In the early 1980s, a group of wealthy libertarians sought to wind back environmental and other industrial regulations by gaining high office. They failed electorally, and have since focused, instead, on a twin strategy of (i) *purchasing* **the republican party** and related state institutions, and promoting (ii) **cultural circumstances** in which **a sufficient number of citizens would vote** against their own self-interest. This requires a climate in which **decision-making by-passes logic and reason**.

As part of this cynical strategy, reactionary think tanks fund contrarian scientists as "**merchants of doubt**". Their role is to **suggest an absence of scientific consensus** on major public and environmental health issues such as pesticide use, tobacco, nutrition, pharmaceuticals - and climate. **Doubt is then amplified** by partisan media and party sloganeering. This denigration of scientific expertise has grown louder with the growth in the sheer number of media, "think tanks", and public officials funded to promote this belief system (ironically, through an internet and social media behemoths that have torn apart the traditional media ecosystem, and especially local community voices).

In the process, the US Republicans moved from being a "conservative" party, to a party driven by an **unstable hybrid of impulses**: *reactionary* ("*Attack those who threaten our disappearing way of life*") *and* **libertarian (**"*Free us from meddling government!*"). With regard to Republican sloganeering around **climate change**, Bill McKibben identifies their **underlying syllogism** as:

□ "Markets solve all problems;
□ Markets are not solving global warming;
  So therefore:
□ Global warming [cannot be] a problem."

This flawed syllogism has fuelled denialism and thwarted adequate action on climate for several decades. Optimists have hoped that a demographic shift to more-informed, scientifically-literate younger voters might support more effective policy-making. But here, a related vicious cycle is at work. **Growing socio-economic inequality is undermining trust in institutions**.

International surveys indicate that *a majority* no longer believe that working hard will lead to a better life. Consistent with these international trends, a growing proportion of younger Australians report that they are fundamentally losing confidence in the political class, and national decision-making systems, to **solve complex problems**. *Sydney Morning Herald* economic editor Ross Gittens laments:

Years of declining standards of political behaviour mean that trust in political leaders is now lower than ever. There's strong survey evidence of this. Neither side of politics is trusted to take tough measures that are genuinely in everyone's interests. [...] Mainstream politicians are trusted only when they run scare campaigns against the other side's reform plans. [...] The more impotent mainstream politicians are seen to be, the more disillusioned voters will turn to populist saviours – and the more the main parties will themselves turn to populist diversions and trickery. Freeing ourselves from this vicious circle won't be easy.

This phenomenon of disillusioned voters turning to populist self-professed saviours has been global. An economic theory that evolved to **maximise economic growth** by **optimising the distribution of work and resources** struggles to _explain_ rising inequality and decreasing demand for labour – let alone _offer solutions_. The Australian federal government's focus on economic surplus, unwavering until early 2020, is an example of this familiar cycle of meeting remarkably complex socio-economic problems with simplistic solutions. The proposed fixes are primarily _political_ – and often worsen the underlying problem. Focussing on an **economic surplus as the primary measure of good economic management** highlights that simple _non-solutions_ are easiest to sell where:

> ◻   [_Not only_] The nature of a **complex** problem is **hard to comprehend**;
> ◻   [_But also_] A simple solution _evokes a **moral intuition**_ that can override reason.

The **macroeconomic theory** that is used to manage market economies is not easy to understand. Central banks and governments moderate excessive fluctuations in the business cycle with monetary and fiscal policies. This makes managing a _national economy_ significantly different from managing a _household economy_. Yet the analogy between managing a household and managing a nation is intuitively appealing. It aligns with people's **intuitions about punishment and reward**: _"If you have a go, you'll get a go!"_ Many people who might personally benefit from more effective macroeconomic policy seem to resist those policies wherever they appear to diminish personal responsibility. Governments spruik the national-economy-as-household-economy analogy to resist macroeconomic intervention, and tend to intervene significantly only when hit by **unavoidable reality**.

The 2019-20 fires in Australia already seemed likely to send a national economic surplus up in flames. But then **fires and floods** were followed by an unavoidable **pestilence** - in the form of **COVID-19**. In a natural global experiment, reactionary &/or libertarian political belief systems met the life-and-death reality of the corona virus. After only brief initial hesitation, and with only minor differences in approach, **Australian states and territories took action informed by scientific consensus**. The federal government put aside its alleged core belief systems and followed. By early April 2020, _worldometer_ statistics showed a clear correlation between effective testing and containment. In the US, White House officials were privately conceding by early April 2020 that "Trump is killing his own supporters." At this point, **political ideology** meets **public health epidemiology**. As COVID-19 spread across the US, office holders in republican-leaning states were consistently and significantly slower to implement social-distancing measures. Brazil under Bolsonaro's offered a tragic southern counterpart.

The **exponential growth** that drives pandemics can, like macroeconomic theory, be hard to comprehend. But again, the problem seems to go deeper than _incomprehension_. Failing to respond to a global pandemic requires **firmly-fixed underlying beliefs**. Public health researchers in the US had already noted a close correlation between high rates of poor health from non-communicable disease and areas where voting shifted towards Trump in 2016. Drug overdose, suicide, and alcoholic liver disease, which are now categorised as "**diseases of despair**", are most prevalent in areas with bleak long-term social and economic prospects. The decision of many of those who shifted their vote to Trumpism can be interpreted as one more **symptom of diseases of despair**.

This also helps make sense of Trumpism's superficial incoherence. Again, its **deeper logic is to hold simultaneously** a conservative, or more recently _reactionary_ **impulse, and a** _libertarian_ **impulse**.

Trumpism enables the contemporary Republican Party "to ride the twin horses of paranoia and risk." The belief system doesn't solve complex problems. Nor is it meant to. Its role is to "mobilise the base" in a continuous electoral cycle.

Trump's implausible promise to one group of supporters has been that he will "*save your way of life"* by **defending against invasion, subversion, and contamination**. (Fellow ethno-nationalists from Eastern Europe to India to China use similar metaphors.) Trump's other core offer is to "*free you from meddling government". In practice, this largely means **freedom from financial and environmental regulation**, achieved largely by gutting state agencies and programs. This unstable hybrid belief system was never going to sustain indefinitely. **Freedom from an adequate public health system** is part of the deal. And pandemics demonstrate, as a matter of life-and-death, that:

> ▫ **Denialism** is not sustainable policy;
> ▫ **Anti-government governments** are a menace to society;
> ▫ **Simple solutions** tend to worsen complex problems.

As the world went into isolation, it became even clearer that the world needs **governance systems** that are **resilient against denialism**, against reflexive opposition to government providing **coordination** and **social support**, and resilient against simplistic solutions. Optimists hope that cooperative, collaborative responses to COVID-19 may just create **a bridge to a stronger society**, one better able to address complex problems, and with renewed trust in democracy. But this will only be possible if we can develop democratic systems re-committed to:

> ▫ *Evidence-based* policy; and
> ▫ Governments that govern in the interests of *society*; and
> ▫ *Appropriately complex solutions* to complex problems.

There is significant scope to improve not only **WHAT decisions** are made, but also to improve *HOW* **decisions** are made. Indeed, **improving *how* decisions are made can improve the *quality* and *acceptability* of decisions** – in a *virtuous circle*. Our systems of **representative democracy** can and *should* be complemented by mechanisms for **participatory democracy** - engaging citizens in the search for complex solutions to complex problems. As one relatively small but significant recent example: When France's President Macron found that fuel pricing policies prompted the *gilet jaunes* protest movement, he responded by commissioning a ***representative* citizens panel**. It has since moved France closer to workable policy **consensus on climate action**. This again demonstrates that:

> **Improving *how* decisions are made can improve the *quality* and *acceptability* of those decisions.**
> This is the point at which questions about **national governance** meet **restorative justice** & **practices**.

Invention often involves a process of **combinatorial evolution**: when already-existing technologies are combined, the result is something new. In response to the growing sense that systems of *representative* democracy need **systematic** improvement, and across all levels of government, there is an opportunity to complement the political decision-making system with some already-tested mechanisms.

Restorative processes are mechanisms for **working *with* people**. They currently operate mainly in justice, community service and education *systems*. Some local governments are beginning to use restorative practices to improve **decision-making** across broader social networks.

> **Well-designed** and **facilitated processes** can help **governments more broadly** to deal with "**volatility, uncertainty, complexity and ambiguity**" - by providing citizens with opportunities to enhance both the *quality* of decisions that affect their lives, and the *acceptability* of those decisions.

GOVERNANCE in STATES & TERRITORIES – and the law-&-order trap

So, let's consider how one Australian *state* government *had been* grappling with *complexity* before the COVID-19 pandemic - and how that government was perhaps starting to break vicious cycles to which it had previously contributed.

Federal Labor lost the "unlosable" **national election mid-May 2019**, partly *because* of a standard-issue fear campaign centred on *economic issues*. Victoria's **State Labor government** had been returned, six months earlier, *despite* a standard-issue fear campaign centred on *crime*. Victorian Premier Daniel Andrews' Labor government was re-elected with an increased vote. His government's main claim for re-election was an ability to "get things done" and "deliver for all Victorians":

Source: *Herald Sun…*

On election night, Premier Andrews declared Victoria to be Australia's "most progressive state". His claim seemed reasonable in various areas. In the areas of *justice* and related social policy, however, the state Labor government's achievements during its first term were mixed. But the two-party system offered voters no "progressive" alternative.

Martin Pakula, Attorney General during the first term of the Andrews government, judged the Coalition opposition's proposed justice policies to be absurd: "*every drunk, every vagrant, every homeless person, every drug addict, every person with a driving offence who might miss a police appointment or a court hearing would go to jail before they've been convicted and for offences that would never accrue jail time*." And *Guardian Australia*'s Gay Alcorn concluded that "while Victorian Labor is far from perfect, the Libs' crime scare deserves to fail". And it failed impressively – at least *politically*. Yet in a way, the "Libs' crime scare" succeeded – because Victoria has already experienced the marked increase in adult imprisonment rates that the opposition Coalition champions.

Through its first term of office, the Andrews government sought to counter a common perception that Labor is "*weak on law and order*". So instead, the Labor government was:

> "*so "tough" on law and order that legal groups and anyone remotely interested in criminology have despaired."* [...] *Extensive bail reform after James Gargasoulas mowed down six pedestrians [in 2017] just days after being released by a bail justice has made the system the toughest in the country* [...]*. There is now a presumption against bail for serious crimes* [...]. *Sentences have been increased and judicial discretion reduced. New offences for aggravated carjacking and aggravated home invasions attract minimum three-year terms."*

Some members of the state Coalition opposition seem genuinely to have believed that *their* strength *was* law and order. Firm beliefs often mutate into obsessions. As *Crikey's* Charlie Lewis noted, **more than a third** of the Coalition's first 100 policies released during the campaign **related to law and order** - significantly more than their *combined* policies in health and education. Noel Towell noted in *The Age* that the opposition's "**make Victoria safe again**" slogan appealed to two powerful emotions: **fear** - that we're not safe - and **anger** - over "all the crime that's going on out there."

Except that, statistically, all that crime *wasn't* going on. *General* crime rates in Victoria have been declining. The coalition and key media outlets data-mined for specific offence types that *were* - at least temporarily - on the rise. The most obvious of these was a disturbing spate of aggravated burglary and carjacking in Melbourne's North West and South East. And **stories** – especially with pictures - typically **have more motivational power than statistics**.

For more than two years, media had been reporting that Melbourne was gripped by a crime wave – specifically driven by African gangs. ABC television's investigative journalism flagship *Four Corners* addressed **this issue in *Crime and Panic*** (first screened early November 2018). A Senior Victoria Police officer spoke diplomatically about key media outlets: *"We're seeing headlines and reporting that exacerbates the problem - reporting on things that we're not necessarily seeing."* Conversely, Community Legal Centres *were* seeing a 50% increase, during the state election campaign, in racially-based attacks on citizens of African heritage.

As the state election campaign continued, patient fact-checking showed just how tendentious were the Coalition's claims of a *city out of control*. And that responsible reportage seems to have had an effect. During the final weeks of the state election, the Victorian Coalition felt the need to up the ante. It adopted the fighting slogan "**take back control**". That sounded familiar: it was borrowed from Nigel Farage, the political entrepreneur heading the UK Independence Party that helped deliver Brexit.

> Again, the nature of **complex** problems can be **hard to comprehend**; simple solutions *evoke a **moral intuition***, hijacking feelings of fear and anger, which can override reason.

Local political entrepreneurs sought to keep the Victorian crime wave story running after the election – with provocations at St Kilda Beach in the new year. (*A Current Affair* was accused of further fuelling the "race war" story with their coverage of this incident. Members of *Sydney*'s South Sudanese community report tangible harms as a result of this narrative from Melbourne.)

> The state Coalition's recycling of the "**take back control**" slogan is a reminder that
> **"law and order" policies** are rarely solely about crime.
> Fear of crime is **a proxy** for concern about other **more-complex issues**.

Crime is, of course, very real. It needs to be addressed with effective policy settings, and patient work in local communities. But effective policies are hard to develop, and can be harder to sell. And patient work takes time. In a rapidly spinning media-and-political cycle, there is ongoing temptation to define complex problems as simple, and to offer simplistic solutions that exacerbate the problems in question. In the cycle of stories-of-crime-and-calls-for-more-punishment, crime is presented as the primary source of public fear and anger.

But *all* of us now face frighteningly complex interrelated economic, social, public health and ecological changes. These changes to our environment indeed seem to be spinning **out of control**. Rather than developing the complex policies required to manage increasingly complex issues, many liberal democratic systems are instead drifting – at least in the short term - towards authoritarianism. The justice policies of Victorian Labor's first term can be understood as a very mild and minor local version of this international tend.

Premier Andrews and his cabinet had learned from previous state Labor governments led by John Brumby and Steve Bracks, and invested heavily in **infrastructure** during their first term. Infrastructure is crucial in public transport, and the Andrews government has undertaken major improvements to Victoria's transport system. Infrastructure is also very important in the education and public health systems. However, *when* **infrastructure becomes a central element of** *justice* **policy, this often indicates long-term policy failure**. State governments are understandably tempted to respond *swiftly and decisively* to public outrage around specific shocking crimes. The resultant policies tend to have enduring, and counterproductive, population-level impacts.

A decade ago, fewer than **20% of prisoners** in Victoria had been refused bail, and were on **remand**, awaiting trial. From **one-in-five** ten years ago; the proportion of prisoners on remand is now *one-in-three*. By 2015, the then Labor opposition was criticising the former Liberal government, arguing that "double bunking" – installing double bunks in single-occupancy cells - was a key factor in provoking a 2015 riot in the overcrowded Metropolitan Remand Centre. Labor's subsequent changes to the bail system further **increased the proportion of prisoners on remand**, and this increase in the numbers on remand for low-level offending has driven **the state's prison population to record levels**. From just over **3 000** in 2000, the prison population is heading towards **10 000**.

More than **2000 new prison places** were created during the Victorian Labor government's first term. Ravenhall Correctional Centre, Victoria's $670 million newest and largest prison, opened in late 2017. It had filled to capacity by 2019. Early in its second term, in the May 2019 budget, the Victorian Government allocated $1.8 billion to build 1,600 additional prison beds across the state. The central component in this spend is a 1 248-bed prison planned outside Geelong. Ravenhall is being enlarged for a second time, increasing its capacity from 1 300 to 1600 inmates - through building out common spaces and, sure enough, *double-bunking*.

<u>The number of *women* held in Victorian prisons has risen particularly dramatically</u>. In 2017, about 90% of all women entering Victorian prisons went into remand. AND the most dramatic increase has been in the **number of female *Aboriginal* prisoners in Victorian prisons: 240% increase over the past five years**. Their single most common offences involve **drugs**, followed by assault, and property offences.

A range of frontline service agencies have a shared interpretation of what is happening here:

> **Complex *social* challenges, including issues of public health and housing,
> are being over-simplified as issues of criminal justice**.

The Andrews government commenced its first term with very few policies to address these rapidly rising <u>rates of imprisonment</u>. It made little progress on key correctional issues such as <u>suspended sentences</u> or <u>solitary confinement</u>. And towards the end of that first term, in 2018, it further accelerated the rate of growth in prison numbers by increasing **the *number of offences* with a presumption against bail**. Workers have expressed concerns that new <u>mandatory sentencing laws</u> for assaults against emergency workers may lead to victims of family violence being jailed.

At the start of the Andrews government's second term*,* just under *half* of the women in Victorian prisons - and about *a third* of all men - had not been sentenced for any crime**.** In this crucial area of public policy, <u>the state government was widely judged to be **"left in rhetoric and right in action"**</u>.

> This is another example of policy feeding the vicious cycle it purports to address. There appears to be a correlation between <u>declining social mobility</u>, and the temptation for governments to "<u>arrest their way out of social responsibility</u>". In a <u>carefully-worded report</u> delivered early in 2020, the **Victorian Sentencing Advisory Council** argued that this system has become **self-perpetuating and counterproductive**.

But Victoria is not unusual in this regard. The **rush to incarceration is a national trend**. Some elements are part of an *international* trend *__for countries to adopt the US model of justice as punishment__*. The trend includes the **privatisation of prisons**, and **criminalising a greater proportion of women**.

Like Victoria, Australia's most populous state of **New South Wales** has seen a **decline of almost all categories of major crime** over the past five years – and **an *increase* in that state's prison population** from less than 10 000 people in 2012 to 14 000 in 2018. A simplistic reading – pushed in some media and echoed in internet forums - is that this is cause-and-effect: "*There's less crime because we're locking up more crims*!" A more accurate reading seems to be that **increasing rates of imprisonment are indeed fueling a vicious cycle**. Bureau of Crime Statistics (BOCSAR) data indicate that **more aggressive policing** is contributing to the increase in the number of prisoners on remand in NSW. The state's Suspect Targeting Management Plan uses "predictive policing", which directly contradicts key principles of the NSW youth criminal justice system: diversion, therapeutic justice, and rehabilitation – and generates predictable bad outcomes. By early 2020, the NSW government was seeking to dim the spotlight on the harmful impacts of widespread police strip-searching of young people.

The Audit Office of New South Wales, in an analysis of backlogs and delays in NSW prisons and courts, found similar **counterproductive practices in relation to *remand prisoners with addiction problems***. Remand prisoners have been contributing to systemic overcrowding, and they have "very few positive opportunities for any kind of rehabilitation if [they are] refused bail and not yet sentenced". When finally sentenced, they often have little time left to serve, and so are ineligible to participate in the drug and alcohol programs reserved for sentenced prisoners. This is cruelly *illogical* policy.

Again, the underlying political and moral justification is that locking up a greater proportion of the population increases public safety. But **Mass criminalisation** does *not* make us all safer. Ultimately, it **fuels a vicious cycle that impoverishes us all**. Other research from the Bureau of Crime Statistics, on the effect of bail decisions on imprisonment, failure to appear, and crime, finds that:

> "*remanding 10 additional defendants increases the number imprisoned by one, and reduces the number offending and failing to appear by 1.6% and 0.9% on average. The results show that bail refusal has a significant incapacitation effect on crime and failure to appear. These benefits should, however, be considered alongside the considerable cost to the correctional system and the individual arising from increased imprisonment rates*."

Writing in The Age, David Southwick summarised this cost-benefit problem succinctly:

> "*Based on the Productivity Commission's daily rate, Victoria currently has Australia's highest prison costs at $118 194 per prisoner per year* [and] *the highest rate of ex-prisoners returning to corrective services of any state, with **58.2% of those released from jail returning to prison or receiving a new community corrections order within two years***."

A business producing these results would be out-of-business.

> Imprisoning more people is a consequence of short-term **political risk *avoidance***.
> *Over time,* **risk *avoidance* becomes a failure of social risk *management***.

Of course, there is a long history to these practices. With the exception of South Australia and Victoria, Australia's states were established as penal colonies, although they evolved rapidly into very different systems. Now, at **two in every 1000** Australians, **the current proportion of adults incarcerated** is **greater than at any time since the late nineteenth century**.

As in so many areas of public policy, the political challenge is to **address this trend with effective policies *and* get re-elected**. Justice is just one of several areas where the challenge seems to be growing more difficult. Policy and practice in justice during the current second term of the Victorian Labor government will have impacts lasting for many years.

Having been re-elected, Daniel Andrews's Victorian government indeed signalled **a change of strategy in justice**, with two key Ministerial changes. Jill Hennessy, once an adviser to former Premier Steve Bracks, and with experience in public health, became the new state Attorney General. Ben Carroll, previously responsible for Industry and Employment, received the Omnibus portfolio of *Crime Prevention*, **Youth Justice, Victim Services and *Corrections***. His advisors spent much of 2019 and early 2020 examining examples from around the country - and internationally - of moving beyond defining whole categories of social problem as matters of criminal justice – and instead providing more integrated policies in social housing, public health, education, and regional development.

New Zealand offers a nearby example. Before its May 2019 budget, the New Zealand government announced plans to be the first country to move beyond simply *measuring* **wellbeing**, and instead to **structure the budget around wellbeing priorities**. New Zealand's government ministries have now been instructed to design policies that improve wellbeing. This *might* prove a political gimmick – or it could be a bellwether in an international trend. Victoria's Council of Social Services (VCOSS) has called for a similar approach.

Policymakers working to address the national trend of rising incarceration can also look to **North America**. As is often the case, different States offer lessons about paths to pursue, and paths to avoid. Many members of our Association will have some sense of how the USA became a "carceral nation" – in which corrections policy has its own momentum, driven by vested interests and an infrastructure with its own systemic logic. The US *federal* government has embraced the private prison industry particularly strongly. Growth in the business of punishment is typified by the recent history of Corrections Company of America, now rebranded as CoreCivic. But, as in Australia, *regional differences* around the USA are illuminating.

While the 2018 Victorian state election campaign was in its closing weeks, the *Economist* offered a sobering tale of two states in the USA. Its succinct comparative study of government justice policy in **Wisconsin** and neighbouring **Minnesota** concluded:

> "***Mass incarceration is a political choice. It can be undone***".
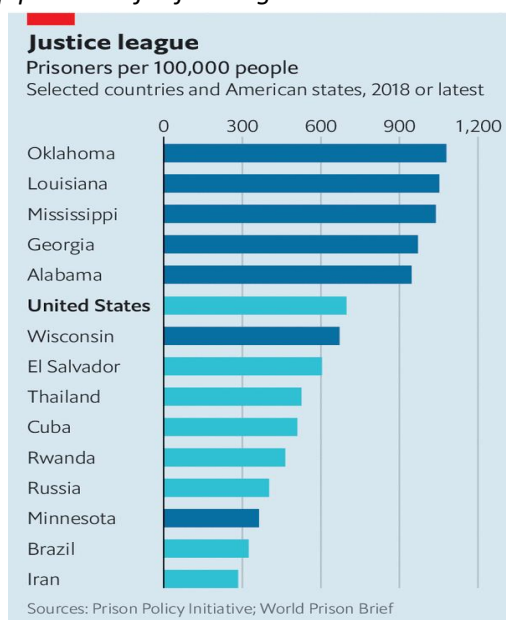
Wisconsin and Minnesota, roughly similar in population, size, wealth and culture, have adopted sharply different approaches to prison in the past 40 years. **They form a natural experiment, contrasting Wisconsin's tough-on-crime methods with neighbouring Minnesota's more progressive ones. The states diverged after the 1970s.** *Inmate populations (in prison and county-*

run jails) rose fast, partly because of hardening sentences in both states. Minnesota had locked away 132 inhabitants per 100,000 in 1978, which jumped to 434 people by 2015. Wisconsin's sentencing was tougher still: its inmate population leapt from 178 to 925 per 100,000 residents. […]

Wisconsin's 35,000-strong jail and prison population now far exceeds Minnesota's 16,000*. Wisconsin's prisons guzzle state funds at twice the rate of next door: $150 is spent for every Wisconsinite to $74 per Minnesotan. A growing body of elderly lifers with soaring medical bills will push costs much higher. At times,* ***state funding for prisons****—about $1.2bn, or $38,000 per prisoner yearly—****exceed spending on Wisconsin's university system****. Nor has Wisconsin's tougher regime obviously limited crime any better than its neighbour's laxer one:* ***rates are similar in each state; violence somewhat lower in Minnesota****.*

<u>**Wisconsin is now twice as likely to imprison people as Minnesota:**</u> After **a generation on** the tough-on-crime path**, Wisconsin** spends double **what comparable Minnesota does.** This priority **drains funding from housing, health and education** – for the net result of a slight *increase* in rates of violence**.** This is *impressively* poor public policy. Again, it feeds a vicious cycle that becomes increasingly difficult to control. As in so many jurisdictions, <u>a significant factor increasing the prison population has been the growth in technical revocations for violating ever-stricter parole conditions</u>**.**

The most vocal **critics of this "churn" include professionals who understand the system from the inside**. The former head of Wisconsin corrections laments "<u>an endless treadmill of throwing people back in prison for technical violations</u>". A former Republican governor regrets overseeing the rise in imprisonment, saying state politicians "*are afraid as hell of change [and] while the governor looks away, Wisconsin is storing-up problems for future generations.*"

Justice league
Prisoners per 100,000 people
Selected countries and American states, 2018 or latest

Country/State	Value
Oklahoma	~1,050
Louisiana	~1,040
Mississippi	~1,030
Georgia	~960
Alabama	~950
United States	~700
Wisconsin	~690
El Salvador	~610
Thailand	~550
Cuba	~510
Rwanda	~460
Russia	~390
Minnesota	~340
Brazil	~320
Iran	~290

Sources: Prison Policy Initiative; World Prison Brief

The Economist

Michelle Alexander, a lawyer-turned-advocate-and-academic, published an examination of these trends a decade ago: *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The book has gradually become central to discussion about justice system reform in America. It considers the reach and cruelty of the American prison system and, more broadly, the way the justice system is used as a "system of control" that shatters the lives of millions – and particularly of young black and Hispanic men. Sadly, Michelle Alexander's <u>recent reflections</u> on *The New Jim Crow* are relevant to Australia:

"People get it very wrong [when they say] "This prison system is really about responding to violent crime." About five per cent of people who are arrested every year have been convicted of violent crimes or charged with violent crimes. [...] ninety-five per cent of those who are arrested and swept into the criminal-justice system every year have been convicted of nonviolent crimes. And the largest category of arrests are drug arrests. That was true in 2010, and it's true today.

The war on drugs has been a primary vehicle for sweeping people into a criminal-justice system, branding them criminals and felons, and then relegating them to a permanent second-class status for life. That doesn't mean we should be unconcerned about violent crime or the harm that it does to communities, nor should we be unconcerned about the extremely long sentences and inhuman treatment that people often receive being caged. But what it does mean is that we have to stop thinking about the system of mass incarceration as simply a prison system."

"I think we must reimagine the meaning of justice in America, not simply reform our existing criminal-justice institutions. I think that work depends on building and organizing and the engagement of our communities. We can't simply look to our politicians to have the answers."

> ### *Mass* incarceration *is partly a consequence of mass* criminalisation

And this same social and political work of **building, organising and engaging communities** is also desperately needed in Australia. Some Australian jurisdictions are increasing the use of preventative laws, strip-searching and fear as a primary mechanism of crime prevention, but also of social control. Without the restraint offered by constitutional protections or bills of rights, **community organisations** may provide the strongest protection against these failures of legislation and of policing.

> The philosophy and practice of *restorative justice* can play a role in **reversing the trend of the mass criminalisation which is driving to mass incarceration.**
> Restorative philosophy and practice can support the work of
> **building, organising and engaging communities.**

Of course, **police** can actively support this sort of community justice approach. For example, in a recent large trial in UK, police worked with several thousand people who had committed offences such as burglary and assault. Participants avoided prosecution if they accepted a four-month contract to work with a supervisor in a program that offers support for issues including mental health, drug or alcohol abuse, homelessness and communication issues. Those that failed to complete the contract were prosecuted in the traditional manner. But **94% of participants did *not* reoffended**. Police offered a public health and support before resorting to enforcement, and the public health approach has been accepted by the vast majority.
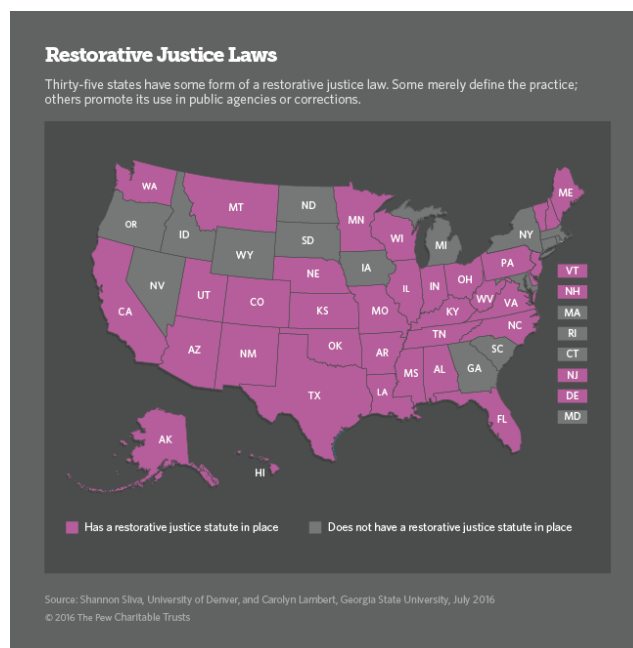
It is no coincidence that this program has been run by Durham constabulary. Durham was one of a handful of British police services actively involved in the earlier trials of restorative justice conferencing in the UK. Durham's Chief Constable notes that current criminal justice sanctions are simply not effective for dealing with low-level offences such as shoplifting, assault or drug possession:

"What I'm not saying is where people commit serious offences, they won't feel the full force of the law. [...] This isn't about trying to do things on the cheap or divert people away from court or prison. It's a cohort of people for whom this cycle will never end unless we do something different."

In the USA, more than thirty states now have **legislation relating to "doing something different" –by using restorative justice**. And Minnesota is one of those states. The Minnesota Department of Corrections was pioneering restorative work as early as the mid-1990s, when Kay Pranis introduced the option of **victim offender dialogues** in the wake of crimes of severe violence. This work tends to expand as it evolves. In Minnesota, the Peacebuilding Leadership Institute now offers Restorative Justice 101 Training to teachers, school counsellors, nurses, psychologists, business persons, personnel from sex offender treatment programs, community activists, clergy, former military, and parents. And the Minnesota Department of Education formally supports restorative practices.

Meanwhile, Kay Pranis herself now trains colleagues nationally to use a broadly applicable "**peacemaking circle process**" as "*a way of getting the most complete picture people can of themselves, each other and the issue at hand to enable them to move together in a good way*." The **influence of these approaches *is* now effecting systemic change**.   For example, an NPR newscast indicates that even "D.C. Prosecutors, once dubious, are becoming believers in restorative justice" for diversion and as part of sentencing support.

However, the strongest emphasis in the USA seems still to be on ***post-sentence* victim-offender encounters**. US media, and state legislators, apparently see a *post-sentence* encounter after serious crime as the exemplary restorative justice process. A May 2019 feature on the US edition of 60 minutes publicised these programs that bring crime victims face to face with perpetrators.   More than thirty states offer victim-offender dialogues, with most requiring that the process be initiated by a victim of crime. This emphasis on post-sentence encounters is partly a function of the outsize significance of imprisonment in the US justice system, and partly a result of foregrounding the value of forgiveness.

Restorative Justice Laws

Thirty-five states have some form of a restorative justice law. Some merely define the practice; others promote its use in public agencies or corrections.

Has a restorative justice statute in place   Does not have a restorative justice statute in place

Source: Shannon Sliva, University of Denver, and Carolyn Lambert, Georgia State University, July 2016
© 2016 The Pew Charitable Trusts

Source: Pew Charitable Trusts

Programs offering post-sentence restorative engagement are important. They can promote profound healing for the people involved. However, programs offering post-sentence *victim-offender dialogues* may have less reforming <u>impact on the criminal justice *system*</u> as a whole than other "restorative" programs. As stand-alone programs, they are unlikely to foment structural or social change.

With intriguing timing, as the pandemic was at the peak of its first wave in 2020, the Senate Judiciary Committee announced that <u>a $3 million grant from the U.S. Department of Justice (DOJ) to establish the nation's first National Center on Restorative Justice</u> at <u>Vermont Law School</u>, so as "*to generate data-driven change focused on restorative justice practices in the United States*".

> If an overly <u>narrow view of what constitutes restorative justice may limit the reforming impact </u>of this practical philosophy, **it's worth revisiting what restorative justice has to offer.**

Returning to the local scene: early Association *newsletters* have noted that the Victorian Department of Justice and Community Safety, even before the state Labor government was returned in November 2018, was working on extensive recommendations of a report written by Penny Armytage, former Secretary of the Department, and Professor James Ogloff, Director of Swinburne University's Centre for Forensic Behavioural Science. In their August 2017 **Youth Justice Review and Strategy: Meeting needs and reducing offending**, Armytage and Ogloff had noted:

> There is **greater opportunity to incorporate restorative justice processes, including with more serious offences**. Current restorative justice options are limited to the front end of the system. […] **The potential of restorative justice opportunities remain[s] unrealised,** particularly when considering the role of victims and community satisfaction in the justice process. **The lack of restorative justice elements** in the operating framework **limits the opportunity for victim and community involvement,** further highlighting the **limited focus on community safety and the role of the community more broadly**." [p.17]
>
> "There is [also] very low investment in community-based early intervention and support, representing **a missed opportunity to intervene**. Approaches to diversion are limited and ad hoc and provide **little focus on addressing criminogenic needs**." [p. 23]

The reform agenda in the Victorian justice system could *potentially* expand the use of **restorative justice** in each of its four key justice system applications: (i) **diverting** cases from court, (ii) supporting **sentencing** in court, (iii) enabling **post-sentence engagement** between people affected by crime, and (iv) supporting pre-release planning.

But the scope for using restorative processes is much broader *outside the formal justice system*. **Restorative *practices*** involve **evidence-based techniques** for **managing relations in the communities** of schools, workplaces, extended families, and among people with a common place of residence.

> Again: **restorative *justice* and restorative *practices* can *work together*,**
> and the **combination** of the two approaches can support **significant systemic and cultural change.**
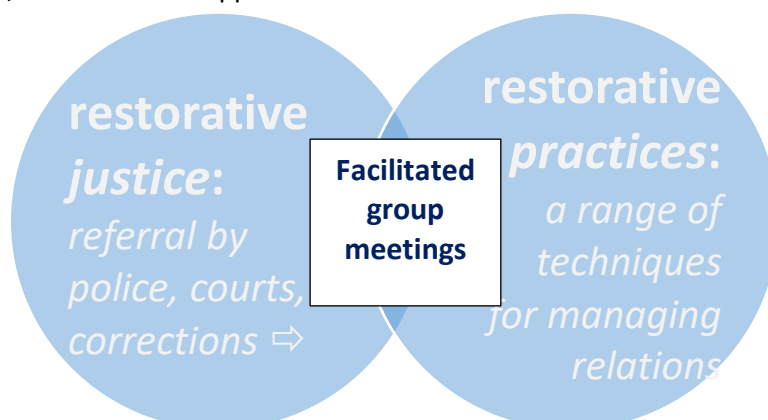
Poor policy and governance in **justice systems** can be understood as both a symptom and a cause of broader failures of policy and governance in political systems more generally. **The vicious cycle of hyper-partisanship and short-termism seems to be most corrupting at the national level.**

Organisations such as Democracy International are seeking to counter this international trend by increasing citizen involvement, working from further democratising *local* level decision-making through to *state and provincial* forums. Australian counterparts include organisations such as Democracy.Co and the New Democracy Foundation. A consistent theme is the need for mechanisms that enable governing bodies to *work with* citizens, rather than **doing things to or for them**.

The very optimistic might see some sort of pincer movement here. The **United Nations** – which is a-long-way-from-perfect, *and* much-better-than-nothing – has, for the first time, a General Secretary who actually has experience of national leadership. António Guterres was Prime Minster of Portugal for seven years. He is currently pursuing systemic reforms across the United Nations, with a focus on mechanisms for *working with*. These attempts to introduce democratic decision-making into a supra-national organisations is consistent with local reforms that use restorative processes as mechanisms for *working with* people in justice, social and political systems.

GOVERNANCE in COMMUNITIES

Again, effective reform work in these areas first requires that we distinguish restorative *justice* from restorative *practices, then* link these approaches:

restorative *justice*: *referral by police, courts, corrections ⇨*

Facilitated group meetings

restorative *practices*: *a range of techniques for managing relations*

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Restorative *practices* extend well beyond the familiar version of group conferencing used in the justice system to deal with (i) **cases of undisputed harm** in diversion, sentencing, post-sentence healing, and pre-release programs. **Restorative *practices*** remain best known as a way of **managing relations in schools**. But restorative *practices* have far broader application, including finding **alternative pathways into employment**, and as part of successful **interventions to address adolescent family violence**.

Restorative practices offer **facilitated meeting formats** for dealing with (ii) situations that involve a long **history of incidents** that have affected a group of people, (iii) some issue of **common concern**, or (iv) the **legacy of poor organisational practices**. And restorative practices are also used to improve **communication at other levels**. Restorative practices can improve the ways in which community

members: (i) **coach** each another, (ii) **discuss** challenging issues affecting two people, & (iii) **mediate**, informally and formally, when two or more *other* people are struggling to address challenging issues effectively.

With regard to restorative *practices* in schools: we have noted in previous Association *newsletters* the important research findings of Kristin Reimer, from Monash University, who identified that restorative *practices* work best as part of a coherent *system of relationship management.* (Unfortunately, many schools are still "*restorative washing*" - applying the terminology of "restorative" to interactions which, on closer inspection, are inexpertly conducted and take place in a broader context of *controlling* relationships.)

However, when restorative practices *are* used well, with a coherent underlying philosophy of relationship-based education, the results can be striking. The results of a three-year **cluster control trial *of restorative practices*** in state schools in the south of England was recently published in the British Medical journal *The Lancet*, as "*Learning Together* system of restorative practice".

The authors (from the London School of Hygiene and Tropical Medicine and University College London) conclude that this approach can achieve "**significant impacts" in improving child health and mental wellbeing**. A yet-to-be-released evaluation of a project working with schools in northern Melbourne has found similar results for students – and emphasised **comparable benefits for school staff**. The pressure on schools to further fine-tune their approaches to providing feedback, to problem-solving and issue resolution, and group discussion may be increased by parental *and* student pressure to move beyond relics such as collective punishment and consistently promote **relationship-based education**. Importantly, some **universities** are now also seeing the need for campus-wide coordination of a culture of respectful relationships.

Restorative *practices* can also be used in many applications **beyond the educational community of a school or university**. For example, restorative practices can help better **manage working relationships** in overtly challenging environments such as **residential homes** and **detention centres.** In these applications, restorative *practices* are being used *at the heart of* the justice system, helping manage day-to-day interactions among detainees, and with staff. (We hope to be able soon to present the findings of an also-still-unreleased internal departmental evaluation of one such program, which is already inspiring reform at a number of other centres.)

Restorative practices can also support better relationship management <u>in communities</u> experiencing **significant social disorder**. Some important projects are demonstrating that relational practices can be "scaled up" so as to place families and other primary groups at the core of health, education, and other <u>responsive and restorative social services</u>.

> So, **restorative practices can play a key role in *justice reinvestment***.
> This is the point at which **restorative justice connects with restorative practices**.

As courts begin to refer **more complex cases** for restorative intervention, facilitators need a broader range of techniques, and a **variety of meeting formats**, to achieve successful outcomes. The key challenges of this work are *not* in articulating the **principles**. Nor is the key challenge to deliver a quality **process**, once a case has been referred. These are challenging enough. But **the biggest challenges often** involve **reforming existing *programs*** – and **augmenting** those programs with additional services, if required, and encouraging officials running the programs to collaborate.

> This is one small element of **a deep challenge for modern government:**
> encouraging agencies to **move beyond their default modes - *doing things to* or *for* people -**
> and to **improve their capacity to *work with* people.**

A key factor in this challenge is that **government departments are *functional monopolies***. They do not compete with any comparable agency. **Grant-funded programs can likewise operate as short-term functional monopolies** in their area of service. Staff in government and non-government programs are funded to do *what-they-currently-do*. With no alternative provider of that service, there is also then often little incentive, let along urgency, to change. As a result, the change dynamics tend to be <*stasis* ⇨ crisis ⇨ forced-reform ⇨ stasis>. And the ***de facto* key performance indicators** (KPIs) for departments and funded programs tend to be similar to those for **elected politicians**:

> The ***de facto* performance indicators** are ***risk avoidance*** for staff and agencies,
> ahead of ***risk management*** for the citizens with whom they are supposed to be working.

Again, there's a counterproductive *system logic* at work here. There may be little incentive for program stakeholders to change systems for referring and managing cases, even if the existing system is not all-that-effective. Reformers received very **little *credit*** for **successful adaptive change**. But when change efforts fail, there is no shortage of *criticism*. So, *avoiding failure* becomes a **key driver of organisational behaviour**.

The challenge for reformers is to **overcome this fear-of-risk underpinned by fear-of-failure**. Effective reform requires **changing a network of professional and organisational relationships** one-step-at-a-time *and* all-at-once – while being able at any stage *to* **demonstrate some irrefutable successes**. This seems a near-impossible task. And yet – as anthropologist <u>Margaret Mead famously observed</u> - significant reforms can and *do* occur **when a small group of committed activists manages to re-set working relationships *and* improve outcomes**. As a result, reform projects are often best developed quietly and determinedly - and only publicised once they are well established and delivering unquestionably better results than the rest of the system. Otherwise, business as usual tends to be the safest course of action for staff and agencies.

This challenge of a **bias-towards-risk-avoidance-and-against-reform** is, of course, not confined to justice systems. A telling local and recent example involves a review of **mental health services** in Australia. The review recommended the expansion of *"Better Access"*, a program supporting people to access up to ten sessions with an allied mental health worker. The changes should enable access to "preventive" mental health sessions without the need for a diagnosis. "Tiered access" can then grant additional sessions for those with complex problems. But as inaugural National Mental Health Commissioner **Professor Ian Hickie** explains, this is *not* where action is most urgently required. **Complex disorders require more than a brief intervention**.

Professor **Hickie** has been a tireless national campaigner for **changing the funding system in order to drive different professional behaviours**, to improve the quality of brief interventions *and* to provide appropriately *complex* responses for more complex cases. He agrees that, for less severe forms of anxiety and depression, brief interventions by skilled psychologists are highly effective. Indeed, these should be the default treatment of first choice, ahead of affect-managing medications such as SSRIs or Prozac-like drugs. Yet Medicare currently preferentially subsidises prescription medicines.

Funding arrangements that **preference pharmaceuticals over psychology**, and don't provide **mechanisms to deal with complex cases**, are the result of an unresolved dispute between the Commonwealth and states. Since 2006, *neither* level of government has funded appropriate interventions for those many people who suffer from complex and ongoing disorders that prevent young people from attending school, and adults from holding down a job. These complex disorders require treatment that falls between a brief intervention and hospitalisation. Accordingly, this group have been called the "**missing middle**". Professor Hickie has lobbied effectively on their behalf, praising Commonwealth Health Minister Greg Hunt for shifting beyond the simplistic fee-for-service, short session model. The shift first occurred in response to one particular cohort: people suffering from an *eating disorder*.

Anorexia nervosa can be fatal. The condition is generally **too complex to be managed by a single professional working in isolation** – whether a psychologist, general practitioner, psychiatrist or dietician. *Team-based funding* **enables a group of professionals to work together**. Mental health reformers are now urging that *team-based funding* be extended beyond eating disorders, which are relatively rare, to other **complex comorbid conditions**: persistent mood disorders, severe depression with associated drug and alcohol abuse, borderline personality disorder, bipolar disorder, and the early stage psychosis. **Effective early intervention** can enable people to manage these conditions, and so remain stable and socially engaged.

> This example from mental health illustrates the **strategy** of first **demonstrating**
> how practitioners in a particular area can **better manage complexity** –
> then "**broadening and building**" on that success:
> extending effective principles and practices **across a larger system**.

The ACT seems to be experiencing a similar dynamic in **justice reform** – specifically, by applying **restorative principles and practices**. Restorative practices enable justice system professionals to **deal with complex cases** by *working with* the people affected. The ACT currently leads other Australian jurisdictions in applying this **strategy of stepped change** in justice system reform.

EXPANDING JUSTICE REFORMS in the ACT

The contrast between the approach to justice in the ACT and in other jurisdictions was emphasised by an announcement in early 2019: "**Canberra's only jail is running out of cells, but the Government wants to 'build communities not prisons'**". The "**Building Communities Not Prisons**" (BCNP) project aims to prevent crime by working to "improve the lives of individuals and their families".

As elsewhere in Australia, courts are often reluctant to grant conditional liberty on bail or parole when detainees have unstable accommodation. ACT Justice Minister Shane Rattenbury announced that the BCNP program and a new ACT Reintegration Centre will offer "*short-term, culturally sensitive, transitional accommodation and longer-term supported accommodation*" for those one-in-five detainees who need it:

> "*We have confidence that the combination of investing in a reintegration centre focused on bringing people back into the community in a crime-free way, and the justice reinvestment program, will give us the capability to not only invest our money in a smarter way, but defer the need for a significant expansion of the* [ACT's sole prison, the Alexander Maconochie Centre, widely known as the] *AMC*."

The ACT government will now *not* **spend $200 million** to expand the ACT's one **correctional facility**. It will invest, instead, in **community crime prevention programs**. As it happens, a similar dynamic has already been observed in **Canada**. A joint initiative of the **Royal Canadian Mounted Police** and **Aboriginal Justice Learning Network** provided for coast-to-coast **community-based training in restorative practices** in the late 1990s. The **2003 national *Justice Act*** then formally oriented Canada's provincial justice systems towards restorative practices. In a two-decade shift **from reaction to flourishing**, whole regions of Canada are now in a position to convert youth detention centres into (voluntary) educational facilities.

> These sorts of policies tend now to be explained as examples of "**justice reinvestment**":
> a **virtuous circle** that redirects expenditure from prisons into crime reducing community programs.

The ACT policy is consistent with reforms made throughout the period of self-government. However, the pace of justice system reform in the ACT increased noticeably through 2018. In August 2018, Minister Rattenbury introduced into the ACT Legislative Assembly draft laws that widen access to restorative justice for juvenile offenders.

Previously, young people who had offended were eligible for the restorative justice program only if they **immediately and *proactively* accepted responsibility for a crime**. Now, a young person who has offended but who ***doesn't*** initially **confess** to a crime, may nonetheless be eligible to participate. These changes reverse the onus, such that a young person (aged under 18) who has committed a less serious crime may access restorative justice, as long as **they *don't deny* responsibility for that crime**.

This subtle but significant change has been prompted, in particular, by the reality that many young Aboriginal and Torres Strait Islander people are reluctant to cooperate with police because of

"historical mistrust". Their silence at the point of arrest can be wrongly interpreted as *denying responsibility*. The move to adopt the concept "*does not deny responsibility*" was prompted by reports in 2017 of ACT community <u>police failing to divert young Indigenous offenders away from the criminal justice system.</u> Depending on the seriousness of crime, **a restorative justice intervention can now commence before a plea is entered**. The changes have also removed the requirement for referring agencies to assess an offender's *ability to agree* to participate in the scheme:

> "*This responds to concerns raised by the ACT Supreme Court in the 2016 case of* The Queen and Forrest*, where then Justice Refshauge identified that referring entities had to draw indirect inferences about a person when that person was not present before them.*"

Staff of the ACT <u>Restorative Justice Unit</u> (RJU) are still required to assess someone's "*suitability*" to take part in the scheme. (However, experienced practitioners know that the term "*suitability*" is dated. In effect, once a case has been judged as *eligible* for the program, administrators and facilitators are working to ensure that someone is *ready* to participate, not to judge whether they are *suitable*.) The new laws include a clause that a young person who has participated in the restorative justice program, and dealt with an offence, may nonetheless still plead *not guilty* in court. Restorative Justice Unit senior convener Tracey Lloyd explains that a person who has offended may plead *not guilty* for technical reasons, because they **do not agree with the *exact charge* - but can nonetheless take responsibility for harm caused**:

> "*It might not be about the offence or all these circumstances around it, so if someone is still taking responsibility for part of an offence, they [can] gain insight and respond to a victim of crime's need.*"

And the results are consistent. The ACT's Justice and Community Safety Directorate (JACS), where the RJU is based, recently commissioned the Australian National University and the Australian Institute of Criminology to examine the <u>impact of restorative justice conferencing on re-offending for young people over an extended period</u>. A multivariate observational outcome evaluation generated familiar findings: the **frequency of offending in the follow-up period was 30% lower** for those who participated in restorative justice than for those who didn't. And participants in restorative justice conferences, including victims of crime and their supporters, report **<u>a 98 % rate of</u> <u>satisfaction with the process</u>**.

Phase three of the ACT's restorative justice scheme, which commenced in November 2018, has **extended the scheme to cases involving <u>family violence &/or sexual offences</u>**. Minister Rattenbury said the work of Family Safety ACT coordinator-general Jo Wood has demonstrated that many survivors of domestic violence obviously and absolutely wanted to **lose the *violence***, but **not necessarily the *relationship***:

> "*[This] breaks down the final legislative barriers which prevented victims of crime from having access to restorative justice, simply because they were survivors of particular offence types.* [...] *This referral opportunity will provide additional scope for the Restorative Justice Unit to manage offences of sexual and family violence where power imbalances may mean it is not safe to notify the offender at the point of referral, that a referral has been made.* [...]

> *This is not right for everybody and not every victim will want to go through this process. That's the fundamental nature of it being voluntary. Through a process like this, the perpetrator can get a much clearer insight into the impact their violence has*."

Trevor Higgs, a senior convener with the Restorative Justice Unit, who also has many years of policing experience, said the changes would be especially helpful in cases **where young people have engaged in family violence**:

> "*When people think about family violence, they always jump to intimate partner violence - but what about two siblings who are fighting? Is it right for them to get to court and for the mum to be torn between the both of them? We can take those cases. Yes, we might deal with the intimate partner violence too, in which case we'll work with professionals and supporters, and people will have to go to therapy before they come to participate etcetera. But there's also […] sibling rivalry, a teenager who pushes his mum for the first time - and [these incidents need] to be addressed straight away. We can take those cases and keep [the matter] out of court if certain criteria are met, or get [the case] from court and work with court.*"

As it happens, the first <u>referrals to the RJU were indeed cases involving parents who are victims of violence from their adult children</u>. Three of the first four referrals were referred by the court; one by the Australian Federal Police as a diversion from court.

Meanwhile, the ACT's law reform advisory council has <u>been considering pioneering the use of restorative justice in the coronial system</u>. The ACT coronial system was criticised more than a decade ago for "<u>soul-destroying delays</u>". More recently, a group of Canberra <u>mothers, each of whom lost a son in tragic circumstances</u>, and whose inquests have <u>lasted between four and seven years,</u> have urged that a coronial liaison officer position be created to help families navigate the coronial process, and to ensure government acts on coronial recommendations.

This is another example of a powerful idea becoming established, and then tending to expand. A less-anticipated consequence of the successes of the Restorative Justice Unit has been a rethinking in other units of the ACT Directorate of Justice and Community Safety (JACS), which houses the RJU. Staff of these other units now better understand **the power of collective decision-making for prevention**, and so are considering broader applications of restorative practices.

This is an intriguing example of **<u>evidence-based policy-making</u>**. The evidence for rational policies is in the **outcome** statistics. But *motivational* **power for change comes from stories.** In this case, colleagues have been relating stories about the power of applying some **basic principles** through a **process** that realises these principles powerfully, by involving people in sharing their stories, enabling them to make sense, collectively, of their complex current reality.

Complex issues in justice, health, and welfare can be addressed more effectively when **early intervention uses mechanisms that enable professionals to (i) coordinate their own activities, and (ii) to work effectively *with* people**. A more general practical philosophy of **prevention policymaking** may gradually help resolve current crises of significant social inequality, underfunded public services, and dysfunctional government. But policy makers and influencers must correctly *diagnose* these challenges if they are to address them. And our current **systems of government**, and perhaps also broader **cultural factor**, seem to be working against accurate diagnosis and response.

A common complaint about our current system of government is that **short electoral cycles** mitigate against **long-term planning**. Short electoral cycles have some clear benefits as well as costs, but one notorious cost of short cycles is the increased preference for *avoiding* political *risk* over *managing* social *risk*. Still, there are many more complex reasons why governments seem to be struggling with *prevention* policies. Some individual policymakers certainly, seem to lack any sophisticated understanding of prevention. More broadly, despite increasing lip-service to the concept, there is continued **resistance to genuine "evidence-based policymaking"**.

More fundamentally, **the current system of policymaking may itself have become too complex to control**. It is also extremely difficult to get the balance right between different levels of prevention policymaking: between **tertiary prevention**, which focuses on affected groups to prevent a problem from getting worse; **secondary prevention**, which minimises harm by identifying problems early among at-risk groups; and **primary prevention**, which focuses on a whole population, preventing problems from occurring by changing the social or physical environment.

> *Primary* **prevention tends to be most effective** in the medium- to longer-term, but it is **the least *politically* visible level** of prevention. In a game where the rules are to **avoid risk** and **score** political **points** against opponents, **there is little political reward for primary prevention**

Governments need to support *primary* prevention efforts to address collective problems that are too big and complex to be amenable to individualist solutions. But they score more points for *tertiary* prevention - which not only fails to address underlying problems, but typically exacerbates them.

> This misalignment - between **primary prevention policies that benefit society**, and *tertiary* **prevention that benefits the incumbent party** - is a *systemic* reason for **declining trust in democratic systems**.

A range of related reasons for this disturbing trend include that the system for "**pre-selecting candidates for political office is failing us**". And even if that problem were ameliorated, the s*ystem of support* for *elected* candidates remains inadequate. *Ministers play an increasingly critical role in our democracy*, making decisions with long-term impact. Yet individual ministers often **lack professional expertise** in their portfolio area. The role of their **ministerial offices** remains among the most ill-defined, least accountable, and least supported element of executive government.

A reform agenda since the 1980s seems to have compounded these problems, further weakening the capacity of our system of government to cope with complexity. The model of public administration

known as the "**new managerialism**" is generally understood to have been "imported" to Australia from the USA in the early 1980s under John Cain's Victorian Labor government and Bob Hawke's Commonwealth government. (Ironically, some attribute the broader concept of managerialism to the work of *Australian-born* pioneering organisational theorist, Elton Mayo).

These *new managerialist* reforms were intended to counter the alleged conservatism of state and federal public services by creating a corps of generalist managers with portable skills, who were more responsive to direction from political reformers. Sadly, a general effect, Australia-wide, seems to have been to reduce the capacity of the public service for disinterested analysis, and increase the capacity for ministers to trade public interest for party interests.

The trend towards de-professionalisation and politicisation has been reinforced over three decades by repeated public service budget cuts, on one hand, and, on the other, the outsourcing of policy work to the big four consulting firms, which have developed a symbiotic relationship with departments and political parties. (Former Defence Minister Christopher Pyne's direct path to Ernst & Young after the 2019 election seemed unusual only in its speed, but that has since been matched.)

Optimists can hope that disinterested expertise is being retained in the **judiciary**. Yet here, too, there are some startling deficiencies of governance. To take a small example, specific to restorative justice: Youth advocates in Queensland expressed concern about courts failing to use effective diversionary programs after a magistrate in Rockhampton shared his ignorance of restorative justice. As in Victoria, Queensland's *Youth Justice Act* requires courts to *consider* the option of sending a young person, who has pleaded guilty, to a youth justice group conference (YJGC). But to consider an option, a professional must first understand that option. The magistrate told the court:

> "*I'm not in great favour of this restorative justice. It's all airy fairy, if you ask me… I'd rather that people be supervised and get to the root of the problem, because what's happening here is, this young man's running amok for some reason, and that needs to be addressed because he can't afford to keep on running amok because he is going to be facing much more heavy penalties if he keeps doing it... Things are going to get worse for him, and may get worse for the community.*"

The magistrate then asked the Departmental representative who had recommended the YJGC to explain the concept:

> "*How do you judge effectiveness? Have you got results that people don't reoffend*?"

It would appear that the Magistrate had not found time to consult the Departmental internet. Had he done so, he would have found a 12-Month Program Evaluation confirming that youth justice conferencing is as effective as a sentencing-support mechanism in Queensland as it is elsewhere - , and on several measures, including that young people who have attended a conference are significantly less likely to reoffend in the subsequent two years. Reassuringly, when Judge Ian Dearden reviewed the case in January 2019, he set aside the original sentence of 30 hours of community service (which had already been completed), and referred the case back to the restorative justice program, describing the young person as "extraordinarily well suited" to it, and finding that his colleague had:

"*fallen into error*. [*The magistrate*] *expressed, fairly bluntly, a disinclination to utilise a sentencing option that the learned magistrate was obliged to consider*".

Sadly, this example is not exceptional. But nor is it typical.   The larger trend towards "not trusting experts" is *not* necessarily the result of failures on the part of *some* individual professionals. Most experts indeed have valuable expertise. The problem is that a range of factors have encouraged the devaluation of **expertise itself**.   What are the **broader cultural reasons** for **"community sentiment" that devalues expertise and evidence**? And how is this sentiment associated with **political upheavals of recent years** that have installed a growing number of **authoritarian populist governments**?

The range of responses to COVID-19 has been a **global natural experiment in the consequences** of authoritarian populism. Some of these questions may seem too general to be useful, but some of the suggested answers are genuinely interesting.   While none provides a comprehensive theory, *cumulatively* they illuminate - and it seems useful to look for common themes:

For example, in his book **_The Age of Anger_**, Indian author **Pankaj Mishra** extends to the whole world an argument that Alexis de Tocqueville made in his classic *Democracy in America*. (Students of American history may recall that, in the early 1830s, the French government sent de Toqueville and Gustave de Beaumont to study the American prison system. The two instead chose – ambitiously! - to study *all of American society*.)

De Tocqueville saw dangers in the combination of three factors: the promise of *meritocracy*, cultural *uniformity*, and "equality of *conditions*". He predicted that unfulfilled promises could create social conditions for **unrestrained ambition, corrosive envy, and chronic dissatisfaction**. Liberated from old hierarchies, but with their quest for *equality* thwarted, people could rise "to the height of fury" and seek **the rule of a strongman**. De Tocqueville's prediction from two hundred years ago seems eerily prescient for the contemporary US:

"[They] "*want equality in freedom, and, if they cannot get it, they still want it in slavery*."

Mishra suggests that the "*rage for equality*" that de Tocqueville observed has spread around the world. When a *rage for equality* **combines with the** *pursuit of prosperity* **in a** *global consumer economy*, the result is a **psychological conflict** that **plays out as conflict in the public sphere**.

British sociologist and political writer **William Davies** makes a related argument in <u>*Nervous States*</u>, his study of "<u>how feelings came to reshape our world</u>". Davies examines the question of why contemporary politics in democratic systems seems to have become so fractious and warlike. He argues that the **internet** is a key factor: emotive falsehoods travel faster than accurate facts and statistics, and social media platforms such as Facebook and Twitter now enable emotive falsehoods to travel the world almost instantaneously. There is <u>direct financial gain</u> to be made from spreading these falsehoods, let alone from the global architecture of "*behavioural futures markets*" that fuels "<u>surveillance capitalism</u>".

Within this system, *political* entrepreneurs also harness negative emotions and instincts for their own ends. Establishment figures attack the system that nurtured them, claiming to be working in the interests of the victims of that system. A common technique of political entrepreneurs is "<u>**weaponisation**</u>", which **reframes potentially peaceful disputation as violent conflict**, applying the metaphor of "war" to other areas of society. The "war on drugs", "culture wars" and "information wars" dissolve the boundary between "civil" and "violent".

Davies argues that the internet has helped **bring this metaphor of warfare into civil society**, not just by accelerating the dissemination of emotive falsehoods, but through the *acceleration* of information flow more generally. "Real time" knowledge has become crucial to commercial success. Services are ever faster, but largely **outside the sphere of any collective decision-making**. Activity that relies on public agreement is sidelined, as are experts; being neutral and standing outside the fray counts for less once ideas have become "weaponised". **Social media algorithms** are programmed to **maximise the time people spent on their platform**, even if that means millions of people subscribing to conspiracy theories and being informed by misinformation. The UN Secretary General has called for an international response to this "<u>wildfire of hate speech</u>", which is contributing to the **corrosion of trust in the institutions that make up civil society**.

Davies emphasises that emotions - including anger - can be "*reasonable*". And they can be managed - when experienced and expressed in the right context. What the world now needs is not necessarily *more information*, but **less speed and more care - both in our thinking and our feeling**.

> Less speed and more care can be supported with systems and processes that allow for **emotions to be expressed safely – and for working relations then to be transformed from conflict to cooperation**. Restorative practitioners will recognise this formula….

Cooperation currently seems to be depleting most visibly, and conflict most inflamed, around issues of *demography*. Political scientist Eric Kaufman's study <u>*Whiteshift*</u> explores the ways in which demographic change is transforming western societies and politics. His study relates primarily to Europe and North America, but serves to illuminate some of the more disturbing elements in Australasian political discourse.

Kaufman counsels: (some) <u>white majorities feel threatened in an age of mass migration</u>, but <u>simply labelling this "racism" doesn't help</u>. Defending a decent political system requires that we understand the reasons for the current "populist blowback". Kaufmann argues for:

> …a **flexible political system** that **recognizes ethnic identities**
> without sacrificing the **foundational liberal values of freedom and tolerance**.

Kaufman argues that a key factor contributing to reactionary populism is a "demographic blind spot" in **theories of liberal democracy and civic nationalism**. Western political philosophy was conceived in the eighteenth and nineteenth centuries, at a time of relative ethnic and demographic stability. Within that political philosophy, the theory of **civic nationalism** describes an *inclusive nation defined on the basis of* political *principles*. *Civic nations* such as France formed out of a secure dynastic state. In contrast, nations such as Ireland or Germany had to define themselves *ethnically* in order to define the boundaries of their territorial claims. Either way, their civic nationalism included *longstanding ethnic minorities*. As late as 1900, less than 2% of West Europeans were foreign-born. In Kaufmann's formulation:

> **Western political philosophy** was conceived when **"*borders were insecure but populations were rooted.*"** In contrast, "*today, **borders are secure but populations are in flux**.*"

Kaufmann's detailed analysis of the European Social Survey and surveys of British Leave voters suggest that, even among those who vote for populist right-wing parties in Western Europe, only a very few (albeit often a very loud and aggressive few) believe that minorities cannot be true members of the nation, or want immigration altogether stopped. Public opinion research data indicates that much of the opposition to *immigration*, nonetheless, has a strong *cultural* element. Many people who define themselves as "white" are **uncomfortable with the wholesale transformation of their societies –** even when that transformation is occurring **over a timespan of several generations**. Labelling their "ethnic attachments" as "racist" is *not-quite-accurate* - and it may inadvertently be fostering the growth of extremist groups. (Of course, many of these groups are covertly supported by "state actors" with an interest in fostering political instability, especially in the European Union.)

Kaufman argues that, in the absence of civil discourse about an appropriate pace of ethnic change, and without mechanisms to express a sense of ethnic loss, people who define themselves as "white" may turn to *relatively* more "respectable" activities – such as casually demonising *all* Muslims, criticising other close-knit immigrant communities, or – in the British case - voting for Brexit. Kaufmann's analysis shows how David Cameron's spectacularly ill-considered referendum provided a platform for a significant proportion of the British population to translate *unease over ethnic change* into *anger at the European Union* – which seem sufficiently "white" to be rejected without claims of racism. After initial responses to Nigel Farrage's cry to "take back control", the actual costs of leaving the EU grew clearer to a growing number of those who voted for it:
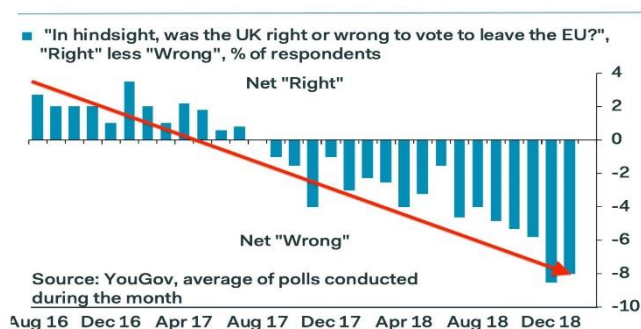
Meanwhile, "settler societies" such as New Zealand, Australia and Canada are still dealing with the bitter legacy of the colonial displacement of first nations people. And yet these societies, together with mainstream US democrats, handle some elements of demographic change *relatively* well. Their *relative* success raises a familiar question: **What "*glue makes the multicultural experiment work*"?**

Michael Ignatieff has been seeking to understand global patterns in the **cultural and political responses to rapid change**. Ignatieff, an academic, author, and former Canadian politician, more recently led the <u>Central European University</u> in Hungary – which is one of the European nations responding *least* constructively to demographic change. Ignatieff spent three years speaking in detail with residents of diverse communities in eight nations, including Brazil, South Africa, Zimbabwe, Japan, Myanmar, and the US West Coast. In his resulting book, <u>*The Ordinary Virtues*</u>, Ignatieff found that the people with whom he spoke were largely unmoved by the language of human rights and international law. That language is considered the discourse of states and liberal elites: "*Generalities about human obligations and moral reasoning mean little to [most people]: Context [is] all*." Ignatieff concludes that people don't necessarily share specific *values* as such. But most people *do* have a common commitment to "***virtue***" – which Ignatieff defines as "*acquired practical skills in moral conduct and discernment*".

> Most people can relate to the moral language of **everyday *virtues*:**
> **tolerance, forgiveness, trust, & resilience**.
> Virtue develops through life, as **a habit within communities**. It is at the heart of **local exchanges**.

Ordinary virtues are "anti-theoretical" and "anti-ideological". Tolerance, forgiveness, and trust are reserved for one's own group and denied to others. Virtue favours the local over the universal, "*family and friends over strangers and other citizens*". As a result, **when order breaks down and conflicts break out, *ordinary virtues are easily exploited for a politics of fear and exclusion*.** And yet:

> *…harnessing ordinary virtues* may also work to **support healing, reconciliation, and solidarity -** on a **local -** and *perhaps gradually* also on a **national-**, even **global scale.**

There are, of course, many examples of **programs that harness - and strengthen - ordinary virtues**. One well-publicised example is <u>Planet Youth</u>, Iceland's <u>Model for Primary Prevention of Substance Use</u>. It has recently been <u>receiving positive coverage</u> precisely because it has been overtly conceptualised as a model for "**exporting Scandinavian social policy**", and formulated to be **replicated** in other regions. <u>Planet Youth</u> is described as a theory-based approach that has been strikingly successful over the last two decades at reducing substance use – most obviously binge drinking:
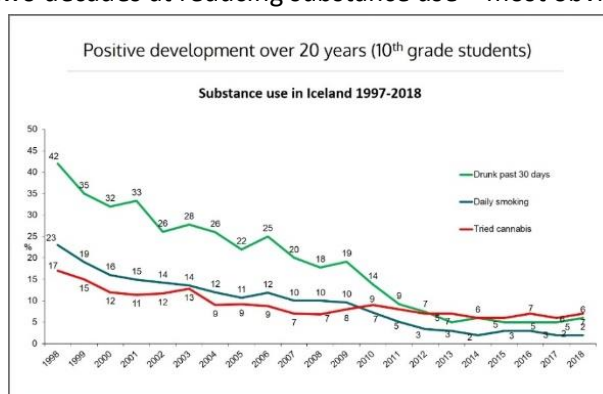
The Planet Youth program is based on **five guiding principles**. The fifth and final of these principles is to (*v*) **match the scope of the solution to the scope of the problem**. This includes emphasising *long-term intervention* (i.e. primary prevention) and marshalling *adequate community resources*. The other four principles also sound logical enough: (*i*) primary prevention should **enhance the *social environment***, and emphasise community action.   Primary prevention to improve the social environment for young people works best when (*ii*) community action embraces ***public schools as a natural hub*** for efforts to support the wellbeing of children and adolescents, (*iii*) ***community members are engaged and *empowered to make practical decisions***, using local, high-quality, accessible data and diagnostics, and (*iv*) this *connection between knowledge and action* should be supported by an **integrated team** of researchers, policy makers, practitioners, and community members who work together to solve complex, real-world problems. The end result, as testimonials attest, is "a <u>healthier, more capable and active generation</u>".

This result is ***not* achieved by exhorting individuals** to *have a go so they'll get a go*. It is achieved mainly through **coordinated local efforts that create and sustain a *social environment*** in which:
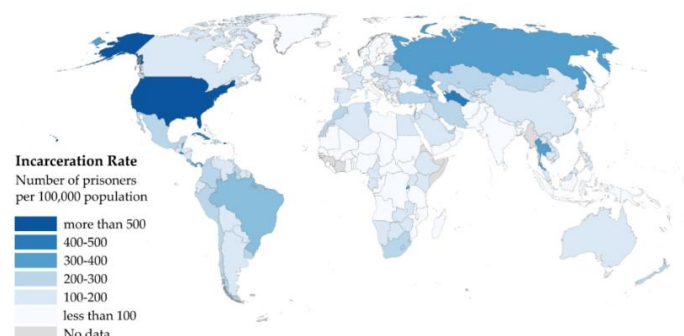
- young people have available to them a *wide range of well-organised sport and other activities*;
- there is *good co-operation with, and support for, parents* (including parental training courses); and
- *systems for managing relationships* are implemented across home, school and other areas of organised activity, such that young people relate well to each other, and to the adults in their lives.

In a safe and supportive social environment, young people become progressively less likely to engage in destructive behaviours, including substance use.   Again, that all sounds obvious enough: it is *good* sense – and it would be good if that sense were more *common*.

> This "Scandinavian approach" to reducing harmful behaviours by young people supports and coordinates a **proactive re-setting of relationships in local communities**. The main *emphasis* of this approach is **primary prevention**: focusing on a whole population and changing the social and physical environment.
>
> A related approach, which is currently being more actively promoted in Australia, is the movement for "**justice reinvestment**". Its main *emphases* are the **secondary prevention** of minimising harm by identifying problems early among *at-risk groups*, and the "**tertiary prevention**" of focusing on *affected groups* to prevent problems from growing worse.

Justice reinvestment was conceived in the United States, in part to address the crippling *fiscal effects* of the <u>world's highest per capita incarceration rate</u>:

Incarceration Rate
Number of prisoners
per 100,000 population

- more than 500
- 400-500
- 300-400
- 200-300
- 100-200
- less than 100
- No data

Justice Reinvestment is now being spoken of with enthusiasm in other Anglophone countries, including Australia. Melbourne-based legal advocacy group Youth Law has developed an overview of justice reinvestment policies. Youth Law's *Lessons from the States report* outlines 6 recommendations for jurisdictions trying to implement justice reinvestment policies. In the United States, the justice reinvestment programs are coordinated by the national not-for-profit Council of State Governments Justice Center. The report provides examples from six large US jurisdictions such as Texas, Kansas, Washington DC, and New York.

The US examples addressed both public safety and fiscal challenges with evidence-based and data-driven policies. The **United Kingdom** also provides examples of successful pilots – but also then the familiar finding that local agencies lack incentives to invest in substantially changing business-as-usual. New Zealand's ambitious 10 year Youth Crime Action Plan focuses on the over-representation of Maoris in the justice system. The United Nations has called on the Australian Federal Government to make addressing rates of Indigenous incarceration a "national priority". It's again at the local level where some success is finally being found.

The far-western NSW town of **Bourke** has, in recent times, been routinely cited as the Australian demonstration project for "Justice Reinvestment" redirecting into carefully targeted community services money which would otherwise be spent on incarceration. The Australia institute of Criminology published the report *Justice reinvestment in Australia: A review of the literature* in 2018.

The authors describe **justice reinvestment** (JR) as "*a data-driven approach to reducing criminal justice system expenditure and improving criminal justice system outcomes through reductions in imprisonment and offending. [It is a] comprehensive strategy that employs targeted, evidence-based interventions to achieve cost savings that can be reinvested to further improve social and criminal justice outcomes.*" They argue that "*while JR faces some challenges in Australia, it also offers substantial potential to improve justice system outcomes.*" However, they see an **essential connection with Restorative Justice**, which they describe as "*a social, community-based approach to criminal justice that responds to the needs of the victim as well as the needs of the offender, resulting in justice becoming as much about the advancement of social relations as it is about crime reduction.*" Towards the end of the report [p.45], they cite approvingly an argument that:

> "**Without adopting the logic of restorative justice** and situating itself in this wider,
> possibly more radical framework, **Justice Reinvestment simply does not make sense**."

This links with our earlier observation about the need to **distinguish restorative *justice* from restorative *practices* – and then integrate the two approaches**. An integrated approach provides mechanisms for linking **primary prevention in communities** with approaches that focus more on **secondary and tertiary prevention**.

And this brings us back to **what Victoria is getting right** – *and* **what Victoria and other Australian jurisdictions** might yet **learn from each other.** Victoria indeed remains *Australia's most progressive state* with regard to **the proportion of young people sent to juvenile detention.** On an **average day across Australia** in 2017/18, just below **21 per 10 000** young people were under **some form of youth**

justice supervision. Slightly more than 1 000 young Victorians aged 10 to 17 were being supervised by youth justice on an average day. At **12 per 10 000**, this *is* less than any other state:

Victoria	12
South Australia	15
NSW	17
Tasmania	22
ACT	26
Western Australia	29
Queensland	30
Northern Territory	**59**

The total of 5 513 young people **(21 per 10 000)** under some form of **youth justice supervision** on an <u>**average day around Australia**</u> during 2017/18 consisted of **4 568 (17 per 10 000)** in **community supervision**, and **974 (4 per 10 000) in detention**.

Types of youth justice supervision

	Community-based	Detention
Unsentenced **supervision**	Home detention bail: supervised or conditional bail	Remanded in custody (police or court referred)
Sentenced supervision	Parole or supervised release, probation or similar Suspended detention	Sentenced to detention

The national average of **young people** under the age of 18 held **in detention** *at some stage during the year* was just over **19 per 10 000**. This includes an alarming number of around 600 children **under the age of 14** placed in detention in Australia. Again, there is a striking difference between the jurisdictions:

Victoria	9
Tasmania	10
South Australia	20
NSW	20
Queensland	21
ACT	30
Western Australia	33
Northern Territory	**77**

The single **biggest predictor of *reoffending* is being send to youth detention**. Aboriginal people are particularly affected by this phenomenon. The massive overrepresentation of First Nations within the criminal justice system remains a national (and international) phenomenon. In **Victoria**, **Aboriginal people** are <u>**12 times more likely**</u> <u>than non-Indigenous people</u> to be placed in an adult prison. A <u>report released in late 2019</u> described a similar situation in neighbouring **New South Wales, where** 40% of children in the state's child protection system are Aboriginal, although Aboriginal children constitute only 5% of the state's young people.

The review found child protection workers operating in a "closed system" that lacks transparency and an effective regulator, and provides little opportunity for genuine consultation with Aboriginal communities. Workers then often take the most traumatic option of removing Aboriginal children from their family.

Systemic factors in child protection and in justice then compound. **Australia retains one of the lowest ages of criminal responsibility in the world**: children as young as ten can be charged with criminal offences. These arrangements are often the lingering consequences of some earlier, possibly well-intentioned reform. For example, Victoria's *Children and Young Persons Act 1989* **separated child protection matters from criminal custodial matters** by establishing different divisions in the Children's Court.   The term "*children in need of protection*" replaced the 1887 *Neglected Children's Act's* "*ward of state*" and the 1960 *Social Welfare Act's* "*trainee*".

Children and young people involved with child protection, and young people who have been sentenced, have since **all** been classified *de jure* as "**clients**". But the growing numbers of "*children known to both the youth justice and child protection systems*" have become widely referred to *de facto* as "**crossover kids**". In mid-2019, Victoria's Sentencing Advisory Council released a report into these "*crossover kids*".   It analyses the state's ongoing failure to adequately address the causes and consequences of trauma associated with childhood abuse and neglect. A disproportionate number of young people who have been removed from their families are subsequently steered into the criminal justice system.

Young people are **punished again by the state for having earlier been abused in childhood**. A sadly familiar *systemic* logic is again at work. If the state understands its job as *doing things to or for* people, workers are blamed when an intervention is perceived to have failed. Their rational choice for workers is to **avoid risk** in the short-term. To *manage* risk in the short-, medium- and longer term requires **effective mechanisms** for *working with* the affected individuals and their communities.

When, the Victorian Minister Ben Carroll took responsibility for the Omnibus portfolio of **Crime Prevention, Youth Justice, Victim Services and Corrections** in early 2019, he declared that he intended to address these systemic problems, and return Victoria to some sort of national leadership in youth justice. [He had indeed made significant progress when moved from this portfolio in a June 2020 Cabinet reshuffle.] To prevent **young people from being punished by the state for having been abused in childhood** requires a *systemic* **therapeutic** approach.

A **longer-term approach** to the way government engages with communities aligns with the new Attorney General's ten-year *Justice Strategy* – even as *all* of Australia's Attorney's General address the need to **raise the age of criminal responsibility**. Meanwhile, though, Minister Carroll's office was obliged, for much of 2019, to focus on inherited *issues in the custodial system.* A planned new youth justice facility at Cherry Creek on Melbourne's Western edge has been reduced in size, and will officially have a more therapeutic approach, with an intensive therapeutic unit, more mental health beds, and a clearer focus on the remand population. The youth justice centre in Malmsbury will actually operate as recommended by the *Youth Justice Review*, preparing young men deemed "lower risk" for independence and job readiness – and with staff skilled in restorative practices.

The so-called **dual track system** allows young people between the ages of 18 and 20 to serve their sentences in youth detention. Influential NGO Jesuit Social Services (JSS) is advocating that the age of eligibility for dual track be expanded to 24.

A new Victorian *Youth Justice Act* is scheduled to be introduced in late 2020 or early 2021. A coalition of agencies working in the area advocate for a *whole of government* approach, with consistency across health, education, justice and child protection – as the state's Ombudsman had recommended as far back 2016. This is particularly relevant for those four out of five young people currently released into the community after arrest (which is close to the national average). Recurring themes are the need to increase **individual skills**, create **community connections**, and **coordinate services**.

The state government is supporting young people who are at risk of further justice system involvement to find work on major transport and infrastructure projects, supporting those released from custody to find job opportunities with social enterprises, and providing a residential diversion program for Aboriginal male offenders.

On this particular issue, a plethora of reports dating back to the 1987-1991 Royal Commission into Aboriginal Deaths in Custody and 1997 *Bringing them Home* report recommend that the legal system be made less alienating for Aboriginal people who have offended and their communities-of-care. Consistent with these recommendations, the Victorian government is expanding the Koori Court across the state. The initiative to expand the Koori Courts was given impetus when the Supreme Court ruled in September 2018 that a magistrate had acted unlawfully in not allowing a Yorta Yorta man, who had pleaded guilty to various traffic offences, to be transferred for sentencing from Echuca to the closest specialist Koori Court in Shepparton. Justice Timothy Ginnane ruled that courts must consider the distinct cultural rights of Aboriginal people under the Victorian Charter of Human Rights.

In a Koori Court, the magistrate sits with participants at a large table, and talks in "plain" rather than technical legal language with the defendant and their family. Observers have noted that this approach could be applied to court proceedings in other situations. As Ogloff and Armytage noted in 2017, the potential of restorative justice remains largely unrealised, particularly when considering the role of *victims and community satisfaction with justice.* There will likely be significant dialogue over the next several years between the *therapeutic justice* of Koori Courts and programs using *restorative justice* processes, about how to increase the sense of procedural justice for *all* involved.

Of course, reform efforts focussed on legal and administrative change are necessary but not sufficient. Minister Carroll seemed to agree with advocates in seeing the Justice Reinvestment project in Bourke, Western NSW, as an example of long term "**place-based investment**" and "**wrap-around services**". Back in 2013, the *Sydney Morning Herald* described Bourke, with some hyperbole, as the most unsafe, most violent place in the world. Since that time, the town has experienced a marked reduction in the number of reported major offences, of assaults (both non-domestic and domestic violence-related), people proceeded against for drug and driving offences and a striking 72% reduction in *youth* traffic offences. One factor contributed significantly to this last statistic. In a small, simple but apparently radical "local place-based approach", Bourke police have been supporting young people to gain their driver's licence. The cumulative impact of multiple pragmatic shifts from punishing to supporting is a

community that can provide long-term "wrap-around" support from "**cradle to college**". Meanwhile, some postcodes continue to feed the **school-to-prison pipeline.**

South Australia has a rate of prisoner reoffending at more than 40%, much the same as other jurisdictions. The State Government, seeking to decrease that statistic by at least 10%, has introduced *Work Ready, Release Ready* in several prisons. The program, currently funded until 2022, guides inmates to post-release employment. They are assigned to a mentor, develop an employment plan, are supported to achieve the requisite skills, and are provided ongoing support immediately after release. More than 95% of eligible inmates are joining voluntarily.

ABC regional radio reported on the sense of hope that this program has created within Cadell, a low-security prison north-east of Adelaide, and now "one of Australia's "most productive prisons" - where the program is turning inmates' lives around inside. Prison manager David Oates notes:

> "One of the problems with reoffending, why people come back [to prison], is that they have unstable work and they have unstable accommodation… The prisoners are very, very keen on [the Work Ready, Release Ready skills training program] and we're having some excellent responses from prospective employers ".

The prison boundary is a wire fence surrounding citrus and olive groves and a dairy farm. Inmates working in these prison industries, and who will now have a chance at a job on release, note:

> "You get to achieve things that you normally wouldn't on the outside. It's just extra skills for when you [look] for work opportunities. […] If you get out and go straight into work, you're not going to go and do crime, are you? Because you've got money."

Source: ABC Riverland

> "I've always felt that there needs to be an ongoing support service for people that come to jail, and I just feel that up until [now] it hasn't really been there. So I suppose for the first time in my experience I actually feel very confident that what I've done here and how I've been treated … I can get out and make good positive choices with my life and hopefully never come back."

> "It really makes you reflect on things and therefore we put in more effort [into prison work opportunities] because we want to come out not bitter and twisted, but whole".

Program manager Melissa Buttery from Workskill Australia notes that mentors have to convince prospective employers:

> "*Prisoners are so grateful to be given a second chance.* [...] *There's one employer we're working with at the moment that we've strongly advocated for someone to get a job with, and the feedback from that employer is that 'He beats us to work every day'.*"

Interestingly, these examples echo **lessons from colonial history**. Tasmanian Governor and Professor Emeritus of Law Kate Warner argued in her 2019 John West Memorial lecture that Australia's <u>modern prisons might "learn something from the convicts"</u>. Historian <u>John Hirst</u> made this argument convincingly in C*onvict Society and Its* Enemies and *The Strange Birth of Colonial Democracy:* for all their flaws, colonial legal frameworks, including the <u>ticket of leave system</u>, and related social customs did enable some surprisingly effective social reintegration.

JUSTICE SYSTEM REFORM POSSIBILITIES

In contemporary justice systems, effective arrangements for transition and reintegration can be made in structured, facilitated meetings that bring together the social network from a community to which a person will be returning, and plan for their return. Effective pre-release planning completes the list of **areas of the justice system that benefit from restorative principles, programs and processes**:

JUSTICE SYSTEM REFORM POSSIBILITIES
DIVERSION
SENTENCING- SUPPORT
MONITORING
POST-SENTENCE
YOUTH DETENTION & PRISON GOVERNANCE
PRE-RELEASE

In fact, there is a much broader need for support for **transition from institutions** more generally. For example, the Australian Defence Force and government veteran agencies are currently being urged to reform current discharge processes and transition support. An <u>estimated *5,800 defence veterans are currently homeless in Australia,*</u> and <u>defence veterans are twice as likely as the rest of the population to be sentenced to prison.</u>

> *A lot of Australian soldiers [...] are lost. You think you're a civilian but you're not, you never will be [...] Even three years' service in the army will change you forever.*

<u>English research</u> has found **peer support** helps service men transition into civilian life. In the absence of effective transition support, some veterans seek to regain the lost sense of "brotherhood" by joining criminal organisations. Some then eventually do receive peer support: in prison and through correctional services and affiliated <u>welfare organisation</u>s. Effective transition planning could enable the peer support and informal networks to help veterans retain identity and purpose form the outset.

There are generally lessons to be learned from programs that **get it right**. It's often more obvious, and more overtly dramatic, when institutions get it **strikingly wrong**. One may have to look harder for the *constructive* lessons from failure. And yet there *are* sometimes lessons to be found in apparent

failure. The 2016 ABC *Four Corners* exposé of the Northern Territory's **Don Dale youth detention centre** burned an image of spit hoods into the consciousness of many Australians. A Queensland sequel featured suicide smocks, but with the same post-colonial reality of Aboriginal over-representation in the justice system.

In his May 2019 episode of *Four Corners*, ABC investigative reporter Mark Willacy examined a significant problem as Queensland's youth justice system deals with the growing population of young people in detention: **children as young as 10 being held in police station cells** on the grounds that there was nowhere else to place them. The practice may breach Queensland's *own*, recently enacted, human rights legislation, which codifies "the right to humane treatment in detention", and **Amnesty International's warning** that the **overcrowding in Queensland youth detention centres** was approaching **"a human rights crisis"**. The State Ombudsman had already recommended ways to address deficiencies in the management of Brisbane Youth Detention Centre, criticising the practice of isolating detainees, in the aftermath of a riot, in "admission rooms" without temperature control, adequate ventilation, beds, bathrooms or running water. Queensland's Family and Child Commission and Anti-Discrimination Commissioner had also raised concerns. When Public Guardian Natalie Siegel-Brown's efforts to achieve reform through official channels were frustrated, she worked with senior police officers to grant ABC access to Brisbane City Watch House. Ministers denied prior knowledge of the worst cases, and promised a departmental investigation into "new allegations". The Minister for Child Protection and Youth Justice, Dianne **Farmer,** emphasised her commitment:

> "*to keeping our communities safe and [...] changing the life trajectories of the young people in our justice system. [...] In order to do this, we must break the cycle of offending and reoffending*."

Nonetheless, and certainly not for the first time, *Four Corners* then prompted significant changes to the machinery of government in Queensland. Within the week, Premier Annastacia Palaszczuk had centralised responsibility for youth justice, establishing a stand-alone Department of Youth Justice, headed by Queensland Police Deputy Commissioner Bob Gee:

> "*These issues cross a number of government responsibilities: police, courts, child safety and education. I want one person with one job: to co-ordinate and see these programs delivered. [Bob] Gee has led efforts to reform cross-sector service delivery for many years, with a strong focus on prevention and engagement.*

Willacy suggested that the main issues had been failure to plan ahead *and* apparent community attitudes. He was struck by a widespread failure to understand that "*the issue is not about whether these kids should be put in detention, it's about* where *they are put in detention*". That misunderstanding seemed related to a common view on social media that the "*kids are animals and deserve everything they get*". A thoughtful analysis of the whole affair concluded that, while it is appropriate that politicians are responsive to community attitudes, they must also decide **when to lead rather than follow**.

In early 2020, with a state election due later in the year, Premier Palaszczuk felt obliged to follow, announcing a new "hard line on youth crime". "*Tougher action on bail*" would keep more children on remand, and there would be a "*police blitz*" to appeal court decisions, resulting in more children in detention. "*These are changes our MPs in Cairns, Townsville, Rockhampton and the Gold Coast have advocated and the government has acted.*" And yet all may not be as it seems. In earlier statements on reform, the Premier acknowledged the *public servants who have worked for years to achieve better outcomes for youth offenders*.

That work continues, quietly but effectively, behind the scenes and despite the rhetoric. Predecessor Premier Campbell Newman's one-term government had abolished court-referred group conferencing with the familiar ideological enthusiasm for retribution. The Palaszczuk government restored and expanded that restorative program as part of a broader reform agenda. Importantly, some of the public servants responsible for that restoration are continuing that trajectory, with a quiet but impactful reform initiative to **embed restorative practices** in the culture of the state's two **youth detention centres**. An internal (and again yet-to-be-released) report shows a remarkable drop in incidents within the centres, and an enduring positive impact on young people after release – in other words, a similar **impact on wellbeing** as produced by restorative practices in schools.

This important initiative within Queensland's youth detention centres is consistent with recommendations from a host of youth justice-related reports on the whole system, local solutions, and community approaches. And reorganising Queensland's youth justice bureaucracy was probably a better use of resources than commissioning another report or Royal Commission – and particularly when the neighbouring Northern Territory had just concluded a Royal Commission on the very same topics.

Mick Gooda, who co-chaired the _Royal Commission on the Protection and Detention of Children in the Northern Territory_, has noted the dangers of an "**inquiry mentality**". He quotes Commission Senior Counsel, Peter Callaghan SC, who warned at the start of hearings against the common tendency for:

> _"investigation [to be] allowed as a **substitute for action** and_
> _reporting [to be] accepted as **a replacement for results**."_

The Commissioners considered the **more than 50 inquiries, reviews and reports** that already covered most of the areas their _Royal Commission_ was examining with regard to child protection and youth detention. Sadly, predictably, very few of these recommendations had been fully implemented. Most of the earlier reports lacked **mechanisms for involving Aboriginal communities** in the work of implementing their recommendations. Commissioner Gooda and colleagues have urged an intense effort to engage Northern Territorians _at the community level_ to participate in decision-making, but also because "_only the power of community will keep governments accountable_". Their exhortation for **community-level decision-making** begs the usual question: _Yes, but how_?

BROADER SYSTEMIC REFORM POSSIBILITIES

The November 2017 Northern Territory _Royal Commission_ report answered by recommending **a range of facilitated processes**. The Commissioners identified a need for some coordinated process for _community engagement_; a facilitated process for _case management_ and for _bail support planning_; group conferencing in police _and_ community-run _diversion_ programs, and in _court-referred pre-sentencing_ programs; facilitated decision-making around _care and protection of children_, _care plans_ for children, and _transition plans_ and _carers' forums_; and integrated programs of _relationship management in out-of-home care_, for young people in _care & detention_. In short, these are many of the **areas _beyond_ the justice system** that can benefit from restorative principles, programs _and_ processes:

BROADER SYSTEMIC REFORM POSSIBILITIES

FAMILIES
SCHOOLS
HEALTH
RESIDENTIAL CARE
SUPPORTED ACCOMMODATION
SOCIAL HOUSING
COMMUNITY ORGANISATIONS
WORKPLACES

Royal Commissions are often established in response to disasters or policy and program failures. They use an investigatory approach, with **adversarial questioning** that can help identify **individual and organisational wrongdoing or failure**. But a Royal Commission may not be the best mechanism for developing **policy advice** to government, especially concerning complex systems. The work of **investigating** should, in many cases, be clearly distinguished from **formulating policy advice**, and that advice, in turn, should be distinguished from **policy implementation**, and from implementation **review**. In early 2020, after the annual _Closing the Gap_ report revealed familiar chasms between

aspiration and outcome in the well-being of many Aboriginal communities, the Prime Minister announced that a "government-knows-best" approach was not working. This echoed a similar awakening on the part of his immediate processor. As the 2017 NT *Royal Commission* urged, constructive change requires **mechanisms for working *with* community members** - across all the areas in which government otherwise continues to "know best" and do things *to or for* people.

Of course, many other major reports, Taskforces and Royal Commissions had made much the same point about changing some basic mechanisms of governance. Some of the recent inquires addressed the way in which **organisations have mistreated their own people**. When a person experiences abuse from a member of their own family, the enduring impact is now known as "**betrayal trauma**". And betrayal trauma can result from abuse within an "*artificial family*": **an organisation with a strong sense of membership** &/or belonging.

Military forces are licensed by the state to do things *to* people (usually in international engagements). *Police services* are licensed by the state to do things *to* people - and also for them (domestically, in the interest of public order). Organisational uniforms indicate that members belong to a "*corps*" with special powers. However, powers can be misused - and are sometimes misused against fellow members. Vigilance, in the context of strong governance and a supportive culture, minimise that risk.

Some pioneering work to address the **betrayal trauma** caused within **"uniformed organisations"** is having much further-reaching impact than was originally foreseen. Between 2013 and 2016, Australia's **Defence Abuse Response Taskforce** (DART) addressed the betrayal trauma experienced by several thousand former members the Australian Defence Force (ADF). (A small number of still-serving members were also "complainants".) The Taskforce offered a "**redress package**" to people who experienced abuse in this institutional context. The package contained three elements: (i) additional counselling, (ii) a reparation payment, and (iii) a "**restorative engagement conference**".

Two points about this innovation are particularly worth noting here. One concerns a **process**; the other the **program** – the **administrative architecture** of the Taskforce. These two points are linked. Much public and media discourse about schemes that seek some form of *truth and reconciliation* continues to focus on **money**. This touches on the deep question of *the value of a life*. There is common sense of ***un*fairness - *both*** procedural- and substantive ***un*fairness** - when institutions are required to assess the value of a life. A key **program** innovation in the DART was to keep the administration of any reparation *payment* **quite separate** from arranging support for therapeutic *counselling*, and to keep these separate from the administration and facilitation of the innovative process of restorative **engagement**.

A **restorative engagement conference** is a meeting between a person who has experienced abuse, usually accompanied by a supporter, and a senior manager of the organisation. The single most common motive for requesting restorative engagement is to help ensure that *what happened to me doesn't happen to someone else*. The essential pact is: *I'll relate my experience to you, so that you can take the lessons and use those lessons to promote greater vigilance, stronger governance and a more supportive culture*. The format of the group conference was adapted to ensure that these encounters unfold as constructively as all parties had hoped.

Consistent feedback from the more than 600 restorative engagement conferences convened by the Taskforce between late 2013 and early 2016 was that these encounters provided profound lessons for senior management, while assisting recovery from trauma for those sharing their experience. Indeed, the restorative engagement program was judged to be such a successful element of the Taskforce that it was re-established, and continues under the _aegis_ of the Commonwealth Ombudsman.

In early 2016, as the DART was concluding, the Royal Commission into Institutional Response to Child Sexual Abuse was also coming to a close. The Commission had examined the harrowing experiences of young people who experienced abuse in "**closed** institutions**"** (such as orphanages or detention centres) and/or in "**open** institutions" – such as schools, churches, sporting organisations, and the like. The Commissioners recommended a **National Redress Scheme** for all those affected, and recommended that Scheme provide the same three elements provided by the DART: (i) counselling, (ii) reparation, and the option of what was renamed (iii) a "**Direct Personal Response**" [DPR] meeting.

The National Redress Scheme has presented a significant administrative challenge - and an opportunity. The Defence Abuse Response Taskforce was centrally located in the Commonwealth Attorney General's Department in Canberra, and has been internationally recognised as a model of competent and effective administration. The National Redress Scheme is attempting to produce a variant of the DART program, but with **administrative arrangements _decentralised_** across:

- two Commonwealth Departments, one responsible for policy, another for implementation;
- a designated _coordinating_ department in each state and Territory;
- other participating state and Territory departments; plus
- a plethora of Non-Government institutions and Agencies.

The Scheme is set to continue for a total of ten years. Requiring that two Commonwealth Departments coordinate the one Scheme led to entirely predictable delays for its first eighteen month. The ill-advised arrangement was changed in 2020. The work of coordinating State and Territory departments, let alone hundreds of Non-Government institutions, presents daunting administrative and cultural challenges. However, as institutions join the scheme, their representatives are engaging in deep discussions about governance and culture – and are sharing examples of good practice.

There is an ongoing program of **induction sessions** for those senior managers who will represent their organisation in a DPR, and there are **community of practice forums** for professionals involved in administering the program and facilitating a Direct Personal Response meeting. NGOs are not legally required to engage a skilled facilitator to prepare and convenor a Direct Personal Response (DPR). Increasingly, however, their senior managers are realising just how important it is to run these meetings well, how much skill is required to facilitate these meetings, and that a national panel of facilitators is now available to do this work. At the heart of these discussions is not just the process of _Restorative Engagement / Direct Personal Response_, and the associated administrative arrangements, but also the **familiar foundational principles**:

> **Do no further harm**, but then also realise opportunities to repair harm, to prevent further harm, and to promote flourishing – by **working _with_ people** to **set relations right**.

Police services are also drawing lessons from these reforms. For example, back in 2015, Victoria's Human Rights and Equal Opportunity Commission released the first of three reports of an _Independent Review into sex discrimination and sexual harassment, including predatory behaviour, in Victoria Police_. Senior managers have since done a great deal of focussed work to address the way police deal with each other – and to prevent unacceptable behaviour towards fellow members of the Victoria Police "family".

In addition to improvements to governance and training, the Department of Justice has now established a <u>restorative engagement and redress scheme</u>. The Scheme offers past and still-serving members of Victoria Police who have experienced betrayal trauma the option of restorative engagement. They can elect to relate their experience to a senior manager, who can choose to take the lessons of that experience, and use them to increase vigilance, strengthen governance, and promote a more supportive culture within the police family.

Meanwhile, **police** remain central in efforts to **reduce abuse** within _actual_ **families**. Australian police deal with around **a quarter of a million cases of family violence every year**– responding to an incident _every two minutes_. An estimated one-in-four Australian women has experienced violence from a man with whom she had an intimate relationship. This unacceptable situation is routinely referred to as a "**national emergency**". And yet a key response remains <u>promoting gender equality and "shifting attitudes"</u>.

Shifting community attitudes is a primary prevention plan. Even if eventually successful, it will require a generation or more to achieve the desired outcomes. The COVID-19 pandemic intensified the sense of urgency around this issue, with <u>indicators of family violence increasing as predicted</u>, and highlighting significant remaining gaps between long-term _primary_ prevention policies and swift _tertiary_ intervention tactics. As in so many other areas of social policy, there is still a "**missing middle**" in responses to domestic violence: effective interventions that **provide safety**, but also **manage complexity**.

To answer the question of what this missing middle might look like, Victoria's _Royal Commission into Family Violence_ gave careful consideration to <u>programs in other jurisdictions</u> that have used restorative approaches to address this challenge.   The Commissioners recommended the use of restorative justice group conferencing to address both adolescent and adult family violence. The recommended family violence restorative justice program to address cases involving adult perpetrators was still being established as of mid-2020. But a number of pilot programs had since made progress addressing cases involving **adolescent family violence in Victoria.**

> So how do effective responses to **family violence perpetrated by young people** actually work? And can elements of these effective responses be extended to cases involving
> **adults who perpetrate violence** against family members?

The Royal Commission noted that **around 1 in 10 incidents reported to police involved adolescent perpetrators**. This was consistent with earlier findings by, for example, the _Third Action Plan of the National Plan to Reduce Violence Against Women and Their Children_ and a <u>BOCSAR study</u>.   Inquiries and reports continue to stress the need to <u>intervene early</u> to address adolescent family violence.

A 2020 Australian Institute of Criminology study of **repeat domestic and family violence among young people** found that first responder agencies lack sufficient accurate information about the timing of recidivism to target resources effectively at the highest risk offenders and victims. Victoria Police reported incident data reveals that one in four young people who are involved in domestic and/or family violence were involved in repeat violence *within six months*. The highest risk occurs at around one month. The likelihood of repeat incidents of violence increases significantly with every new event. No officers of our acquaintance are surprised by these findings, which highlight the need for "*timely, targeted and graduated responses to domestic and family violence among young people*".

As it happens, the Association for Restorative Justice addressed precisely these issues in an **innovation in restorative practice forum**, which was convened back in November 2018. This was the last such forum we hosted while still the *Victorian* Association.

The three keynote speakers discussed innovations in addressing **adolescent violence in the home**. The scepticism in Australia and elsewhere about offering restorative processes in adolescent and adult family violence cases was transforming into growing dialogue among experienced practitioners about how programs and processes can accommodate victims' needs and address the harm being caused in *family systems*. Small-scale pilot projects have demonstrated effectiveness. Next steps are to provide adequate and longer-term funding to such projects, and for them to be evaluated by researchers who actually understand restorative practices.

EFFECTIVE RESPONSES TO FAMILY VIOLENCE

Heather Page, from the **ACT's Restorative Justice Unit**, explained **the extension of the ACT Restorative Justice Scheme to dealing with family violence**.

As described above, the *ACT Crimes (Restorative Justice) Act* allows for offences to be referred to a restorative process at several stages of the justice process. The Restorative Justice Unit (RJU) has been providing a victim-centred restorative response in the ACT since 2005, enabling the people most directly *affected* by a crime to be *directly involved in addressing* the consequent harm. **Phase 3** of the Scheme commenced in November 2018, permitting magistrates to refer *all* types of Territory offences to the Restorative Justice Unit - including **sexual and family violence offences**. But for several years in advance of that change, the Unit was working to address the range of understandable concerns around the use of restorative justice in family violence matters. Restorative Justice Unit convenors developed detailed guidelines and skills for managing this type of offence, and established service provision agreements with educational and therapeutic service providers.

Participation in a group conference for the person responsible for the harm and the person harmed may be considered by the court, and there is also the possibility to seek referral for the case at a later stage. Key elements of the program include that: participation is **voluntary**, and an intervention can only proceed after the **person responsible** has demonstrated willingness to **accept responsibility** for the harm, to be actively involved in **making amends**, and to work on **behavioural change**. Convenors work with the person or people harmed to addresses their individual interests and needs through an appropriately structured group conference, or series of group conferences.

Phase 3 of the ACT scheme had only just commenced in late 2018, so it was still unclear at that time how many family violence cases might be referred to the RJU. But within a year of Phase 3 commencing, it had become clear that **demand was more than three-times higher than initially predicted**. Some cases indeed involved *Adolescent* Family Violence. But a broader range of family violence cases types have been addressed, including adult children using violence against parents, parents using violence against their adult children, and intimate partner violence.

A clear, consistent message in these cases is: "*The violence* must *end - but we don't necessarily wish to end the family*."

Brigid Henley from Jesuit Social Services (JSS) then described a pilot **Adolescent Family Violence Intervention Program** in Victoria called **RESTORE**.

Jesuit Social Services has been developing and delivering restorative justice programs for the best part of two decades, including facilitating Youth Justice Group Conferencing for the criminal division of the Melbourne Children's Court, and in three locations in the Northern Territory. In these programs, young people aged 10-17 who have plead or been found guilty by the Court engage in a restorative justice conference that produces an outcome plan, which the Magistrate ratifies, and which JJS supports the parties to implement.

The Melbourne Children's Court had already identified a lack of options for cases involving young people as respondents in Family Violence Intervention Order (FVIOs) cases. In August 2018, Jesuit Social Services begun the program **RESTORE**, a restorative justice pilot to address adolescent family violence. The program has been developed in partnership with the Melbourne Children's Court. A young person *is not* required to have made admissions in relation to perpetrating family violence in order to be eligible for the program. A young person is **eligible** for **RESTORE** if they:

- are the respondent in an application for a Family Violence Intervention Order (FVIO) before the Children's Court, for having used violence towards a parent/care-giver and/or sibling(s);
- are either currently residing in the family home, or may possibly return home;
- have *not* engaged in sex-offending behaviour with family members;
- have agreed, together with affected family member(s), to participate in the group conferencing process, and have provided consent;
- have been found by the court to be "suitable" to participate;
- had their case referred onto the program by the presiding Magistrate.

JSS launched a number of related programs around this time. A **Men's Project**, which was launched in late 2017, focuses on: (i) positive social change; (ii) wellbeing and relationships; (iii) reducing violence. The **Starting Over** adolescent family violence pilot program was established in the Western Sydney region in 2018. Its focus was work within the community (rather than receiving cases referred from the court). The program offered an early intervention restorative group conference process tailored to the needs of the young person and family members. Dialogue between colleagues across these programs has helped them more rapidly to refine guidelines for **RESTORE,** ensuring that the program delivers a ***developmental age appropriate response***, which is also ***trauma informed***. Program staff *work with* all participants, supporting them to prepare for, and engage effectively in, group conference meetings. The work is understood to be with individuals *and with the family system.* The efforts of professional services are coordinated to ensure they work as effectively as possible to assist recovery and healing.

Since late 2018, the Restore program has intervened effectively in a sufficient number of cases to draft **a *manual* for facilitators**, articulating guidelines on how to prepare and facilitate an intervention to address adolescent family violence, with the support of facilitators who have already served a solid apprenticeship in other justice-system applications of group conferencing.

There have been some important lessons from cases handled by RESTORE and the ACT RJU AFV program. These include that an intervention to address familial relationships will involve a far more complex dynamic of engagement than an intervention involving "*victims and offenders*" who are, in most cases, otherwise "*strangers*". There are key differences in responses to adolescent family violence cases as compared to *undisputed harm cases* in youth justice. As a result of this complexity, adolescent family violence cases are most effectively addressed in a meeting that combines elements of different group conference formats. During the pilot phase of RESTORE, families experienced a number of therapeutic benefits, including:

- identifying family patterns that have caused problems for the young person and within the family;
- supporting the young person and affected family members to acknowledge the harm, and work toward addressing it;
- engaging family members to discuss safety planning & better ways communicate with each other;
- engaging members of the extended family &/or significant supporters to assist the family;
- linking families with services with which they had not previously been involved; &
- helping to remind the family of happier times, and to identify ways to work toward safer & healthier relationships.

The RESTORE program received extended funding late 2019, and continues to operate as a stand-alone program linked with the Melbourne Magistrates Court. Its referral pathway has been extended to include **direct referrals from relevant agencies**, rather than exclusively from the court.

Lisa Levis from **Bendigo's <u>Centre for Non-Violence</u> (CNV)** spoke about the program **Making aMENds.**

Bendigo's Centre for Non-Violence has been delivering programs supporting *women and their children* for several decades. Since 2008, it has extended those services by delivering Men's Behaviour Change programs. In 2016, CNV reviewed their program providing individual therapeutic support for children, and reported on *Supporting Children Who Have Experienced Family Violence.* The Victorian Department of Justice subsequently funded the CNV, together with four other programs across Victoria, to develop and deliver an innovative program in Family Violence Perpetrator Intervention (together with four other programs across Victoria).

The aMENds program works with fathers in Loddon region (Central Victoria) who have had contact with the justice system, and have used family violence towards a family member. The program aims to create conditions through which **men who use violence against women and children**:

▫   make visible the **beliefs** that support their use of violence;
▫   examine their own **childhood experiences** with fathers/father figures so as to develop greater **empathy for their children** and to better understand their **behaviour** as fathers;
▫   can explore the possibility of safe and effective **restorative practice** in Making aMENds.

aMENds provides a *16-week* group program, informed by **Narrative Therapy** and **Restorative Justice.** The program focuses on men's role as fathers, exploring what is needed to "restore" - or **re-set** - the **child/father relationship**. A Family Liaison worker oversees the safety for women and their children. The program emphasises accountability of men and; individual support and men's case management.

Both mothers and fathers have named their aspirations for their children, including that the children be happy, healthy & recover, not be anxious &/or stressed, be allowed to be a child and have a full life, be confident, wise, steady and stable and sleep well. Partners have said: *He NEEDS to:* "*Take care of himself; stop and reflect; consider the people he is with; stop drinking; take his medication; deal with own childhood; build self-confidence, worth and value, self-control, knowledge – and "*Hearing stories from other dads might give him better insight."

Fathers have been able to identify the children's experience of living with family violence, and recognise the impact of "not having a normal situation". They have been able to see that children's needs were not being met, "*that the [children have been] used as pawns*" and that children often seek, in words noted by the professional delivering the program to "*make everything all right*":

'They lost everything. They get upset.'

'They're too young to know what's going on.'

'They look to hide. Keep to themselves.'

'The children stay in their rooms.'

'I observe some anger and mood swings.'

'They talk about Dad's outbursts.'

'Have said stop it or don't hurt mum.'

'My son becomes angry.'

'They model the behaviour, punch and kick siblings.'

'They tend to lash out.'

'They become withdrawn and very clingy.'

'They've said it's totally unacceptable.'

The program has noted a striking difference with regards to **perceptions of safety**. Male participants have consistently rated the fear that *they perceive* their **partners** and their **children** to experience as **2-3 out of 10** (where 10 is very unsafe). In other words, they claim that they perceive family members to be "***not that afraid***." In contrast, **partners/ex-partners** rated the fear *they* experienced, on average as **4 out of 5** (where 5 is very unsafe). In other words: they are actually somewhere between **very afraid and terrified**.

Nonetheless, strikingly, **92% of partners believe these men can be better Dads**. Being a better Dad would involve: "*more patience; listening; playing a more active role, and modelling better behaviour to the boys; leading by example; demonstrating bit more understanding of the development of children and their behaviour; treating the children equally; spending more time with the kids; doing things the kids enjoy; being in the children's lives; focusing on the child/ren*." Shared aspirations include that:

- □ *"He has to do the right things."*
- □ *"Being kinder."*
- □ *"Less yelling and screaming."*
- □ *"Not abusive and threatening. Not blaming."*
- □ *"We would do things together."*
- □ *"There'd be more happiness."*
- □ *"It could be a happy family."*

The CNV program is unusual in that some staff members have **experience** as **group conference facilitators**, having worked in the youth justice program operated by a neighbouring NGO. This reflects the long-term, and effective efforts of the Central Victorian Restorative Practice Alliance to develop a culture of reflective practice among **colleagues working *across* programs**.

The value of professionals having experience across both family violence work and restorative justice is growing clearer. Victoria's Royal Commission recommended the use of restorative justice in both adolescent and adult cases of family violence as far back as March 2016 - but the work of establishing these programs has proven surprisingly difficult.

Some of the difficulty involves the pushback common in the early stages of programs that are engaged in "**combinatorial evolution**" – where previously disparate approaches or programs are seeking to collaborate. There is often genuine incomprehension, as apparently different worldviews collide:

- "*I can't understand how you would suggest this*!", countered with:
- "*I can't understand how you could reject this*!"

Experienced practitioners may hear a surprisingly common *non sequitur*, indicating deep cognitive dissonance: "*That would never work here – and anyway, we already do that*!"

These difficulties are illuminated by a recent study of contemporary practice in family violence intervention and prevention. In early 2020, former ABC journalist Jess Hill was awarded the Stella prize for her remarkable *See What You Made Me Do: Power, Control and Domestic Abuse*. The book offers something of a **breakthrough in the theory and practice of dealing with domestic violence**.

Source: Sydney Morning Herald

Jess Hill observes that it is common to ask the question "***Why didn't / doesn't she leave***?". But it has been less common to ask: "***Why did / does he do it***?" Both questions are important (as are many others besides). But there seem to be deep reasons why some foundational questions are avoided. She found efforts to understand the situation, and so improve cultural and organisational responses, to be caught in an "**intellectual turf war**" between two general theories:

- **psychopathology**, which understands domestic abuse as a symptom of mental illness, childhood trauma &/or substance abuse;
- **feminist political sociology**, which understands men's violence as a by-product of a *patriarchal system* in which men feel entitled to dominate women.

Both the ***psychological-*** and the ***social theory*** provide *part* of the picture. Neither provides a complete picture. Both theories certainly inform current approaches. Importantly, men's behavioural change programs that emphasise psychological change, and programs that promote socio-cultural changes towards gender equity, both appeal to funders: they are **visible** *and* **seemingly low-risk**.

Men's Behaviour Change programs emerged in the mid-1980s. They have been developed to help participants acknowledge their violence and learn strategies to stop it. Participation was initially voluntary, but as programs have become more connected with the justice system, more men are being referred by police and courts. There is still some controversy around these programs; some social workers do not approve of assisting perpetrators; there are often problems with "one-size-fits-all" programs; and there is still a lack of longitudinal research on their effectiveness. Nonetheless, the 226 recommendations made by Victoria's *Royal Commission into Family Violence* in 2016 included substantial boosts in funding for behaviour change programs run by community-based organisations and Corrections – and Victoria's specialist family violence courts can mandate men to attend the programs.

With regard to **socio-cultural change programs**, Jess Hill notes the risk of messaging that evokes a sense of guilt or collective shame. An approach perceived as blaming-and-shaming seems to encourage some men towards the counter-productive discourse of "men's rights". Likewise, the effect of mandatory arrest policies has proven more complex than was originally anticipated. It was noteworthy that it was workers with years of frontline experience in the social movement to end family violence who were among the first to argue to the Family Violence Royal Commission that we **cannot arrest our way** to complex psychological and social change. In the words of an experienced US activist, the movement is evolving "**from carceral feminism to transformative justice**".

The terms of reference for the Victorian Royal Commission into Family Violence were to find more, and more effective, ways to:

- prevent family violence;
- **improve support** for victim survivors;
- **hold** perpetrators **to account**.

Embedded in this wording is a risk of these goals encouraging the reflexive tendency of agencies to do things *to* and *for* people – **oscillating between therapy and enforcement**. And some of the ongoing work to implement key Family Violence Royal Commission recommendations has indeed encountered many of the related challenges of contemporary **governance**. There is a need to:

- transcend the (understandable) preference of governments and NGOS to avoid risk, and implement programs that support citizens to *manage risk* (which they can't avoid);
- bridge the gap between long-term *primary prevention* policies and swift *tertiary* prevention tactics with the **missing middle** of interventions that **provide safety while addressing complex issues**;
- augment and link psychological and socio-cultural approaches with **relational approaches** [which are, in other programs, helping address the *betrayal trauma* of abuse];
- understand that "*guilt and shame are poor motivators for change*" and take account of insights on how to-increase-voluntary-participation-in-justice-programs;
- increase the skills of service providers to *work with* (rather than succumbing to the reflexive tendency of agencies to do things *to* and *for* people);
- work effectively not only with individuals, but also with **family systems** [without attracting accusations of "victim-blaming"].

Jess Hill finds that all the programs which have been relatively effective in addressing family violence are driven by **one simple idea**: Offer a*n invitation to change - with a strong, backed-up threat*. But the *invitation* is a genuine offer to help those who are perpetrating violence with whatever they need to help turn their lives around: counselling, employment, treatment for addiction. In other words: "*It's non-negotiable that the violence must stop. But if you are prepared to work with us, we will work with you to identify how to make that change happen*. In these cases, **enforcement - doing to** – is used primarily as a **mechanism for encouraging people to *engage*** – and **work *with***. Really effective engagement needs to address *psychological* and *cultural* issues.

> What **bridges** the ***psychological*** and the **cultural** is the ***relational*** **element.**

In cases where family members accept that "*we must* **lose the violence** *- but* **not necessarily the relationships**", *restorative interventions* offer a way forward. Some programs dealing with adult family violence will follow the lead of programs already addressing *adolescent* family violence by working with the family *system*. For example, by asking *family members* "*What kind of father / husband/ man do you want [him] to be*?", programs such as CNV's aMENDs seem to be working towards effective interventions with family systems. Similarly, in the RESTORE program, parents and children have an opportunity discuss *what kind of family they would like to be*, and how they can work, individually and collectively, toward becoming that sort of family. This *working together* is more likely to be possible, and then to be effective, once family members have reached a shared understanding of how their own family dynamics have contributed to loss, harm, and conflict. In short, emerging effective responses combine individual change *with relational intervention*. Significantly, in seeking a better understanding and explanation of some of the psychological and relational dynamics involved in family violence, Jess Hill adopted **the same bio-psycho-social theory that informs effective restorative practice**.

The cumulative effect of many effective interventions may yet be broader *cultural* change in areas where these programs are operating. For example, in Bendigo, the ACT and parts of metropolitan Melbourne, programs that work with people to address complex issues are supported by regional communities of restorative practice. Colleagues in these communities note that, in addition to fine-tuning practice and programs - *within* and *beyond* the justice system - there is also a need to **coordinate** **these programs**, so as to address the familiar problems of service **gaps** and service **duplication** – whereby people "*fall through the cracks*" and workers "*tread on each other's toes*". But regular review and coordination provide a system for **continuous service reform**:

JUSTICE SYSTEM REFORM POSSIBILITIES	COORDINATION for SERVICE REFORM	BROADER SYSTEMIC REFORM POSSIBILITIES
DIVERSION **SENTENCING- SUPPORT** **MONITORING** **POST-SENTENCE** **YOUTH DETENTION** **& PRISON GOVERNANCE** **PRE-RELEASE**	Regular structured **review of inter-agency cooperation and collaboration** to support integrated housing, health, education, work, welfare & justice responses	**FAMILIES** **SCHOOLS** **HEALTH** **RESIDENTIAL CARE** **SUPPORTED** **ACCOMMODATION** **SOCIAL HOUSING** **COMMUNITY ORGANISATIONS** **WORKPLACES**

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Importantly, by increasing cooperation and collaboration, using the variant of the group conference that was developed to deal with **an issue of common concern**, restorative practices can be used to minimise service **gaps** and **duplication** in regional service delivery. Regional service reform projects in *several* Australia jurisdictions are indeed now quietly improving regional **service delivery** by coordinating local **restorative *justice* programs** and **restorative *practices***, leveraging existing resources to deliver locally and **culturally appropriate responses**.

Each of these regional level effective projects tends to be **a process of action learning**. Reformers *make minor adjustments* to the administrative **program** arrangements, and to restorative **processes,** so that these processes work as-well-as-possible *in their region.* There may occasionally even be a need to adjust or refine foundational **principles**, in a process of ongoing adaptation:
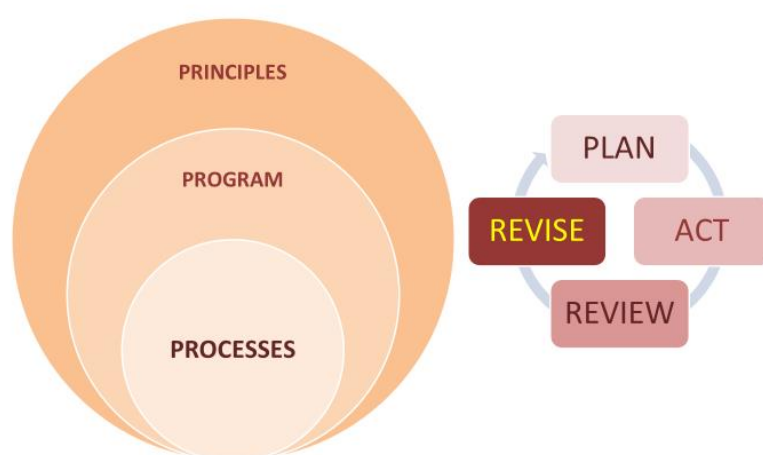

In any such reform project, the focus of managers, facilitators, and evaluators is influenced by the current **ultimate focus of a program**. Are we primarily here to (i) **react** to specific problems, (ii) **prevent** problems, or (iii) **promote** individual *and group* **well-being** *within a flourishing community*?

The answer to this question may evolve – as has happened in some Canadian communities after the passing of the national *Justice Act* in 2003. After the joint initiative of the Royal Canadian Mounted Police and Aboriginal Justice Learning Network had supported community groups across the country to develop skills to facilitate community conferences, some perceptive early analysis predicted that reform in Canada would then continue along two parallel lines:

▫ **multi-agency forums** (police, public schools, child welfare, immigration) would align with the national *government's public safety framework*; and at the same time:
▫ **non-state local peacemaking forums** would proliferate – and many would experiment with extend restorative practices into new applications.

Communities can **gradually shift their focus**, from *reacting* to crime, to *preventing* crime, to promoting community-level *well-being* (which happens to have a crime prevention effect). When the ultimate focus becomes **promoting** individual and group **well-being**, what then needs most to be measured are mutually reinforcing ***processes***. Administrators and evaluators involved with efforts to improve

individual and collective well-being will focus on **how agencies deliver processes that support people to establish, maintain, strengthen &/or repair relationships**:
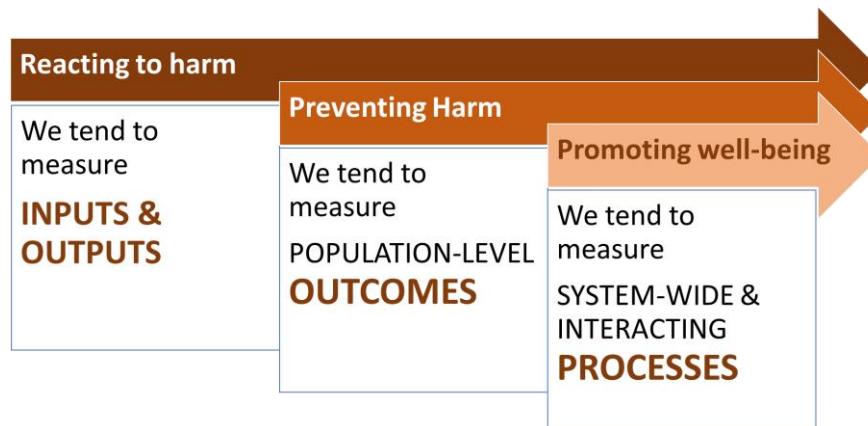
To drive this **virtuous circle -** establishing, maintaining, strengthening & resetting respectful relationships - requires that individual workers and programs have *as much authority as possible*, even as their work nonetheless remains *well-coordinated*. To create (i) a high degree of *coordination* while still permitting (ii) high levels of *autonomy* to exercise *authority* requires:

   □ some commonality of **mindset** - ways of *thinking & feeling* about our work - supported by
   □ some common **skillsets** - ways of *acting*.

The Australian Association for Restorative Justice will continue to support this development of restorative practice **skills** on the part of facilitators, administrators and policy-makers, both:

   □ within regions; and
   □ across *professions* (with practitioners located in all jurisdictions).

Committee members have been delighted that some of our friends in New Zealand / Aotearoa have been joining these nascent community of practice forums.

In advance of our next review of *review of contemporary practice*, we plan to provide **short overviews** of **programs** in specific regions and professions where colleagues are working restoratively to support the vital work of social regeneration and community flourishing. We will complement these overviews with on-line **community of practice forums**, where members can discuss lessons on facilitating processes and implementing programs.

For further information, please visit the new website of
the **Australian Association for Restorative Justice**

Please contact us with any restorative questions or suggestions:

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Prepared by D.B. Moore on behalf of the AARJ committee - and completed during the first 2020 lockdown…