

**Submission
No 21**

**INQUIRY INTO ECONOMIC DEVELOPMENT IN
ABORIGINAL COMMUNITIES**

Organisation: Just Reinvest NSW

Date received: 14/02/2016



13th February 2016

The Director
Standing Committee on State Development
Parliament House
Macquarie St
SYDNEY NSW 2000

By email: state.development@parliament.nsw.gov.au

Dear Director,

I write to you on behalf of Just Reinvest NSW in relation to the Inquiry into Economic Development in Aboriginal Communities.

Just Reinvest NSW is an independent, non-profit, membership-based, incorporated association auspiced by the Aboriginal Legal Service (NSW/ACT) Ltd. Formed in 2012 by a small group of people, there are now more than 20 organisations actively engaged in Just Reinvest NSW, with many others providing support. Our current membership, Executive Committee and Champions are listed in Appendix A.

Just Reinvest NSW is working to raise awareness of the need for a justice reinvestment plan for NSW to reduce the shameful rate of imprisonment of Aboriginal young people in NSW. For more information on justice reinvestment please refer to Appendix B. Since 2013, Just Reinvest NSW has been working in partnership with local Aboriginal organisation, Maranguka to develop a justice reinvestment framework for Bourke. To learn more about Just Reinvest NSW and the Maranguka Justice Reinvestment Project please refer to our website, www.justreinvest.org.au.

Given our experience and expertise, in this submission we have focused solely on justice reinvestment as a framework that would strengthen economic development in NSW Aboriginal communities that experience high levels of incarceration and high rates of recidivism.

Just Reinvest NSW thanks you for the opportunity to comment and would welcome the opportunity to provide further information to the Inquiry if required. Questions may be directed to info@justreinvest.org.au.

Yours faithfully

Sarah Hopkins
Chairperson
Just Reinvest NSW

Submission to Inquiry into Economic Development in Aboriginal Communities

1. Disadvantage in NSW is highly concentrated in a small number of communities. Place-based, community-driven approaches are needed to address that disadvantage in Aboriginal communities.

The *Dropping off the Edge Report 2015 ('DOTE Report')*¹ highlights that there is a significant degree of concentration of disadvantage in NSW. In NSW, 11 postcodes (1.8% of postcodes) accounted for 21.4% of the highest rank positions across 21 indications of disadvantage. It is relevant to note that the localities in NSW identified in the *DOTE Report* as experiencing the most severe levels of disadvantage have significant Aboriginal populations:

- Brewarrina: 763 out of 1254 (60.8%)
- Claymore: 234 out of 3299 (7.1%)
- Lightning Ridge: 492 out of 2492 (19.7%)
- Walgett: 1004 out of 2267 (44.3%)
- Wilcannia: 474 out of 826 (57.4%)
- Windale: 372 out of 3095 (12.0%).²

The Report found that for the postcodes ranking highest on more than five indicators of disadvantage, that is, for the most disadvantaged communities in NSW, interaction with the criminal justice system is a dominant feature. In two-thirds of those localities, criminal convictions are a dominant characteristic, and adult imprisonment and juvenile offending are at significantly high rates. These communities are additionally burdened by long and short term unemployment, disabilities, lack of formal qualifications, deficient education generally, low family incomes, domestic violence and mental health problems.

To address place-based disadvantage, a place-based approach is required. Justice reinvestment is a framework aimed at 'improve[ing] the prospects not just of individual cases but of particular places'.³ That is, rather than focusing on individual offenders, justice reinvestment is a place-based approach focusing on building stronger communities.

Justice reinvestment adopts best practice characteristics of place-based initiatives that include:

- Government entering into genuine government / community partnership with the community
- Power devolving to the local level through local governance structures comprised of government departments, community organisations and community leaders
- The local governance structure supported and enabled by a skilled community facilitator

¹ Tony Vinson et al, 'Dropping of the Edge 2015: Persistent Communal disadvantage in Australia (2015) Jesuit Social Services/ Catholic Social Services Australia.

² ABS, 2011 Census.

³ R. Allen, R. (2007) 'From restorative prisons to justice reinvestment' in Allen, R. and Stern, V. (Eds.) *Justice Reinvestment – a new approach to crime and justice*, London: International Centre for Prison Studies.

- Time and resources are invested into building trust between stakeholders, creating a shared vision for change, establishing effective governance, and developing a JR implementation plan
- Ongoing engagement and participation mechanisms are created to allow community members and other stakeholders to input into decision making
- The community is supported to determine, monitor and evaluate their JR initiatives
- The capacity of the community is enhanced to identify and tackle their own challenges
- Sufficient time and resources are allocated over the long-term.

2. Concentrated incarceration is a constraint on economic development in Aboriginal communities.

To date, little research has been conducted specifically on the impact of imprisonment on economic development in Aboriginal communities.⁴ However the economic impact of incarceration on individuals has been considered, particularly in relation to unemployment. Imprisonment often leads to loss of employment and income, can exacerbate debt issues and result in loss of housing and homelessness.⁵ As Hagan has recognised “The withdrawal or loss of a family member to prison results in the loss not only of economic capital, but also of social capital involving relationships among family members and the organization of family life toward the maintenance and improvement of life chances of children”.⁶

International research on the topic recognises the difficulty of measuring the effect of incarceration on economic development in disadvantaged communities, however most studies demonstrate that incarceration negatively impacts on economic and social conditions at the local community level. A US study looking at the economic impact of incarceration of African-American male prisoners found that generally, incarceration affected the individuals confined, their family and other close associates, and, by aggregation, the economic and social conditions in their local community.⁷ The paper postulates a framework for examining the potential economic consequences of incarceration on communities, which would be useful to apply in the Australian context. The framework consists of four components: human development, employment and income, cost of crime, and community development.⁸

In his 2008 paper, leading US criminologist Todd Clear argues that that high rates of adult males going through the prison system affects the communities from which they are removed in multiple ways.⁹ Incarceration damages social networks, social relationship, and long-term life chances. Further it impairs child development, family

⁴ The social, demographic and economic impact of incarceration on small and remote Indigenous communities in the Northern Territory is currently being examined by researchers at Charles Darwin University. However we are not aware of any research specifically examining the economic impact of incarceration on Aboriginal communities in NSW.

⁵ Schwartz, Melanie, 'Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation' *AILR*, Vol. 14, No. 1, 2010; Eileen Baldry et al, 'Ex-Prisoners and Accommodation: What Bearing Do Different Forms of Housing Have on Social Reintegration for Ex-Prisoners? Final Report'(Final Report No 46, Australian Housing and Urban Research Institute, August 2003).

⁶ John Hagan, 'The Next Generation: Children of Prisoners' (1996) 3 *Journal of Oklahoma Criminal Justice Research Consortium*.

⁷ Demetra Smith Nightingale and Harold Watts, 'Adding it up: The Economic Impact of Incarceration on Individual, Families and Communities (1996) *Vera Institute of Justice* 91.

⁸ *Ibid*.

⁹ Todd Clear, 'The Effects of High Imprisonment Rates on Communities' (2008) 37 *Crime & Justice* 97.

functioning, mental and physical health, labour markets, and economic and political infrastructures. He notes there is growing empirical evidence of the negative collateral consequences of concentrated incarceration, which increase the likelihood that concentrated incarceration is criminogenic in its effects in communities.

Clear highlights that concentrated incarceration negatively affects the production of local labour markets. He argues that the concentration of formerly incarcerated men may damage the labour market prospects for others in the community. He identifies research that suggests links between the growth of place-based incarceration rates and place-based unemployment rates. Clear recognises the possible problems with applying a causal framework for these links. However he argues that at the very least, existing data indicates that incarceration in disadvantaged places joins forces with an array of other problems to make things worse and is more part of the problem than part of the solution.¹⁰

Another US study, considering why poverty rates from 1980 to 2004 remained high despite overall economic growth, suggests that increasing incarceration had increased poverty.¹¹ Researchers identified the ways incarceration affects communities from which individuals are removed: incarceration disrupts informal mechanisms for social control and support, breaks up families, removes purchasing power from the community, increases reliance on government support programs and erects higher barriers to legitimate development and financial well-being. The researchers found that available data demonstrated a significant relationship, all other things being equal, between the increase of poverty and the increase in incarceration (however, they recognised the complexity of the relationship and that poverty rates are simultaneously cause and effect of incarceration rates).

Given the international findings on this issue, we believe that the over-imprisonment of Aboriginal people in NSW is a constraint on economic development in Aboriginal communities. Addressing the over-imprisonment of Aboriginal people in NSW is essential for ensuring the sustainability and capacity building of NSW Aboriginal communities into the future.

“Through justice reinvestment, the channelling of funds away from communities into prisons is reversed; money that would have been spent on housing prisoners is diverted into programs and services that can address the underlying causes of crime in these communities.”¹²

In addition to the economic consequences of imprisonment for Aboriginal communities, the economic consequences of imprisonment for the state of NSW are significant. In 2014, it was estimated that the state of NSW spends \$70 million each year for full time custody of juveniles (\$237,250 per young person per year or \$650 per young person per day) and for adults more than \$1 billion (\$94,999 per adult per year or \$260 per adult per day).

A policy aimed at promoting economic development in NSW Aboriginal communities must recognise the need to reinvest resources currently allocated to corrections into communities, which have high levels of incarceration to strengthen those communities and prevent offending from occurring in the first place. A Justice

¹⁰ Todd Clear, 'The Effects of High Imprisonment Rates on Communities' (2008) 37 *Crime & Justice* 97.

¹¹ Robert DeFina and Lance Hannon, 'The Impact of Mass Incarceration on Poverty' (2013) 59(4) *Crime & Delinquency* 562.

¹² Schwartz, Melanie, 'Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation' *AILR*, Vol. 14, No. 1, 2010, 2.

Reinvestment Plan for NSW will strengthen an economic development policy for NSW Aboriginal communities.

3. Justice reinvestment is a framework for promoting opportunity and capacity building at the community level.

To promote economic development in Aboriginal communities experiencing significant levels of disadvantage, it is essential to support localised, community-driven initiatives, which are supported by strong governance.

As Schwartz has pointed out, a justice reinvestment framework offers “tailored, grassroots multipronged solutions to addressing disadvantage, and promotes opportunity and capacity building in communities”.¹³ While it is a framework aimed at crime prevention, it is equally a framework for building capacity and opportunity in communities. The Australian Justice Reinvestment Project has explained that justice reinvestment “is ultimately concerned with increasing functionality and capacity in disadvantaged communities, through the rationalisation and reinvestment of corrections spending, and thus understanding the potential for the adoption of JR strategies will assist directly with strengthening both the social *and* economic fabric in Australia.”¹⁴

4. For Aboriginal communities who identify economic development as a priority, funding to promote economic development can be made available through a justice reinvestment framework.

As a localised, place-based approach, justice reinvestment is an inherently flexible strategy that can incorporate initiatives aimed at economic development. Recognising that the causes of crime are complex and location specific, programs and initiatives falling within justice reinvestment frameworks can be diverse.¹⁵ Investments in education and job training should form an integral part of a justice reinvestment framework, or schemes like microloans to support job creation and ‘family development loans’ for education, debt consolidation or home ownership.¹⁶

¹³ Schwartz, Melanie, ‘Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation’ *AILR*, Vol. 14, No. 1, 2010, 2.

¹⁴ Australian Justice Reinvestment Project, *Submission to the Senate inquiry into the value of a justice reinvestment approach to criminal justice in Australia*, 9.

¹⁵ Schwartz, Melanie, ‘Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation’ *AILR*, Vol. 14, No. 1, 2010, 3.

¹⁶ Schwartz, Melanie, ‘Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation’ *AILR*, Vol. 14, No. 1, 2010 citing Susan Tucker and Eric Cadora, ‘Ideas for an Open Society: Justice Reinvestment’ (2003) 3(3) *Open Society Institute Occasional Papers* 2.

APPENDIX A

Just Reinvest NSW Executive Committee

Sarah Hopkins, Chairperson
Gino Vumbacca, Treasurer
Tiffany McComsey, Secretary
Brad Freeburn, Ordinary Member
Kerry Graham, Ordinary Member
Jane Powles, Ordinary Member

Just Reinvest NSW Members

ANTaR
Weave
Lifestyle Solutions
Kingsford Legal Centre
Ashurst
NSW Reconciliation Council
Whitelion
Shopfront Youth Legal Service
Herbert Smith Freehills
Youth Action
Uniting Care NSW ACT
Aboriginal Education Council (NSW) Inc
MTC Australia Ltd
Show Me the Way
Public Interest Advocacy Centre
Community Legal Centres NSW
Youth Justice Coalition

Just Reinvest NSW Champions

Commissioner Mick Gooda
Commissioner Megan Mitchell
Dr Tom Calma AO
His Excellency General The
Honourable David Hurley AC DSC
(Ret'd)
Professor Dame Marie R Bashir AD
CVO
Secretary General Salil Shetty
Mr Bob Debus AM
Professor Mick Dodson AM
The Hon. Michael Kirby AC CMG
Ms Marcia Ella Duncan
Mr Jack Manning Bancroft

Professor Chris Cunneen
Mr Alistair Ferguson
Mr Shane Phillips
Mr Gary Oliver
Mr Shane Duffy
Mr Eddie Cubillo
Professor Ted Wilkes
Mr Nicholas Cowdery AM QC
Dr Naomi Mayer OAM
Mr Sol Bellear
Ms Tammy Solonec
Mr Phil Naden
Aunty Millie Ingram

APPENDIX B

What is Justice Reinvestment?

The aim of Justice Reinvestment (JR) is to redirect funding from the corrections system to the community to fund programs and services to support people in the community to reduce offending behaviours and build community capacity (Tucker & Cadora 2003). The Justice Reinvestment for Aboriginal Young People Campaign advocates that the methodology and objectives of justice reinvestment must be:

- Data driven
- Place based
- Fiscally sound
- Supported by a centralised strategic body

Data driven

JR is premised on the fact that it is possible to identify which communities produce large numbers of offenders, and to strategically use that information to guide investment in community programs to most effectively reduce imprisonment numbers. 'Justice mapping' or 'prison geographies, allow policy makers to identify 'million dollar blocks' - literally, a block of housing that is home to people whose incarceration costs over \$1 million per year' - where prison related expenditure is concentrated. Using data mining techniques to create detailed prisoner density maps in residential areas, decisions can be strategically made about how and where to allocate funds to most effectively bring about a reduction in crime.

Incarceration maps, on the other hand, show concentrations of prison admissions in particular areas so that public investment can be targeted towards the places that most need reshaping in terms of local infrastructure, production of social capital and better governance.

It is, however, important to note that the justice reinvestment approach is not purely data driven. While mapping underpins the identification of focus communities and, to some extent, the assets available to build community capacity, this is supplemented by years of research, countless conversations, and a network of local and national participants' committed to the justice investment approach. The experiences, perceived needs and capacities expressed by the community are instrumental in developing tailored programs to address offending and, at the same time, achieving social justice outcomes.

Place based - "Not individual cases, but particular places".

JR has been developed with a view to 'improve[ing] the prospects not just of individual cases but of particular places' (Allen 2007).

In other words, JR is focused on communities rather than individual offenders.

JR adopts best practice characteristics of place-based initiatives that include:

- Government entering into genuine government/ community partnership with the community
- Power devolving to the local level through local governance structures comprised of government departments, community organisations and community leaders
- The local governance structure supported and enabled by a skilled community facilitator

- Time and resources are invested into building trust between stakeholders, creating a shared vision for change, establishing effective governance, and developing a JR implementation plan
- Ongoing engagement and participation mechanisms are created to allow community members and other stakeholders to input into decision making
- The community is supported to determine, monitor and evaluate their JR initiatives
- The capacity of the community is enhanced to identify and tackle their own challenges
- Sufficient time and resources are allocated over the long-term

Fiscally sound

A JR approach must be fiscally sound offering long-term costs efficiency. For this to be achieved, the current costs of the criminal justice system, (in particular the incarceration of young people and adults) and effects to criminal recidivism in a particular geographical region should be identified. Cost benefit ratios and economic modelling should then be conducted for alternative service and program models (along with community consultation) to ensure the lowest risk – highest benefit program is selected for the area. The spending must then be tracked. However there must also be a commitment to long-term funding. The most successful community programs are those that have built trust with the community. It would be un-safe and ineffective to only commit to short term funding: it would be unlikely that the community would readily engage with the project.

Central to the JR approach is the idea that the fiscal framework incentivises communities to keep people away from the criminal justice system and prison by making a commitment: if community initiatives result in a reduction of people in that community having contact with the criminal justice system and being imprisoned, then government will reinvest a proportion of those savings back into the community. This commitment ensures the long-term sustainability of effective, evidence-based programs.

A JR approach:

- Quantifies the current costs that exist in the criminal justice system, breaking down these costs at different stages within the criminal justice system
- Quantifies the current costs that exist in the human services, which are consumed by individuals who are involved in the criminal justice system
- It estimates the savings associated with potential policy changes
- It is an iterative process that tracks spending and achieves tangible savings

Supported by a centralised strategic body monitoring and quantifying outcomes

Critical to the success of a JR policy is an independent centralised body.

A Statutory Authority will ensure longevity: a small body with a focused agenda to work across departments and to monitor and quantify social and economic outcomes of JR initiatives. A Centralised strategic Body would have the following roles:

- To support the Government in identifying appropriate communities and monitoring initiatives
- To support the Local Government System by collecting data, assisting in strategy development and building community capacity.

In the US, an example of a justice reinvestment advisory body is The Council of State Governments Justice Centre. The Justice Centre is bi-partisan not-for-profit organisation funded by a combination of Federal, State and private philanthropic funds. Its functions are to:

- Identify communities for a JR approach
- Support community based strategy development, including advising on what evidence-based initiatives will reduce offending / re-offending, increase community safety, and address disadvantage
- Build the capacity of the community to implement the JR strategy and initiatives
Monitor and quantify the social and economic outcomes