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## Justice reinvestment

by Lenny Roth

### 1. Introduction

Justice reinvestment is based on the premise that imprisonment is an expensive and largely ineffective way of reducing crime. Different versions of the concept have emerged but the original idea in the United States was that funding for prisons should be reduced and redirected towards addressing the underlying causes of crime in communities with high levels of incarceration. Over the last decade, many State governments in the United States have introduced a justice reinvestment policy. The United Kingdom Government has also conducted some pilot justice reinvestment projects at the local council level.

In Australia, governments spent a total of \$3.8 billion on prisons in 2014-15 (\$955 million in NSW).<sup>1</sup> The Aboriginal and Torres Strait Islander Social Justice Commissioner has for many years recommended that a justice reinvestment approach be adopted to reduce Indigenous over-representation in the justice system. A 2013 Senate Committee report (by majority) supported a trial of justice reinvestment in Australia; and several non-government organisations have advocated for this approach. In NSW, a locally organised trial is underway in Bourke. Local trials are also planned in South Australia and the ACT.

### 2. United States

#### 2.1 Imprisonment rate

The United States has one of the highest imprisonment rates in the world.<sup>2</sup> In 2014, it had an imprisonment rate of 690 per 100,000 of the population (730 in 2004).<sup>3</sup> This is more than three times higher than Australia's rate of 208.<sup>4</sup>

#### 2.2 The justice reinvestment concept

The justice reinvestment concept originated in a 2003 [paper](#) published by the Open Society Institute.<sup>5</sup> The paper, entitled *Justice Reinvestment*, began with the following statement:

There is no logic to spending a million dollars a year to incarcerate people from one block in Brooklyn—over half for non-violent drug offenses—and return them, on average, in less than three years stigmatized, unskilled, and untrained to the same

unchanged block. This unquestioned national dependence on mass incarceration reflects a fundamentalist approach to imprisonment that actually sacrifices public safety.<sup>6</sup>

The paper explained that the aim of “justice reinvestment”:

...is to redirect some portion of the \$54 billion America now spends on prisons to rebuilding the human resources and physical infrastructure—the schools, healthcare facilities, parks, and public spaces—of neighborhoods devastated by high levels of incarceration. Justice reinvestment is, however, more than simply rethinking and redirecting public funds. It is also about devolving accountability and responsibility to the local level. Justice reinvestment seeks community level solutions to community level problems.<sup>7</sup>

Three steps were outlined in the justice reinvestment process:

Identifying unproductive spending in correction budgets is the first step...; the second step is the segregation and protection of a portion of these funds, and the third step is to reinvest the money into the public safety of high incarceration neighborhoods.<sup>8</sup>

### 2.3 Adoption by States

Beginning with Connecticut (in 2004), a number of States introduced justice reinvestment policies with assistance from the Council of State Governments (CSG) Justice Center, a national non-profit organisation.<sup>9</sup> These States included: Kansas, Texas, Nevada (2007), Arizona, Rhode Island, and Vermont (2008). In 2010, Congress provided funding to the US Bureau of Justice Assistance for the Justice Reinvestment Initiative (JRI).<sup>10</sup> The JRI was a public-private partnership between the Bureau and Pew Charitable Trust “to formalize efforts to fund, coordinate, assess, and disseminate state and local justice reinvestment efforts across the United States”.<sup>11</sup> The Bureau [reports](#) that 27 states are now part of the JRI.<sup>12</sup>

### 2.4 The JRI process

The Bureau describes the JRI process as follows:

- **Analyze data.** Sites receive intensive, onsite technical assistance from nationally recognized criminal justice policy experts and researchers to analyze crime, arrest, conviction, jail, prison, and probation or parole supervision data from the last five to ten years provided by state and/or local agencies; and analyze the cost-effectiveness of the correctional system's policies, practices, and programs designed to reduce recidivism and increase public safety.
- **Develop policy options.** Using that jurisdiction-specific information, the experts help the working group develop practical, data-driven, and consensus-based policies that reduce spending on corrections to reinvest in strategies that can improve public safety.
- **Adopt new policies.** Legislative bodies and executive agencies translate the policy recommendations into legislation, executive orders, and/or administrative policies...These first three steps typically take 9 months to a year.
- **Implement new policies.** Once government officials agree on and implement/enact policy options, they must take steps to verify that the policies are implemented effectively...

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- **Reinvest.** Jurisdictions reinvest in their criminal justice systems by estimating the amount of cost savings generated by policy reforms and identifying a portion of those savings to invest in evidence-based public safety strategies and programs. Some states have opted to make an upfront investment before savings are realized; other jurisdictions are reinvesting actual savings, and some do both.
- **Measure performance.** JRI sites monitor performance and outcome measures to ensure that JRI-related programs and system investments achieve projected outcomes...<sup>13</sup>

### 2.5 Case studies

The [CSG Justice Center](#) and the [Bureau](#) both have online case studies for the US States that have adopted justice reinvestment.<sup>14</sup> For example, the CSG Justice Center provides the following profile for North Carolina:

In 2010, North Carolina's prison population was projected to grow by 10 percent over the coming decade. At the time, probation revocations accounted for more than half of prison admissions, and only about 15 percent of people released from prison were receiving supervision. From 2010 to 2011, the CSG Justice Center worked with North Carolina state leaders to develop data-driven policy options designed to reduce corrections spending and increase public safety...Signed into law in 2011, the [Justice Reinvestment Act](#):

- Requires mandatory supervision for everyone convicted of felonies upon release from prison;
- Empowers probation officers to use swift and certain jail sanctions in response to violations of conditions of supervision;
- Increases sentences for people convicted of repeat breaking-and-entering offenses; and
- Provides substance use treatment, cognitive behavioral services, and other evidence-based programming to people on supervision who have the greatest need for treatment and are at the highest risk of reoffending.

These policies are projected to save the state up to an estimated \$560 million over 6 years in reduced spending and averted costs. By 2015, the state closed 11 small prisons and reinvested savings in 175 additional probation and parole officers, expanded electronic monitoring, and cognitive behavioral interventions and substance use treatment for people with the greatest need for treatment and who are at the highest risk of reoffending.

In March 2016, the North Carolina Division of Adult Correction and Juvenile Justice published a report, "[Justice Reinvestment Performance Measures](#)," which highlights the success of North Carolina's policies, including an 9.6-percent drop in the prison population and a 67-percent drop in the number of prison admissions due to probation revocations between FY2011 and FY2015. The number of people receiving post release supervision after leaving prison increased from 16 percent in FY2011 to 75 percent in FY2015. The state also experienced a 10-percent decrease in crime between 2010 and 2014. Examine the projected impact of North Carolina's justice reinvestment legislation in [this chart](#)

### 2.6 Key reports by JRI organisations

A 2014 Bureau of Justice Assistance and Urban Institute [report](#) assessed initiatives in seventeen states that enacted legislation between January 2010 and July 2013.<sup>15</sup> Common policy reforms included (for example):

- implementing risk assessments for offenders,

- earned credits for good behaviour in prison,
- establishing intermediate and graduated sanctions for parole and probation technical violations, and
- changes to sentencing laws.

The report outlined the following projected and preliminary outcomes:

...Policies enacted by JRI states are predicted to either reduce the overall prison population or slow its growth. States projecting a reduction in total incarcerated population expect the decrease to range from 0.6 to 19 percent [over a time period of between 4 and 11 years]. States that do not project a decrease in population expect to slow incarcerated population growth by 5 to 21 percentage points [over a 4 to 11 year timeframe].

In 8 of the 17 JRI states, JRI policies have been in effect for at least one year, allowing for a preliminary examination of impacts. Since enacting JRI, all eight states—Arkansas, Hawaii, Louisiana, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina—have experienced reductions in their prison populations since the start of JRI.

Projected savings vary across states and time periods, ranging from \$7.7 million (over 5 years) to \$875 million (over 11 years). Total projected savings amount to as much as \$4.6 billion [over 11 years]...<sup>16</sup>

The report added the following caveat to these findings:

This report's preliminary findings on population reductions and cost savings should be interpreted with care. Data are still limited—for most states, it is too early in the implementation process to offer definitive conclusions on what actual population and cost reductions will look like or how they will compare with projected cost and population impacts. State populations and cost savings can be affected by political, economic, and social changes, factors that could not be accounted for when the projections were made. Challenges in implementation can also alter the impact of JRI on costs and populations, distancing actual numbers from the original projections.<sup>17</sup>

The report also commented on the reinvestment of savings:

JRI states reinvest some portion of savings into evidence-based and high-performing criminal justice programs; states have planned to reinvest more than \$398 million in public safety initiatives...<sup>18</sup>

Examples of reinvestment initiatives included: expanding community-based programs, substance abuse and mental health treatment programs for offenders, and new positions for victims services.<sup>19</sup>

A 2016 [report](#) by the Urban Institute discussed the implementation of JRI in 17 *local* jurisdictions across the United States.<sup>20</sup> It concluded:

Sites as diverse as San Francisco, California; Johnson County, Kansas; and Mecklenburg County, North Carolina, have committed to using a data-driven approach to understand how their local justice systems are functioning, identify policy strategies that could produce a better public safety return on investment, implement reforms, and track their progress. These wide-ranging reforms have encompassed everything from improving data capacity to finding better ways to address the needs of frequent front-end users, reforming pre-trial processes, and implementing evidence-based supervision practices. This work was not easy, and identifying and reinvesting savings

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proved particularly challenging for most sites. In this sense, local justice reinvestment has not uniformly generated savings that can be easily quantified and directly reinvested into other public functions...<sup>21</sup>

### 2.7 Critique and doubts about success

A 2013 [report](#) by a group of researchers and advocates (including the two who devised the concept) criticised the way in which Justice Reinvestment has been implemented and cast doubts upon its success.<sup>22</sup> It commented:

Many of the JRI actors claim that their efforts have averted (and occasionally reduced) incarceration, but we believe these conclusions are often based on a misunderstanding of the available data on prison admissions, populations, and projections. As prison admissions slowed and even declined in recent years, prison population projections that assumed no such stabilization began producing significant errors in their long-term projections.<sup>23</sup>

The report compared trends in the prison populations of the eight States that enacted justice reinvestment legislation prior to 2009 with those States that had not (including some States which did enact such legislation after 2009). It looked at the period up to and including 2011. The main finding was “for both groups and almost all of the states, there have been negligible, if any, reductions in prison populations”.<sup>24</sup>

A number of limitations of the existing justice reinvestment approach were discussed.<sup>25</sup> One was that many reform efforts focused on measures to reduce recidivism rather than measures that could reduce the number of overall admissions to prison or lengths of stay. However, the biggest weakness was said to be “the lack of targeted reinvestment in high incarceration communities”.<sup>26</sup> The report noted that in most of the States that were early adopters of justice reinvestment:

...measures to reduce prison populations were explicitly tied to commitments by the state to invest some portion of the savings in targeted “Million Dollar Blocks.” To date, however, there has been virtually no reinvestment in education, employment, community revitalization or affordable housing development in those communities. Instead, JRI-guided legislation has increasingly channelled modest reinvestment into community corrections and, more recently, law enforcement agencies.<sup>27</sup>

The report also stated that the *current* US approach to justice reinvestment failed to maintain the “links between prison reductions and reversing the systemic social and economic obstacles facing communities with high concentrations of criminalized residents”.<sup>28</sup>

## 3. United Kingdom

### 3.1 House of Commons Committee report

In January 2010, the House of Commons Justice Committee published a report [Cutting crime: the case for justice reinvestment](#).<sup>29</sup> It called for a new approach to criminal justice policy:

The Government should implement a holistic approach across central and local agencies and authorities in order to shift resources from the provision of custody for its own sake to the prevention of crime and the reduction of re-offending; This is nothing new: ‘prevention’ is not just better, more effective

and cheaper, than 'cure' but is right in principle. Victims want to see fewer crimes...The challenges of putting such a strategy into practice, however, should not be underestimated.<sup>30</sup>

The Committee made recommendations in relation to each of the stages of justice reinvestment: (i) justice mapping; (ii) generating options for policy makers; (iii) shifting resources to facilitate reinvestment; and (iv) measuring the impact. The recommendations included establishing a national justice reinvestment working group, which would assist in developing a justice reinvestment plan; and creating a justice reinvestment fund.<sup>31</sup>

### 3.2 UK Government policy

The UK Government took a different approach. In December 2010, it released a Green Paper, [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#). This included a new Payment by Results (PbR) approach to rehabilitation services. It stated:

This is a radical and decentralising reform which will deliver a fundamental shift in the way rehabilitation is delivered. It will make the concept of justice reinvestment real by allowing providers to invest money in the activity that will prevent offending rather than spending money on dealing with the consequences.

To do this we will give providers the freedom to innovate to deliver results, paying them according to the outcomes they achieve and opening up the market to diverse new players who bring fresh ideas.<sup>32</sup>

Several PbR initiatives were introduced. Two of these were specifically referred to as "justice reinvestment" initiatives: the Justice Reinvestment Pathfinder Initiative; and the Local Justice Reinvestment Pilot.

The Justice Reinvestment Pathfinder Initiative aimed to test how local authorities could be incentivised to reduce the use of custody for 10 to 17 year olds. Funding from the Youth Justice Board's custody budget was provided to local authorities to develop locally tailored interventions. Targets based on custody bed night reductions were used to measure performance. Sites that failed to achieve their targets would be required to repay some or all of the funding. The pilot ran for two years between 2011 and 2013. It initially involved four sites but two withdrew after the first year, invoking a 'break clause' which enabled them to leave without financial penalty. A 2015 [process evaluation report](#) found that the two remaining sites exceeded their targets but "in the absence of a matched comparison group, it was not possible to directly attribute change to Pathfinder".<sup>33</sup>

The Local Justice Reinvestment Pilot aimed to test whether significant reductions in crime and reoffending could be made by partners working more effectively together at the local level. It also ran for two years between 2011 and 2013, in six sites. Local partners could target their resources on specific groups of adult and young offenders in line with their local priorities and crime and/or reoffending patterns. They were rewarded if the cost of demand on the criminal justice system reduced by more than 5 per cent for adults and 10 per cent for youths. A 2015 [process evaluation report](#) noted that "four sites in year 1 and five sites in year 2 achieved the targets and received reward payments".<sup>34</sup> Again, "in the absence of comparator sites, it was not possible to directly attribute changes in demand to the pilot".<sup>35</sup>

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In 2013, the PbR approach was expanded with the [Transforming Rehabilitation: A Strategy for Reform](#). However, this did not involve the type of “justice reinvestment” initiatives outlined above.<sup>36</sup>

### 4. Discussion in Australia

#### 4.1 Context for the discussion

In Australia and NSW, the discussion about justice reinvestment is occurring in the context of several concerns about imprisonment, including: a rising prison population, the overrepresentation of Indigenous persons in prisons, and high rates of recidivism. Key NSW statistics include:

- Prisoner numbers have grown by 21 per cent over the last two years.<sup>37</sup> This is due to growth in the number of prisoners on remand (i.e. awaiting trial or sentence) and those serving sentences.
- Indigenous imprisonment rates are 11 times higher than non-Indigenous rates;<sup>38</sup> and Indigenous juvenile detention rates are 21 times higher than non-Indigenous rates.<sup>39</sup>
- 52 per cent of prisoners have had a prior period of imprisonment;<sup>40</sup> and 48 per cent of prisoners who are released from custody end up returning to prison within two years.<sup>41</sup>

The NSW Government recently announced some major policy initiatives in relation to prisons. These include: allocating \$3.8 billion to increase the capacity of the prison system;<sup>42</sup> and committing \$237 million as part of a strategy to reduce adult reoffending by 5% by 2019.<sup>43</sup>

#### 4.2 Key reports to governments

In Australia, several major reports at the national level, and one in NSW, have considered the use of justice reinvestment in an Australian context. The key reports and their recommendations are outlined below. Most Australian governments (including NSW and the Commonwealth) have not implemented these recommendations.

Year	Report	Key recommendation
2009	Australian Human Rights Commission, <a href="#">Aboriginal and Torres Strait Islander Social Justice Commissioner: 2009 Social Justice Report</a> <sup>44</sup>	That all state and territory governments consider justice reinvestment in tandem with their plans to build new prisons. That a percentage of funding that is targeted to prison beds be diverted to trial communities where there are high rates of Indigenous offenders.
2010	Noetic Solutions Pty Limited, <a href="#">A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister of Juvenile Justice</a>	That the NSW Government adopt a justice reinvestment policy based on diverting funds that would otherwise be spent on additional juvenile justice centres, to preventative and early intervention programs that address the underlying causes of crimes in communities.
2011	House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, <a href="#">Doing Time - Time for Doing - Indigenous youth in the criminal justice system</a>	That governments focus their efforts on early intervention and diversionary programs and that further research be conducted to investigate the justice reinvestment approach in Australia.

Year	Report	Key recommendation
2013	Senate Standing Committee on Legal and Constitutional Affairs, <a href="#">Value of a justice reinvestment approach to criminal justice in Australia.</a>	That the Commonwealth commit to the establishment of a trial of justice reinvestment in Australia in conjunction with the relevant states and territories, using a place-based approach, and that at least one remote Indigenous community be included as a site (not supported by Coalition Senators).

### 4.3 Senate Committee report

The 2013 Senate Committee’s [report](#) on justice reinvestment examined the growth in Australia’s imprisonment rate, the economic and social costs of imprisonment, and the overrepresentation of disadvantaged groups in prisons.<sup>45</sup> It then discussed the justice reinvestment methodology, and outlined the benefits of this approach:

The Committee considers that justice reinvestment provides economic advantage in the long term through shifting resources away from incarceration towards prevention, early intervention and rehabilitation. Benefits will accrue to government through improved economic participation of offenders and potential offenders, decreased use of the welfare system and improved health outcomes.

While there will be economic benefits to government, the committee considers that the benefits through justice reinvestment for individuals and communities will be more important. By addressing the social determinants of crime – unemployment, homelessness, health and education issues – justice reinvestment has the potential to improve the life outcomes of individuals and build strong, safe and cohesive communities.<sup>46</sup>

It also noted some challenges associated with justice reinvestment:

The committee acknowledges that without a bipartisan approach there is the potential for justice reinvestment in Australia to fail. However, the committee considers that there are opportunities to promote bipartisan / multijurisdictional support for justice reinvestment as evidence was received of shifts in the thinking of some governments.

The systemic challenges such as barriers between and within government that hamper the comprehensive and integrated approach to the delivery of policy options, are complex and long standing. While it will be difficult to address these matters, there are benefits for governments and the community in integrated, effective and efficient service delivery.

....

The committee has noted the problems with the availability of data and the lack of rigorous evaluation of programs. This is a significant problem, but one which the committee considers can be addressed...<sup>47</sup>

The Committee concluded:

It appears to the committee that given the significant failures of the current justice system, it is time to look at where and why crime occurs and to address the underlying drivers of offending and reoffending. The committee considers that justice reinvestment has a proven track record in achieving successful outcomes through both lowering incarceration rates and targeting the drivers of crime. It is a community focussed, evidenced-based approach

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that provides savings, diverts offenders, addresses the causes of crime, and strengthens communities.<sup>48</sup>

In a dissenting report, Coalition Senators endorsed the principle of justice reinvestment but did not support the majority's recommendations. They referred to two critical problems:

- a. The dearth of evidence that any [justice reinvestment] programs to date are sufficiently successful to allow reduced spending on the court and prison systems;
- b. The criminal justice system (for the most part) and the prison system (in its entirety) are the responsibility of the states and territories, not the Commonwealth.<sup>49</sup>

### 4.4 Commentary by NGOs

In recent years, a number of non-government organisations have published papers calling for governments to adopt a justice reinvestment approach in Australia. These include the [Australian Youth Affairs Coalition](#), [Amnesty International Australia](#), [Change the Record Coalition](#), and the [Australian Red Cross](#).<sup>50</sup> For example, the Australian Red Cross argues:

The analysis of justice reinvestment both in Australia and overseas suggests this approach is more effective than the current approaches to justice. Justice reinvestment invests in people and communities to provide support, treatment and services that address the underlying issues confronting people who commit less serious offences. These issues include homelessness, mental health, deep social exclusion, and poor education and employment histories. Evidence suggests that it is more efficient and effective to address the causes and thus reduce the need for (and greater cost of) incarceration.

Across Australia, researchers have identified those communities where social exclusion and disadvantage are driving crime and other social issues. [We believe] there are great opportunities to work with community leaders to address the specific causes of crime. Early indications from trials in Australia suggest that adopting a local justice reinvestment approach will pay bigger long-term dividends than a “tough on crime” approach.<sup>51</sup>

On the other hand, a 2013 [paper](#) by the think tank, The Centre for Independent Studies, suggests that “there is cause to be sceptical of Justice Reinvestment” as a solution to Indigenous imprisonment rates.<sup>52</sup> The paper referred to differences between the criminal justice systems of the United States and Australia, it noted that correctional budgets have continued to grow in the United States, and it also argued that:

Justice Reinvestment appears to recycle familiar old ‘preventive’ and community-based programs in a new wrapping. The localised, community-focused approach characteristic of Justice Reinvestment is already a feature of Aboriginal Community Justice Groups in NSW, Queensland and the Northern Territory. Justice Reinvestment supporters have yet to explain how the approach will be any different or an improvement on existing community-based justice programs.<sup>53</sup>

The paper concluded:

In the fight against Indigenous disadvantage and incarceration, Justice Reinvestment threatens to become a distraction from focusing on the fundamentals such as education and employment that will lead to change...

...Improving educational outcomes should not be reliant on the diversion of funds from prison services but a basic right that states and territories should be covering in their education budgets.<sup>54</sup>

A recent [paper](#) by the Institute of Public Affairs argues that there is a need to reduce reliance on imprisonment; in particular for low-risk non-violent offenders.<sup>55</sup> However, in contrast to justice reinvestment, it suggests that the resources that are saved should be reinvested in the police force, strengthening its capacity to deter and detain criminals.<sup>56</sup>

### 4.5 Academic commentary

In recent years, several academics have commented on the idea of adopting a justice reinvestment approach in Australia. In a 2010 article, Schwartz noted that justice reinvestment was in many ways similar to existing ideas but it also has distinctive features:

There is extensive existing literature detailing the failure of the prison estate and recommending alternative approaches that might better address rates of offending. In some respects – in advocating the addressing of criminal offending by focusing on underlying causes of crime, and in its focus on the potential of in-community initiatives – justice reinvestment is really a new framing of accepted wisdom. However, there are aspects of justice reinvestment, particularly in the combination of economic methodologies, place-based approaches and the use of data mapping, which do represent an emerging approach to dealing with over-incarceration.<sup>57</sup>

In a 2014 article, Wood identified a number of challenges that impact on the use of a JRI approach in Australia including:

- In the United States, justice reinvestment has not led to smaller correctional budgets; and in Australia, it is difficult to see where the resources required to address social structural inequities will come from without the requisite decrease in correctional budgets;
- Australia faces a much different geographical distribution of crime and social marginalisation than the United States: e.g. Indigenous offending is mainly an issue in regional and remote areas. This presents unique problems for the delivery of social services;
- Given the lower rates of incarceration and overall smaller population, it may be the case that compared to the United States there is relatively less savings to be recaptured and reinvested.<sup>58</sup>

He concluded that the policy's success in Australia would depend on:

...the ability of its advocates to implement such initiatives within a society with its own brand of penal populism, unique problems facing deprived and high-stakes communities, a markedly different political and correctional administrative structure than the United States, and a poor record to date of addressing the social effects of colonialism and ongoing social marginalization.<sup>59</sup>

In 2015, the [Australian Justice Reinvestment Project](#) team published the book *Justice Reinvestment: Winding Back Incarceration*.<sup>60</sup> A key concern of

this book is how justice reinvestment might affect marginalised groups who have been particularly affected by growth in the prison population; namely, Indigenous people, people with mental health or cognitive disorders, and women.<sup>61</sup> It considered this issue in light of the place-based approach that was integral to the original justice reinvestment concept. It commented:

Broadly speaking, we have argued that a place-based approach can have significant benefits for these [marginalised] groups where their specific needs and aspirations are clearly articulated and are developed within justice reinvestment initiatives.

Having said that, we should acknowledge some of the limitations of place-based approaches. One consideration that requires further thought is the extent to which justice reinvestment can make significant inroads into structural conditions of disadvantage...In the Australian setting, it is important to recognise that the structural disadvantage in Indigenous communities adds a level of complexity that needs special consideration.<sup>62</sup>

It added:

Effective place-based approaches to criminal justice reform will require a number of commitments to the way we (and particularly, governments) do things: political commitments to local decision-making and governance structures, the development and strengthening of local capacity to respond to criminal justice problems, and the actual financial reinvestment to allow these changes to occur.<sup>63</sup>

The book also investigated the issue of transferring criminal justice policy from one jurisdiction to another. It outlined some specific differences between the United States and Australia which might constitute barriers to the adoption of justice reinvestment in Australia. These included (for example): the differences in legal and political structures underpinning criminal justice, and the widespread acceptance across many diverse constituencies in the USA that mass incarceration has become a major problem.<sup>64</sup> The answer to the question of policy transfer was:

...a guarded one, hedged about with qualifications. What is clear is that justice reinvestment cannot simply be transplanted from the US context to the Australian...for justice reinvestment policy is not a commodity or package and context is everything...The answer we offer is that justice reinvestment can be an *inspiration* for a form of locally-based community development strategy utilising enhanced data and identification of local community assets and current forms of service support, conducted initially in the communities of vulnerability which have the highest contact with the criminal justice system. In the Australian context, that is exemplified in Indigenous communities.<sup>65</sup>

## 5. Initiatives in NSW

### 5.1 Bourke

The Maranguka Justice Reinvestment Project was established in 2013 as a partnership between the Bourke Aboriginal Community Working Party and [Just Reinvest NSW](#). The Working Party saw the need to take a new approach to address the high rates of crime and imprisonment in the community, particularly involving young Aboriginal people. The project [webpage](#) explains (in part):

The first stage of the justice reinvestment project has focused on building trust between community and service providers, identifying community priorities and circuit breakers, and data collection.

...

The local community has spent a lot of time thinking about how to reduce offending and make the community safer. They have identified and are in the process of implementing, in partnership with local service providers, a number of cross-sector initiatives or 'circuit breakers' to achieve this, including three justice circuit breakers addressing breaches of bail, outstanding warrants and the need for a learner driver program in Bourke.

Data has been collected...The data has been handed over to community members through community conversations held by local facilitators, and community feedback was recorded and fed back to the Bourke Tribal Council. This feedback, together with the data, informed the development of goals, measures and strategies for the Maranguka Justice Reinvestment Project reflected in the document *Growing our Kids Up Safe, Smart and Strong* [which] was developed by the Bourke Tribal Council.

During the implementation phase over the next 3 years (2016 – 2019), economic modeling will be undertaken to demonstrate the savings associated with the strategies to be identified by the community and local service providers to reduce offending amongst children and young people.<sup>66</sup>

In September 2016, the ABC's *Four Corners* program looked at this initiative.<sup>67</sup> Brad Hazzard, Minister for Community Services, said:

We're backing them with the gathering [of] data but also looking at how we might use all that money which currently goes into Bourke in a better and more effective way. I think it's actually beyond politics. Generally across Australia there is an earnest willing energy about trying to do something different. They're just not sure what it is. We've had a couple of hundred years of complete failure. And how we now approach the experiment in Bourke is important across Australia...<sup>68</sup>

### 5.2 Cowra

A justice reinvestment research project commenced in 2013 as a collaboration between the National Centre for Indigenous Studies at the Australian National University and the community of Cowra.<sup>69</sup> The project [webpage](#) states that "this project is an exploratory study involving a conversation with Cowra people in order to identify what enables young people to lead meaningful lives in Cowra". In June 2015, a community forum was held, with the media reporting:

About \$46 million had been spent on incarcerating Cowra citizens over the past ten years. Forum participants determined that about 50 per cent of this - some \$23 million - had been spent during that time on incarcerating their citizens for crimes which would be amenable to a Justice Reinvestment approach, if such a policy was in place.

"When we take into consideration how much has been spent on citizens from our community over the past ten years to incarcerate them for these types of offences, we learnt that some \$23 million has been spent on our behalf. Looked at another way...that represents some \$2.3 million per annum that could be reinvested into treatment, prevention and early intervention, if a Justice Reinvestment policy was in place," Cr [Councillor] Fagan said.<sup>70</sup>

A report on the findings from the research project has not yet been published. However, the project has led the Council to resolve to seek intergovernmental collaboration to establish a pilot in Cowra.<sup>71</sup>

### 6. Initiatives in other States

#### 6.1 South Australia

The South Australian Government has committed to a justice reinvestment trial in two locations. Port Adelaide has been selected as a potential trial area. The Department of Attorney-General's [website](#) states:

In July and August 2015, the Attorney-General's Department...began consultation with community members, service providers, government, non-government organisations and others about what a trial justice reinvestment project could look like for Port Adelaide. Further work is being undertaken to refine the scope of the trial and further engagement process.<sup>72</sup>

#### 6.2 Australian Capital Territory

The ACT's 2016-17 Budget committed \$850,000 in funding:

...to support a Justice Reinvestment trial that targets services and support to Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system. The funds will be directed towards Aboriginal run organisations, the Domestic Violence Crisis Service, and ACT Policing to build engagement with the broader Aboriginal and Torres Strait islander community...<sup>73</sup>

#### 6.3 Northern Territory

In 2015, the Northern Territory Council of Social Services (NTCOSS) and the North Australian Aboriginal Justice Agency commenced a justice reinvestment project in Katherine through funding provided by the NT Law Society.<sup>74</sup> The project seeks "to determine the capacity of justice reinvestment to reduce incarceration and offending of 10-24 year old Indigenous people in Katherine".<sup>75</sup> In July 2016, a [report](#) was published on initial community consultations. It stated:

Project consultations conducted over the last 12 months indicate that stakeholders in Katherine are overwhelmingly in support of introduction of JR. Given this, we will continue to work with the community to progress JR in coming months, dependent on sourcing additional funding...<sup>76</sup>

### 7. Conclusion

Over the past ten years justice reinvestment has become a popular criminal justice policy in the United States. States have analysed justice data and developed a range of justice system reforms designed to reduce the prison population or its growth, while also maintaining public safety. Some of the projected or actual cost savings have been reinvested; but this has focused on further justice system initiatives rather than (as originally envisaged) on rebuilding communities that have high levels of incarceration. The evidence on the impact of justice reinvestment on prison populations is not yet clear; and evaluations also need to study its effect on crime rates.

The UK Government has trialled a justice reinvestment approach in some local areas. This has been part of a much broader reform, namely the adoption of a Payment by Results approach to rehabilitation services.

In Australia, several reports and organisations have called for governments to adopt justice reinvestment (or at least a trial); in particular, to address the very high rates of imprisonment of Indigenous people. Others have been more sceptical, arguing that there is not enough evidence of its success in the United States; or that it is a recycling of community-based initiatives that have not worked in Australia. The expert commentary suggests that, if it is to be a success in Australia, a number of challenges will need to be overcome. Current initiatives include a locally-organised trial in NSW, and State government-led trials in South Australia and the ACT.

- <sup>1</sup> Productivity Commission, [Report on Government Services 2016](#) – Volume C (Justice), Chapter 8, [Attachment Tables](#), Table 8A.6
- <sup>2</sup> Institute for Criminal Policy Research, [World Prison Population List](#), Eleventh Edition, 2015. All of the statistics quoted are from this source.
- <sup>3</sup> US Department of Justice, Bureau of Justice Statistics, [Correctional Populations in the United States, 2014](#), December 2015, p4, Table 3
- <sup>4</sup> ABS, [4517.0 - Prisoners in Australia, 2016](#), [online]
- <sup>5</sup> S Tucker and E Cadora, [Ideas for an Open Society: Justice Reinvestment](#), Open Society Foundations, November 2003
- <sup>6</sup> Tucker and Cadora, note 5, p2
- <sup>7</sup> Tucker and Cadora, note 5, p2
- <sup>8</sup> Tucker and Cadora, note 5, p3
- <sup>9</sup> See Council of State Governments Justice Center, [Justice Reinvestment](#), [online]; and Pew Charitable Trusts, [Justice Reinvestment Initiative Brings Sentencing Reforms in 21 States](#), Issue Brief, January 2016
- <sup>10</sup> N LaVigne et al, [Justice Reinvestment Initiative State Assessment Report](#), Urban Institute and Bureau of Justice Assistance, 2014, p6
- <sup>11</sup> LaVigne et al, note 10, p6
- <sup>12</sup> Bureau of Justice Assistance, [Justice Reinvestment Initiative](#), [online]
- <sup>13</sup> Bureau of Justice Assistance, [What is JRI?](#), [online]
- <sup>14</sup> Council of State Governments Justice Center, [Justice Reinvestment](#), [online]; Bureau of Justice Assistance, [Justice Reinvestment Initiative](#), [online]
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- <sup>16</sup> LaVigne et al, note 15, p3
- <sup>17</sup> LaVigne et al, note 15, p53
- <sup>18</sup> LaVigne et al, note 15, p3
- <sup>19</sup> LaVigne et al, note 15, p45-46
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- <sup>23</sup> Austin et al, note 22, p11
- <sup>24</sup> Austin et al, note 22, p11
- <sup>25</sup> Austin et al, note 22, pp7-11
- <sup>26</sup> Austin et al, note 22, p10
- <sup>27</sup> Austin et al, note 22, p6
- <sup>28</sup> Austin et al, note 22, p10
- <sup>29</sup> House of Commons Justice Committee, [Cutting crime: the case for justice reinvestment](#), First Report of Session 2009-10, January 2010
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