

Justice Reinvestment U.S. style: Not a model to emulate

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April 2011 marked the 20th anniversary of the Royal Commission into Aboriginal Deaths in Custody (RCIADC) handing down its recommendations. Community anger about a wave of Aboriginal deaths in custody sparked a determined nationwide movement. The commission was called in response to investigate 99 deaths.

A key finding of was that, although Indigenous people were dying at the same rate as non-indigenous people in custody, the over-representation of Aboriginal Australians in the criminal justice system led to a higher percentage of deaths.

Over the last two decades, deaths in custody have continued at a rate of about one per month, and the over-representation of Indigenous people in custody has ballooned. Twenty years ago, Indigenous people made up 14% of the prison population. It is now 26% and even worse for women and juveniles. Meanwhile, many of the excellent recommendations remain unimplemented. Take, for example, recommendation 87a that arrest be as a matter of last resort or recommendation 90 that bail be considered whenever possible.

Anniversary campaign launched. Australians for Native Title and Reconciliation (ANTAR) released a Joint National Call to Action designed to reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system and called for supporters to mobilise for its implementation.

This campaign successfully highlighted the crisis and included many welcome initiatives, including demands for clear targets and urgently needed improvements in police accountability. But at the heart of ANTAR's call to action is support for using a Justice Reinvestment (JR) framework, based on an approach becoming in increasingly popular in the U.S.

The U.S. is the biggest jailer on earth — it has 5% of the world's population but locks up 25% of the world's prisoners! Over 60% of these inmates are racial and ethnic minorities. More Blacks are under prison or parole control today than were enslaved in 1850! Native Americans, like other people of colour, are also disproportionately incarcerated.



Justice Reinvestment in the U.S. This program, which has been implemented by 10 states and is being actively considered by a further six, is primarily designed to reduce the spiralling cost of the U.S. prison system. Those embracing the program tend to be traditional law-and-order states and, in every case, JR has been introduced with bipartisan support from the Republicans and Democrats.

JR is a cost-cutting community safety program that takes a risk analysis approach. Less money is spent on supervising those who are considered to be at a low risk of re-offending, and a portion of the savings goes into intensifying the supervision of those who are seen as high risk. A portion goes into community programs and a portion is returned as a saving to the state.

The Justice Centre, an organisation formed by the Council of State Governments in 2006, developed the concept. It works with governments to design programs and then measure performance. JR is described by its advocates as “calculating public expenditure on imprisonment in localities with a high concentration of offenders, and diverting a proportion of this expenditure back into those communities to fund initiatives that can have an impact on rates of offending.”

At first glance, this may sound attractive. After all, imprisoned people of colour come from the poorest communities with the fewest options. However, none of the public discussion about JR focuses on making life better for the impoverished, primarily people of colour prison population. The stated goal is to reduce spending on corrections to reinvest in strategies that can improve public safety.

In Arizona, a JR state, just 40% of what is saved on prisons is reinvested and it is going to a combination victim services, probation risk reduction strategies and substance abuse treatment. In Connecticut 30 million dollars have been saved, but just 13 million reinvested.

While the programs vary from state to state, in all instances their primary aim is to save money. The programs take a “carrot and stick” approach. About one-third of all prison admissions are for parole violations. So, there’s a mix of incentives to reduce parole time for those who conform and tougher measures for those who don’t.

The Kansas Secretary of Corrections explains: “the idea is to work with offenders to prevent them from violating the conditions of their release, rather than just monitoring to see if violations occur”. He says, “Half the offenders will do fine without supervision.” However, those seen as high risk have to report daily and wear GPS ankle bracelets! In many states, parole officers are given increased powers to “take swift action” against those who commit minor parole violations.

These get-tough approaches are tolerated by some who claim to be prisoners’ rights advocates because of the meagre funds spent on urgently needed programs, such as supporting people with substance abuse needs, transitional housing and job training programs. There has also been a reduction in recidivism rates by providing mostly incentives, but also providing a little bit of support to low risk parolees deemed less likely to re-offend.

Misguided support. On the surface, the stated goal of reducing imprisonment rates makes JR seem attractive to deaths-in-custody activists wanting to reduce Indigenous imprisonment rates. Providing funding for community programs designed to help parolees to reintegrate is also a welcome initiative. However, the U.S. program is highly problematic, and not something movement activists should support.

It is a neoliberal cost cutting measure that paves the way for increased repressive measures against some sections of the prison population. Programs funded are designed to enhance social control, and JR delivers very little funding to address the real issues of poverty, unemployment, homelessness and addiction. JR would also do nothing to address over-policing and racist police practice – a key reason why people of colour are over-represented in prison populations in the U.S. and why Indigenous people are over-represented in Australia.

Solutions worth fighting for. The link between imprisonment and poverty, unemployment, homelessness, addiction and loss of connection to land and community is crucial. However, a JR style program is not a prerequisite for fully funding all of the support services prisoners need on their release. Redirecting funds from corporate welfare and war could fund these services now!

Abolishing racist arrests and sentencing would drastically reduce the prison population. Other key demands include:

- All forms of discrimination against ex-prisoners must be eliminated;
- Scrap Local Law 8 in the City of Yarra and end the harassment of people for public drinking;
- Treat drug and alcohol addiction as health, not criminal, questions and legalise drugs under community control;
- Establish independent civilian review boards to hold police accountable and end the appalling brutality.

Australia is a country where, in 2009, a 12-year-old Aboriginal boy was charged with receiving stolen goods for accepting a Freddo Frog chocolate and the West Australian police argued that it was appropriate to have the court deal with him, because police had spoken to him about other matters previously!

The demand to fully implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody remains as relevant today as it was 20 years ago. We don't need a new scheme designed by cost cutters. What's needed is action on the demands the movement has long advocated. This includes recognising that the struggle to end Indigenous deaths in custody cannot be separated from the wider struggle of Australia's First Nations for sovereignty and a treaty.

The Freedom Socialist Party has been active in the movement since the mid '80s, when we worked with the Committee to Defend Black Rights to organise the Victorian leg of a speaking tour of relatives who had lost a loved one in custody. This helped spark the Royal Commission. We urge other deaths-in-custody campaigners to look critically at the Justice Reinvestment program in the U.S. (See for yourself at: www.justicereinvestment.org) Contact us at freedom.socialist.party@ozemail.com.au