



## **SENATE FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE**

### **SUBMISSION TO INQUIRY INTO ACCESS TO LEGAL ASSISTANCE SERVICES APRIL 30 2015**

#### **Introduction**

##### **Who we are**

Just Reinvest NSW is an incorporated association, incorporated in NSW. It has the following objectives:

- The relief of suffering of Aboriginal and Torres Strait Islander young persons associated with poverty, homelessness, misuse of drugs and alcohol and violence;
- Research and advocacy regarding the causes of and contributing factors to criminal behaviour by Aboriginal and Torres Strait Islander young persons; and
- Research and advocacy regarding programs to reduce the incidence of and extent of interaction of Aboriginal and Torres Strait Islander young persons with the criminal and juvenile justice systems.

Just Reinvest NSW evolved from the work of a small group of people with a background in the criminal justice system and/or who were working with Indigenous young people (see Appendix 1 for list of members). The group was concerned about the over-representation of Indigenous young people in custody and in particular about the inadequacy of drug and alcohol rehabilitation for Indigenous young people and the lack of diversionary and crime prevention programs.

In late 2012 Just Reinvest NSW began working with the Bourke community to develop a Justice Reinvestment approach. This was as a response to community concerns over the lack of detailed outcome-driven evaluations of the numerous programs delivering services into Bourke and the short-term nature of the funding allocated by government for these programs. In order to provide effective programs and services, the Bourke community has identified a critical need for a framework that will provide long-term, sustainable funding.

Funding and resources were obtained for a 2 year project term, and evidence of the project's impact will be used to present a compelling, evidence based case for the NSW State government to divert funds away from incarceration and into prevention, diversion and early intervention programs. The project team consists of 2 funded positions and in kind support from Lendlease, KPMG, the NSW Department of Aboriginal Affairs and the Aboriginal Legal Service NSW ACT.

The project team is also supported by a broader collective of Justice Reinvestment Champions, Working Group members and supporters and a Strategic Project Advisory Group that includes Human Rights Commissioners Mick Gooda and Megan Mitchell, the NSW Legal Aid Commission, Jesuit Support Services, and the NSW Department of Aboriginal Affairs.

The project will be designed and delivered using an approach known as **Collective Impact**, a different form of collaboration with dedicated roles and a purpose built structure which focuses on the design of solutions to complex problems and the development of evidence based policy and shared measures to address system level change.

Through applying the Collective Impact framework over the two-year period, the following elements will be developed in Bourke:

- A whole-of-community and whole-of-government **common agenda** to reduce youth crime and increase community safety
- **Shared measures** for change based on real-time data
- A **common approach**, based on best evidence, for creating change in the shared measures and developing the will and capability within the system to implement these responses
- A **backbone organisation** to perform the necessary functions of facilitating the collaboration, continuously communicating and tracking change in the shared measures.
- A **clear financial picture** of the cost of implementation and the costs saved through effective implementation.

## **Senate Inquiry Terms of Reference**

Owing to our experience and expertise Just Reinvest NSW has focused our submission on the following terms of reference of the Senate Inquiry:

- e. the reasons for the high incarceration rates for Aboriginal and Torres Strait Islander men, women and juveniles;
- f. the adequacy of statistical and other information currently collected and made available by state, territory and Commonwealth governments regarding issues in Aboriginal and Torres Strait Islander justice;
- g. the cost, availability and effectiveness of alternatives to imprisonment for Aboriginal and Torres Strait Islander Australians, including prevention, early intervention, diversionary and rehabilitation measures; and
- h. the benefits of, and challenges to, implementing a system of 'justice targets'.

Just Reinvest NSW would appreciate the opportunity to provide evidence directly to the Committee of inquiry.

**(e) The reasons for high incarceration rates for Aboriginal and Torres Strait Islander men, women and juveniles**

NSW has the third highest imprisonment rate out of the Australian States and Territories at 171.2 per 100,000.<sup>1</sup> In NSW for the year 2013-14, the daily average number of adult prisoners in custody increased by 6.5 per cent and the average number of juveniles held in detention decreased by 3.1 per cent.<sup>2</sup> However, Aboriginal and Torres Strait Islander Australians in NSW are now more overrepresented in custody than they were at the time of the 1991 Royal Commission into Aboriginal Deaths in Custody at a rate 15 times higher than the imprisonment rate for non-Indigenous Australians.<sup>3</sup>

In relation to young people, the Senate's report on the 'Value of a justice reinvestment approach to criminal justice' of June 2013 found:<sup>4</sup>

*The Australian Institute of Health and Welfare (AIHW) administers the Juvenile Justice National Minimum Data Set (JJ NMDS). Both Western Australia and the Northern Territory have not contributed to the NMDS since 2007-08. The AIHW estimates national totals based on previous data supplied from those jurisdictions.<sup>5</sup>*

*The AIHW added that, based on postcode of last address, almost 2 in 5 young people under supervision on an average day were from the areas of the lowest socioeconomic status. Young people aged 10-17 from the areas of lowest socioeconomic status were five times as likely to be under supervision as those from the areas of highest socioeconomic status (42 per 10,000 compared with 9 per 10,000).<sup>6</sup>*

*In NSW, just under half of the Department of Juvenile Justice budget is spent on keeping juvenile offenders in custody.<sup>7</sup>*

Just Reinvest NSW experience and expertise predominately relates to young Aboriginal and Torres Strait Islander Australians.

**Young People**

Concerning the drivers of juvenile incarceration, the Senate's report on 'Value of a justice reinvestment approach to criminal justice' of June 2013 found:<sup>8</sup>

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<sup>1</sup> Australian Bureau of Statistics, Prisoners in Australia, Cat. 4517.0, Canberra, 2012

<sup>2</sup> NSW Auditor-General's Report to Parliament, Vol. 8 Law and Order, Sydney, 2014.

<sup>3</sup> Australian Bureau of Statistics, Prisoners in Australia, Cat. 4517.0, Canberra, 2012

<sup>4</sup> The Senate of the Commonwealth of Australia's Legal and Constitutional Affairs Committee, *Value of a Justice Reinvestment approach to criminal justice in Australia*, Canberra, June 2013.

<sup>5</sup> Australian Institute of Health and Welfare, Submission 73, p. 2.

<sup>6</sup> Australian Institute of Health and Welfare, Youth justice in Australia 2011-12: an overview, Bulletin 115, April 2013, p. 6

<sup>7</sup> The Centre for Independent Studies, Submission 46, Attachment 1, Sara Hudson, 'Panacea to Prison? Justice Reinvestment in Indigenous Communities', Policy Monographs, The Centre for Independent Studies, No. 134, 2013, p. 4.

<sup>8</sup> The Senate of the Commonwealth of Australia's Legal and Constitutional Affairs Committee, *Value of a Justice Reinvestment approach to criminal justice in Australia*, Canberra, June 2013.

*There are multiple reasons for the increased juvenile representation in prisons. These include the disproportionate over-representation of Aboriginal young people held in detention. The AHIW reported that data collections show that young people from areas of low socioeconomic status or remote areas and young people who are homeless or in the child protection are also over-represented in the youth justice supervision system.<sup>9</sup> Other factors include the increasing number of sentenced young people being held on remand; the limited implementation of bail and supervision orders; and the geographic concentration of young offenders in disadvantaged areas.<sup>10</sup>*

*Legal Aid NSW commented that young people are often released on bail subject to onerous conditions such as curfews, requirements to be in the company of a parent, requirements to follow the directions of a parent, and place restrictions. Because of the stringency of such conditions, there is an increased likelihood that the conditions will be breached. Legal Aid NSW also commented that police appear to be giving more attention to bail compliance checking. As a result, the number of bail breach matters coming before the Children's Court has increased dramatically.<sup>11</sup>*

*This trend has several adverse consequences: a young person breaching bail will end up on remand; and if the young person comes into contact with the adult criminal justice system at a later stage having breached bail multiple times as a juvenile, that person is treated by the courts as a person with a lengthy criminal history which, among other things, decreases the chances of that person being granted bail in the future.<sup>12</sup>*

*In addition, a disproportionately larger number of juveniles are currently being held on remand in comparison to the rest of the prison population, for example, 53 per cent of the 320 juveniles and young people in custody in NSW held on remand. One of the reasons for remand being that 'a substantial number are refused bail because they are homeless'.<sup>13</sup> The North Australian Aboriginal Justice Agency (NAAJA) observed that on 31 January 2013, 24 of 65 juvenile detainees in the Northern Territory were on remand.<sup>14</sup> Many young people are being held on remand due to their difficulty in upholding strict bail conditions and yet over 80 per cent of young people in remand in Western Australia will not receive a custodial sentence once they appear in court.<sup>15</sup>*

*The offending behaviour of young people is linked to their circumstances: 'there is strong evidence that children who suffer abuse or neglect are more likely to engage in criminal activity than those who do not'.<sup>16</sup> The AIHW noted that almost 15 percent of young people under juvenile justice supervision received homelessness support in the year before their most recent supervision. There is also an overlap between youth justice and child protection systems. Almost 10 per cent*

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<sup>9</sup> Australian Institute of Health and Welfare, Submission 73, p. 3.

<sup>10</sup> Youth Affairs Council of Western Australia, Submission 54, p. 13.

<sup>11</sup> Legal Aid NSW, Submission 38, p. 3.

<sup>12</sup> Legal Aid NSW, Submission 38, p. 3.

<sup>13</sup> Sara Hudson, 'Panacea to Prison? Justice Reinvestment in Indigenous Communities', Policy Monographs, The Centre for Independent Studies, No. 134, 2013, p. 19.

<sup>14</sup> North Australian Aboriginal Justice Agency, Submission 47, p. 7.

<sup>15</sup> Youth Affairs Council of Western Australia, Submission 54, pp 14; 17.

<sup>16</sup> Western Australian Council of Social Services, Western Australian Association for Mental Health, Western Australia Network of Alcohol and Drug Agencies, Submission 64, p. 28.

*of those who have had some supervision have also had at least one substantiated child protection notification.<sup>17</sup>*

### **Social Factors contributing to the growth in the Australian imprisonment**

In our submission to the Senate inquiry into the value of a justice reinvestment approach to criminal justice in Australia we stated:<sup>18</sup>

Much has also been written about the social determinants of crime. Prison inmates are characterised by disadvantage with histories of disrupted family and social backgrounds; abuse, neglect and trauma; poor educational attainment and consequent limited employment opportunities; unstable housing; parental incarceration; juvenile detention; dysfunctional relationships and domestic violence; and previous episodes of imprisonment.

The 2009 Young People in Custody Health Survey noted the following alarming statistics:<sup>19</sup>

#### *Social Determinants*

- Over half (52 per cent) of men and just under half (45 per cent) of women did not finish year 10 of schooling.
- Just over one in ten (11 per cent) participants were living in unsettled accommodation or had no fixed abode prior to their current incarceration, a slight increase since 1996 (8 per cent).
- Half (50 per cent) of men and two-thirds (67 per cent) of women were unemployed in the 6 months before their incarceration.
- Much of this unemployment was long-term with 30 per cent of men and 44 per cent of women being unemployed for five years or longer.
- An increased proportion (30 per cent) of 2009 participants had a history of being placed in care before the age of 16 years compared to 2001 (21 per cent).
- Just under one in five (18 per cent of men, 17 per cent of women) had a history of parental incarceration during their childhood.
- Over half (54 per cent) of women and just under half (46 per cent) of men have a disability or illness that had impacted on their health for six months or more.
- Half (52 per cent) of men and 35 per cent of women had a history of a head injury resulting in unconsciousness. The prevalence of head injuries has decreased among women from 39 per cent in 2001 to 35 per cent in 2009, but increased among men from 45 per cent in 2001 to 52 per cent in 2009. Most of these head injuries (47 per cent) occurred over ten years previously and involved only a short period of unconsciousness (51 per cent less than ten minutes).

#### *Access to Healthcare*

- One in six (17 per cent) men and 4 per cent of women have never accessed healthcare outside of prison.

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<sup>17</sup> Australian Institute of Health and Welfare, Submission 73, p. 3.

<sup>18</sup> Just Reinvest NSW, 'Submission to the Senate inquiry 'The value of a Justice Reinvestment approach to criminal justice in Australia' Sydney, March 2013.

<sup>19</sup> Devon et al, *2009 NSW Young People in Custody Health Survey: Full Report*, Justice Health and Juvenile Justice, Sydney 2011.

### Alcohol and Other Drugs

- Risky alcohol consumption in the year before incarceration is much higher than the community average, with 63 per cent of men and 40 per cent of women drinking alcohol at hazardous/harmful levels in the year before prison. In particular, a high proportion (35 per cent of men, 16 per cent of women) were drinking at levels suggestive of alcohol dependence.
- (84 per cent) have used illicit drugs, compared to just over a third (38 per cent) in the general community. The proportion of women who had used illicit drugs decreased slightly between 1996 and 2009 (from 82 per cent to 78 per cent), while use of drugs increased among men from 69 per cent in 1996 to 86 per cent in 2009.
- Cannabis is the most common drug ever used (81 per cent), followed by amphetamines (57 per cent), cocaine (45 per cent) and ecstasy (44 per cent).

### Mental Health

- The majority (87 per cent) of young people were found to have at least one psychological disorder, and nearly three-quarters (73 per cent) were found to have two or more psychological disorders.
- Young women were significantly more likely than young men to have an attention or behavioural disorder (82 per cent vs 68 per cent), an anxiety disorder (54 per cent vs 28 per cent), a mood disorder (56 per cent vs 19 per cent) or two or more psychological disorders (92 per cent vs 70 per cent).
- Aboriginal young people were significantly more likely than non-Aboriginal young people to have an attention or behavioural disorder (75 per cent vs 65 per cent) or an alcohol or substance use disorder (69 per cent vs 58 per cent).
- Young women were also significantly more likely to have high psychological distress (55 per cent vs 24 per cent), to have ever attempted suicide (23 per cent vs 8 per cent), to have ever self-harmed (35 per cent vs 14 per cent) and to have ever been admitted to a psychiatric unit (28 per cent vs 6 per cent).
- Over half (60 per cent) of young people had a history of child abuse or trauma. Significantly more young women reported a history of abuse than young men (81 per cent vs 57 per cent). A high proportion of young women had been physically (61 per cent) or sexually abused (39 per cent).
- Intellectual ability in the range indicating possible intellectual disability was common. One in five (20 per cent) Aboriginal young people were assessed as having a possible intellectual disability (IQ scores less than 70).

### **Aboriginal and Torres Strait Islander Peoples**

The NSW Young People in Custody Health Survey 2009 has further identified that Aboriginal young people are particularly disadvantaged, with high levels of trans-generational trauma and associated exposure to mental illness, drug and alcohol issues, family violence and poverty.

It has been argued that crime rates amongst Aboriginal people can be further attributed to “institutionalised racism” in government service departments.<sup>20</sup> For example, some Aboriginal people experience greater difficulties in accessing services that assist in reducing offending behaviours, for example schooling and adequate housing.

The Senate stated in its report regarding the value of a justice reinvestment approach to criminal justice in Australia that:<sup>21</sup>

*Indigenous young people are over-represented in the justice system. Although less than 5 per cent of young people are Indigenous, on an average day in 2011–12, 39 per cent of those under supervision were Indigenous. In detention, this proportion was higher, where almost half (48 per cent) are Indigenous. Indigenous young people under supervision were younger, on average, than non-Indigenous young people. About 1 in 4 Indigenous young people under supervision on an average day were aged 10–14, compared with 1 in 8 non-Indigenous young people.*<sup>22</sup>

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*The trend in Indigenous young people under justice supervision is different to the national trend: between 2008–09 and 2011–12, there was an increase in the rate of Indigenous young people aged 10–17 under supervision on an average day from 226 to 236 per 10,000 population.<sup>23</sup> The level of Indigenous over-representation increased in unsentenced detention over the period from 24 to 31 times the likelihood of non-Indigenous young people.*<sup>24</sup>

It should also be noted that Aboriginal and Torres Strait Islander Australians in custody have poorer physical and mental health than their counterparts in the community, and are more likely to be from regional areas where there is reduced access to health and support services and fewer employment opportunities. Undoubtedly this contributes to re-offending within the cohort and should be considered against the fact that the rate of prisoners returning to prison in NSW remained above the national average in 2012–13.<sup>25</sup>

**(f) The adequacy of statistical and other information currently collected and made available by the state, territory and Commonwealth governments regarding issues in Aboriginal and Torres Strait Islander justice**

While the activities comprising the Bourke project may broadly be described as planning, they will create change in and of themselves. The development of a common agenda, the access to and interaction with data, the agreement to a common approach based on data and evidence, the intentional lift in capacity, and the detailed costings will all influence the operation and alignment of the system and its leadership in Bourke.

<sup>20</sup> Mann, R C ‘The Contribution to Institutionalized Racism to Minority Crime’ in Hawkins, D S, (Ed) *Ethnicity, Race and Crime Perspectives Across Time and Place*, 1995.

<sup>21</sup> The Senate of the Commonwealth of Australia’s Legal and Constitutional Affairs Committee, *Value of a Justice Reinvestment approach to criminal justice in Australia*, Canberra, June 2013.

<sup>22</sup> Australian Institute of Health and Welfare, *Youth justice in Australia 2011–12: an overview*, Bulletin 115, April 2013, p. 9.

<sup>23</sup> Australian Institute of Health and Welfare, *Youth justice in Australia 2011–12: an overview*, Bulletin 115, April 2013, p. 16

<sup>24</sup> Australian Institute of Health and Welfare, *Juvenile detention population in Australia 2012*, Juvenile justice series No. 11, 2012, p. vii.

<sup>25</sup> NSW Auditor-General’s Report to Parliament, Vol. 8 Law and Order, Sydney, 2014.

The community has identified 11 key areas within the Justice Reinvestment framework:

1. Justice
2. Employment
3. Education
4. Service Delivery
5. Youth Engagement
6. Drugs and Alcohol
7. Mental Health
8. Early Childhood
9. Out of Home Care
10. Housing
11. Family Violence

For each of these it is necessary to track progress with baseline data and quarterly updates.

On behalf of the Bourke community, Just Reinvest NSW has made a number of data requests to both the NSW and Commonwealth Government. While at the State level the request was initially made through the OCHRE Local Decision Making Solution Broker (the General Manager of Aboriginal Affairs), follow up requests have been made separately through each relevant department and in some cases directly to agencies. The task is onerous, complex and time-consuming. What is required is a body whose role it is to pull together place based data collection and analysis across the 3 layers of government and the portfolios that impact on justice outcomes (covering areas such as those identified by the community above).

A centralised body could also collate data on programs and services across Australia that are providing real and effective alternatives to imprisonment. While there are some services and centres that have started to collect and collate research relating to alternatives to prison including the Indigenous Justice Clearing House, there continues to be a lack of publicly available peer reviewed data about the costs, availability and effectiveness of alternatives to imprisonment. Justice Reinvestment seeks to address such information deficits, requiring data to form and evidence base around effective service delivery – ensuring transparency and accountability.

**(g) The cost, availability and effectiveness of alternatives to imprisonment for Aboriginal and Torres Strait Islander Australians, including prevention, early intervention, diversionary and rehabilitation measures**

The Senate has previously noted that a justice reinvestment approach in Australia could benefit Indigenous communities by halting the growth rates of imprisonment and detention and confronting the recidivism rates of Aboriginal and Torres Strait Islander Australians.<sup>26</sup> Furthermore the Senate found that Aboriginal and Torres Strait Islander communities hungered for a justice reinvestment approach. In the final report it stated:

*Ms Kerry Graham, Just Reinvest NSW, added that Indigenous leaders have been calling for a justice reinvestment approach for some time and noted the Aboriginal and Torres Strait Islander Social Justice Commissioner Social Justice Report 2009.*

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<sup>26</sup> The Senate of the Commonwealth of Australia's Legal and Constitutional Affairs Committee, *Value of a Justice Reinvestment approach to criminal justice in Australia*, Canberra, June 2013.



*The Just Reinvest NSW campaign found that it had an 'incredible response—an engaged and informed response—from communities and their leaders about this policy being something they want to step into, that they choose to do'.<sup>27</sup>*

## **The methodology of Justice Reinvestment<sup>28</sup>**

The aim of Justice Reinvestment (JR) is to redirect funding out of the corrections system so as to fund community based programs and services to support people in the community. This will result in a reduction of offending behaviours and build community capacity.<sup>29</sup> 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; and
- 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 areas 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.

Data is then collated 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, essential that bureaucratic data be supplemented with local attitudinal data. 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.

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<sup>27</sup> Ms Kerry Graham, Just Reinvest NSW, Committee Hansard, 1 May 2103, p. 21.

<sup>28</sup> Just Reinvest NSW, 'Submission to the Senate inquiry 'The value of a Justice Reinvestment approach to criminal justice in Australia' Sydney, March 2013.

<sup>29</sup> Tucker S & Cadora E, 'Ideas for an Open Society: Justice Reinvestment' *Open Society Institute Occasional Papers* No. 3(3) 2003.

### **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’.<sup>30</sup>

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 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.

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<sup>30</sup> Allen, A, ‘From restorative prisons to justice reinvestment’ in Allen, R and Stern, V (Eds), *Justice Reinvestment: A New Approach to Crime and Justice*, International Centre for Prison Studies, 2007.

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 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.

### **(h) The benefits of, and challenges to, implementing a system of 'justice targets'**

The necessity for justice targets was discussed at length by the Senate inquiry into justice reinvestment the findings were very clear:

*Submitters supported the implementation of justice targets.<sup>31</sup> The Australian Human Rights Commission recommended that the Commonwealth and state and territory governments commit to justice targets:*

*Beyond this the commission recommends that the Australian government set up the policy landscape so that we move from imprisonment towards diversion and crime prevention. Justice targets should be set to reduce the imprisonment rate for Aboriginal and Torres Strait Islander people. Targets should be implemented as part of a properly funded community [Safe Communities] National Partnerships program as part of the Closing the Gap strategy.<sup>32</sup>*

*The Commissioner for Children and Young People WA noted that measuring the achievement in any areas requires the establishment of a baseline and effective targets to ensure progress is measurable. The Commissioner has called for the integration of criminal justice targets into the COAG Closing the Gap Initiative. The Commissioner went on to state that:*

*It is essential in aiming for targets in health, early childhood, education and employment that the rate of Aboriginal over-representation is addressed as part of the effort to close the gap on Aboriginal disadvantage.<sup>33</sup>*

*The National Congress of Australia's First Peoples commented that the lack of a justice target is a 'gaping hole' in the Closing the Gap framework. While there are COAG targets in other areas, such as educational attainment, there is no justice target. Congress stated that the target should be aimed at reducing the incarceration rate by 50 per cent. Ms Solenec commented:*

*We believe that, if justice reinvestment is implemented on a national level with the standardised data collection, they are going to be able to meet these targets. It has been quite difficult for state governments, particularly governments like [the Western Australian Government], to commit to justice targets. Every time it has come up at the committee on law and justice, governments such as this one say: 'We can't do that. We're not going to admit to these targets.' But we think that, if justice reinvestment were in tandem with the targets so that both things happened at the same time and they are both going to go down, we are going to be able to meet the targets and have all the benefits from justice reinvestment.<sup>34</sup>*

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<sup>31</sup> See for example, Community Legal Centres NSW, Submission 102, p. 18; National Association of Community Legal Centres, Submission 103, p. 20.

<sup>32</sup> Ms Emilie Priday, Senior Policy Officer, Australian Human Rights Commission, Committee Hansard, 1 May 2013, p. 2

<sup>33</sup> Commissioner for Children and Young People WA, Submission 23, pp 6–7.

<sup>34</sup> Ms Tammy Solenec, Director, National Congress of Australia's First Peoples, Committee Hansard, 17 April 2013, p. 21.

*The National Centre for Indigenous Studies also supported the development of justice targets commenting that, without a target in Australia, there will be little imperative for change. The Centre stated that 'ultimately, national incarceration rates should reflect, at the very most, no more than the 2.5% Indigenous population rate'. An indicative incarceration rate target for Australia should be set by the proposed justice reinvestment body. It was stated that an associated indicative task could be that the proposed body works with all jurisdictions to determine an agreed level by which the incarceration levels in each will be reduced and the commensurate savings would be diverted from the corrections sector for reinvestment to justice reinvestment initiatives in those jurisdictions.<sup>35</sup>*

## RECOMMENDATIONS

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Just Reinvest NSW recommends:

1. The establishment of a taskforce or centralised body to develop and implement a Justice Reinvestment plan for NSW that would:
  - a. Ensure Cross-departmental support, facilitation and implementation of community-driven justice reinvestment initiatives creating new organisational systems and smarter outcomes.
  - b. Focus on:
    - i. Increasing community safety
    - ii. Reducing crime
    - iii. Reducing incarceration
    - iv. Reducing recidivism
    - v. Reducing long-term justice costs
  - c. Remove barriers to justice reinvestment including by:
    - i. Reallocating resources into crime prevention and diversionary programs
    - ii. Increasing greater transparency of, and access to, data for communities
    - iii. Developing a framework of ongoing research, monitoring and evaluation of justice reinvestment

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<sup>35</sup> National Centre for Indigenous Studies and Indigenous Offender Health Capacity Working Group, Submission 83, p. 10 (revised).

## **Appendix 1: Just Reinvest NSW Who We Are**

### **The Executive**

Chairperson: Sarah Hopkins (Member, ALS NSW/ACT)

Treasurer: Kerry Graham (Member)

Secretary: Gino Vumbaca (Member)

Ordinary Members:

Jane Powles (ANTaR NSW)

Brad Freeburn (Redfern AMS, NIDAC)

### **The Strategic Directions Committee**

- Aboriginal Legal Service NSW/ACT
- Kerry Graham
- Patrick Flynn
- Jenny Lovric
- Gilbert + Tobin
- Ashurst Australia
- Weave Youth Family and Community
- Australian National Council on Drugs
- Aboriginal Education Council (NSW)
- Community Legal Centres NSW
- Kingsford Legal Centre
- Redfern Aboriginal Medical Service & National Indigenous Drug and Alcohol Committee
- Aboriginal Drug and Alcohol Network
- Shopfront Youth Legal Centre & Youth Justice Coalition
- ANTaR NSW
- White Lion
- UnitingCare Children Young People and Families
- NSW Reconciliation Council
- Public Interest Advocacy Centre
- Lifestyle Solutions
- Youth Action

### **Campaign Champions**

- Professor The Honourable Dame Marie Bashir AD CVO
- Mr Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission
- Dr. Tom Calma AO, National Coordinator, Tackling Indigenous Smoking
- Mr Bob Debus AM
- Prof. Mick Dodson AM, Director of the National Centre of Aboriginal Studies at the Australian National University
- The Hon. Michael Kirby AC CMG
- Ms Marcia Ella Duncan

- Mr Jack Manning Bancroft, CEO of the Australian Indigenous Mentoring Experience
- Prof. Chris Cunneen, The Cairns Institute, James Cook University, Former Chairperson of the NSW Juvenile Justice Advisory Council (2000-2007)
- Mr Shane Phillips, Chairman and CEO of the Tribal Warrior Association
- Prof. Ted Wilkes, National Indigenous Drug and Alcohol Committee
- Mr Nicholas Cowdery, AM QC, Former NSW Director of Public Prosecutions
- Dr Naomi Mayer OAM & Mr Sol Belleair, Redfern Aboriginal Medical Service
- Mr Alistair Ferguson, Chairperson Bourke Community Aboriginal Working Party
- Ms Tammy Solonec, Director (Chamber 3), Indigenous Peoples' Rights Manager Amnesty International Australia
- Ms Megan Mitchell, National Children's Commissioner, Australian Human Rights Commission
- Mr Phil Naden, CEO Aboriginal Legal Service NSW/ACT
- Mr Shane Duffy, Chairperson National Aboriginal and Torres Strait Islander Legal Service
- Mr Eddie Cubillo, Executive Officer, National Aboriginal and Torres Strait Islander Legal Service