**Justice Reinvestment Factsheet**

**What is Justice reinvestment?**

Justice reinvestment (JR) involves advancing ‘fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer’[[1]](#footnote-1). The key strategy is the quantification of savings and subsequent reinvestment in high-stakes neighbourhoods to which ‘the majority of people released from prisons and jails return’, by, for example, redeveloping ‘abandoned housing and better coordinat[ing] such services as substance abuse and mental health treatment, job training, and education’.[[2]](#footnote-2) The JR approach is an outgrowth of the ‘evidence-based public policy’ strategy.

It is a ‘place based’ approach through which resources spent on incarcerating offenders can be redirected into local communities from which the offenders come and to which they will return. It has been described at a form of “preventative financing, through which policymakers shift funds away from dealing with problems ‘downstream’ (policing, prisons) and towards tackling them ‘upstream’ (family breakdown, poverty, mental illness, drug and alcohol dependency).[[3]](#footnote-3)

**JR in the USA**

The USA imprisons the highest number of people in the world: in 2008, the Pew Center on the States reported that one in 100 adults in America were in prison.[[4]](#footnote-4) Further, rates of reoffending are such that two-thirds of released prisoners return to jail.[[5]](#footnote-5) This state of affairs has been termed ‘mass imprisonment’, and to keep up with the numbers of prisoners, the American corrections budget is more than US$60 billion per year.[[6]](#footnote-6) Spending on prisons increased by more than 300 per cent in the last 20 years, compared with an increase in spending on higher education of 125 per cent in the same period.[[7]](#footnote-7) The combination of these skyrocketing costs and the global financial downturn has resulted in unusual levels of bipartisan support for more effective spending of tax dollars in the corrections context.

The term ‘justice reinvestment’ was coined in America in 2003 by Susan Tucker and Eric Cadora, writing for George Soros’ Open Society.[[8]](#footnote-8) Since then, sixteen American states have signed up with the Council of State Governments (CSG) Justice Center to investigate or apply the JR model.[[9]](#footnote-9) Another handful of states is pursuing JR through other non-profit organisations or under their own steam.[[10]](#footnote-10) The results have, in many cases, been remarkable. The 2004 pilot program of the CSG Justice Centre in Connecticut has resulted in the cancelation of a contract to build a new prison, realising savings of US $30 million - US$13 million of which has been reinvested so far into community based crime prevention initiatives.[[11]](#footnote-11) Similar outcomes were achieved in the next two focus states, Kansas and Texas. A number of states have introduced legislation to support JR initiatives in their jurisdictions. A federal bill, the *Criminal Justice Reinvestment Act*, was introduced in the US Senate in November 2009,[[12]](#footnote-12) approved by bipartisan vote of the Senate Judiciary Committee in 2010,[[13]](#footnote-13) but lapsed with the conclusion of the 111th congressional session to which it was attached. It remains to be seen whether it will be reintroduced.[[14]](#footnote-14)

**JR in the UK**

In the UK, the 2010 House of Commons Justice Committee Report, *Cutting Crime: The case for justice reinvestment*, argued that the criminal justice system ‘is facing a crisis of sustainability’ and noted that:

[t]he overall system seems to treat prison as a ‘free commodity’ … while other interventions, for example by local authorities and health trusts with their obligations to deal with problem communities, families and individuals, are subject to budgetary constraints and may not be available as an option for the courts to deploy.[[15]](#footnote-15)

The Justice Committee recommended capping the prison population at current levels, followed by phased reductions to two-thirds of the current population and a devolution of custodial budgets so that there is ‘a direct financial incentive for local agencies to spend money in ways which will reduce prison numbers’.[[16]](#footnote-16)

Following the May 2010 election, the Justice Secretary in the new Conservative/Liberal Democrat coalition government denounced the ‘bang ’em up culture’ and pledged to cut the record 85,000 daily prison population in England and Wales by 3,000 within four years through sentencing reforms and a ‘rehabilitation revolution’.[[17]](#footnote-17) In December 2010, a Green Paper, *Breaking the Cycle: Effective punishment, rehabilitation and sentencing of offenders*[[18]](#footnote-18)was released, seeking community consultation on a variety of proposals, including:

* increasing diversion of less serious offenders with mental illness and drug dependency into treatment rather than prison
* decentralising rehabilitative services to ‘open up the market to new providers from the private, voluntary and community sectors’.[[19]](#footnote-19)

In June 2011 the Institute for Public Policy Research released a report, *Redesigning Justice*, which used the London Borough of Lewisham as a case study for how JR strategies might work. Mapping of both offenders and existing rehabilitative services in Lewisham showed that 518 adult offenders were released into Lewisham over the course of 2009/10 having served sentences of less than 12 months, at a cost to the state of 2.8 million pounds, an average of 5,386 pounds per sentence. The majority of the offences committed by the offenders were non-violent. Existing local social services were capable of absorbing these offenders into local programs of a reparative and rehabilitative nature, at much lower costs. The Report recommended that:

* short term sentences of less than six months should be replaced with community based sentences;
* local authorities should be made responsible for reducing offending in their areas; and
* local custody budgets for short term adult offenders should be devolved to local councils and that the probation service should be decentralised and integrated into crime reduction work locally.[[20]](#footnote-20)

**The Australian context**

In the last few years there has been a groundswell of interest in justice reinvestment in Australia, in both the government and community sectors. The call has been led by the current and immediate past Aboriginal and Torres Strait Islander Social Justice Commissioner, beginning with the 2009 *Social Justice Report[[21]](#footnote-21)*. Also in 2009, Legal and Constitutional Affairs Committee[[22]](#footnote-22) recommended the commencement of a pilot of JR strategies, and for an inquiry into the potential for JR in regional and remote Indigenous communities.

In 2010, the Australian Greens formally adopted JR as part of its justice policy platform.[[23]](#footnote-23) In the same year, a review of the NSW Juvenile Justice system proposed the implementation of justice reinvestment strategies in the juvenile context.[[24]](#footnote-24) The failure of the Labour government to embrace this recommendation was a factor in the resignation of Graham West, the Minister for Juvenile Justice who commissioned the report.[[25]](#footnote-25)

In June this year, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs lent its support to the justice reinvestment approach in its report on the over-incarceration of Indigenous young people, *Doing Time – Time for Doing*. The report recommends, “that further research be conducted to investigate the justice reinvestment approach in Australia”.[[26]](#footnote-26)

**JR and the over-imprisonment of Indigenous people**

There has been particular focus on the potential for JR to address the over-representation of Aboriginal and Torres Strait Islander people in Australian prisons. Since JR focuses on locations that produce high numbers of prisoners, it follows that some of these locations will be home to high numbers of Indigenous people.[[27]](#footnote-27)

It is well-documented fact that that Indigenous people are being imprisoned at more than 13 times the rate of non-Indigenous people[[28]](#footnote-28). In 2008, 73 percent of Indigenous prisoners had a history of prior imprisonment, indicating a very high rate of recidivism in the Indigenous population.[[29]](#footnote-29) It has been estimated that a 10 per cent reduction in the Indigenous re-imprisonment rate would result in savings of more than $10 million each year.[[30]](#footnote-30)

There are a number of characteristics more likely to be found in Indigenous communities that make those communities particularly suited to JR. While in some cases these can be understood as contributing to level of imprisonment, they also present strong opportunities in the justice reinvestment context. They include:

* The high levels of disadvantage in many Indigenous communities;
* The higher numbers of Indigenous people living in remote locations relative to the rest of the population;
* The necessity for Indigenous community involvement in the development and implementation of successful initiatives targeted at those communities;
* The high level of victims’ needs in the Indigenous population.

JR is well placed to harness and/or address these realities and work with communities to address underlying causes of offending.[[31]](#footnote-31)

**Thinking critically about the JR concept**

There are a number of difficulties both with the JR concept itself and in applying it in the Australian context.

* Fiscal ‘rationality’ arguments do not necessarily trump emotive law and order policies that are electorally popular. The limits of rationality are shown in studies where large sections of the public believe that crime rates are higher than ever (although they have been decreasing), and that judges are too lenient (when sentences have actually become considerably longer).[[32]](#footnote-32) Cost-based and ‘evidence based’ arguments need to be situated within a moral and political vision that connects with cultural imaginings concerning crime and punishment.
* There are dangers that cost-saving imperatives may feed into cuts to prison services and programmes and that generalised statements of the need for ‘justice reinvestment’ become a cover for strategies of *disinvestment,* especially in a cost cutting environment.
* JR approaches require changes to sentencing, parole and bail, and subsequent reinvestment in post release and community programs – all of which may be difficult to implement where opposition political parties continue to run a popular punitive ‘tough on law and order’ line, seeking to exploit fear and division for perceived electoral advantage. Bi-partisan or multi-partisan approaches would significantly improve the prospects for implementation of JR policies.
* JR could become a vague catch-all buzz word to cover a range of post release, rehabilitative, restorative justice, and other policies and programs and thus lose the key dimension that it involves a redirection of resources.
* In the Australian context it is necessary to identify both an agency to take a co-ordination role (cf US CSG) and the political structure for devolution of funding and responsibility. Given that criminal justice is primarily a State function, it would seem that State governments would need to take the lead (except perhaps in the Indigenous area). Devolution of funding and responsibility might involve an expanded role for NGOs, church, welfare and charitable organisations currently running local social services, together with financial transfers within and between government departments.
* Some critics have argued that justice reinvestment should be about values and that the emphasis on cost savings and program effectiveness is disingenuous and impractical.[[33]](#footnote-33) Others argue that JR has no clear theoretical base. [[34]](#footnote-34)

1. Council of State Governments Justice Center (2010) ‘About the project: The strategy.’ *Justice Reinvestment.* www.justicereinvestment.org./about. [↑](#footnote-ref-1)
2. Council of State Governments Justice Center (2010) ‘The strategy: How justice reinvestment works – Step 3: Quantify savings and reinvest in select high-stakes communities. *Justice Reinvestment,* www.justicereinvestment.org/strategy/quantify. [↑](#footnote-ref-2)
3. Institute for Public Policy Research (IPPR) *Redesigning Justice: Reducing Crime Through Justice Reinvestment*, June 2011, p4. [↑](#footnote-ref-3)
4. Pew Center on the States, *One in 100: Behind Bars in America*, 2008 (Washington: The Pew Charitable Trusts, February 2008). [↑](#footnote-ref-4)
5. S Tucker and E Cadora, ‘Ideas for an Open Society: Justice Reinvestment’ (2003) 3(3) *Open Society Institute Occasional Papers*, 2. [↑](#footnote-ref-5)
6. JFA Associates, *Unlocking America: Why and How to Reduce America's Prison Population,* (JFA Associates, November 2007) 1. [↑](#footnote-ref-6)
7. The Council of State Governments, *The National Summit on Justice Reinvestment and Public Safety,* January 2011, 2-3. [↑](#footnote-ref-7)
8. S Tucker , E Cadora, ‘Ideas for an Open Society: Justice Reinvestment’ (2003) 3(3) *Open Society Institute Occasional Papers* 2. [↑](#footnote-ref-8)
9. See the Council of State Governments Justice Centre, *Justice Reinvestment,* http://justicereinvestment.org/states. [↑](#footnote-ref-9)
10. See, for example, the work being conducted through the Urban Institute, which is working with three counties (StatesThe Urban Institute Project on Justice Reinvestment <http://www.urban.org/center/jpc/justice-reinvestment/>); and the research of the Washington State Institute for Public Policy <http://www.wsipp.wa.gov/topic.asp?cat=10&subcat=0&dteSlct=0>; and the Pew Center on the States http://www.pewcenteronthestates.org. [↑](#footnote-ref-10)
11. See <http://justicereinvestment.org/states/connecticut>. [↑](#footnote-ref-11)
12. 111th Congress 1st session S.2772. [↑](#footnote-ref-12)
13. Senator Sheldon Whitehouse ‘Senate Judiciary Committee Approves Bill to Manage Costs and Reduce Prison Population Growth’ (Press release, 11 March 2010) http://whitehouse.senate.gov/newsroom/press/release/?id=8F4128AB-50F4-492C-8F65-7DED8F4F9C89. [↑](#footnote-ref-13)
14. Govtrack, http://www.govtrack.us/congress/bill.xpd?bill=s111-2772. [↑](#footnote-ref-14)
15. House of Commons Justice Committee, 2010, p6. [↑](#footnote-ref-15)
16. Ibid para 338. [↑](#footnote-ref-16)
17. Travis, A and A Hirsch (2010) ‘Kenneth Clarke pledges to cut daily prison population.’ *Guardian* 20 October. guardian.co.uk. [↑](#footnote-ref-17)
18. (Ministry of Justice, 2010) [↑](#footnote-ref-18)
19. para 11. [↑](#footnote-ref-19)
20. Note 4 above, see Executive Summary pp2-3. [↑](#footnote-ref-20)
21. Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009* (2010). [↑](#footnote-ref-21)
22. Legal and Constitutional Affairs Committee, Parliament of Australia, *Access to Justice,* (2009) Recommendation 21. [↑](#footnote-ref-22)
23. Australian Greens (5 August 2010) *Justice reinvestment for Australia policy initiative*: Access to justice a right for all Australians. <http://parlinfo.aph.gov.au/parlInfo/download/library/partypol/ygqx60.pdf>. [↑](#footnote-ref-23)
24. Noetic Solutions, *A Strategic Review of the New South Wales Juvenile Justice System, Report for the Minister for Juvenile Justice*, April 2010. [↑](#footnote-ref-24)
25. Thalia Anthony, “MP's resignation a selfless act”, *The Age*, June 10, 2010. [↑](#footnote-ref-25)
26. Parliament of Australia, House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs *Doing Time - Time For Doing: Indigenous youth in the criminal justice system* (Canberra: June 2011). [↑](#footnote-ref-26)
27. See Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009* (2010) Ch 2, for a breakdown of the areas yielding the highest numbers of prison inmates, the locations of greatest disadvantage, and the relationship between these factors and the number of Indigenous residents. [↑](#footnote-ref-27)
28. Australian Bureau of Statistics, *Prisoners in Australia* (2009) <http://www.abs.gov.au/ausstats/abs@.nsf/Products/F11545CBE350E058CA257687001CC54A?opendocument> [↑](#footnote-ref-28)
29. M. Willis, ‘Reintegration of Indigenous Prisoners: Key Findings’ (Report on Trends and Issues in Crime and Criminal JusticeNo 364, Australian Institute of Criminology, August 2008) 2. [↑](#footnote-ref-29)
30. D Weatherburn, G Froyland, S Moffatt and S Corben, ‘Prison populations and correctional outlays: The effect of reducing re-imprisonment’, (Report onContemporary Issues in Crime and Justice No 138), *NSW Bureau of Crime Statistics and Research*, December 2009) 1. [↑](#footnote-ref-30)
31. For more on the interaction between these factors and justice reinvestment, see Schwartz, M (2010). ‘Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Representation’ 14(1) *Australian Indigenous Law Review* 2-17. [↑](#footnote-ref-31)
32. See eg. Jones, C, D Weatherburn, and K McFarland (2008) *Public Confidence in the New South Wales Criminal Justice System.* Crime and Justice Bulletin 118 Sydney:   
    N S W BoCSAR : www.bocsar.nsw.gov.au/lawlink/bocsar/ll\_bocsar.nsf/pages/bocsar\_pub\_cjb. See also Judicial Commission of NSW (2010) *The Impact of the Standard Non-Parole Period Sentencing Scheme on Sentencing Patterns in NSW.* Research monograph 33. Judicial Commission of New South Wales. [↑](#footnote-ref-32)
33. See eg. Michael Tonry, ‘Making peace, not a desert: Penal reform should be about values not justice’, (2011) *Criminology and Public Policy*, Vol 10, Issue 3 pp637-649. [↑](#footnote-ref-33)
34. See eg. Shadd Maruna, “Lessons for justice reinvestment from restorative justice and the justice model experience”, (2011) *Criminology and Public Policy,*  Vol 10, Issue 3, pp661-669. [↑](#footnote-ref-34)