

Federal Pre-Budget Submission: National Support for Justice Reinvestment

January 2019

Executive Summary

This submission outlines the case for investment in justice reinvestment and sets out approximate costs to the Federal Government of implementing and building upon two key recommendations from the Australian Law Reform Commission's report *Pathways to Justice -- An Inquiry into the Rates of Incarceration of Aboriginal and Torres Strait Islander Peoples* (2017). These recommendations are:

- 1) Establishment of an independent national justice reinvestment (JR) body with Aboriginal and Torres Strait Islander leadership; and
- 2) Support for JR sites in each State and Territory.

A JR approach is supported by both Change The Record (CTR) and Justice Reinvestment Network Australia (JRNA). The success of JR in an Australian context has been demonstrated, including through economic impact analysis and improved justice outcomes data, by Maranguka Justice Reinvestment in Bourke. JR utilises community development principles to strengthen local communities in health, education, employment and other areas. Through this work underlying causes of offending are addressed. In an Aboriginal and Torres Strait Islander context, JR is underpinned by and reinforces the principle of self-determination, key to reduction of Aboriginal and Torres Strait Islander incarceration.

CTR and JRNA support establishment of a national JR body that embeds and resources Aboriginal and Torres Strait Islander cultural expertise at all levels so as to address the vastly disproportionate rates of contact Aboriginal and Torres Strait Islander people have with the justice system. A national JR body is essential for coordination and support of community-led JR initiatives across Australia. It will ensure that these initiatives are effective and efficient and that savings are effectively realised and reinvested, in accordance with JR methodology.

CTR and JRNA also support implementation and government financial and other support for JR sites. JR should be implemented in communities in each State and Territory. It is proposed that in those States and Territories where JR is not being implemented new sites are established with start-up funds, and that each site is supported with secure, long-term funding for 5 years.

Total proposed budget (\$m)

	2019-20	2020-21	2021-22	2022-23	2023-24	Total
Justice reinvestment sites	\$6.5m	\$8.5m	\$10.5m	\$12.5m	\$14.5m	\$52.5m
National body	\$1.76m	\$1.81m	\$1.87m	\$1.92m	\$1.98m	\$9.35m
Total	\$8.26m	\$10.31m	\$12.37m	\$14.24m	\$16.48m	\$61.85m

1. Background to the submission

1.1 What is justice reinvestment?

Strong, healthy communities are key to preventing crime and making communities safer. Every dollar spent on prisons is one less dollar to invest in reducing social and economic disadvantage (through education, health, disability, housing, employment and other programs), a key driver of offending and incarceration. Government funding must be redirected in order to break the cycle of incarceration. These funds should be reinvested in early intervention, prevention and diversion initiatives, particularly those that will address the underlying causes of crime. Also required is evidence-based policy and law reform to prevent avoidable incarceration.

Justice reinvestment (or 'JR') prioritises investment in local communities that will address community needs for education, health, housing, employment, disability and family supports, as well as community infrastructure and programs. Investing in such measures is designed to prevent or reduce contact with the justice system. JR also seeks reform of relevant laws, policies and practices to prevent people from being imprisoned. JR calculates savings accruable through reduction of contact with the justice system and avoidance of prison expansion resulting from implementation of these measures and the latter reform. Imputed savings are diverted and reinvested into supporting communities to thrive.

JR in an Australian context has had a predominant focus on reduction of Aboriginal and Torres Strait Islander incarceration. However, it has broader benefits for the whole population and can be implemented in a range of contexts and communities. The success of the Maranguka Project in Bourke proves that JR delivers results in the Australian context.¹ However, it requires support to grow and succeed nationally, the key position taken within this submission.

1.2 Australian Law Reform Commission recommendations

In its 2017 report, *Pathways to Justice -- An Inquiry into the Rates of Incarceration of Aboriginal and Torres Strait Islander Peoples*, the Australian Law Reform Commission made two recommendations related to JR, as follows.²

¹ KPMG (2018) *Maranguka Justice Reinvestment Project: Impact Assessment*, available at: <http://www.justreinvest.org.au/wp-content/uploads/2018/11/Maranguka-Justice-Reinvestment-Project-KPMG-Impact-Assessment-FINAL-REPORT.pdf>

² Australian Law Reform Commission (ALRC) (2017) *Pathways to Justice-An Inquiry into the Incarceration rate of Aboriginal and Torres Strait Islander Peoples: Final Report*, No. 133, Canberra, p. 13

Recommendation 4–1

Commonwealth, state and territory governments should provide support for the establishment of an independent JR body. The purpose of the body should be to promote the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration, and to provide expertise on the implementation of JR.

Its functions should include:

- providing technical expertise in relation to JR;
- assisting in developing JR plans in local sites; and
- maintaining a database of evidence-based JR strategies.

The body should be overseen by a board with Aboriginal and Torres Strait Islander leadership.

Recommendation 4–2

Commonwealth, state and territory governments should support justice reinvestment trials initiated in partnership with Aboriginal and Torres Strait Islander communities, including through:

- facilitating access to localised data related to criminal justice and other relevant government service provision, and associated costs;
- supporting local justice reinvestment initiatives; and
- facilitating participation by, and coordination between, relevant government departments and agencies.

2. National JR body

CTR and JRNA support the ALRC's recommendation for establishment of a national body to support JR. This body must be underpinned by a set of core principles, with roles and functions that broadly align with those set out in the ALRC report. Most importantly, the body must embed and resource Aboriginal and Torres Strait Islander cultural expertise at all levels so as to address the vastly disproportionate rates at which Aboriginal and Torres Strait Islander people come into contact with the justice system. These principles, roles and functions are set out below, along with a proposed structure and costings for the body.

2.1 Key principles for national JR body

- Aboriginal and Torres Strait Islander leadership and cultural expertise is embedded at all levels of the body
- Support for Aboriginal and Torres Strait Islander communities and community controlled organisations at all levels - locally, as well as statewide and nationally
- Over-imprisonment of Aboriginal and Torres Strait Islander people is a particular focus of the body - however JR has broader application, with potential to benefit

any community with relatively high rates of incarceration

- JR requires support and commitment from all levels of government
- Reduction of imprisonment rates, and particularly the over-imprisonment of Aboriginal and Torres Strait Islander people, is a central objective of JR
- Support for implementation and service delivery should occur as close to communities and front-line services as possible
- A focus on building the evidence base, including capacity for communities to use data and apply evidence-based learnings, and sharing learnings between JR initiatives
- A focus on promoting evidence-based justice initiatives that have demonstrated impact to reduce imprisonment and violence, and make communities safer

2.2 Core roles and functions

2.2.1 National coordination and promotion of JR

A national JR body will be critical to the success of JR across Australia. Successfully promoting JR across Australia requires a central coordinating body that will support cross-agency and cross-jurisdictional collaboration. The body would implement supporting policy and legislative measures, manage local capacity building and coordinating arrangements, and coordinate data collection and evidence with and across JR initiatives around the country. The national body would focus on engaging support and commitment from government agencies in Federal, State and Territory jurisdictions, non-government support (such as philanthropic and corporate support), and development of cross-agency agreements to support JR initiatives.

Of note, a similar model has been successfully implemented in the USA through the Council of State Governments, and the Center for Effective Public Policy for local level Justice Reinvestment.³

2.2.2 Aboriginal and Torres Strait Islander cultural expertise: roles and functions

Aboriginal and Torres Strait Islander cultural expertise is essential for successful JR approaches. The over-representation of Aboriginal and Torres Strait Islander people in the justice system necessitates specialist expertise in working with Aboriginal and Torres Strait Islander communities as part of the national agency.

The importance of Aboriginal and Torres Strait Islander expertise to reduction of Aboriginal and Torres Strait Islander incarceration is highlighted in the following comments. These are taken from the ALRC report and the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) submission to the ALRC inquiry.

Justice reinvestment holds particular promise in addressing Aboriginal and Torres Strait

³ See discussion, ALRC (2017), p. 133

Islander incarceration for at least two reasons. First, it has long been recognised that the key drivers of incarceration for Aboriginal and Torres Strait Islander people are external to the justice system, and justice reinvestment involves a commitment to invest in ‘front-end’ strategies to prevent criminalisation. Second, justice reinvestment, as a place-based approach, emphasises working in partnership with communities to develop and implement reforms, and thus accords with evidence that effective policy change to address Aboriginal and Torres Strait Islander disadvantage requires partnership with Aboriginal and Torres Strait Islander peoples.⁴

Any central coordinating agency and any subsequent justice reinvestment initiatives in Aboriginal and Torres Strait Islander communities must have, and insist on, cultural expertise throughout the process of designing and implementing justice reinvestment initiatives. This involvement is key to ensuring programs are culturally safe and is also consistent with the principles of community control, prior and informed consent, and self-determination.⁵

2.2.3 Building the evidence base

A national coordinating and (evidence-based) supporting role for JR is essential for communities implementing JR. This will enable trials to be more efficient and cost-effective as they incorporate learnings from other projects in Australia and internationally. A national body to support and promote JR will provide it with the backing it needs to grow and succeed. The national body should be responsible for coordinating evidence to contribute to JR initiatives, including data collection and analysis, cost-benefit analysis, evaluation and justice mapping. This will enable communities to take a stronger data-driven approach and identify areas where savings can be redirected away from criminal justice responses and incarceration into initiatives that meet the needs of the community. This function will also enable the national body to support implementation and monitoring of justice targets, another key recommendation of the Australian Law Reform Commission.⁶

2.2.4 Research, policy development and law reform

The national body would have an important role in informing evidence-based law reform and policy development to promote JR at all levels of government, and with non-government stakeholders. JR requires a range of policy, legislative, as well as programmatic measures to achieve success.

⁴ ALRC (2017) p. 126.

⁵ National Aboriginal and Torres Strait Islander Legal Services (2017) *Submission to the Australian Law Reform Commission Inquiry into Rates of Incarceration of Aboriginal and Torres Strait Islander Peoples*, Submission no. 109, p. 73

⁶ Recommendation 16-1, ALRC (2017)

2.3 Structure

Consistent with the scope of the national body, the preferred structure is an independent statutory agency, with key functions related to JR as outlined above. The body could be:

- (1) part of an agency with a broader scope to undertake policy development, coordinate data collection and research on justice issues affecting Aboriginal and Torres Strait Islander people; or
- (2) a stand-alone body focused on JR.

2.3.1 Engaging States and Territories

The statutory body could be structured in the same way as a range of multi-lateral agencies, such as the former COAG Reform Council, where State and Territory governments are involved in governance and can commission the organisation to undertake particular projects and programs. Engaging State and Territory governments will be vital to ensuring that JR initiatives receive appropriate support in their respective jurisdictions.

2.3.2 Aboriginal and Torres Strait Islander cultural expertise: structure

Aboriginal and Torres Strait Islander cultural expertise needs to be reflected at all levels of the body - from its governance structures, to its leadership and its human resources. This will require some roles, particularly the Stakeholder Engagement and Policy Manager and senior staff, to be Aboriginal and Torres Strait Islander-identified positions, and there is a preference for Aboriginal and Torres Strait Islander candidates in all roles. The body may also establish expert advisory committees comprising specialists from Aboriginal and Torres Strait Islander communities and community controlled organisations. Aboriginal and Torres Strait Islander community controlled organisations must be supported and resourced to engage with the body.

2.4 Resources required

Methodology

Key assumptions

- The agency will require dedicated senior staff to build and maintain relationships with key stakeholders
- The body will have core coordinating functions for data collection and research, and may be commissioned for additional functions
- The body may be commissioned by State and Territory governments to support

local coordination or establishment of place-based JR initiatives, in addition to the roles and functions specified below

- The body supports Aboriginal and Torres Strait Islander community controlled organisations with travel costs to engage in relevant meetings and collaborative processes
- 3% escalation is applied annually

Data sources

- Feedback from CTR and JRNA members regarding key roles and functions of the national body (October – November 2018)
- Australian Public Service Commission (2018) *Australian Public Service Remuneration Report 2017*, Canberra.

Annual Budget (Year 1)

Roles	Salary	On-costs (20%)	Total
Executive Director (APS Senior Executive Band 2)	\$180,000	\$36,000	\$216,000
Stakeholder Engagement and Policy Manager (APS Executive Level 2) (Aboriginal and/or Torres Strait Islander Identified position)	\$130,000	\$26,000	\$156,000
Senior Stakeholder Engagement Officer (APS Level 6) (Aboriginal and/or Torres Strait Islander Identified position)	\$90,000	\$18,000	\$108,000
Senior Legal and Policy Officer (APS Level 6) (Aboriginal and/or Torres Strait Islander Identified position)	\$90,000	\$18,000	\$108,000

Senior Legal and Policy Officer (APS Level 6)	\$90,000	\$18,000	\$108,000
Research & Data Manager (APS Executive Level 1)	\$110,000	\$22,000	\$132,000
Senior Research Officer (APS Level 6)	\$90,000	\$18,000	\$108,000
Senior Research Officer (APS Level 6)	\$90,000	\$18,000	\$108,000
Operations Manager (APS Level 6)	\$90,000	\$18,000	\$108,000
Administration Support Officer (APS Level 3)	\$60,000	\$12,000	\$72,000
Total salaries & on-costs	\$960,000	\$192,000	\$1,152,000

Operating costs	Amount
------------------------	---------------

Consultancies & commissioning funds	\$350,000
Travel	\$100,000
IT	\$15,000
Meeting costs	\$40,000
Office accommodation	\$50,000
Staff professional development & training	\$20,000
Board remuneration & expenses	\$25,000
Library & resources	\$5,000
Miscellaneous costs	\$4,000
Total operating costs	\$609,000
Total annual budget (Year 1)	\$1,761,000

Five-year budget (\$m)

2019-20	2020-21	2021-22	2022-23	2023-24	Total
\$1.76m	\$1.81m	\$1.87m	\$1.92m	\$1.98m	\$9.35m

3. Justice Reinvestment sites in each State and Territory

As at January 2019, JR initiatives are in place in Bourke (Maranguka Justice Reinvestment), in the NT (Katherine) and in SA (Port Adelaide). Additionally, there are two sites in QLD: Doomadgee and Cherbourg, Cowra in NSW, and Halls Creek in WA. The ACT Government has also been leading a multi-faceted JR strategy, rather than introducing JR in one particular location or community.

It is proposed that JR sites are established in each State and Territory, with long-term funding. States and Territories which do not have established JR projects should be provided with additional start-up resources to establish JR projects. States and Territories with existing projects should have secure, long-term funding for at least five years.

3.1 Key functions

3.1.1 Local coordination and capacity building

Place-based JR sites require local coordination and technical assistance, and local agencies will need support to build their capacity to implement JR effectively. Support with staff capacity building, development of collaborative initiatives, data collection and use, evaluation, and implementation should be delivered as close to the communities involved in JR as possible, through locally or regionally based non-government agencies. We have seen that community leadership and relationships between local agencies have been critical to the success of Maranguka Just Reinvestment in Bourke. This leadership and these relationships require dedicated resourcing. It is proposed that resources to support these functions are built into the quantum of funding for JR sites. The national JR body would also have capacity to support local coordination and technical assistance arrangements where these are not in place in a particular jurisdiction.

A similar function within the Communities for Children Program administered by the Department of Social Services is structured through local 'Facilitating Partners'. The capacity building function of Facilitating Partners is outlined in the Operational Guidelines as follows.

Capacity building could focus on issues such as governance practices, stakeholder management, engaging with business, staff development, measuring outcomes, undertaking evaluations, and sourcing and using evidence-based practices and programmes.⁷

3.1.2 Supporting growth of JR

Existing JR sites require secure, long-term funding to ensure effective implementation. Local and State-based JR groups have spent considerable time and resources seeking secure funding, which has limited opportunities to establish and grow JR initiatives. Most JR projects in Australia continue to rely on philanthropic funding, and do not have secure, long term funding to enable future planning. It is proposed that funding is allocated over five years to enable sites to focus on implementation, and on building the evidence base.

3.1.3 Establishment of new sites

Establishing place-based JR sites requires considerable lead times to develop local capacity, collaborative processes, and initiatives. In addition to securing resources for existing sites, it is proposed that establishment funds are made available on a staged basis to enable the establishment of further JR sites. These funds could enable Aboriginal and Torres Strait Islander community controlled organisations to develop their expertise, facilitate community members' involvement and feedback, attend consultations and meetings, backfill operational and leadership roles, upgrade

⁷ Australian Government Department of Social Services (2014) *Communities for Children Facilitating Partner Operational Guidelines*, Canberra, p. 12, available at: <https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/family-support-program/communities-for-children-facilitating-partner-operational-guidelines>

organisational systems and processes to support JR, and engage JR experts within their organisation to support the above activities.

In terms of potential new sites, it is noted that there are a significant number of (often Aboriginal and Torres Strait Islander) communities expressing interest in working with JR. Members of JRNA have been contacted by members of these communities for information and other assistance with JR implementation. Just Reinvest NSW, for instance, has been contacted in past months by more than 15 communities - for the most part from NSW, but also from other jurisdictions. Just Reinvest NSW received funding in September 2018 to work with a small number of these communities to assist them in assessing the suitability of a local community-led JR initiative. It is highly likely, therefore, that within the next 12 months there will be at least two more communities in NSW mobilised and ready to commence Stage 1 of JR and requiring funding to do so.

3.1.4 Resources required

Methodology

Key assumptions

- An overall amount of \$1,000,000 per site per annum is proposed, to provide sufficient resources for the functions outlined above, and to establish a clear basis for site funding in locations with varying circumstances (including remoteness, population, existing capacity/support, and availability of other funding sources).
- It is proposed that \$500,000 - \$800,000 per annum in establishment funds are made available to support the development of two new sites per year.
- This proposal sets out initial outlays for establishment and implementation of place-based JR sites, however it is expected after 5 years that savings will be generated, which will be reinvested into place-based community initiatives.

Data sources

The proposed amounts are based on costings from JR initiatives in each State and Territory.

Five-year budget (\$m)

	2019-20	2020-21	2021-22	2022-23	2023-24	Total
Existing sites	\$5.0m	\$7.0m	\$9.0m	\$11.0m	\$13.0m	\$45.0m
Establishment funds	\$1.5m	\$1.5m	\$1.5m	\$1.5m	\$1.5m	\$7.5m
Total	\$6.5m	\$8.5m	\$10.5m	\$12.5m	\$14.5m	\$52.5m

About Change the Record

Change the Record is an unprecedented coalition of leading Aboriginal and Torres Strait Islander, human rights, legal and community organisations calling for urgent and coordinated national action to close the gap in imprisonment rates of Aboriginal and Torres Strait Islander people and cut disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people, particularly women and children. Change the Record is overseen by a Steering Committee, made up of leading Aboriginal and Torres Strait Islander, human rights and community organisations.

About the Justice Reinvestment Network Australia

The Justice Reinvestment Network Australia (JRNA) is a group of research and policy colleagues from around Australia working with and advocating for Justice Reinvestment, particularly for Aboriginal and Torres Strait Islander people. JRNA was established in 2015 to share knowledge and create a community of practice around Justice Reinvestment to strengthen the evidence base, provide peer professional support and advice, and promote Justice Reinvestment in Australia.⁸

Contacts for further information

Change the Record

Roxanne Moore | Email: rmoore@vals.org.au | Phone: 0407 097 955

This proposal is endorsed by the Change the Record Coalition.

Justice Reinvestment Network Australia

Fiona Allison | Email: fiona.allison@uts.edu.au | Phone: 0411 708 619

Members of JRNA endorsing this submission:

NATSILS

Dr Jill Guthrie

Ms Fiona Allison

Ms Melanie Schwartz

Professor Chris Cunneen

Emeritus Professor David Brown

Youthlaw (VIC)

Smart Justice for Young People (VIC)

Just Reinvest NSW

Social Reinvestment WA

Justice Reinvestment South Australia

⁸ Information on JRNA is available at: <https://justicereinvestment.net.au>