

JUSTICE REINVESTMENT IN CAIRNS

Briefing Paper for Key Stakeholders

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JCU is interested in commencing a project to explore the potential for introduction of a justice reinvestment (JR) framework in Cairns to help reduce local offending and incarceration. The proposed project, detailed below, would for the most part involve engagement with the local community around JR, as well as collection and analysis of relevant statistics. The purpose of this briefing paper is to generate discussion amongst key Cairns stakeholders about the value of, and next steps required for such a project.

Justice Reinvestment

JR is a framework or concept applied in the US over the last decade to address mass incarceration.¹ It has been gaining increasing traction in Australia, identified as a strategy with real potential to contain our own escalating rates of imprisonment, and of Indigenous imprisonment specifically, given the massively disproportionate rates at which Indigenous Australians are incarcerated.²

JR seeks to move away from reliance on harsher penal responses to crime. It argues that continually increasing government expenditure on imprisonment is not the most cost effective way of enhancing community safety and wellbeing. For JR proponents, prisons simply don't work.

As evidence of this, JR points to the fact that despite the huge amounts of money being poured into correctional institutions we are not stemming the flow of prisoners. In fact, Australian prison populations have been increasing so fast over recent decades that if growth continues at its current pace we are likely to need to build a new prison as each year passes,³ at a cost of between \$500 mill to \$1 bill per correctional institution.⁴ Australia currently spends \$3.4 bill per annum on prisons, of which there were 111 in 2014.⁵ By comparison, in 1998-99 we spent \$1.049 bill per annum on a total of 97 prisons.⁶ We have *doubled* our national average daily prison population in the last twenty years and *tripled* our rate of incarceration in the last thirty years.⁷ Significantly, at least half of all those incarcerated in all but one State/Territory have had at least one prior period of imprisonment.⁸ These statistics suggest that locking people up is neither changing criminal behavior, nor improving community safety.

The problem with prisons

JR proponents claim that it is possible to identify specific communities yielding disproportionate numbers of prisoners, referred to as 'million dollar blocks' due to the substantial cost associated with continually incarcerating their recidivist offenders.⁹ These communities generally experience both significant rates of imprisonment and a prevalence of issues generally associated with social exclusion and known to increase risks of offending (such as unemployment, mental health issues, alcohol/substance misuse etc.).¹⁰ Prison can do little to address these causal factors of crime, either for individuals or as issues deeply embedded within the community. Inmates therefore return from jail to the same set of conditions that gave rise to their offending to begin with, and are then likely to re-offend and cycle back into prison, as the above rate of return to prison indicates.

Jail, moreover, doesn't just fail to respond to the underlying causes of crime, it can actually exacerbate them, increasing rates of offending and imprisonment for

individuals, across whole communities and inter-generationally. As just one example of this, incarceration of a primary caregiver fundamentally ruptures the relationship of that carer with their child, increasing the likelihood that the child in question will also at some stage enter the justice system.¹¹ More broadly, ‘high levels of concentrated incarceration make a neighborhood less safe not more’.¹² It weakens communities, including as it disrupts ‘the fragile economic, social, and political bonds that are the basis for informal (local) social control.’¹³

JR as an alternative

Given what some perceive as the failure of the prison system, there has been increasing interest in JR as an alternative strategy to decrease or at the very least halt our growth in numbers of prisoners.

For JR, prisons make little economic sense. JR advocates argue that whilst imprisonment should be retained for more serious crime it makes much more sense financially to reinvest a portion of the vast amount of funds spent on incarcerating offenders to strengthen the communities from which they originate and, importantly, to which they return when released.¹⁴ This shift in spending is seen as much more likely to deliver improved justice and social outcomes because effective solutions to crime are located not within prisons, but within communities in which offenders live. For this reason, a key focus of JR is to build communities, not more prisons.

To reduce incarceration, JR seeks to reform aspects of the justice system, introducing ‘circuit-breakers’, such as changes to bail laws or better diversionary options for offenders, to reduce repeat offending. JR, however, also implements strategies within the community that work more preventatively to address causal factors of crime, aimed, for instance, at improving job opportunities or increasing access to alcohol/drug rehabilitation. Importantly, such initiatives are likely to tackle both repeat *and* first time offending.

This type of community level change is essential to JR, which seeks to ‘improve the prospects not of individual cases but of particular places’.¹⁵ It is achieved through specific initiatives, but also through the *JR process* itself, which encourages local communities to come together to identify, implement and monitor progress of JR. JR empowers community members to actively participate in the development of local solutions to local problems through a JR framework. Moreover, while the immediate focus of JR is on improved justice outcomes, ultimately it increases social wellbeing for the entire community, not just offenders.

The four stages of JR

JR uses statistics throughout all stages of implementation. In combination with its focus on community as a driver of change and on an economic argument for reform, its reliance on data is what sets JR apart from similar strategies.

JR has a very specific methodology involving four stages of implementation.

1. **Stage One** of JR includes collection and analysis of data to identify, for instance, particular communities producing large numbers of prisoners and what is 'feeding' the prison population in the relevant communities. Costs are calculated of 'service delivery' around offending (incarceration, court appearances etc.) and of offending more generally (payment of victim's compensation etc.). Mapping of community 'assets' likely to strengthen local capacity to address incarceration, and what is 'missing' or not working in this regard is also undertaken.
2. Using data and other material gathered during Stage One, the JR community draws up a 'JR plan' in **Stage Two**, nominating strategies and initiatives with potential to respond to key local drivers of contact with the justice system (within and outside that system), with some focus on those that are likely to reduce government expenditure associated with incarceration.
3. **Stage Three** is a trial stage of implementation of a limited number of strategies and initiatives aimed at demonstrating their potential to reduce incarceration and to generate savings (and at what level). Outcomes of this trial are then used to discuss with government reinvestment of correctional funding to resource the community's more comprehensive JR plan. Other JR initiatives are then introduced, including with these diverted funds.
4. **Stage Four** involves evaluation by the community of whether relevant initiatives are yielding savings, reducing incarceration rates and otherwise meeting agreed goals.

Importantly, the community must come together to make decisions at all stages of JR's implementation through a formal structure developed for this purpose. This might be achieved through, for example, collective impact, which includes establishment of a backbone structure that will settle on a common agenda and agreed goals for JR and that will facilitate community engagement with and collaboration between stakeholders around JR.

Further information on JR, including its methodology, is available in a short film produced by the author of this briefing paper with Amnesty International. It is available at: <https://www.youtube.com/watch?v=VN1I9IW2468>

Implementing JR in Cairns: proposed project

JR is being introduced across most States and Territories in Australia, with the JR Project in Bourke, NSW the earliest and therefore furthest advanced of all JR projects, commencing in 2013 and producing positive outcomes such as a reduction in violent offending.¹⁷

JCU is interested in commencing a project that would explore the role that JR might play in improving justice and associated social outcomes in Cairns. The proposed project would involve identifying whether there is sufficient need for and levels of community interest in introduction of JR in Cairns - an essential first step that precedes implementation of Stage One of the JR methodology.

Our initial thoughts about this first step are as follows, but we are also seeking through this briefing paper your feedback about the same.

Is there a place for JR in Cairns?

(a) *Considering the data*

Justice data indicates that QLD has its own difficulties with rising rates of incarceration and correctional expenditure. Over the last 20 years, this expenditure has climbed from \$143 mill (1995-1996) to \$776 million (2014-15).¹⁸ Prisoner numbers have grown by around 80% over a similar period,¹⁹ with a 24.4% increase in these numbers in less than a three-year period between 2013 and 2016.²⁰ In QLD, the rate of return to prison (65.9%) is higher than the national rate,²¹ and rates of incarceration and numbers of Aboriginal and Torres Strait Islander prisoners are also increasing.²² In 2014-15, QLD had the largest population of young people under supervision on an average day of all States/Territories, constituting 27% of all young people under supervision nationally. Numbers of juvenile detainees also remained relatively stable over recent years in QLD, whilst decreasing in all other jurisdictions.²³

Whilst QLD data is relevant to the proposed project, given that our justice system is state-based, determining whether JR would provide benefit to the community of Cairns in particular should be informed by analysis of *Cairns*-specific statistics, including those measuring local levels of incarceration. JR is generally most useful in places from which significant numbers of prisoners are cycling into and out of jail. It is difficult to locate such data other than through a formal request to justice agencies, which is something that would generally occur during Stage One of a JR project – though sourcing relevant statistics might, to some degree, form part of the project proposed in this paper (see details below).

An initial search of publicly available Cairns-specific justice data suggests, however, that introduction of JR in Cairns and surrounding areas is worth exploring. In recent years, for example, Cairns Statistical Area 4 (SA4) has had the highest number of both juvenile defendants and charges disposed of in Magistrates Courts of any SA4 in QLD, as well as comparatively high numbers of criminal lodgments and domestic and family violence protection applications.²⁴ A recent study by Allard also found that 67% of QLD's crime was committed by 15.8% of offenders, with the chronic offenders responsible for this crime living in particular postcodes rather than being randomly distributed across the State. Allard identified 33 postcode areas producing these chronic offenders, a number of which were situated in or around Cairns.²⁵ QLD Police data also indicates that the Northern Region (including Cairns) has comparatively high rates of property and violent offending. For instance, in 2016 the region reported 1325 offences against the person per 100,000 persons, compared with 424 offences per 100,000 persons in Brisbane and 641 offences per 100,000 persons in QLD as a whole.²⁶

Research relating to social exclusion also provides information about offending and incarceration in the Cairns region. The *Dropping off the Edge Report* (DOTE) (2015) has ranked 475 Statistical Local Areas (SLAs) in QLD across 21 different indicators of disadvantage; encompassing, for example, health and employment outcomes and levels of community safety, prison admissions and educational attainment. These rankings have then been used to produce an overall ranking of disadvantage for each SLA. A number of communities in the Cairns region rank amongst the top 40 most disadvantaged SLAs in QLD.²⁷ These communities, which include Cairns (central suburbs) and

Yarrabah, are described as experiencing ‘a complex web of disadvantage’ at disproportionately high levels, incorporating, unsurprisingly, both poor justice *and* social outcomes. For example, according to the *DOPE* report Cairns (central suburbs) has high rates of criminal and juvenile convictions, child maltreatment and unemployment. Yarrabah has, amongst other things, significant levels of criminal convictions, unemployment, ‘young adults not engaged’, low family income, domestic violence and prison admissions.²⁸

(b) *Other factors*

Also important to decision-making about whether to introduce JR in Cairns would be community perceptions of how significantly offending and incarceration currently impact on Cairns. Community perspectives about whether it has sufficient capacity to effectively drive JR are also useful to this decision, as would be the extent to which the community supports its implementation. This is all information we would collect as part of the proposed project.

Proposed JR project

The project proposed by JCU would involve gathering material over an approximately 12-month period, preferably guided by a steering committee made up of key local stakeholders, to inform decision-making about whether JR should be introduced in Cairns longer-term.

(a) *Community engagement*

The project would primarily involve direct engagement with the community. Engagement in this context would include providing information about JR to the community and gathering its perspectives about potential for JR’s introduction in Cairns. This would be achieved through a process of consultation with a wide range of stakeholders, including young people.

Whilst a major focus of these consultations would be on identifying the extent of community support for introduction of JR, additional information could be sought to help to identify what JR would look like if implemented and to lay some groundwork for commencement of Stage One of JR in Cairns, if there is sufficient interest in this occurring. For instance, stakeholders might be asked about the nature of offending in Cairns and its impacts; key drivers of and most effective JR responses to offending and incarceration; optimal JR structures, strategies and alliances that would enable the community to come together to drive JR; and strengths and assets in the community that could support a long-term JR project.

(b) *Collecting initial data*

If a more comprehensive JR project proceeds in Cairns, detailed formal requests for Cairns-specific data would be prepared; again, in collaboration with the community. However, the proposed project could also collect and analyse a certain amount of justice and other relevant statistical data, as required.

Depending on the availability of data, and similar to what would occur with the material gathered during face-to-face consultations, this data would help the community to get a sense of what JR might involve if implemented, and to ascertain whether a more comprehensive JR project is likely to be worthwhile in Cairns, as well as the possible scope of such a project. The data might, for instance, provide early insight into numbers incarcerated and costs associated with offending. It will also perhaps indicate that JR might be more usefully applied in certain areas in Cairns and/or to target particular groups of offenders or prisoners (10-24 year olds, for example).

It is worth noting that there has been some focus within JR initiatives in Australia to date on reduction of incarceration of *young Indigenous* people, given the disproportionate Indigenous rates of contact with the justice system and clear links between youth and adult offending and incarceration. Whether a similar focus is appropriate for Cairns would need to be discussed. We do know that the QLD justice system has the same problems with Indigenous over-representation as other States/Territories. For example, one quarter (25%) of Indigenous men in QLD will have spent time in prison by 25 years of age (compared with 5% of non-Indigenous men in QLD of the same age).²⁹ In addition, young Aboriginal and Torres Strait Islanders constitute around 8% of QLD's population aged 10-17 years, but make up more than half (56%) of those under youth justice supervision on an average day. They are 22 times more likely to be in detention than non-Indigenous young people (compared with 17 times more likely in 2011-12).³⁰

(c) Report on initial consultations

All material collected would then be incorporated into a report on initial consultations, similar to that which the author of this briefing paper has recently produced for a JR project in the community of Katherine (NT). As has occurred in Katherine, this report could be used to inform whether and how to proceed to, and to seek financial and other support for implementation of, Stages One-Four of JR methodology in Cairns, if the community wishes to move forward with JR.

The Katherine report is available at: <http://www.cairnsinstitute.jcu.edu.au/justice-reinvestment/>

Concluding comments

That JR is seen as having potential to reduce offending and incarceration makes a lot sense. Though it is by no means a panacea, JR does bring together a set of principles or strategies already acknowledged as likely to improve justice and other outcomes. JR uses a place-based, preventative and collaborative approach to addressing crime and related issues. It emphasises community engagement and governance and incorporates within its framework community capacity-building objectives, especially important in an Indigenous context. It also has a focus on longer-term change rather than short-term outcomes and builds evaluation into its processes.

This paper will conclude with a comment from a previous Aboriginal and Torres Strait Islander Social Justice Commissioner, who describes why JR holds particular promise in terms of achieving a reduction in Indigenous contact with the justice system.

Justice reinvestment provides a framework for what we have been trying to achieve in reducing Indigenous over-representation for some time. Imagine if the huge amount spent on Indigenous imprisonment could be spent in a way that prevents crime and increases community functioning, so there was increased accountability and scrutiny about how tax payer funds on corrections are spent, communities were involved in identifying the causes and solutions to crime and there was a shift away from the mindset that imprisonment is the only option – instead it becomes the last resort.... Combine that with what we know about engaging Indigenous communities in partnerships and community development and we might just have a real life solution to the problem.³¹

¹ For information about JR in the US, see for instance: <https://csgjusticecenter.org/jr> and <http://www.vera.org/project/justice-reinvestment-initiative>. Information about JR in the UK is available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/9402.htm>

² Key reports advocating for introduction of JR in Australia include Aboriginal and Torres Strait Islander Social Justice Commissioner (Social Justice Commissioner) (2009), *Social Justice Report*, Australian Human Rights Commission, Sydney NSW; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (2011), *Doing Time - Time for Doing: Indigenous youth in the criminal justice system*, Canberra ACT; Legal and Constitutional Affairs Reference Committee (2013), *Value of a Justice Reinvestment Approach to Criminal Justice in Australia*, Commonwealth of Australia; Amnesty International (2015) *A Brighter Future: Keeping Indigenous kids in the community and out of detention in Australia*; Red Cross (2016) *Rethinking Justice: Vulnerability Report*, VIC.

³ Hopkins, S & Vumbaca, G (2014) 'Justice reinvestment saves huge costs of law and order auctions', The Conversation, 20 October 2014: <http://theconversation.com/justice-reinvestment-saves-huge-costs-of-law-and-order-auctions-33018>

⁴ Cunneen, C (2016) 'How 'tough on crime' politics flouts death-in-custody recommendations', The Conversation, April 14 2016: <http://theconversation.com/how-tough-on-crime-politics-flouts-death-in-custody-recommendations-57491>

⁵ Productivity Commission (2015) *Report on Government Services (ROGS)* (Corrective Services) Tables 8A.6, 8A.2

⁶ Productivity Commission (2000), *ROGS* (Justice), 730, 736

⁷ In June 1994 the average daily prison population in Australia was 16,944: Red Cross (2016), 10. In 2013-14 this had doubled to 32,683 adults on average per day: *ROGS* (Corrective Services) (2015), Table 8A.1. In 1984, our rate of imprisonment per 100,000 adult population was 85.6 prisoners: Red Cross (2016), 13. In 2013-14 this rate was 187.3 prisoners per 100,000 adult population: *ROGS* (Corrective Services) (2015) Table 8A.5

⁸ Australian Bureau of Statistics (ABS)(2015), Cat. 4517.9 *Prisoners in Australia*

⁹ Tucker, S.B. and Cadora, E (2003a) *Justice Reinvestment*, NY, Open Society Institute. As one example, in 'The Hill' in Connecticut \$20 mill was spent in one year to incarcerate 387 prisoners:

Tucker, S and Cadora, E (2003b), *Ideas for an Open Society: Justice Reinvestment*, Open Society Institute, 2

¹⁰ See, for instance, Social Justice Commissioner (2009), 42

¹¹ Hagan, J and Dinovitzer, R (1999) 'Collateral consequences of imprisonment for children, communities and prisoners', 26 *Crime and Justice* 121

¹² Tucker and Cadora (2003a), 3

¹³ Hagan (1999)

¹⁴ For example, research in 2012 found that it cost \$315 to lock up an adult for a day and that it would be much cheaper to address drug-related issues that lead to offending *outside of prison*. The study found that \$111,458 could be saved per offender by diverting relevant offenders to community-based rehabilitation rather than prison: Australian National Council on Drugs (2012) *Prison vs Residential Treatment: Economic Analysis for Aboriginal and Torres Strait Islander Offenders*, Research Paper No. 24.

¹⁵ Allen, R and Stern, V (2007) *Justice Reinvestment – A New Approach to Crime and Justice*,

International Centre for Prison Studies, UK, 5

¹⁶ Link is at: <https://www.youtube.com/watch?v=VNII9IW2468>

¹⁷ See, for instance, <http://www.justreinvest.org.au/justice-reinvestment-bourke> and <http://justice.act.gov.au/page/view/3829/title/justice-reinvestment-strategy>. The NSW project was recently the subject of an ABC Four Corners episode: <http://www.justreinvest.org.au/abc-four-corners/>.

¹⁸ Productivity Commission (1997) *ROGS*, Canberra ACT, Table 13A.38; Productivity Commission (2016) *ROGS*, Canberra ACT, Table 8A.6

¹⁹ QLD's prisons held 7318 prisoners on the night of 30 June 2015, compared with a total of 4482 prisoners in June 2000. QLD's imprisonment rate has also climbed to 197.7 per 100,000 adult persons in 2015, up from 165.5 per 100,000 adult persons in 2000. Rates of un-sentenced prisoners have risen from around one in six in 2000 (15.6%) to close to one in four (24.5%) in 2015.

Queensland Government Statisticians Office (2015) *Prisoners in Queensland 2015* QLD; Queensland Office of Economic and Statistical Research (2000) *Information Brief Prisoners in Australia: 2000* (QLD)

²⁰ QLD Ombudsman (2016) *Overcrowding at Brisbane Women's Correctional Centre*, QLD; see also QLD Ombudsman (2013) *Report under s50 of the Ombudsman Act 2001: Investigation into the management and use of double-ups in Queensland correctional centres*, QLD

²¹ Queensland Government Statisticians Office (2015)

²² See Productivity Commission (2016), Table 8A.39. QLD's average daily adult prison population numbered 7167 in 2015, which included 2284 Aboriginal and/or Torres Strait Islander inmates. In 2010, the daily average was 5631 prisoners, of which 1643 were Indigenous. QLD's crude imprisonment rate for Indigenous prisoners has also increased from 1551 per 100,000 in 2010 to 1831 per 100,000 in 2015.

²³ Queensland also had the largest number of young people under supervision in each single year of age from 10 – 16. Other data reveals that QLD locks up a much larger majority of unsentenced young people (generally on remand) than was the case in 2011-12 and than is currently the case nationally, and that those under supervision in QLD are younger, on average, and also spend longer under supervision than those in other States/Territories: AIHW (2016), *Queensland: Youth Justice Supervision in 2014-15*, Australian Government

²⁴ Queensland Courts (2015), *Children's Court of Queensland Annual Report*, Brisbane QLD; Queensland Courts (2015) *Magistrates Court of Queensland Annual Report 2014-15*

²⁵ These postcodes included 4871 and 4876-8: Allard, T, Chrzanowski, A and Stewart, A (2012), *Targeting crime prevention to reduce offending: identifying communities that generate chronic and costly offenders*, Trends and Issues in Crime and Criminal Justice No. 445, Australian Institute of Criminology

²⁶ Queensland Police (2016) *Statistical Review: Regional Comparisons*

²⁷ Vinson, T and Rawsthorne, Jesuit Social Services (2015), *Dropping off the Edge 2015: Persistent communal disadvantage in Australia* (DOTE). In Yarrabah, YR 9 numeracy, YR 9 reading, post- school qualifications, child maltreatment were also at problematic levels.

²⁸ DOTE: *Queensland Rank Summary*

²⁹ Stewart et al (2011) 'Understanding and costing offending trajectories: creating an evidence base for targeting crime prevention', invited presentation to Queensland Crime Statistics Network

³⁰ AIHW (2016)

³¹ Social Justice Commissioner (2009), 41-2. See also discussion of the importance of 'Indigenous democracy' in a JR context: Brown et al (2016) *Justice Reinvestment: Winding Back Imprisonment*, Palgrave MacMillan UK, 6-7