

The epidemic incarceration of
Aboriginal & Torres Strait
Islander peoples in WA and
the concept of ...



Justice Reinvestment

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Outline

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 - (c) The Model
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2. **Application to Australia**
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 - (b) Growing Support
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(Open Discussion)



*Justice Reinvestment engages
the community to be part of the solution*



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1. Justice Reinvestment

*Justice Reinvestment engages the community
to be part of the solution*



What is Justice Reinvestment?

‘... a localised criminal justice policy approach that first emerged in the United States. Under this approach, a portion of the public funds that would have been spent on covering the costs of imprisonment are diverted to local communities that have a high concentration of offenders. The money is invested in community programs, services and activities that are aimed at addressing the underlying causes of crime in those communities’.

Mick Gooda

Aboriginal and Torres Strait Islander Social Justice Commissioner

Australian Human Rights Commission

*ANTaR NSW Seminar - Juvenile Justice Strategy:
A Better Way, Sydney Mechanics School of Arts NSW
20 March 2010*



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International Success

- **Historical beginnings in the USA**
 - Imprisons more people than anyone else in the world
 - 2/3 of prisoners return to jail despite increased spending
 - 1990s: US Public Policy Response – New York Think Tank
- **United Kingdom**
 - ‘Social Return on Investment’ (SROI) Model that aligns with Justice Reinvestment.
 - New UK Govt has committed to “introduce a new ‘rehabilitative revolution’ that will pay independent providers to reduce re-offending, paid for by the savings this new approach will generate within the criminal justice system”
- **United States**
 - Now being formally pursued in 11 States
 - Using the Justice Reinvestment Model, Kansas reduced its prison population by 7.5%.



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The Model

The model for Justice Reinvestment is a four step cycle:

1. Identify Communities (Mapping)
2. Development of Options to Generate Savings
3. Quantify Savings to Reinvest in Identified Communities
4. Measure and Evaluate Impact on Identified Communities

NB: The model should repeat periodically to continually identify high risk communities



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Step 1: Mapping

- Geographic analysis of the prison and juvenile detainee populations
- identify which communities contribute most offenders to the prison and juvenile detention populations, where the offending is committed and the underlying causes of the offending.
- Identified communities are termed 'high stakes communities'.
- The Australian Human Rights Commission has identified a number of high stakes Aboriginal communities, however more detailed analysis and mapping with cooperation of State and Territory Governments is required.



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Step 2: Generate Savings

- Quantify savings to reinvest in identified high stakes communities to improve public safety.
- Often savings are taken from simply not building more new prisons.
- Can also look to other areas – e.g. E.g. The initiative in Kansas was funded by a liquor tax.
- Requires a whole of Government approach, including Treasury and COAG.



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Step 3: Reinvest in Communities

- Development of options, including government and community initiatives to improve services in high stakes communities.
- Initiatives address not just *where* but also *why* people are incarcerated.
- E.g. an initiative established in Kansas addressed substance abuse related crime with substance treatment programs in targeted suburbs.
- Involves developing new diversionary, rehabilitative and targeted Programs as well as expanding pre-existing Programs that have proven results.



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Step 4: Evaluate Impact

- Measure and evaluate the impact of the programs on the chosen communities.
- Reporting should be provided to the community and Parliament.
- Constant cycle of improvement and supporting programs that are proven to work.

The Cycle of Justice Reinvestment should continue on so that mapping is done on a periodic basis and where new high risk communities are identified ... proven services are put into those communities



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Applying the model in Texas

The Problem:

- 2nd highest imprisonment rate in USA
- Overrepresentation of Hispanic and African American prisoners
- Between 1985 – 2005 tough on crime policy resulted in a 300% increase in incarceration rate
- Between 1983 – 1997 \$2.3 billion spent on building prisons
- Two years following the introduction of the Justice Reinvestment strategies – the Texas prison population had stopped growing for the first time in decades.

Applying the Model (see handout):

1. Analysis and mapping
2. Development of Options to generate savings and improve local communities
3. Quantify savings and reinvest in high needs communities
4. Measure and evaluate impact



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Applying the Model in Kansas

The Problem:

- High incarceration rates, comparable to Cuba and Rwanda (less punitive than Texas)
- Gross overrepresentation of African Americans (7 times more likely to be imprisoned)
- Since 2004 Kansas has experienced a 7.5% reduction in its prison population. The parole revocation rate is down 48% and parole absconders are down 70%. Parolee reconviction rate dropped by 35%.

Applying the Model (see handout):

1. Analysis and mapping
2. Development of Options to generate savings and improve local communities
3. Quantify savings and reinvest in high needs communities
4. Measure and evaluate impact



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2. Application to Australia



2009 AHRC Social Justice Report Recommendations (Tom Calma)

1. That the Australian Government, through COAG, set criminal justice targets that are integrated into the Closing the Gap agenda.
2. That the Standing Committee of Attorneys General *Working Party* identify Justice Reinvestment as a priority issue under the National Aboriginal and Torres Strait peoples Law and Justice Framework, with the aim of conducting pilot projects in targeted communities in the short term.
3. That the Australian Social Inclusion Board, supported by the Social Inclusion Unit, add Justice Reinvestment as a key strategy in the social inclusion agenda.
4. **That all state and territory governments consider Justice Reinvestment in tandem with their plans to build new prisons. That a percentage of funding that is targeted to prison beds be diverted to trial communities where there are high rates of Aboriginal and Torres Strait peoples offenders.**



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Possible Differences between application in USA and Australia

- Mapping may show a more sparse spread of high risk communities (i.e. in USA it was often high density ghetto suburbs)
- Geographic expanse and increased costs associated with remote and regional communities
- High number of one race (i.e. Aboriginal people) incarcerated
- The need for culturally appropriate programs.



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Growing Support

- Recommendation Two in the Third Report from the Senate Select Committee on Regional and Remote Indigenous Communities in November 2009 called for 'the Australian Social Inclusion Board, supported by the Social Inclusion Unit, to add justice reinvestment as a key strategy in the social inclusion agenda'
- Senate Legal and Constitutional Affairs Committee's 2009 Access to Justice Report recommended that 'federal, state and territory governments recognise the potential benefits of justice reinvestment, and develop and fund a justice reinvestment pilot program for the criminal justice system.'
- See articles at the end of this handout.



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Our Recommendations

Step One: Mapping

That Step One be undertaken by independent third parties capable of providing non-partisan expertise in cooperation with State and Territory Governments and in particular departments who are responsible for police, prisons, detention centres and financial costings associated with the prison industry.



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Our Recommendations

Step Two: Generating Savings

That step two be conducted independently with cooperation of Treasury specialists and then provided to State and Territory Expenditure Evaluation and Review Committees for consideration before finally providing advice to Cabinet.

Step two requires a whole of government approach.



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Our Recommendations

Step Three: Reinvest

- That step three be undertaken by an Inter-Agency Steering Committee comprised of representatives of relevant Government departments, non-Government organisations, academics and most importantly, members of the relevant community.
- As well as developing new Programs, it will also be essential to build on current initiatives that are enjoying success – E.g.
 - Kimberley Aboriginal Law and Culture Centre's Yiriman Bail Intervention Pre-Sentence Project (Fitzroy Crossing)
 - the Halo Leadership Program (Perth)
 - the Noongar Youth Diversion Program (Albany)



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Our Recommendations

Step Four: Evaluation

That step four be completed by an impartial third party in consultation with affected communities.

Key to success: Done in Partnership with High Risk Communities in culturally relevant ways



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Where to from here?



Open Discussion

- Work of Greens WA (June Lowe / Sophie Vanzetti)
- Formation of a Steering Group?
- Lobbying / Campaigning
- Getting Government onside
- Getting the Courts onside
- Legislative reform?
- Getting Community onside
- Ideas????



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Further Information

- “Building Communities not Prisons: Justice Reinvestment and Indigenous over-imprisonment”, Melanie Schwartz, Australian Indigenous Law Review, Vol 14 No 1, 2010
- Noetic Solutions, “A Strategic Review of the New South Wales Juvenile Justice System”, Report for the Minister for Juvenile Justice, April 2010, available at http://www.djj.nsw.gov.au/strategic_review.htm.
- Senate Legal and Constitutional Affairs Committee's 2009 'Access to Justice' Report, http://www.aph.gov.au/senate/committee/legcon_ctte/access_to_justice/report/report.pdf.



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