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Justice Reinvestment in Northern Australia

By Fiona Allison and Chris Cunneen

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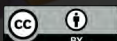
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Justice Reinvestment in Northern Australia

By Fiona Allison and Chris Cunneen



Fiona Allison

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Fiona Allison has extensive experience in Indigenous-focused justice and related programs, including as principal consultant for Justice Reinvestment (JR) projects in Katherine in the NT (ongoing, from 2015) and in Cherbourg in QLD (current). This has involved working with a range of government and non-government stakeholders and, in particular, with local community members to develop a common agenda and key strategies to reduce Indigenous youth incarceration (10-24 year olds). She chairs a national forum for those working with JR, the Justice Reinvestment Network Australia. Fiona has also worked at James Cook University as Project Coordinator for the Indigenous Legal Needs Project (2011-2015), a 5-year large scale national study looking at Indigenous access to justice in civil/family law areas (such as tenancy, child protection, social security) and the inter-connection between poor access to justice in these areas and by Aboriginal and Torres Strait Islander socio-economic disadvantage and disempowerment. Fiona is also working through the Cairns Institute with the community of Cairns South to implement a Collective Impact framework designed to improve outcomes for 0-12 year olds.



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Professor Cunneen has an international reputation as a leading criminologist specialising in Indigenous people and the law, juvenile justice, restorative justice, policing, prison issues and human rights.

Chris has participated with a number of Australian Royal Commissions and Inquiries (including the Stolen Generations Inquiry, the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence), and with the federal Australian Human Rights Commission. He taught criminology at Sydney Law School (1990-2005) where he was appointed as Professor in 2004. He was also the Director of the Institute of Criminology (1999-2005) at the University of Sydney.

Professor Cunneen has held research positions with the Indigenous Law Centre, University of New South Wales (UNSW), and the NSW Bureau of Crime Statistics and Research. Between 2006 and 2010 he was the NewSouth Global Chair in Criminology at UNSW and from 2014 to 2018 a Professor jointly in the Faculties of Arts and Social Sciences and Law. In February 2018 he took up a position as Professor of Criminology with Jumbunna Institute of Education and Research at University of Technology, Sydney.

Executive summary

- Growing imprisonment rates are particularly relevant to Northern Australia, given that in the NT, Queensland (QLD) and WA they are higher than the national rate. Indeed, the NT has an imprisonment rate four times the national average
- In QLD, WA and the NT Indigenous prisoners comprised 32%, 37% and 84%, respectively
- To date, crime and criminal justice have been absent from discussions on developing Northern Australia, despite the fact that the Northern Territory (NT) has the highest imprisonment rate in Australia, followed by Western Australia (WA)
- Expanding the prison estate has particularly poor outcomes for Indigenous people both in removing them hundreds of kilometres from their homelands, and in sapping potential social infrastructure expenditure in remote areas
- JR projects based in small population communities may find it hard to generate sufficient savings from correctional budgets for reinvestment where local prisoner numbers are not high. This suggests the need to think about JR in a broader regional context to meet the specific needs of Northern Australia



Expanding the prison estate has particularly poor outcomes for Indigenous people



To date, crime and criminal justice have been absent from discussions on developing Northern Australia

Executive summary

- Justice Reinvestment (or 'JR') argues for diversion of a portion of correctional funds to resource local community-based and driven solutions to offending
- JR is gaining increasing traction here and overseas as a response to over-reliance on incarceration and has emerged as a major policy alternative to the current emphasis on the increasing use of prisons
- Communities struggling with disproportionate rates of incarceration generally experience a prevalence of issues associated with social disadvantage and increased risk of criminal activity
- JR aims to reform the parts of the justice system that drive higher imprisonment rates. It introduces initiatives at a community level to reduce repeat offending, and to have whole-of-community benefits
- JR is a lengthy process as it needs to be given the entrenched nature of most drivers of offending. Quick fix, bandaid solutions are unlikely to be effective in the longer term
- Imprisonment rates per 100,000 of the adult population have more than doubled over the last 30 years and continue to increase, with the rate rising by 6% between 2016 and 2017
- To succeed, Indigenous-focused JR projects must be managed and run by Indigenous communities, based upon Aboriginal and Torres Strait Islander Terms of Reference

1. Introduction

This paper looks at justice issues, and in particular, the potential implementation of Justice Reinvestment (or 'JR') in Northern Australia.¹ To date, crime and criminal justice have been absent from discussions on developing Northern Australia,² despite the fact that the Northern Territory (NT) has the highest imprisonment rate in Australia, followed by Western Australia (WA) (Australian Bureau of Statistics [ABS], 2017) and that building and operating prisons constitute significant infrastructure and recurrent costs. The paper begins with a description of JR, which has emerged as a major policy alternative to the current emphasis on the increasing use of imprisonment. It discusses the origins of JR in the USA and the growing interest in recent years in its introduction in Australia. Key elements of JR are explained, as well as its particular importance for Indigenous people. We discuss various projects already implementing JR or exploring the potential to do so, including in Northern Australia. The paper concludes with analysis of challenges to progressing JR, with some focus on Northern Australia.



¹ Northern Australia is defined as all of the Northern Territory and those parts of Western Australia and Queensland above the Tropic of Capricorn: see definition in Australian Government, 2015, p. 132.

² For example, there is no mention of crime, criminal justice or imprisonment in Australian Government. (2015). Our north, our future: White paper on developing northern Australia. Canberra: Department of the Prime Minister and Cabinet.

2. Defining justice reinvestment

The concept of Justice Reinvestment originated over a decade ago in the USA, in response to its substantial and escalating rates of incarceration.³ JR focuses on diverting a portion of correctional funds back into local communities, particularly those that produce comparatively high numbers of prisoners. This is identified as a more rational basis to expenditure, than reliance on costly but less effective tertiary level responses to crime, especially as imprisonment.⁴ According to JR proponents, solutions to offending are found within communities, not prisons. Those communities struggling with disproportionate rates of incarceration generally experience a prevalence of issues associated both with social disadvantage and increased risk of criminal activity, such as unemployment, poverty and poor educational outcomes. For those advocating for use of JR, locking offenders up can do little to address these and other causal factors of crime. In fact, over-reliance on incarceration often exacerbates such issues - increasing offending and incarceration for individuals, across whole communities and inter-generationally. Early JR proponents in the USA, Tucker and Cadora, state: “high levels of concentrated incarceration make a neighborhood less safe not more” (2003, p. 5). Continually looking to prisons weakens communities rather than increasing their safety and wellbeing, including as it disrupts “the fragile economic, social, and political bonds that are the basis for informal social control” (Tucker & Cadora, 2003, p. 3). When prisoners then return from jail to the same set of (or worse) conditions than those that initially gave rise to their offending, recidivism and repeat incarceration commonly occur.

JR’s focus on early intervention/prevention to reduce incarceration is based on arguments similar to those raised in other contexts, such as health⁵ or child protection.⁶ In this and other ways, JR draws together principles and methodologies identified in policy, academic and other settings as likely to achieve improved justice, health and/or other outcomes. These include: (i) application of a collaborative and place-based approach, using community development methods and objectives; (ii) prioritisation of long-term over short-term effort and goals; and (iii) development and implementation of relevant strategies based on evidence, including justice and other statistics. JR provides a structured framework through which these principles and methodologies are applied.

Turning first to its community development focus, JR seeks to ‘improve the prospects not of individual cases but of particular places’ (Allen & Stern, 2007). It achieves this through both community-based strategies aimed at addressing causation of offending and empowerment of community members as decision-makers, knowledge-holders and problem-solvers. Importantly, whilst JR aims to reform those parts of the justice system that drive higher imprisonment rates (laws and policies such as bail legislation or limitations in diversionary options), it also introduces programs and initiatives at a community level to reduce repeat offending, but that are also likely to have whole-of-community benefits. These might centre around increased local school attendance and enhanced economic opportunities, for instance. Significantly, community is enabled through JR to play a key role in the governance of JR projects and service providers and government agencies are encouraged to forge new and more constructive ways of collaborating with community. A formal structure for this purpose might be developed, with Collective Impact (or ‘CI’) providing

³ For information about JR in the USA, see for instance: <https://csgjusticecenter.org/jr> and <http://www.vera.org/project/justice-reinvestment-initiative>.

⁴ For example, research in 2012 found that it cost \$315 to lock up an adult for a day but that it would be much cheaper to address drug-related issues leading to offending outside prison (\$111,458 could be saved per offender by diverting relevant offenders to community-based rehabilitation rather than prison) - see Australian National Council on Drugs (2012).

⁵ See for instance McDaid, D., Sassie, F., & Merkur, S. (2015).

⁶ A report recently released by the Australian Family Matters campaign argues that rates of Indigenous child removal are climbing, and will continue to climb unless government spends more money on community-based early intervention initiatives rather than on investigations and out-of-home care - see SNAICC (2017).



... the opportunity cost of the expansion of the prison estate [is] at the expense of productive investments to increase community well-being

one option in this regard.⁷ Through CI, a 'backbone structure' is established, tasked with identification of a common agenda, an agreed purpose and shared measurement tools. The CI backbone drives effort around the latter agenda and purpose, including by facilitating community engagement with and collaboration between stakeholders.

As a second point, JR is a lengthy process - as it needs to be, given the entrenched nature of most drivers of offending. Quick fix, bandaid solutions, including those located within the justice system, are unlikely to be effective in the longer term. This is evidenced by the high recidivism rates of prisoners.⁸ The JR process involves four stages. During Stage 1, statistical data and other material is gathered, which then informs the development of a detailed local JR plan for and by the community in question during Stage 2. This is followed at Stage 3 by introduction of a number of JR initiatives, including those demonstrating and building capacity for change, after which government is approached to divert correctional funds to resource implementation of the community's comprehensive JR plan. Stage 4 consists of ongoing monitoring and evaluation to ensure effectiveness of JR initiatives. In terms of its reliance on evidence to inform relevant strategies, JR uses data during all four of these stages. Statistics are used to identify communities likely to benefit from JR, to help inform identification of key local drivers of incarceration and of responses to these drivers, and to assess progress over time.

JR has been gaining traction in Australia in recent years as a strategy with potential to help contain escalating rates of imprisonment – and in particular Indigenous imprisonment. Imprisonment rates per 100,000 of the adult population have more than doubled over the last 30 years (Weatherburn, 2016) and continue to increase, with the rate rising by 6% between 2016 and 2017 (ABS, 2017). Weatherburn notes that most of the growth since 2000 has been 'policy driven', rather than driven by increasing crime rates (2016, p. 138). Growing imprisonment rates are particularly relevant to Northern Australia, given that in the NT, Queensland (QLD) and WA they are higher than the national rate. Indeed, the NT has an imprisonment rate four times the national average (ABS, 2017, Table 17). Systems of imprisonment constitute major costs to government. The net recurrent expenditure per prisoner per day in 2015-16 was \$315 in the NT, \$318 in WA and \$294 in QLD (Productivity Commission, 2017, table 8A.18). In addition there is significant capital expenditure involved in building new prisons to house increased prison numbers. The cost of building a new prison is dependent on its size, location and security level, among other factors. New South Wales (NSW) recently announced expenditure of \$3.8 billion to increase prisons beds by 7,000 (Paget, 2016), while the new Darwin prison was reportedly built at a cost of \$500 million and was the NT Government's 'largest ever construction project'.⁹ As Paget notes, 'the opportunity cost of the expansion of

⁷ For further information on collective impact, visit Collective Impact Australia: <https://collectiveimpactaustralia.com/about-2/>

⁸ For example, in WA 60%, QLD 64% and NT 72% of prisoners have been previously incarcerated. The percentages are worse for Indigenous prisoners, where in each of these jurisdictions 80% of Indigenous prisoners have been previously incarcerated (ABS, 2017, Tables 17, 30).

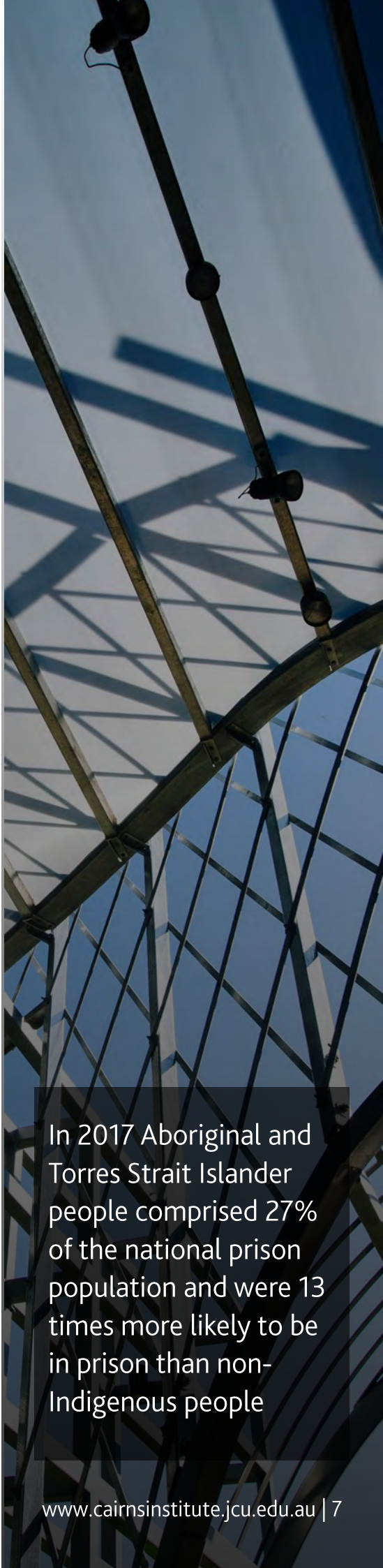
⁹ New \$500 million Darwin prison at Holtze opens with smoking ceremony. (2014). ABC News Online, 9 September. <http://www.abc.net.au/news/2014-09-09/new-darwin-prison-opens/5728334>.

the prison estate [is] at the expense of productive investments to increase community well-being' (Paget, 2016). This argument has a particular resonance for Indigenous people as they face entrenched disadvantage across a range of health, educational, housing, employment, criminal justice and other social indicators (Productivity Commission, 2016).

Indigenous imprisonment is a major social and political issue in Australia, given the significant Indigenous over-representation in the criminal justice system generally and in prison in particular. Indigenous imprisonment rates have been increasing more quickly than non-Indigenous imprisonment rates, climbing by 77% between 2000 and 2015 (Productivity Commission, 2016). In 2017 Aboriginal and Torres Strait Islander people comprised 27% of the national prison population and were 13 times more likely to be in prison than non-Indigenous people (ABS, 2017). However, in QLD, WA and the NT Indigenous prisoners comprised 32%, 37% and 84%, respectively (ABS, 2017, Table 14). Aboriginal and Torres Strait Islander people constitute around 22% of Northern Australia's total population,¹⁰ and have significant levels of imprisonment. According to research conducted by the Aboriginal and Torres Strait Islander Social Justice Commissioner, four of the five areas in QLD and three of the five areas in WA where most Indigenous prisoners come from were in Northern Australia. By definition, all Indigenous prisoners in NT are in Northern Australia (Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009). Northern Australia is also characterised by high levels of remoteness.¹¹ There is a negative correlation between remoteness and the extent of Indigenous disadvantage (Productivity Commission, 2017). Expanding the prison estate has particularly poor outcomes for Indigenous people both in removing them hundreds of kilometres from their homelands, and in sapping potential social infrastructure expenditure in remote areas.

¹⁰ Of note, Indigenous people account for 30% of the NT population. See discussion, *Infrastructure Australia* (2015, p. 60).

¹¹ All of Northern Australia is classified as 'very remote' or 'remote', with small pockets of 'outer regional' areas (Accessibility Remoteness Index of Australia (ARIA+)): ABS (n.d).



In 2017 Aboriginal and Torres Strait Islander people comprised 27% of the national prison population and were 13 times more likely to be in prison than non-Indigenous people



JR in Australia

Over the last decade, there have been numerous inquiries and reports advocating for adoption of JR in Australia especially as a strategy for responding to Indigenous over-representation in prison.¹² Most recently, the Australian Law Reform Commission has recommended the establishment of a body to coordinate JR nationally and assist local JR initiatives, and that federal, state and territory governments support JR trials initiated in partnership with Indigenous communities (Australian Law Reform Commission, 2018).

In most states and territories, organisations are now either exploring the potential for implementation or are implementing JR in at least one location. The project in Bourke (NSW) is the furthest advanced JR project, having commenced in 2013.¹³ Other communities working with JR include Katherine (NT) (Allison, 2016a), Cherbourg (QLD), Cowra (NSW) (Guthrie et al., 2017), and Ceduna (South Australia (SA)). In addition, the SA and ACT governments have been developing JR either through trial sites (South Australian Attorney-General's Department, 2016) or through a whole of government approach (ACT Government, n.d.). There is also interest in JR and in what might be termed 'JR-type' projects emerging in other locations, including in Northern Australia. Arising from these projects, the Justice Reinvestment Network Australia facilitates information sharing between individuals and organisations actively involved in JR.

JR projects vary in terms of how they have been initiated and funded and in their organisational structure, amongst other things. However, a major common focus has been reduction of incarceration of young Indigenous people, aged between 10 and 25 years of age, as a project goal. This focus is based, in part, on a sense of urgency related to tackling Aboriginal and Torres Strait Islander rates of incarceration. JR's emphasis on place-based and community development approaches also provides a foundation for incorporation of Indigenous self-determination and recognition of Indigenous culture, authority and knowledge.¹⁴ It provides a platform for Aboriginal and Torres Strait Islanders to lead responses to crime, placing them at the centre of the design and implementation of JR initiatives and processes. This is vitally important to the success of any



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program designed to improve Indigenous justice outcomes, given that whilst Indigenous communities are likely to be disproportionately represented in poor health and other outcomes associated with offending (unemployment, poverty, etc.), a further crucial driver of Indigenous contact with the justice system is the disempowerment and dispossession of Aboriginal and Torres Strait Islander people through colonisation. This driver must be responded to through JR if we are to make genuine inroads into over-representation.

¹² Key reports include: Aboriginal and Torres Strait Islander Social Justice Commissioner (2009); House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (2011); Legal and Constitutional Affairs Reference Committee (2013); National Congress of Australia's First Peoples (2013); Amnesty International (2015); Red Cross (2016).

¹³ For further information on the Justice reinvestment in Bourke project visit: <http://www.justreinvest.org.au/justice-reinvestment-in-bourke/>. See also: KPMG (2016).

¹⁴ See discussion of the importance of 'Indigenous democracy' in a JR context: Brown, Cunneen, Schwartz & Young (2016, pp. 6-7).

JR in Northern Australia

A number of Northern Australian communities are interested in or are already working within a JR framework. Some of these communities have investigated or are investigating the potential for JR to be implemented locally, including Katherine, Fitzroy Crossing, Palm Island, Doomadgee, Cairns, Yarrabah and Mornington Island.

In Cairns, a collective of local stakeholders has been convened to discuss introduction of JR.¹⁵ Initial analysis of Cairns-specific justice data suggested that JR was worth exploring as a response to offending.¹⁶ Local police data indicated, for instance, that QLD's Northern Region (including Cairns) has comparatively high rates of property and violent offending. A number of communities in the Cairns region are also ranked amongst the top 40 most disadvantaged Statistical Local Areas (SLAs) in QLD, with the disadvantage in question indicated in areas such as health, employment, educational attainment, levels of community safety and rates of prison admissions.¹⁷ If JR is introduced in Cairns in the near future it would be the first city in Australia to work with JR, as all other JR projects operate in regional towns or smaller communities.

Yarrabah is another potential site for implementation of JR in the Cairns region, though it is already working in ways that align well with aspects of JR methodology. Yarrabah has recently established a Safe Communities Working Group (SCWG) as part of the Yarrabah Leaders Forum (YLF) initiative, with the YLF endorsing a 'conceptual blueprint for transformation of Yarrabah' - the Yarrabah Community Model. This model pushes for 'community-driven ideas to come to fruition'.¹⁸ One of the five pillars through which positive change will be achieved is safety,¹⁹ with the SCWG currently developing a community-focused solutions paper designed to make Yarrabah a 'safe place for individuals, families, community organisations and visitors', including through reduced rates of child removal and offending. The SCWG is identifying causes of and strategies to reduce local offending, informed by Yarrabah-specific justice data. It is gathering information on JR, exploring how it might assist the community to reach its safety-oriented objectives.

¹⁵ See discussion in: Allison (2016b).

¹⁶ In 2016 the region reported 1,325 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. See: Queensland Police (2016). Additionally, in recent years, Cairns Statistical Area 4 (SA4) has also 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. QLD. See: Queensland Courts (2015).

¹⁷ According to the Dropping off the Edge Report (DOTE) (2015) the communities in the Cairns region which register as particularly disadvantaged include Cairns (central suburbs) and Yarrabah, described as experiencing 'a complex web of disadvantage' at disproportionately high levels. This disadvantage, as the statistics cited indicate (and unsurprisingly), includes both poor justice and social outcomes. For example, according to the DOTE 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. In Yarrabah, YR 9 numeracy, YR 9 reading, post-school qualifications and child maltreatment were also at problematic levels. See: Vinson, Rawsthorne, Beavis & Ericson (2015).

¹⁸ See discussion Yarrabah News (2017) <http://chowes.com.au/10%20270717%20Yarrabah%20News.pdf>


¹⁹ The other four pillars are health, education/training, employment and sustainability.

Yarrabah is an example of those communities that are working with what looks like JR, in certain respects - but in this instance the community is doing so without any prior knowledge of JR. In contrast, Doomadgee is embarking on a project that incorporates JR-type methods and approaches, and which is clearly identified as JR. Community members in Doomadgee have recently engaged with a two-year research project aimed at identifying local drivers of contact with the justice system and responses to these drivers. Through this research Doomadgee community members have identified as a priority the establishment of an on-country bush camp for those exiting prison to aid in reintegration. Two Indigenous reintegration positions are also identified as likely to make positive contributions in this context (Dawes, Davidson, Walden & Isaacs, 2017). The community is now working on establishing a local Indigenous corporation to address school truancy and educational disengagement, as causal factors of offending.

Whether communities position their projects within a 'JR' framework is not so problematic. As Schwartz and others note, JR has become an 'inspiration' or 'umbrella term for a range of approaches responding to calls for 'evidence-based', 'what works' and 'smart' policies' (Schwartz et al., 2017). However, providing communities with information about and therefore with opportunity to determine whether to incorporate 'JR-typical' strategies and initiatives into their work may add value to what they are already doing. These strategies and initiatives could include diversion of correctional funds to support work already being undertaken, increased use of detailed data, comprehensive engagement with community and development of cross-sector leadership and governance, for instance.

Attempting to 'fit' projects into a JR framework can also bring with it difficulties, however. The major reason for this is that JR is not a particular project or set of projects but rather an overall strategy designed to reduce incarceration and to redirect correctional funding to communities. The Yirriman Project, commenced in 2000 in the west Kimberleys, aims to support young people by connecting them with culture, country and family and by diverting them away from harmful activities such as substance misuse. The project operates back to country trips and, outside of these trips, transmits cultural knowledge from Elders to young people. It demonstrates success in a number of areas and is already working with some aspects of JR; for example, through its use of a place-based approach and in privileging Indigenous culture and knowledge, and in its capacity to generate savings for government by keeping young people out of detention. According to Thorburn and Marshall, however, potential problems arise in seeking to strictly adhere the project to JR methods, including that which requires quantification of impact (for the purpose of measuring savings in correctional budgets), given that its outcomes lend themselves better to qualitative not quantitative measurement (Thorburn & Marshall, 2017). Benefits, however, are likely to accrue to the project if it is able, for instance, to develop a multi-agency focus at a regional level, in keeping with JR methodology.

The only community in Northern Australia that is currently intending to implement all four stages of JR methodology is Katherine. Over an 18-month period in 2015-2016, community and stakeholders were engaged in order to identify levels of support for working with JR longer-term. In this instance, external stakeholders had initiated the project in question: that is, North Australian Aboriginal Justice Agency (NAAJA) and NT Council of Social Services (NTCOSS). NAAJA and NTCOSS passed ownership of JR back to Katherine in 2016, after initial consultations had indicated a very high degree of local interest in introduction of JR. These consultations made a start on identifying justice related and social issues likely to be contributing to incarceration of community members, as well as strengths and capacities in the community around which local leadership of JR might be developed (Allison, 2016a). Having established a wholly Katherine-based governance group for JR, the community is now embarking on a detailed planning process and is well on its way to introduction of Stages 1 and 2 of JR.



JR has become an inspiration or umbrella term for a range of approaches responding to calls for 'evidence driven', 'what works' and 'smart policies'



Conclusion

Challenges for progressing JR in Northern Australia

JR is underpinned both by an acknowledgement that current justice responses to offending are not working and optimism that it provides an alternative way forward, with genuine potential to enact change in a justice setting. Community-driven initiatives also provide a unique opportunity for Indigenous communities to be actively engaged in developing justice solutions. There are, however, a number of challenges to progressing JR, including in Northern Australia. We discuss these below.


1. Diversity of community

One might speak of a specific set of conditions arising across Northern Australia and to consider their relevance to introduction of JR in this particular region. These conditions include a high Indigenous and a sparsely distributed population, as well as remoteness.²⁰ Remoteness, for instance, impacts on various aspects of JR work, including capacity to bring together all stakeholders required to work collaboratively within a JR project, potentially through a CI framework, and to access statistical and other information required for JR, discussed further below.²¹

There are also commonalities across communities currently working with JR. Each community reports or perceives that current justice approaches are not always increasing safety and wellbeing, for instance, and that improving the lives of young people *must* be a priority for all in the community. This provides motivation for change. As one Indigenous Elder

²⁰ Northern Australia has 1.2 million people distributed across 45% of Australia's land mass, representing only 5.6% of Australia's 22.7 million residents. Infrastructure Australia (2015, p. 6).

²¹ In 2013, 70 % of premises in Northern Australia received the lowest broadband quality rating in 2013, in a Department of Communications assessment, compared with 45 per cent in the south. Communities can also be solely reliant on air travel for transport: Infrastructure Australia (2015, pp. 10, 211).



What is fundamentally important to JR methodology is the process of engaging each community to think collectively and gather data and other material that provides insight into *local* contact with the justice system and *local* responses to this contact

stated in Katherine during JR consultations: '[We] certainly welcome the introduction of Justice Reinvestment, as we are very concerned for our young people. We want them to be our next leaders further down the track' (Allison, 2016a, p. 29). The importance of identifying strategies or initiatives that address both justice-related *and* community or social level drivers of offending/incarceration to reducing incarceration is also generally identified by these communities.

As noted above, JR utilises a place-based approach. What is fundamentally important to JR methodology, therefore, is the process of engaging each community to think collectively about, and the gathering of data and other material that provides insight into local contact with the justice system and local responses to this contact. Given this, in discussing the introduction of JR in Northern Australia, one must be mindful of diversity between communities located across its expansive area, and the implications this might have for JR implementation.

Communities' experiences and circumstances related to offending and incarceration will be always somewhat different. Variation in community relationships with local police in Doomadgee and Mornington Island, for instance, are identified as impacting positively and negatively, respectively, on community members' interactions with the justice system (Dawes, et al., 2017). In both Mornington Island and Katherine, school disengagement is seen as a contributor to Indigenous over-representation. However, whilst on Mornington Island young people may disengage, in part, because they do not want to leave their community to access secondary schooling, Katherine, as a larger centre, (though not without its own issues associated with geographic isolation and lack of services) has a local high school (Allison, 2016a; Dawes et al. 2017). Disengagement in Katherine differs to that experienced on Mornington Island, based upon variation in degrees of remoteness of the two communities. By way of further example, a strong contributing factor to the success of JR in individual communities will be their capacity to lead JR work. Some communities have established governance structures to take on this role almost immediately, as occurred with Maranguka in Bourke.²² Others will need to work towards strengthening capacity in this regard.²³ JR implementation must be able to take into account and respond to these and other differences.

²² For information, see <http://www.justreinvest.org.au/the-maranguka-way/>

²³ Katherine is an example of a community with no formal Indigenous governance structure predating JR. It has now established the Katherine Youth Justice Reinvestment Working Group (KYJRWG) to drive JR locally, a collective of community members and representatives from Indigenous and non-Indigenous organisations.

2. Sourcing data

Communities in Northern Australia that are interested in JR may encounter difficulties in accessing information both about JR and that which is required for JR work, particularly statistical data. This issue is not exclusive to Northern Australia, but may have particular relevance to this region because of population size and remoteness. For example, state/territory government, Australian Bureau of Statistics (ABS) and Australian Institute of Health and Welfare (AIHW) data collections on offending, courts and incarceration may include local level data required for JR, but this might be withheld because of concerns that small numbers can lead to identification of particular individuals.

Those working with JR are already identifying problems with availability of and access to local level justice and other data required for JR. For example, in WA juvenile justice data is not published below the regional level. As identified in the context of the Yirriman project, this can impact on accuracy of identification of key drivers of offending, and on the evaluation of JR initiatives (Thorburn & Marshall, 2017).

3. Sourcing funding

Although ultimately JR seeks to divert a portion of correctional funds to resource JR, JR activities related to community engagement, data collection and additional tasks preceding diversion of government funds also need to be resourced.²⁴ To date, JR projects have utilised a variety of funding sources for this work. For example, the Bourke project has received philanthropic funding and various corporate, non-government and government in-kind support. Cherbourg, on the other hand, is completing initial JR work (prior to Stage 1) through QLD Department of Justice and Attorney General funding.

²⁴ Diversion of correctional funds only occurs, as noted above, during the third stage of JR methodology.

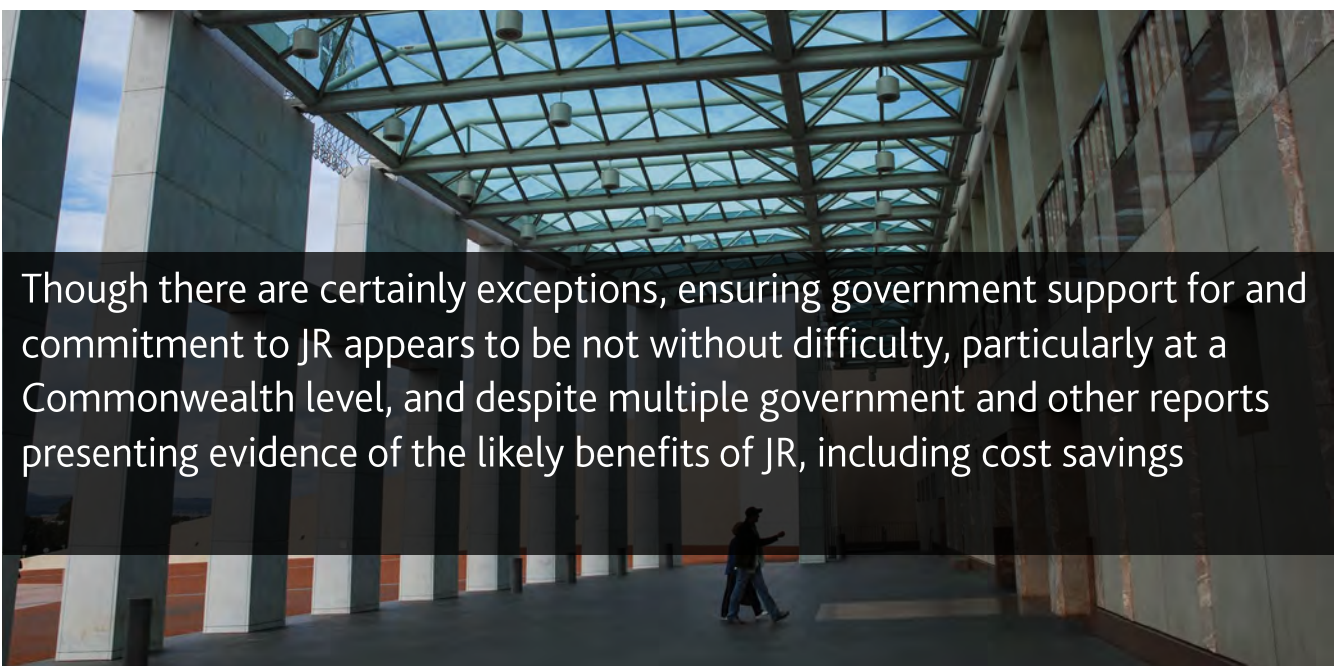
Those working with JR are already identifying problems with availability of and access to local level justice and other data required for JR

4. Securing government commitment

An additional point is that any JR project may find it hard to generate sufficient savings from correctional budgets for reinvestment where local prisoner numbers are not high. This is a real probability where projects focus on a younger cohort of offenders (under 18 years), given their lower rates of incarceration (than adults), and in communities with relatively small overall populations, as is likely to be the case in most of Northern Australia. Communities require more assistance and capacity building to ensure that they are able to access sufficient funds. The problem also points to the need to think about JR as broader strategy than might be implemented regionally.

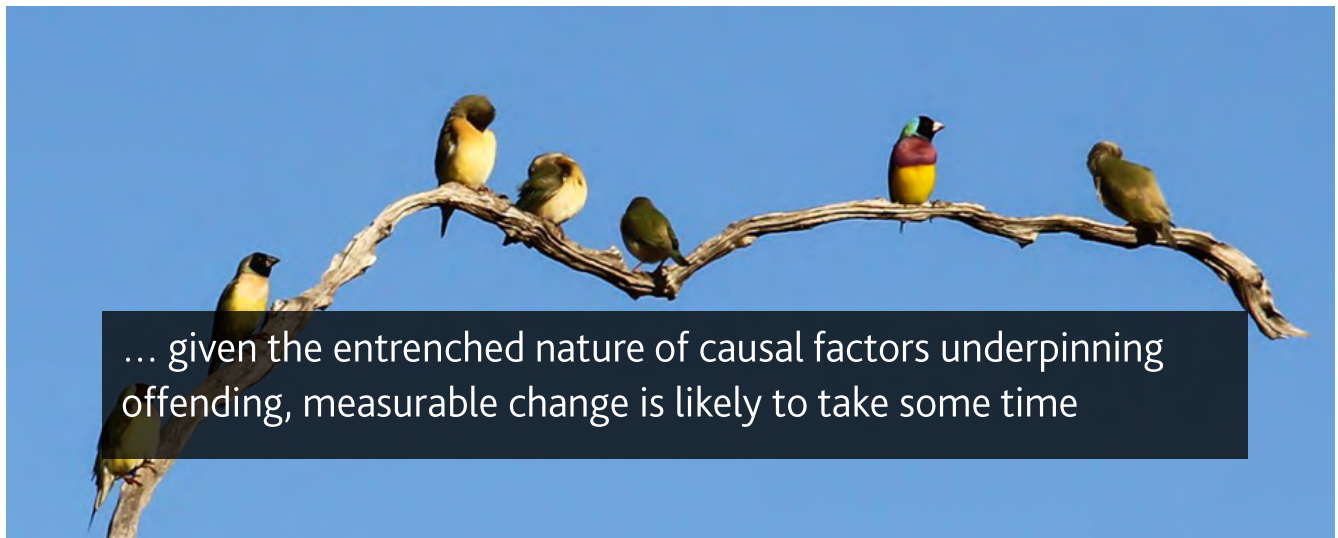
Though there are certainly exceptions, ensuring government support for and commitment to JR appears to be not without difficulty, particularly at a Commonwealth level, and despite multiple government and other reports presenting evidence of the likely benefits of JR, including cost savings.

To deliver effective outcomes, JR requires a high level of engagement by government, which includes commitment of resources and other support for specific JR projects, and at a federal/state/territory level. JR requires, for a start, that government commit to reinvestment of savings back into local communities. This has not yet occurred in Australia. It must also commit to changing relevant policy and practice, which includes the way government currently works with local community. The latter is likely to present significant challenges. In an Indigenous context, for example, changes in this regard do not require, despite what government may believe, investment in more community-based initiatives, but in projects that are genuinely community owned. To succeed, Indigenous-focused JR projects must be managed and run by Indigenous communities, based upon Aboriginal and Torres Strait Islander Terms of Reference (Anthony & Blagg, 2012). Government will also need to ensure access to data, discussed above. This may necessitate alteration to the way data is collected (so as to address data gaps), but also a readiness on the part of government to share this data with JR project stakeholders.



Though there are certainly exceptions, ensuring government support for and commitment to JR appears to be not without difficulty, particularly at a Commonwealth level, and despite multiple government and other reports presenting evidence of the likely benefits of JR, including cost savings

5. Measuring effectiveness



To some extent, the effectiveness of JR in Australia is still an unknown quantity. In the USA, JR is in place in around 40 local or state-level locations in the US (as at 2015). It has had differing degrees of success to date, with outcomes impacted to a degree by the extent to which JR methodology as originally envisaged has been implemented by the various JR projects.²⁴ Given the relative infancy of JR in Australia and the specific environments²⁶ in which it has been developed, it is likely to be some time before we see substantive positive JR outcomes. Early results of JR in Bourke, the longest running project, are promising.²⁷ However, most projects in Australia are only involved in early engagement with JR. Although 'circuit breakers' may be introduced during the initial stages of JR,²⁸ given the entrenched nature of causal factors underpinning offending measurable change is likely to take some time. Moreover, effort might be required to ensure that government, funders and others understand that success in the context of JR may be measured other than quantitatively (for instance, as reduced rates of recidivism). Success in the context of the Yiriman project, for instance, includes increased connection to Indigenous culture. Another important measure of progress achieved through JR might also be shifts both in community capacity to take on ownership of justice issues and capacity of government and service providers to work within community development objectives and principles. These are difficult indicators of success to demonstrate statistically.

²⁵ See discussion in Schwartz et al. (2017).

²⁶ Generally the projects in Australia have been more community-drive than in the USA. They have almost exclusively focused on Indigenous communities, and, unlike the USA, they have not been introduced through a state-wide framework.

²⁷ The police and the Aboriginal community in Bourke worked together in partnership to reduce family violence. Repeat Victim Assaults have reduced from 45 in the second half of last year, to a total of 28 in the first half of this year. Traffic Offences have reduced from 98 in the second half of last year, to a total of 68 in the first half of this year. Email contact: Just Reinvest, 7 November 2017.

²⁸ 'Circuit breakers' refer to changes in the justice system, particularly, that are relatively easy to implement and that can have immediate effect on custody levels. For example, in Bourke this involved introduction of a 'warrants clinic' to circumvent Indigenous people being taken into custody on outstanding warrants.

Key resources



Allison, F. (2016a). *Justice reinvestment in Katherine: Report on initial consultations*. Cairns: James Cook University. Retrieved from <http://www.cairnsinstitute.jcu.edu.au/justice-reinvestment/>

Allison, F. (2016b). *Justice reinvestment in Cairns: Briefing paper for stakeholders*. Cairns: James Cook University.

Brown, D., Cunneen, C., Schwartz, M., Stubbs, J., & Young, C. (2016). *Justice reinvestment: Winding back imprisonment*. Basingstoke: Palgrave Macmillan.

Dawes, G., Davidson, A., Walden, E., & Isaacs, S. (2017). [Keeping on country: Understanding and responding to crime and recidivism in remote Indigenous communities](#). *Australian Psychologist*, 52, 306-315. doi:10.1111/ap.12296

Schwartz, M., Brown, D., & Cunneen, C. (2017). Justice reinvestment. *Indigenous Justice Clearinghouse*, Brief No. 21. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/research-brief-23-fa-28-08-17.pdf>

Thorburn, K., & Marshall, M. (2017). The Yiriman Project in the West Kimberley: An example of justice reinvestment? *Indigenous Justice Clearinghouse: Current Initiatives*, Paper No. 5. https://researchonline.nd.edu.au/arts_article/131/

References

- Aboriginal and Torres Strait Islander Social Justice Commissioner. (2009). *Social justice report 2009*. Sydney: Australian Human Rights Commission. Retrieved from <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/social-justice-report-0>
- ACT Government. (n.d.). *Justice reinvestment strategy*. Retrieved from <http://justice.act.gov.au/page/view/3829/title/justice-reinvestment-strategy>
- Allen, R., & Stern, V. (Eds.). (2007). *Justice reinvestment - A new approach to crime and justice*. London: International Centre for Prison Studies. Retrieved from http://www.prisonstudies.org/sites/default/files/resources/downloads/justice_reinvest_9_high_res_0.pdf
- Allison, F. (2016a). *Justice reinvestment in Katherine: Report on initial consultations*. Cairns: James Cook University. Retrieved from <http://www.cairnsinstitute.jcu.edu.au/justice-reinvestment/>
- Allison, F. (2016b). *Justice reinvestment in Cairns: Briefing paper for stakeholders*. Cairns: James Cook University.
- Amnesty International. (2015). *A brighter tomorrow: Keeping Indigenous kids in the community and out of detention in Australia*. Broadway, NSW: Amnesty International Australia. Retrieved from https://static.amnesty.org.au/wp-content/uploads/2016/09/A_brighter_future_National_report.pdf
- Anthony, T., & Blagg, H. (2012). 'Addressing the 'crime problem' of the Northern Territory Intervention: Alternate paths to regulating minor driving offences in remote Indigenous communities'. Canberra: Criminology Research Council. Retrieved from http://www.criminologyresearchcouncil.gov.au/reports/CRG_38-0910_FinalReport.pdf
- Australian Bureau of Statistics. (2017). *Prisoners in Australia, 2017* (cat. no. 4517.0). Retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0>
- Australian Bureau of Statistics. (n.d.). *Statistical geography fact sheet*. Canberra: Australian Bureau of Statistics.
- Australian Government. (2015). *Our north, our future: White paper on developing northern Australia*. Canberra: Department of the Prime Minister and Cabinet. Retrieved from <http://northernaustralia.gov.au/files/files/NAWP-FullReport.pdf>
- Australian Law Reform Commission. (2018). *The inquiry into incarceration rate of Indigenous Australians, final report*. Sydney: Australian Law Reform Commission.
- Australian National Council on Drugs. (2012). *An economic analysis for Aboriginal and Torres Strait Islander offenders: Prison vs residential treatment*. (ANCD Research Paper No. 24.). Australian National Council on Drugs: Canberra. Retrieved from http://www.healthinonet.ecu.edu.au/uploads/resources/24745_24745.pdf
- Brown, D., Cunneen, C., Schwartz, M., Stubbs, J., & Young, C. (2016). *Justice reinvestment: Winding back imprisonment*. Basingstoke: Palgrave MacMillan.
- Dawes, G., Davidson, A., Walden, E., & Isaacs, S. (2017). Keeping on country: Understanding and responding to crime and recidivism in remote Indigenous communities. *Australian Psychologist*, 52, 306-315. doi:10.1111/ap.12296

- Guthrie, J., Dance, P., Lokuge, K., Levy, M., Walsh, C., & Lovell, M. (2017). *Exploring the potential of justice reinvestment in Cowra: Community report*. Canberra: ANU. Retrieved from <https://childdetentionnt.royalcommission.gov.au/NT-public-hearings/Documents/evidence-2017/evidence28june/Exh-628-003.pdf>
- Hagan, J., & Dinovitzer, R. (1999). Collateral consequences of imprisonment for children, communities and prisoners. *Crime and Justice*, 26, 121-162.
- 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: Commonwealth of Australia. Retrieved from https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/sentencing/report
- Infrastructure Australia. (2015). *Northern Australian audit: Infrastructure for a developing north*. Sydney: Australian Government. Retrieved from <http://infrastructureaustralia.gov.au/policy-publications/publications/Northern-Australia-Infrastructure-Audit.aspx>
- Justice reinvestment in Bourke. (n.d.). Retrieved from <http://www.justreinvest.org.au/justice-reinvestment-in-bourke/>
- KPMG. (2016). *Unlocking the future: Maranguka justice reinvestment project in Bourke: Preliminary assessment*. Retrieved from <http://www.justreinvest.org.au/wp-content/uploads/2016/11/KPMG-Preliminary-Assessment-Maranguka-Justice-Reinvestment-Project.pdf>
- Legal and Constitutional Affairs References Committee. (2013). *Value of a justice reinvestment approach to criminal justice in Australia*. Canberra: Commonwealth of Australia. Retrieved from https://www.aph.gov.au/parliamentary_business/committees/senate/legal_and_constitutional_affairs/completed_inquiries/2010-13/justicereinvestment/report/index
- McDaid, D., Sassi, F., & Merkur, S. (Eds.). (2015). *Promoting health, preventing disease - the economic case*. Maidenhead: Open University Press. Retrieved from http://www.euro.who.int/_data/assets/pdf_file/0006/283695/Promoting-Health-Preventing-Disease-Economic-Case.pdf?ua=1
- National Congress of Australia's First Peoples. (2013). *National justice policy*. Sydney: National Congress of Australia's First Peoples.
- New \$500 million Darwin prison at Holtze opens with smoking ceremony. (2014). *ABC News Online*. <http://www.abc.net.au/news/2014-09-09/new-darwin-prison-opens/5728334>
- Paget, J. (2016). More NSW prisons: Evidence free public policy. *Australian Policy Online*, 1-9. <http://apo.org.au/node/65416> doi:10.4225/50/5788223A0CC8D
- Productivity Commission. (2017). *Report on government services, Table 8A.18*. Canberra: Commonwealth of Australia.
- Productivity Commission. (2017). *Corrective services (Table 8A.18) Report on government services 2017 (Vol. C)*. Canberra: Commonwealth of Australia. Retrieved from <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services>
- Queensland Police. (2016). *Regional comparisons. In Annual statistical review 2015/16* (pp. 73-90). Brisbane: Queensland Police Service. Retrieved from https://www.police.qld.gov.au/corporatedocs/reportsPublications/statisticalReview/Documents/2015-16/AnnualStatisticalReview_2015-16.pdf
- Queensland Courts. (2015). *Childrens Court of Queensland: Annual report 2014-2015*. Brisbane: Childrens Court of Queensland. Retrieved from <http://www.courts.qld.gov.au/about/publications?root=84607>
- Queensland Courts. (2015). *Magistrates Court of Queensland: Annual report 2014-2015*. Brisbane: Brisbane Magistrates Court. Retrieved from <http://www.courts.qld.gov.au/about/publications?root=84607>
- Red Cross. (2016). *Rethinking justice: Vulnerability report 2016*. Retrieved from <https://www.redcross.org.au/rethinking-justice>
- Schwartz, M., Brown, D., & Cunneen, C. (2017). Justice reinvestment. *Indigenous Justice Clearinghouse*, Brief No. 21. <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/research-brief-23-fa-28-08-17.pdf>

- SNAICC. (2017). *The Family Matters report: Measuring trends to turn the tide on Aboriginal and Torres Strait Islander child safety and removal*. Retrieved from http://www.familymatters.org.au/wp-content/uploads/2016/12/Family_Matters_Report_2016.pdf
- South Australian Attorney-General's Department. (2016). *Justice reinvestment*. Retrieved from <https://www.agd.sa.gov.au/projects-and-consultations/justice-reinvestment>
- Steering Committee for the Review of Government Service Provision. (2016). *Overcoming Indigenous disadvantage: Key indicators 2016. Report*. Canberra: Productivity Commission. Retrieved from <https://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016/report-documents/oid-2016-overcoming-indigenous-disadvantage-key-indicators-2016-report.pdf>
- Thorburn, K., & Marshall, M. (2017). The Yiriman Project in the West Kimberley: An example of justice reinvestment? *Indigenous Justice Clearinghouse: Current Initiatives*, Paper No. 5. https://researchonline.nd.edu.au/arts_article/131/
- Tucker, S. B., & Cadora, E. (2003). Justice reinvestment. *Ideas for an Open Society*, 3(3), 2-5. https://www.opensocietyfoundations.org/sites/default/files/ideas_reinvestment.pdf
- Weatherburn, D. (2016). "Rack 'em, pack 'em and stack 'em": Decarceration in an age of zero tolerance. *Current Issues in Criminal Justice*, 28(2), 137-156. <http://www.austlii.edu.au/au/journals/CICrimJust/2016/21.html>
- Vinson, T., Rawsthorne, M., Beavis, A., & Ericson, M. (2015). *Dropping off the edge 2015: Persistent communal disadvantage in Australia*. Richmond, VIC: Jesuit Social Services. Retrieved from <https://dote.org.au/findings/full-report/>
- Yarrabah leaders group working on several fronts. *Yarrabah News*, 1(10). <http://chowes.com.au/10%20270717%20Yarrabah%20News.pdf>

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