



Justice reinvestment: the circuit breaker?

The term Justice Reinvestment was first coined only 10 years ago, in an article for George Soros's Open Society Foundation in 2003. In the decade since it has shot to prominence in the United States, United Kingdom and now Australia. Professor David Brown outlines the principles, practices, and politics of Justice Reinvestment, here and internationally.

Justice Reinvestment involves the redirection of resources from Corrections budgets to various forms of community provision such as education, housing, drug and alcohol, employment, healthcare and other resources in high crime communities from which many prisoners come and to which many prisoners will return. Its growing popularity stems from a range of factors, including recognition across the political spectrum that increasing imprisonment rates and populist law and order strategies have failed to prevent crime and ensure public safety. Indeed the criminogenic, or crime producing nature of imprisonment is being recognised as recidivism rates have become a political issue.

A characteristic of Justice Reinvestment is its appeal across the political spectrum; indeed many of its major proponents in the US are moral, religious and fiscal conservatives, who increasingly view imprisonment and constant prison building as hugely inefficient and wasteful of public resources. Some but not all progressives have welcomed its potential to shift resources from 'lock em up' responses after the event to social democratic community and solidarity building which may help to reduce crime and reoffending and increase public safety. It is this ability to attract bipartisan support that may enable Justice Reinvestment to become somewhat of a circuit breaker out of the 'who is toughest on crime' law and order auction approach to criminal justice policy which has been dominant in many jurisdictions since the mid 1980s.

Features of Justice Reinvestment

Justice Reinvestment relies on several features: justice and asset mapping, budgetary devolution and localism.

Justice mapping involves compiling and analysing data on the geography of criminal offending – identifying high risk, high crime neighbourhoods to which many criminal offenders return after prison. Asset mapping involves identifying the various community assets in those neighbourhoods which are a source of strength and social cohesion, be they governmental, non-government, civic, cultural, sporting, or religious. Consideration is given to how these assets might be strengthened through policies and programs which engage with offenders, such as job creation programs, mentoring schemes, educational or drug and alcohol programs.

Depending on where they are, Justice Reinvestment schemes typically involve some form of budgetary devolution to the local level. In the US this is typically from federal or state levels down to county administrations; in the UK from central to local government. Budgetary devolutions can take various forms: block grants, fiscal incentives, and the use of social bonds by trusts, local businesses or social entrepreneurs. For example incentives might be offered to local businesses which employ ex-prisoners.² The budgetary allocations might be fresh seed money or real or notional reallocations produced by reduced use of imprisonment and the consequent budgetary savings.

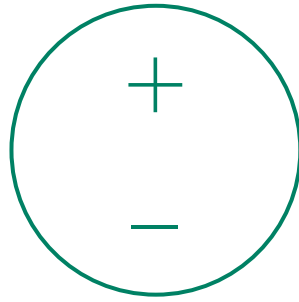
International approaches

To support the world's highest imprisonment rates the US Corrections budget is more than \$60 billion per year. Spending on prisons over the last 20 years has increased more than 300 per cent, compared with 125 per cent on education.³ Sixteen US states have signed

1. S Tucker & E Cadora, Justice Reinvestment: To invest in public safety by reallocating justice dollars to refinance education, housing, healthcare, and jobs, *Ideas for an Open Society*, 3; For a range of assessments of Justice Reinvestment, see a special issue of the American Society of Criminology Journal, *Criminology and Public Policy* (2011) Vol 10(3). In the Australian context see: D Brown, Melanie Schwartz and Laura Boseley, 'The Promise of Justice Reinvestment', *Alt LJ* Vol 37:2 2012 96-102.

2. See TR Clear, 'A private-sector, incentives-based model for justice reinvestment', *Criminology and Public Policy* 10(3) 606, 2011.

3. The Council of State Governments, *the National Summit on Justice Reinvestment and Public Safety*, January 2011, 2-3.



up with the Council of State Governments Justice Centre, the Justice Reinvestment coordination body, to investigate or apply Justice Reinvestment schemes and other states have followed Justice Reinvestment through different avenues. Results have been very promising in some states. A 2004 pilot scheme in Connecticut resulted in a cancellation of a contract to build a new prison, resulting in savings of \$30 million, more than one third of which was reinvested in community and neighbourhood-based programs, post-release assistance and reduced parole and probation caseloads, which have reduced technical violations and lowered re-imprisonment rates. Similar savings have been made in other states, including Texas.

In the UK the concept has been promoted in a range of political forums and research reports, including the House of Commons Justice Committee Report, *Cutting crime: The case for Justice Reinvestment*⁴; a Green Paper, *Breaking the cycle: Effective punishment, rehabilitation and sentencing of offenders*⁵; and the Institute of Public Policy Research Report, *Redesigning crime through Justice Reinvestment*.⁶ As yet few Justice Reinvestment schemes have been put into operation in the UK.

Applicability in Australia

There are around 30,000 prisoners in Australia at any one time, with approximately 50,000 cycling in and out of prison each year, at a cost of \$3 billion per annum or over \$300 per prisoner per day. Roughly 40,000 Australian children have a parent in prison and 20 per cent of Aboriginal children have a parent or carer in prison.⁷ Indigenous prisoners make up 26 per cent of the total, an over-representation of 14 times for adults and 24 times for young people in juvenile detention centres. A New South Wales Bureau of Crime Statistics and Research (BOCSAR) study found that one in four young Indigenous men are being processed through the criminal courts every year.⁸

Another BOCSAR study estimated that a 10 per cent reduction in the Indigenous re-imprisonment rate would result in savings of more than \$10 million each year.⁹ High imprisonment rates in Aboriginal communities break down family and social bonds, contribute to social dysfunction, normalise the prison experience and arguably increase the likelihood of crime. Recidivism rates in such communities are very high; three quarters of Aboriginal prisoners in 2008 had previously been imprisoned.¹⁰

Justice Reinvestment has attracted increasing interest and support in Australia in recent years. The call has been led by the current and immediate past Aboriginal and Torres Strait Islander Social Justice Commissioner beginning with the 2009 Social Justice Report. It was echoed in the Legal and Constitutional Affairs Committee in its inquiry on Access to Justice, where it recommended the commencement of a pilot of Justice Reinvestment strategies and exploration of its potential in regional and remote Indigenous communities. The NSW Greens have adopted Justice Reinvestment as part of their justice policy platform; a strategic review for the Minister for Juvenile Justice recommended it be implemented for juveniles in NSW¹¹; and NSW Attorney General Greg Smith has expressed support and proposals for pilot projects are under consideration by the NSW Coalition Government. Unfortunately the Victorian Government seems headed in the opposite direction, buying heavily into the discredited law and order approach finally being abandoned in NSW. The current Senate Legal and Constitutional Affairs Committee Inquiry is galvanising interest and support. One of the terms of reference is 'the scope for Federal Government action which would encourage the adoption of justice reinvestment policies by state and territory governments.'¹²

4. UK House of Commons Justice Committee, 2010.

5. UK Ministry of Justice, (2010)

6. Institute for Public Policy Research (IPPR) *Redesigning Justice: Reducing Crime Through Justice Reinvestment*, June 2011.

7. M Levy, 'Children of prisoners: An issue for courts to consider in sentencing', Presentation to Federal Criminal Justice Forum, 29 September 2008, Canberra.

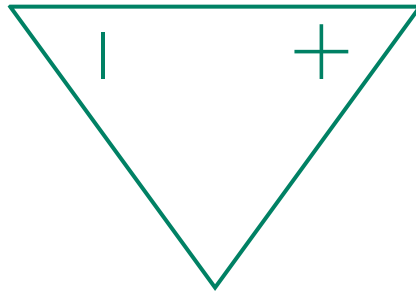
8. D Weatherburn, B Lind, and J Hua, 'Contact with the NSW Court and Prison Systems: The influence of age, Indigenous status and gender', *Crime and Justice Bulletin* 78, NSW BOCSAR, Sydney, 2003.

9. D Weatherburn, G Froyland, S Moffatt and S Corben, 'Prison populations and correctional outlays: The effect of reducing re-imprisonment', Report on Contemporary Issues in Crime and Justice No 138, *NSW Bureau of Crime Statistics and Research*, December 2009 1.

10. D Brown, 'The limited benefit of prison in controlling crime', *Current Issues in Criminal Justice*, 22(1), 2010, pp 137-148; D. Rose and TR Clear, 'Incarceration, social capital and crime: Implications for social disorganisation theory', *Criminology* 44(1), 1998; D Stemen, *Reconsidering Incarceration: New directions for reducing crime*, Vera Institute of Justice, 2007.

11. Noetic Solutions, *A Strategic Review of the New South Wales Juvenile Justice System. Report for the Minister for Juvenile Justice*, April 2010.

12. http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_ctte/justice_reinvestment/info.htm



A recent report by Deloitte Access Economics for the National Indigenous Drug and Alcohol Committee, Australian National Council on Drugs, highlighted the economic, social and health benefits of diverting non-violent Indigenous offenders into community residential rehabilitation services instead of prison. They included:

- total financial savings of \$111,458 per offender as well as improvements in health and mortality¹³
- savings of \$340 million per year for state and territory governments if 1,600 non-violent Indigenous offenders were treated for addictions instead of being jailed
- sufficient funds to run 20 rehabilitation centres from diverting just 100 non-violent offenders.¹⁴

These are the sorts of projects and results that might follow from a serious take-up of Justice Reinvestment approaches, particularly in relation to Indigenous communities.¹⁵

A key issue here in building the momentum is to identify who would co-ordinate, fund and operate such diversion schemes and particularly what agency could take on a co-ordination role, similar to the Council of State Governments (CSG) in the US. The Australian Greens have proposed an independent National Centre for Justice Reinvestment (NCJR) which would provide technical assistance, policy advice and financial support for states and territories wanting to establish pilots. Such a centre could also collect data, liaise with local communities, assist the development of plans and engage in evaluation. Local community consultation, control and development would be crucial to the viability and success of particular projects and it is important that justice reinvestment not be used as a screen behind which a strategy of disinvestment in prison programs and services takes place.

Given the right political conditions, Justice Reinvestment approaches could see a shift from the increasingly discredited and hugely expensive resort to imprisonment as the default response to social marginality, dysfunction and crime.



The more that Justice Reinvestment approaches can be removed from partisan politics, the better the prospects for more rational uses of the resources poured into the criminal justice sector. They are not a panacea¹⁶ but, given the right political conditions, they could see a shift from the increasingly discredited and hugely expensive resort to imprisonment as the default response to social marginality, dysfunction and crime. Concrete projects, run in high crime neighbourhoods by a diverse range of local government, non-government, community organisations and businesses, might not only turn out to be far cheaper, but also far more effective in reducing crime and re-offending, and in increasing public safety and social cohesion.

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13. National Indigenous Drug and Alcohol Committee, *Australian National Council on Drugs, An economic analysis for Aboriginal and Torres Strait Islander offenders: prison vs residential treatment*, August 2012 at X1

14. AAP, 'Rehab cheaper than jail for indigenous offenders –report', *Sydney Morning Herald*, February 5 2013.

15. See M Schwartz, M, 'Building communities, not prisons: Justice Reinvestment and Indigenous over-representation', 14(1) *Australian Indigenous Law Review* 2-17, 2010.

16. For a range of other conceptual and practical difficulties associated with Justice Reinvestment see: D Brown, M Schwartz and L Boseley, 'The Promise of Justice Reinvestment', *Alt LJ* Vol 37:2 2012 96-102.