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DESIGN OF THE NATIONAL JUSTICE REINVESTMENT PROGRAM AND NATIONAL JUSTICE REINVESTMENT UNIT

KEY ISSUES PAPER

INTRODUCTION

The Federal Government has committed \$81.5 million to justice reinvestment. This commitment includes \$69 million from 2022-23 for place-based community-led justice reinvestment initiatives in up to 30 communities and \$12.5 million from 2022-23 to establish an independent National Justice Reinvestment Unit to coordinate and support justice reinvestment initiatives at a national level.

This paper, prepared by Jumbunna Institute for Indigenous Education and Research, is intended to guide discussions that will inform the design of both the National Justice Reinvestment Grant Opportunity Guidelines for how funding under this Australian Government commitment will be provided and the National Justice Reinvestment Unit.

Further information about this commitment is available [here](#).

WHAT IS JUSTICE REINVESTMENT?

Justice reinvestment or 'JR' is not a program, though communities might set up community-led justice and other programs through JR. JR is a way of working - a process that strengthens community leadership that will help improve justice and other outcomes for Aboriginal and Torres Strait Islander people. JR also usually focuses on improving outcomes in a particular community. It is informed by data and other evidence that helps communities identify priorities and measure progress over time.

JR commonly focuses on early intervention and prevention, seeking to address the reasons why Aboriginal and Torres Strait Islander people are coming into contact with police and being locked up. As such, communities might focus on breaking cycles of offending through, for example, family support and better health outcomes and access to housing, jobs and education. Communities also advocate for changes in government and non-government service/program delivery, including changes to policing, courts and corrections, to help improve justice and other outcomes.



QUESTIONS

NATIONAL JUSTICE REINVESTMENT PROGRAM

- 1** What activities should be funded through the National Justice Reinvestment Program?
- 2** How can the Commonwealth Government ensure the grants process is accessible to those wanting to apply for justice reinvestment funding?
- 3** How can the Government ensure the grants program meets the needs of those seeking funding?
- 4** Who should be involved in assessing applications for justice reinvestment funding?
- 5** How should the progress and success of justice reinvestment initiatives be measured?

NATIONAL JUSTICE REINVESTMENT UNIT

- 6** How can the National Justice Reinvestment Unit best support justice reinvestment in Australia?
- 7** What functions or services should the Unit provide?
- 8** How should the Unit be structured and governed?
- 9** Where should the Unit be located?
- 10** What do you see as the role of the Commonwealth Government in supporting justice reinvestment nationally?



KEY ISSUES AND QUESTIONS

1

What activities should be funded through the National Justice Reinvestment Program?

Should funding be available to support community leadership/governance activities and other foundational or operational aspects of justice reinvestment?

What other types of activities would you expect to be funded through the national grant program? Are there any activities you think the program should not fund?

Implementing solutions to continuing high rates of Aboriginal and Torres Strait Islander contact with the Australian justice system is complex work. And so, while justice reinvestment may incorporate community-led and based Aboriginal and Torres Strait Islander programs with a focus on those already caught up in cycles of offending and incarceration, its activities are a lot broader than this.¹

Examples of activities already underway in Aboriginal and Torres Strait Islander communities exploring or implementing justice reinvestment include:

- working with data to identify local pathways to reducing contact with the justice system;
- building partnerships with government that shift decision-making to communities;
- advocating for reforms to the justice system and in areas that impact on justice outcomes like health and education.

Justice reinvestment emphasises early intervention and prevention programs or approaches. These might aim to reduce re-offending for those already in contact with the justice system or have a broader community focus: e.g., through improving economic opportunity or addressing health issues for everyone living in the community (including drug and alcohol use and disability). Justice reinvestment initiatives may focus on issues that occur at all life stages, including before first contact with the justice system.

Programs and approaches that reinforce self-determination and culture are also common. Justice reinvestment initiatives around Australia generally aim to strengthen self-determination and culture as essential responses to Indigenous over-representation and related challenges.

This occurs through community-led programs, for example, but also through community leadership and coordination of initiatives. This will look different in each community.



For many existing justice reinvestment initiatives, 'backbone' or similar organisations play a coordinating role, bringing together different activities, people and organisations focused on the same goal of reducing offending and incarceration. The group may be responsible for operations (managing budgets etc.), building community engagement around justice reinvestment, and developing local justice reinvestment plans, for example.

Aboriginal and Torres Strait Islander leadership of justice reinvestment initiatives takes different forms and may also take time to develop. Leadership of these initiatives would usually involve decision making and advocacy on behalf of the community.

Comments are invited about whether and how funding under the national justice reinvestment program might support the design, implementation and evaluation of community-led programs.

Comments are also welcomed on the importance of and best approach to resourcing the leadership and coordination work of initiatives. This work, for instance, generally requires sustained resourcing, given its ongoing and essential contribution to justice reinvestment. Those leading and helping coordinate justice reinvestment initiatives are currently not always paid for their time.

The following are further specific examples of other common justice reinvestment activities. Input is invited about these and other types of activities to be funded.

- Data work, including setting up and managing systems to collect, store and analyse data; developing local Indigenous Data Sovereignty Principles; and monitoring, evaluation and learning activities.
- Communications to community, funders and others about an initiative and its progress.
- Learning opportunities, including workshops or accessing advice from external 'experts' and covering areas such as grant writing and data work, for example.
- Community events, such as youth activities and community meetings.
- Infrastructure such as cars, computers.

What type of initiatives should be prioritised for funding through the national program?

First Nations communities have a long history of thinking about and implementing solutions to their over-representation in the justice system. Justice reinvestment is a relatively new concept that shares common elements with First Nations preferred solutions to this long-standing issue, including in its focus on self-determination, culture and prevention.

Funding is likely to be available under the National Justice Reinvestment Program to support communities working in ways that align with but that is not necessarily referred to by communities as justice reinvestment.

Comments are welcomed on key elements of initiatives to be prioritised for funding under the national grant program. Feedback received will inform program scope.

Justice reinvestment has been described as having the following elements.²

- Place-based; that is, focused on achieving positive change in a particular place.
- Having strong local Aboriginal and Torres Strait Islander community leadership.
- Being informed by evidence and data.
- Addressing drivers of Aboriginal and Torres Strait Islander offending and incarceration.

Other more specific questions about initiatives to be funded include whether they ought to have a primary objective of reducing Aboriginal and Torres Strait Islander offending and incarceration. Should funding be provided to initiatives that may contribute to better Aboriginal and Torres Strait Islander justice outcomes where this is not their sole or main focus?

Is it important that Aboriginal and Torres Strait Islander people applying for funding define what 'place-based' and the 'community' in 'community leadership' means? Funding might be sought, for instance, to implement solutions that will benefit and be led by Aboriginal and Torres Strait Islander people or organisations that belong to a nation group rather than being led by a community defined by geography.

What information and evidence should inform assessment of grant applications?

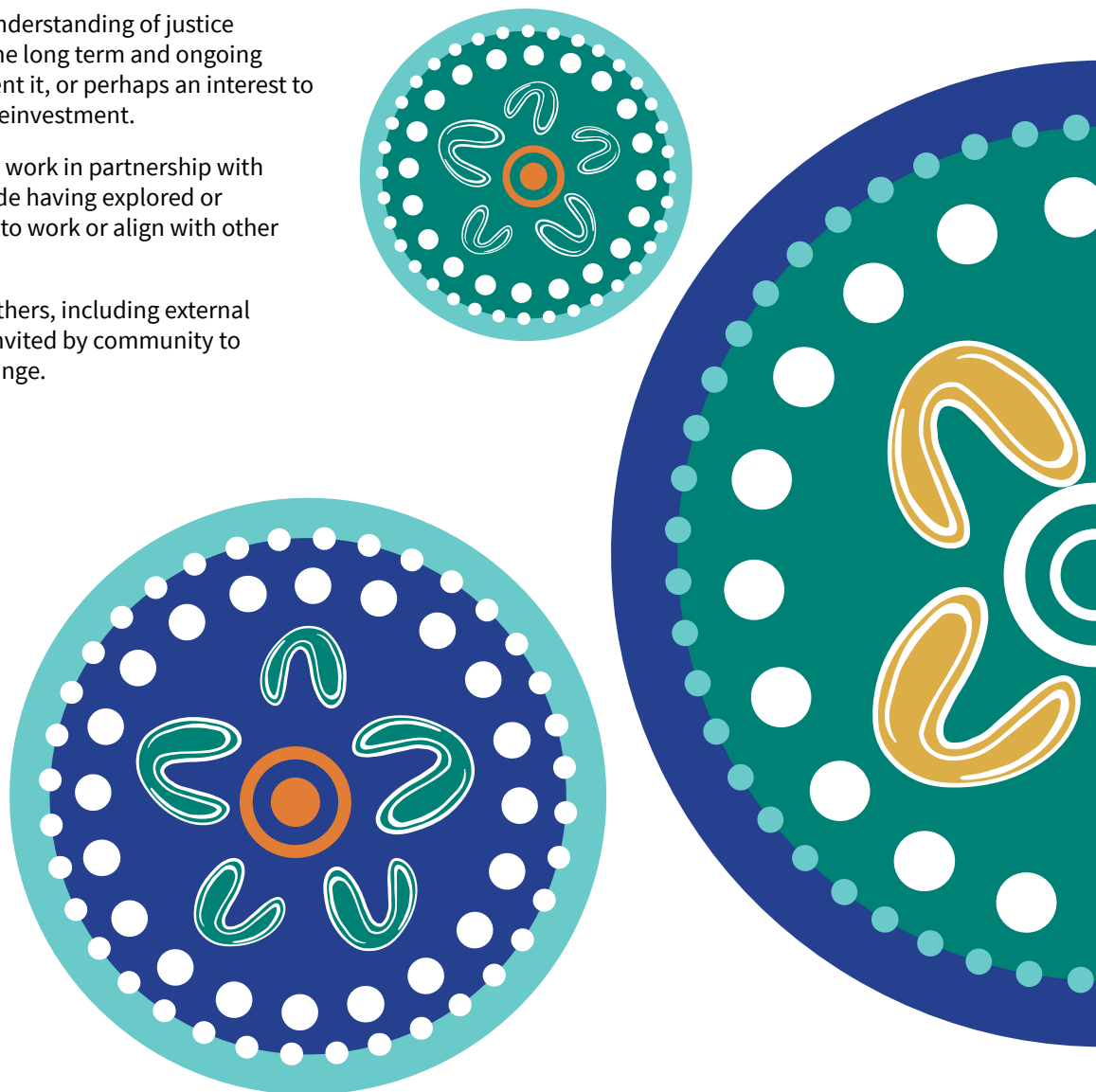
Comments are welcomed on what *indicators or signs of readiness for funding* provided by communities should be used to assess applications for funding. These indicators or signs might include the following, as examples.

- Evidence of community consensus that change is urgently required to address justice outcomes. Community members might see contact with the justice system as too high or increasing and/or that services and program delivery is not meeting community needs and this is contributing to negative justice outcomes, for example.
- Evidence of Aboriginal and Torres Strait Islander community leadership, involving Aboriginal and Torres Strait Islander leaders, Elders and/or Traditional Owners coming together and authorising change.
- Evidence of community understanding of justice reinvestment, including the long term and ongoing work required to implement it, or perhaps an interest to learn more about justice reinvestment.
- Evidence of a readiness to work in partnership with others, which might include having explored or progressed opportunities to work or align with other local initiatives.
- Evidence of buy-in from others, including external partners that have been invited by community to support their push for change.

Comments are also welcomed on the *type of evidence* required to identify readiness. How can those applying for funding, for instance, community consensus or leadership?

Applications will be assessed based on information presented by communities in their application. This is referred to as ‘community data’ - capturing the views, expertise, experiences and knowledge of those living in communities applying for funding. It is not expected that government data (for e.g., data that measures local justice and other outcomes) will inform this process. Comments are welcome on this approach.

Comments on other information or input decision-makers might use to assess grant applications are invited.



2

How can the Commonwealth Government ensure the grants process is accessible to those wanting to apply for justice reinvestment funding?

Are there particular processes you or your community have found challenging when looking to apply for grants or funding in the past?

Are there barriers to accessing government funding that could be removed, or supports or resources that would make the process for applying for funding more accessible?

Communities will need to complete an application form when seeking funding under the National Justice Reinvestment Program. It is anticipated that applications will be sought through a grant opportunity from July 2023. During this process, communities will be asked to identify the amount of funding they require and for what purposes.

Comments are welcomed on what support or resources might be required by communities to help them complete this application process and how the process, including the application form itself, can be as user-friendly and accessible as possible.

Issues that might need to be considered include the following.

- Issues of language and literacy.
- Having enough information and advice needed to prepare and submit an application.
- Length of time provided to prepare and submit an application.
- Best approaches to advertising this funding opportunity.
- Use of online platforms for the application process.

Comments are also welcomed on whether communities applying for funding might need support to receive and administer funds provided under this grants program.

Sometimes, to access funding communities must incorporate their local leadership structures. For some, following a Western model of incorporation (with a single authorised leader (Chair or Executive Officer)) conflicts with Aboriginal and/or Torres Strait Islander preferred models of governance.

In some situations, communities may elect for one organisation to act as the auspice body that enters into a formal collaboration agreement with members of the local leadership structure. However, this model does not work in all communities. Comments are welcomed about how funding could be provided to local leadership structures preferred by communities applying for funding.

3

How can the Government ensure the grants program meets the needs of those seeking funding?

As described in the introduction, the Federal Government has committed \$69 million from 2022-23 for justice reinvestment initiatives in up to 30 communities. At this stage, there is no detail about how this funding will be distributed.

Comments are welcomed on the most fair and effective way to distribute these funds to Aboriginal and Torres Strait Islander communities across Australia. Should funding be equally distributed, for instance, to urban, regional and remote communities, or to communities in each jurisdiction?

Other questions to consider include whether initiatives require sustained funding given that their work is a long-term not a programmatic approach? If so, how might the National Justice Reinvestment Program provide sustainable funding for justice reinvestment initiatives? Is it better for the program to provide ongoing, larger amounts of funding to less communities or shorter-term, smaller amounts of funding to more communities, for instance?

Further, justice reinvestment initiatives are currently relying on various and sometimes multiple sources of funding and investment, including from different levels of government and philanthropic organisations. Communities may find it difficult to (continually) apply for these different types of funding, and to manage relationships with and report to multiple different funders.

Comments on current challenges in the set up and management of multiple funding partnerships are welcomed. Comments are also invited about how different funders might work more efficiently and collaboratively to ensure community needs are met in establishing and managing funding partnerships.

As an example, where a community applies for Federal Government funding under the National Justice Reinvestment Program, they could also be referred to or otherwise assisted through a streamlined process to access philanthropic or other funding opportunities.

4

Who should be involved in assessing applications for justice reinvestment funding?

For example, should the Government ensure representation from First Nations people and justice reinvestment practitioners in assessment panels?

In its *Pathways to Justice* report (2018) the ALRC has recommended that 'Commonwealth, state and territory governments should support justice reinvestment trials initiated in partnership with Aboriginal and Torres Strait Islander communities'.³ Partnership in this context might encompass Aboriginal and Torres Strait Islander peoples and communities participating in decisions about funding under the National Justice Reinvestment Program, including those already implementing justice reinvestment.

This approach is in keeping with key principles of self-determination, culture and participation in decision-making, all of which are essential to achieving better justice and other outcomes for Aboriginal and Torres Strait Islander peoples.⁴

Comments are welcomed on whether and how Aboriginal and Torres Strait Islander people and justice reinvestment practitioners should input into assessment of funding applications under the National Justice Reinvestment Program.

Questions to consider include whether there are existing organisations and bodies with Aboriginal and Torres Strait Islander leadership and representation that ought to participate in this decision-making and, if so, how this might occur. As an important example, there are established partnership structures under the National Agreement on Closing the Gap, including the Justice Policy Partnership (JPP). The JPP brings together representatives from the Coalition of Peaks, Aboriginal and Torres Strait Islander experts, and Commonwealth, state and territory Governments to take a joined-up approach to Aboriginal and Torres Strait Islander justice policy.

5

How should the progress and success of justice reinvestment initiatives be measured?

There is no quick solution to the problem of Aboriginal and Torres Strait Islander over-representation in the criminal justice system and many of the drivers of this over-representation will sit outside of communities' control.

Justice reinvestment is also not a quick solution to this problem. This approach takes time to implement and to deliver positive outcomes, including a reduction in offending and incarceration.

Moreover, Aboriginal and Torres Strait Islander communities currently working with justice reinvestment are finding it difficult to access justice and other data from government. This data is important for identifying an initial baseline (including for offending and incarceration) and for measuring positive changes achieved over time through justice reinvestment activities.

Communities implementing justice reinvestment want access to government data to inform their work. This is evidence that assists communities to identify problems that require solutions and what these solutions might be. Communities are also, however, designing, collecting and using their own data for this same purpose, including stories and knowledge gathered in yarning circles or through surveys from Elders, young people, those with lived experience and other community members.

Communities implementing justice reinvestment are also developing their own approaches to measuring progress and success. For instance, both government and communities might use government data to identify a reduction in incarceration as a key outcome for justice reinvestment. Communities might also identify as an important outcome, however, increases in community participation in activities that strengthen self-determination, essential to achieving reduced offending. They also gather their own data to identify progress in levels of community participation.

Government may not always recognise community data or community-led approaches to monitoring, evaluation and learning, including community identified outcomes. Aboriginal and Torres Strait Islander design, control and ownership of data and of processes that measure the success of Aboriginal and Torres Strait Islander-led programs are, however, key elements of Indigenous Data Sovereignty.

Given this, how might the progress and success of justice reinvestment initiatives be measured – particularly during the initial stages of implementation, and when accessing government data might be difficult?

Comments are welcomed about the importance of Aboriginal and Torres Strait Islander input into the design of the evaluation of the National Justice Reinvestment Program, including its processes and measures. How might the program's evaluation at a national level be informed by and align with Aboriginal and Torres Strait Islander monitoring, evaluation and learning occurring at an individual community level, in particular?

Moreover communities see failings within government as a major cause of First Nations over-representation. They want government to also be accountable for delivering better justice outcomes: for example, through reform of justice and other legislation and policy and genuinely sharing decision-making with communities.

Comments are invited on whether it is important to build into evaluation of the National Justice Reinvestment Program ways to measure the contributions of government at all levels to the progress and success of justice reinvestment initiatives.

6

How can the National Justice Reinvestment Unit best support justice reinvestment in Australia?

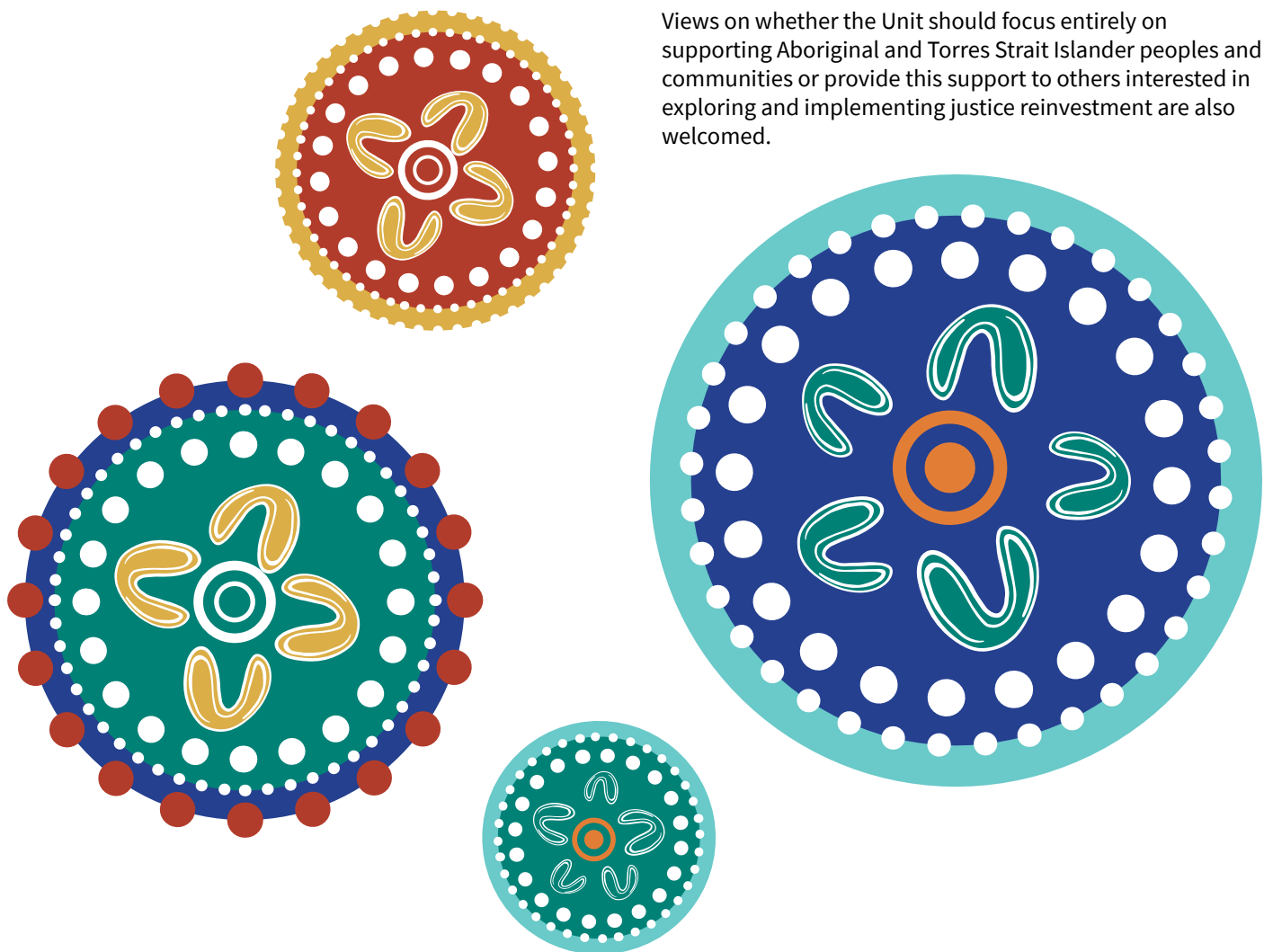
The Government has committed to establishing an independent National Justice Reinvestment Unit, as recommended by the ALRC Pathways to Justice report. The ALRC recommended an independent justice reinvestment body be established to ‘promote the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration’, with specific functions and services discussed below. The body was identified as coordinating and supporting justice reinvestment work around the country, and embodying Aboriginal and Torres Strait Islander leadership and expertise at all levels.

What do you think the role of a National Justice Reinvestment Unit should be? Are there priority needs or gaps the Unit should address?

For example, there are currently existing justice reinvestment supporting or peak bodies in three jurisdictions: NSW, WA and SA. Comments are welcomed about how the Unit might work alongside these existing bodies and how it might best address gaps in justice reinvestment support in other jurisdictions.

Comments are also welcomed on whether the Unit should focus on Aboriginal and Torres Strait Islander justice issues in general, rather than focusing solely on justice reinvestment. In this context, the Unit’s role might encompass policy development, data collection and analysis and other research, and potentially advocacy on these issues. With a broader role, would the Unit duplicate or could it support existing groups and structures, including those established under the National Agreement on Closing the Gap? In general, how might the Unit work alongside these other existing groups and structures?

Views on whether the Unit should focus entirely on supporting Aboriginal and Torres Strait Islander peoples and communities or provide this support to others interested in exploring and implementing justice reinvestment are also welcomed.



7

What functions or services should the Unit provide?

What do you think are the key services or functions the Unit should provide? Are there any functions or services the Unit should not provide, or processes it should not be involved in, such as funding decisions?

Should the Unit's focus be on providing technical assistance and other support to communities engaged or interested in justice reinvestment, or should it also conduct research and provide best practice advice and advocacy as a public body?

The ALRC recommended the key purposes of a national justice reinvestment coordinating body as providing technical expertise in relation to justice reinvestment, assisting with the development of justice reinvestment plans in local sites, and maintenance of a database of evidence-based justice reinvestment strategies.

Input is invited on these and other functions and services of the Unit. The need in communities for technical expertise or assistance, for instance, will be different depending on their stage of work but might include the following as examples.

- Gathering and sharing with justice reinvestment initiatives information about effective programs and strategies previously identified in research and evaluation as likely to reduce offending and incarceration.
- Assistance with developing frameworks and other mechanisms for local level monitoring and evaluation and other tools and resources used in justice reinvestment implementation.
- Advice about establishing or strengthening local governance or other key aspects of justice reinvestment implementation.
- As above, developing local justice reinvestment strategies or plans.
- Bringing communities together to support and learn from each other.

Maintaining an evidence-based database, as above, suggests a research function for the Unit. The Unit might collect and analyse data, for instance, to identify challenges and successes of justice reinvestment, to conduct cost-benefit economic analysis of this approach and/or for use in justice mapping. Justice mapping identifies communities with disproportionately high rates of contact with the justice system that might benefit from a justice reinvestment approach. As well as being used to enhance the effectiveness of justice reinvestment in Australia, the Unit might contribute any data it collects to work directed towards achieving justice targets under the National Agreement on Closing the Gap.

As noted, the ALRC has recommended that the Unit be independent of government. This appears to be the preferred approach of the Federal Government. Do you think it is important that the Unit is independent? How might an independent Unit work alongside Federal, state and territory Governments?

Discussed above is the need for government at all levels to contribute and commit more than funding to justice reinvestment initiatives. The ALRC has identified, for instance, that all levels of government can support justice reinvestment by facilitating access to localised data related to criminal justice and other government service provision and through the participation of and coordination between relevant government departments and agencies. Reform of law, policy and practice impacting on Aboriginal and Torres Strait Islander justice outcomes is also identified as a government responsibility above.

As part of this, there is more work to be done to progress the 'reinvestment' element of justice reinvestment. The original intent of this approach is that a portion of government funds spent on incarceration is diverted to community-based solutions to offending and imprisonment as a more sustained source of funding for the long-term work of justice reinvestment. It is argued that this is a much better use of resources, given that communities have better capacity than the justice system to tackle causes of offending.

Comments are welcomed on whether the Unit might have a role in brokering these and other government commitments and contributions. As an example, might the Unit play a role in establishing data sharing agreements between communities and government or inform and advocate for evidence-based law reform and policy development likely to help reduce First Nations incarceration, including reinvestment?

Establishing and maintaining funding partnerships can be challenging for communities. Comments are also welcomed on what role the Unit might play in brokering or otherwise supporting funding relationships for communities, including with philanthropic organisations.

8

How should the Unit be structured and governed?

The ALRC recommended that an independent national justice reinvestment body should be overseen by a board with Aboriginal and Torres Strait Islander leadership. Key stakeholders have also suggested a variety of structures and governance arrangements for the Unit, with an emphasis on embedding First Nations leadership and expertise into the body and ensuring its independence.

Insights into the preferred structuring, staffing and governance of the Unit are welcomed. As noted above, comments about how the Unit might work alongside or draw on the expertise of existing groups or structures with Aboriginal and Torres Strait Islander leadership and representation are invited.

9

Where should the Unit be located?

Comments are welcomed on whether the Unit should have a central location. If so, where should it be located to best support justice reinvestment in Australia? Should it maintain an office in a capital city for proximity to

government departments and other national bodies? Alternatively, is it better located in a regional area to promote close working relationships with regional and remote communities engaged in justice reinvestment?

10

What do you see as the role of the Commonwealth Government in supporting justice reinvestment nationally, other than providing resources through the grants program and establishing the national unit?

As discussed, governments at all levels might support Aboriginal and Torres Strait Islander-led justice reinvestment in ways other than by providing funding. Comments are welcomed on the role of the Federal Government, in particular, in supporting justice reinvestment, alongside its existing commitments.

Possible examples include facilitating the participation of and coordination between different government departments and agencies to support communities with their justice reinvestment work and objectives and/or developing or enhancing additional funding opportunities and partnerships for First Nations communities wanting to explore and implement justice reinvestment.

1 Further information on justice reinvestment in Australia is available at Allison, F and Cunneen, C (2022) Justice Reinvestment in Australia – A Review of Progress and Key Issues, Justice Reinvestment Network Australia. This report and other resources are available on the Justice Reinvestment Network Australia website.

2 Commonwealth Attorney-General's Department and Jumbunna Institute for Indigenous Education and Research (2023), Justice Reinvestment Design Discussion Paper. Available [here](#).

3 Australian Law Reform Commission (ALRC) (2018), Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples. Final Report. Sydney NSW. Rec. 4-2.

4 See [United Nations Declaration on the Rights of Indigenous Peoples](#).

5 ALRC (2018), Rec 4-1

6 Ibid

7 Ibid

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MARCH 2023