



Australian Government

# Justice Reinvestment Design Discussion Paper



Jumbunna  
Institute for Indigenous  
Education and Research

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The Jumbunna Institute for Indigenous Education and Research, Attorney-General's Department, and National Indigenous Australians Agency acknowledge the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past and present.

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### **Artist acknowledgement – Guiding Spirits**

This artwork was purchased through the Indigenous Services Coordinator at the Alexander Maconochie Centre (AMC) in ACT Corrective Services. The AMC provides inmates an opportunity to participate in an art program to support their rehabilitation and to provide an income.

The artist is of Wiradjuri heritage and whilst their name remains anonymous we are pleased to share their artwork statement for Guiding Spirits.

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# Introduction

On 25 October 2022, in the 2022–23 Budget, the Australian Government announced a commitment to develop two flagship justice reinvestment initiatives worth \$81.5 million. This commitment includes \$69 million over four years from 2022–23 for place-based community-led justice reinvestment initiatives for up to 30 communities, and \$12.5 million over four years from 2022–23 to establish an independent National Justice Reinvestment Unit to coordinate and support justice reinvestment initiatives at a national level.

The Government's focus on justice reinvestment is a commitment to work in genuine partnership with First Nations organisations and communities to improve justice outcomes, and to build on and expand existing justice reinvestment experience and expertise across Australia. The commitment is ongoing, with \$20 million annually for justice reinvestment from 2026–27.

The Attorney-General's Department (the department) and the National Australians Indigenous Agency (NIAA), through a joint First Nations Justice Taskforce (the Taskforce), are stewarding the implementation of the Government's justice reinvestment commitment.

In line with the Government's election commitments, work has already begun to ensure early investments in Alice Springs, NT and Halls Creek, WA are implemented as soon as possible.

This paper outlines the next steps for implementation of this commitment, guiding principles and key questions for its delivery. The paper also invites submissions from interested organisations and individuals to inform the design of the justice reinvestment grants program and the structure and operation of the independent National Justice Reinvestment Unit, to ensure they are accessible and effective in supporting community-led justice reinvestment across Australia.

# Next steps

The purpose of this discussion paper is to seek views from interested stakeholders on the:

- design of a National Justice Reinvestment Grants program that best suits the needs of First Nations communities, and
- design of an independent National Justice Reinvestment Unit.

Delivering a national design process for the National Justice Reinvestment Grants Program and the independent National Justice Reinvestment Unit is a top priority for early 2023. This paper provides an opportunity for individuals and communities, as well as organisations, to share their views and address key questions to shape the National Justice Reinvestment Unit and grants program.

The Government is committed to ensuring the voices of First Nations communities and experts are central to this process. The National Justice Reinvestment Unit and Program will be designed in close consultation with First Nations experts and practitioners, including through community consultations and workshops, and informed by the recommendation of the Australian Law Reform Commission (ALRC) in its 2018 *Pathways to Justice* report.<sup>1</sup> The design process will also leverage the expertise of philanthropic and not-for-profit organisations, community groups and service providers, and continue collaboration with State and Territory Governments to maximise the opportunities and benefits of justice reinvestment.

Alongside design consultations, the Government will also work with justice reinvestment and First Nations experts and leaders to provide readiness support to communities across Australia, ahead of the national grants program becoming available around July 2023. The Government will provide this support through a justice reinvestment capability partner. This support will assist interested communities to develop justice reinvestment strategies, strengthen grants writing and data analysis capabilities, and share skills and form connections with other communities with justice reinvestment experience.

<sup>1</sup> Australian Law Reform Commission (ALRC), *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report 133) (2018). Available at: [Pathways to Justice–Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples \(ALRC Report 133\) | ALRC](#).



# Case for change


National action on First Nations justice is a priority under the National Agreement on Closing the Gap (the National Agreement), through which all governments have committed to reducing the incarceration of First Nations adults by 15% and First Nations young people by 30% by 2031. Despite these commitments, the incarceration rate of First Nations adults continues to increase and incarceration of First Nations young people remains unacceptably high. Tragically, over 500 Aboriginal and Torres Strait Islander people have died in custody since the Royal Commission into Aboriginal Deaths in Custody more than 30 years ago.<sup>2</sup>

Existing policy settings and program interventions will struggle to achieve the urgent changes required to turn the tide on First Nations incarceration and deaths in custody. Meaningful change demands new ways of working, and fresh approaches to partnering with First Nations people, supported by coordinated action at a national level. It is widely accepted that key drivers of incarceration exist outside the justice system, and that First Nations led, locally-run responses deliver better outcomes for communities. Successive parliamentary reports and inquiries,<sup>3</sup> including those of the ALRC, as well as current and past Aboriginal and Torres Strait Islander Social Justice Commissioners, have identified justice reinvestment as a key strategy for reducing the overincarceration of First Nations people.

Improving justice outcomes for First Nations people requires significant investment in place-based initiatives that are led and implemented by First Nations communities and organisations, aligned with the National Agreement on Closing the Gap and the aspirations of the Uluru Statement from the Heart.

<sup>2</sup> As at 29 November 2022, 527 First Nations people had died in custody since the release of the Royal Commission into Aboriginal Deaths in Custody over 30 years ago. Australian Institute of Criminology (AIC) *Deaths in Custody in Australia* [29 November 2022]. Available at: <https://www.aic.gov.au/statistics/deaths-custody-australia>.

<sup>3</sup> 'Senate Legal and Constitutional Affairs References Committee, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (2013); and House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system* (2011).



Existing initiatives such as the Maranguka Justice Reinvestment project in Bourke, NSW, show the potential of justice reinvestment in Australia. A 2018 assessment of the Maranguka project by KPMG found it had a gross economic impact of \$3.1 million in 2017, and delivered:

- a 23% reduction in police recorded incidents of domestic violence and comparable drops in rates of offending
- a 38% reduction in charges across the top five juvenile offence categories
- a 14% reduction in bail breaches, and
- a 42% reduction in days spent in custody.<sup>4</sup>

Similarly, the Olabud Doogethu Justice Reinvestment project in the Shire of Halls Creek in Western Australia reported a significant reduction in offences and number of days spent in custody between 2017 and 2020, following the project's introduction.<sup>5</sup>

While these successes are the result of ongoing community engagement, participation, planning and leadership, we note that justice reinvestment is an evolving community of practice in Australia, with different communities at varying stages of development. Some communities may face challenges or setbacks in both the design and delivery phase of establishing justice reinvestment approaches in their local contexts, which is a natural part of the learning process. Justice reinvestment is a long-term, continuous commitment – it is not an immediate solution – however, these examples highlight the promise of community-led justice reinvestment to achieve real and necessary change.

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<sup>4</sup> KPMG, *Maranguka Justice Reinvestment Project: Impact Assessment* (November 2017). Available at: <https://www.indigenousjustice.gov.au/resources/maranguka-justice-reinvestment-project-impact-assessment/>.

<sup>5</sup> Smart Justice in the Heart of the Kimberley. Available at: [https://olabuddoogethu.org.au/wp-content/uploads/2020/12/prospectus-booklet-olabud\\_WEB.pdf](https://olabuddoogethu.org.au/wp-content/uploads/2020/12/prospectus-booklet-olabud_WEB.pdf).

# A new approach

## The National Agreement on Closing the Gap

The National Agreement on Closing the Gap commits all governments to a new way of working in partnership with Indigenous communities.<sup>6</sup> The National Agreement is historic – the first agreement to be negotiated with Indigenous Australians as represented by the Coalition of Peaks.

The National Agreement centres on four key priority reforms to transform the way Australian governments work with Aboriginal and Torres Strait Islander people, including partnership and shared decision making between Aboriginal and Torres Strait Islander people and governments, and building better data and sharing access to the right data to support Indigenous communities to make informed decisions with governments.

The Priority Reforms are:

1. **Partnership and shared decision making** between Aboriginal and Torres Strait Islander people and governments
2. **Building the Aboriginal and Torres Strait Islander** community-controlled service sector in agreed outcome areas
3. **Transforming mainstream government services** to work better for Aboriginal and Torres Strait Islander people
4. **Building better data** and sharing access to the right data to support Indigenous communities to make informed decisions with government.

The National Agreement also establishes 17 national socio-economic targets to monitor Australia's progress to improve outcomes for Aboriginal and Torres Strait Islander people, including reducing the overrepresentation of adults and young people in the criminal justice system. The justice targets are:

- **By 2031**, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent (Target 10); and
- **By 2031**, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by 30 per cent (Target 11).

<sup>6</sup> More information about the National Agreement on Closing the Gap is available at: [National Agreement on Closing the Gap | Closing The Gap](#).



These priority reforms and targets are central to the Government's commitment to justice reinvestment, which will prioritise partnership, and support informed and shared decision making at a local level to address the over incarceration of Aboriginal and Torres Strait Islander adults and children.

## Justice Reinvestment in Australia

The practice of justice reinvestment originated in the United States as a geographic approach to reducing the number of people in the prison system by redirecting resources to communities experiencing high levels of incarceration and contact with the justice system.<sup>7</sup> The concept has since been adapted by other jurisdictions, including in Australia where there is an emphasis on locally-led justice initiatives which prioritise prevention, rehabilitation and reintegration. The ALRC summarises justice reinvestment as investment in 'place-based, community-led initiatives to address offending and incarceration, using a distinct data-driven methodology to inform strategies for reform.'<sup>8</sup> Although it began globally as a 'top down' government-driven set of policy initiatives, in the Australian context two different models have developed: a jurisdiction-wide or government initiated approach to justice reinvestment (such as in the Australian Capital Territory),<sup>9</sup> and the more common community-led, place-based model (such as the Maranguka and Olabud Doogethu projects).

While justice reinvestment is an evolving practice, the Justice Reinvestment Network of Australia (JRNA) has identified five common elements of justice reinvestment initiatives in Australia, finding that the majority of initiatives are: (1) evidence and data informed; (2) place based; (3) community development focused; (4) economically rational; and (5) First Nations focused. This fifth element involves an emphasis on improving First Nations justice and other outcomes through strengthened self-determination, including by way of community-based leadership.<sup>10</sup> Other key themes identified by JRNA is that justice reinvestment progresses at the pace of community and requires a fundamental shift in decision-making power and accountability to the community level. JRNA highlights this combination of elements and themes as differentiating justice reinvestment from more programmatic responses to improving outcomes for First Nations peoples.

7 See, for example: Willis M & Kapira M (2018) *Justice reinvestment in Australia: A review of the literature*. Research Report no. 9. Canberra: Australian Institute of Criminology. Available at: <https://www.aic.gov.au/publications/rr/rr9>.

8 Australian Law Reform Commission, *Pathways to Justice*, p 125.

9 Information on justice reinvestment in the ACT is available at: [Building Communities Not Prisons – Justice and Community Safety Directorate \(act.gov.au\)](https://www.act.gov.au/justice-reinvestment).

10 Allison F & Cunneen C (July 2022) *Justice Reinvestment in Australia – A Review of Progress and Key Issues*, Jumbunna Institute for Indigenous Education and Research, University of Technology, Sydney and the Justice Reinvestment Network Australia (JRNA), p 4. Available at: [Justice Reinvestment in Australia: Research Papers and Reports – Justice Reinvestment Network Australia](https://www.jrna.org.au/research-reports).

## Principles for implementation

Implementation of the National Justice Reinvestment Program and National Justice Reinvestment Unit will be shaped by the National Agreement and informed by the knowledge and expertise of First Nations communities and leaders, as well as justice reinvestment experts and practitioners across Australia.

The scope of the program and unit will be determined through community design consultations in 2023 drawing on lessons learned from existing practice in Australia. The National Justice Reinvestment Program will aim to support initiatives that are **place based**, guided by **strong local leadership**, informed and supported by **evidence and data**, and aimed at addressing the 'upstream' **drivers of incarceration** and contact with the justice system.

### Place based

The Government's commitment to justice reinvestment is part of a broader movement towards place-based initiatives in Australia. Place-based approaches recognise that communities are the experts in their own lives, and must be at the centre of responding to the issues they face.

Place-based approaches to justice reinvestment feature a shared commitment to a local strategy by communities, governments, service providers, philanthropic organisations and non-government investors, with shared accountability for planning, decision making and results.

Place-based approaches also often promote collaboration and community engagement, as well as flexible and adaptive ways of working, as an alternative to traditional government funded program models.

### Strong local leadership

Justice reinvestment is an ongoing practice and process, requiring significant engagement and preparation within communities. Strong community buy in, as well as leadership, are vital aspects of successful justice reinvestment initiatives.

From early 2023, the Government will provide capability building and community readiness support across Australia, ahead of the National Justice Reinvestment Grants Program becoming available mid-year. This support will assist interested communities to develop a shared vision for change or local frameworks for justice reinvestment, explore initiatives to achieve change, coordinate activities and identify governance structures.

## Data informed

Justice reinvestment projects are driven by data and informed by community priorities and insights to identify and address the root causes of incarceration. Data is also an important tool to measure and evaluate progress and change. Developing local approaches to data gathering and analysis, including principles of data sovereignty and governance, are key aspects of First Nations led justice reinvestment in Australia.<sup>11</sup>

In keeping with Priority Reform Four of the National Agreement, the Government will work with communities and State and Territory Governments to promote access to data and data sharing arrangements to support justice reinvestment, as well as strengthening local capability in data collection, management and analysis.

Local insights, stories and knowledge are also valuable and legitimate sources of data and evidence, which in many instances may include important information that is not captured by official data sources. First Nations led justice reinvestment initiatives are advocating for decision-making impacting their communities to be informed by this local First Nations data.

While the Government is committed to facilitating access to data, and strengthening data sharing practices, these arrangements take time due to the sensitive information involved. A lack of access to external data (such as health, justice or other information) will not be a barrier for communities seeking to access National Justice Reinvestment Program funds, or indeed readiness support.

## Addressing the drivers of incarceration

The Government's commitment to justice reinvestment is an investment in exploring solutions outside of the criminal justice system, aimed at addressing the 'upstream' drivers of incarceration, as identified by communities. While justice and other government sector reforms are necessary to reduce the incarceration of First Nations adults and young people, the National Justice Reinvestment Program will remain community focussed, and responsive to needs and priorities as identified by communities.

The Government will continue to work closely with the states and territories to ensure collaboration to improve Indigenous justice outcomes, and support other key levers to address over-incarceration. The Government will provide national support and leadership on these issues, including through established mechanisms such as the Justice Policy Partnership (JPP) and Ministerial forums such as the Standing Council of Attorneys-General.

The JPP brings together representatives from the Coalition of Peaks, Aboriginal and Torres Strait Islander experts, and Australian, State and Territory governments to take a joined-up approach to Aboriginal and Torres Strait Islander justice policy.

The Standing Council of Attorneys-General comprises Attorneys-General from all states and territories. Its purpose is to implement a national focus on maintaining and promoting best practice in Australian law reform, with a priority focus on improving Indigenous justice outcomes.

11 Allison F & Cunneen C, *Justice Reinvestment in Australia – A Review of Progress and Key Issues*, p 20–23.

# Discussion questions on the future of the National Justice Reinvestment Program

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

Feedback is welcomed about the range and types of activities that should be eligible for funding. For example:

- Should funding be available to support governance, data collection and analysis, and other foundational and operational aspects of justice reinvestment, including through partnerships with organisations outside of the community?
- Should funding be able to be directed to a range of activities within a community?

## How can the Government ensure the grants process is accessible to communities and organisations 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?

## 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?

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

- Justice reinvestment is an ongoing process, and preparation for implementation takes time. In this context, how should the success and development of justice reinvestment initiatives be measured – particularly during the initial stages of implementation, or where limited data is available?

# Discussion questions on the Independent National Justice Reinvestment Unit

The Government has committed to establish 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.’

<sup>12</sup> The ALRC proposed potential functions for the unit to include:

- Providing technical expertise in relation to justice reinvestment initiatives
- Assisting in developing justice reinvestment plans in local sites
- Maintaining a publicly accessible database of evidence-based justice reinvestment strategies
- Embodying Aboriginal and Torres Strait Islander leadership and expertise at all levels.

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

- For example, 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? Are there priority needs or gaps the Unit should address?

## What functions or services should the Unit provide?

The ALRC recommended the key purpose of the body should be to provide technical expertise in relation to justice reinvestment, assistance in developing justice reinvestment plans in local sites, and maintenance of a database of evidence-based justice reinvestment strategies.<sup>13</sup>

- Are there other important services or functions the Unit could provide? Are there any functions the Unit should not provide, or processes it should not be involved in, such as funding decisions?

<sup>12</sup> ALRC, *Pathways to Justice*, 137.

<sup>13</sup> ALRC, *Pathways to Justice*, 137.

## How should the Unit be structured and governed?

- The ALRC recommended that the body be independent of government, and overseen by a board with Aboriginal and Torres Strait Islander leadership.<sup>14</sup> Key stakeholders have also suggested a variety of structures and governance arrangements with an emphasis on embedding First Nations leadership and expertise, and ensuring independence.
- While the Unit will be independent of government, feedback is welcomed as to how it should be staffed, structured and governed.

## Where should the Unit be located?

- Should the Unit 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, or in a regional area to promote close working relationships with regional and remote communities engaged in justice reinvestment?

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<sup>14</sup> ALRC, *Pathways to Justice*, 137.



# Support services

This paper includes discussion of potentially distressing content. If reading this paper or thinking about these issues has brought up any difficult feelings or memories for you, the following services may be of assistance:

- **Lifeline** is a national charity providing Australians experiencing a personal crisis with access to 24 hour crisis support and suicide prevention services. Call **13 11 14**, text **0477 13 11 14**, or go to [www.lifeline.org.au](http://www.lifeline.org.au).
- **13YARN** is a national crisis support line for Aboriginal and Torres Strait Islander people who are feeling overwhelmed or having difficulty coping. 13YARN offer a confidential one-on-one yarning opportunity with a Lifeline-trained Aboriginal & Torres Strait Islander Crisis Supporter who can provide crisis support 24 hours a day, 7 days a week. Call **13 92 76** or go to [13yarn.org.au](http://13yarn.org.au).
- **1800RESPECT** provides support to people who are experiencing or are at risk of sexual assault, family and/or domestic violence or who have experienced this in the past. The service is also available to their family and friends. 1800RESPECT provides confidential online and telephone counselling, information and referral service available nationwide, 24 hours a day, 7 days a week. Call **1800 737 732** or go to [www.1800RESPECT.org.au](http://www.1800RESPECT.org.au).

