



**Australian  
Human Rights  
Commission**



**ALS**

Aboriginal Legal Service (NSW/ACT) Limited



## **Justice Reinvestment in Bourke**

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**Briefing paper**

**August 2013**

## A. Background

Since October 2012 Just Reinvest NSW has been working in partnership with Bourke Aboriginal Community Working Party (BACWP) towards a Justice Reinvestment framework in Bourke to address the challenges facing young people in the community, and in particular their involvement in the criminal justice system.

The Australian Human Rights Commission, through the leadership of Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, and Children's Commissioner, Megan Mitchell, have also been actively involved in advocacy and community consultation for Justice Reinvestment in Bourke.

In December 2012, Just Reinvest NSW developed a high-level *Bourke Justice Reinvestment Implementation Plan* which spelled out the implications of implementing Justice Reinvestment in Bourke for the NSW Government. In February 2013, the Murdi Paaki Regional Assembly - a peak body representing the interests of Aboriginal and Torres Strait Islander people in 16 communities across Western NSW - endorsed this plan.

In March 2013 the BACWP extended an invitation to Just Reinvest NSW and the Australian Human Rights Commission to visit Bourke to conduct community consultations. The success of these consultations led to a second series of consultation in Bourke between 13-17 May 2013, facilitated by Mick Gooda, Megan Mitchell and Sarah Hopkins (Just Reinvest NSW).

Of note, sixty people from the Bourke community attended the Community Forum on 14 May 2013 and together the group developed proposals for how the community could carry Justice Reinvestment forward. There was clear support for the BACWP to act as a local governance body within a Justice Reinvestment framework, along with agreement to prioritise Justice Reinvestment within the community's existing 'Maranguka Proposal' – an overarching blueprint for future local governance and service provision in Bourke to improve community level outcomes for the Aboriginal people of Bourke. At the same time, a Justice Reinvestment sub-committee was formed and tasked with consulting community members unable to attend this Forum; they will be reporting back to the BACWP in August 2013.

Given the significant community engagement and support for Justice Reinvestment, this is an exciting opportunity to trial, for the first time in Australia, this approach to reducing youth offending and incarceration and creating safe communities.

## B. What is Justice Reinvestment?

Justice Reinvestment involves a shift in spending, not an increase in spending, from prisons to prevention. Justice Reinvestment is a fiscally sound strategy that coordinates intervention programs to reduce the risk of offending and re-offending, and the demand for custodial services. A Justice Reinvestment framework promotes justice and human service agencies working toward the same goal – reducing the number of young people in custody and creating safer communities.

The following table outlines five key elements of Justice Reinvestment (JR):

<p><b>Justice Reinvestment is data driven</b></p>	<p>The collection and analysis of criminal justice data is essential to the implementation of justice reinvestment because the data determines which high risk communities should be targeted. Data is necessary to identify local areas of need and to calculate the criminal justice costs arising out of that community to calculate where cost savings can be made.</p>
<p><b>Justice Reinvestment is place based</b></p>	<p>A place-based approach means:</p> <ul style="list-style-type: none"> <li>• a genuine partnership between government and community including, for instance, whether that community wants to be a pilot Justice Reinvestment community.</li> <li>• Local governance structures to include Community leaders and representatives from police, the local court, local area health and community organisations – who would work to develop, implement and monitor a local Justice Reinvestment strategy.</li> <li>• Ongoing engagement and participation mechanisms: effective collaboration requires time and resources being invested into building trust between stakeholders, creating a shared vision for change, establishing effective governance, and developing a Justice Reinvestment implementation plan.</li> </ul>
<p><b>Justice Reinvestment is supported by a centralised strategic committee</b></p>	<p>Just Reinvest NSW proposes that the process be supported at a pilot stage by a centralised steering committee for Justice Reinvestment implementation and evaluation that would <b>Support local governance structures</b> in identified communities by:</p> <ul style="list-style-type: none"> <li>• Assisting with access to data</li> <li>• Assisting in strategy development</li> <li>• Assisting with ongoing evaluation of the social and economic outcomes</li> </ul> <p>Such an independent committee would be co-chaired and in partnership with NSW Aboriginal community members.</p>
<p><b>Justice Reinvestment is fiscally sound</b></p>	<p>In the long term Justice Reinvestment is a cost reduction approach. This means:</p> <ul style="list-style-type: none"> <li>• Quantifying the current costs of imprisoning people in high risk communities and Quantifies the current costs that exist in the criminal justice system, breaking down these costs at different stages within the criminal justice system<sup>1</sup></li> <li>• Estimating the savings associated with potential policy changes</li> <li>• Tracking spending and achieving tangible savings</li> </ul> <p>Justice Reinvestment translates to investing in our communities, and not just reducing the number of people entering prison. In terms of savings, the assessment includes not only the bare costs of imprisonment but also the broader costs of contact with the criminal justice system (e.g. police, courts, victim services).</p>
<p><b>Justice Reinvestment is a targeted approach to increasing community safety and reducing offending and imprisonment</b></p>	<p>Justice Reinvestment takes a localised approach to public safety that targets money for programs in education, health, job creation and job training in ‘high risk’, ‘million dollar’ communities. The solution to community safety needs to be locally tailored and locally determined<sup>2</sup>.</p>

<sup>1</sup> ‘Justice Reinvestment at the Local Level: Planning and Implementation Guide’, Nancy La Vigne, S. Rebecca Neusteter, Pamela Lachman, Allison Dwyer, Carey Anne Nadeau, Urban Institute: Justice Policy Center  
‘Tracking Costs and Savings through Justice Reinvestment’, Pamela Lachman and S. Rebecca Neusteter, Justice Reinvestment at the Local Level, Brief 1 May 2012, Urban Institute: Justice Policy Center  
<sup>2</sup> ‘Justice Reinvestment’, Susan B. Tucker and Eric Cadora, Occasional Papers from OSI-US Programs, Ideas for an Open Society, Volume 3, No. 3, Open Society Institute, [http://www.soros.org/sites/default/files/ideas\\_reinvestment.pdf](http://www.soros.org/sites/default/files/ideas_reinvestment.pdf)

Justice reinvestment is also in line with the United Nations Declaration on the Rights of Indigenous Peoples- the foundational document in human rights for all Indigenous peoples.

The Declaration states that Aboriginal and Torres Strait Islander peoples have the right to self-determination, the right to participate in decision-making and the right to the improvement of our economic and social conditions. Justice Reinvestment is a policy which is built on effective participation and self-determination to improve the lives and well-being of Aboriginal and Torres Strait Islander communities by diverting people away from the criminal justice system to community-led development programs. It gives Aboriginal and Torres Strait Islander communities a real say in how they create safe communities.

## C. Bourke’s readiness

### Leadership

While the Bourke community faces significant challenges it also possesses a number of strengths. In particular, it has an established local governance structure in the BACWP. Since 2002, the BACWP has been the peak representative organisation in Bourke NSW for the local Aboriginal community. The BACWP receives funding from the NSW Attorney-General’s Department - Aboriginal Programs Crime Prevention Unit.

The BACWP includes community members and representatives from the following organisations, services and government departments:

Aboriginal Affairs NSW	Greater Western Area Health Service – Mental Health and Drug and Alcohol service
Aboriginal Legal Service (NSW/ACT)	Host Family Respite Care
Ageing, Disability & Home Care	NSW Police
Birrang Enterprise Development Co. Ltd.	Office of Environment
Bourke Aboriginal Health Service	Outback Division of General Practitioners
Centacare Bourke	Safe Families
Department of Education	Thiyama-Li Women’s Violence Centre
Edith Edwards Women’s Refuge	Wariwanibuka (Aboriginal Community Services Intensive Family Based Service)
Family and Community Services NSW	Youth Connections – Mission Australia

### Consensus to act

The BACWP has been active in developing the Maranguka Proposal. Maranguka (pronounced Mar-ran-nooka) is a word from the language of the Ngemba Nation which, when translated into English, carries the meanings of ‘to give to the people’, ‘caring’ and ‘offering help’.

Maranguka is a response to:

- The shared concerns of the BACWP and the NSW Auditor-General and NSW Ombudsman over the failures of past Aboriginal Affairs policies to significantly impact on the complex social problems in remote Aboriginal communities of NSW, and
- The realisation that a new approach to, or a new model of, government-funded programs aimed at addressing the complex social problems experienced by Aboriginal individuals and families in Bourke is urgently needed.

In particular, the proposal is in response to community concerns over the lack of detailed outcome-driven evaluations of the numerous programs delivering services into Bourke and the short-term nature of the funding allocated by governments for these programs. In order to provide effective programs and services, the proposal identifies a critical need for a framework that will provide long-term, sustainable funding.

Included in the Maranguka Proposal's directions for reform are:

- Developing a new accountability framework for addressing Aboriginal disadvantage;
- Developing a fiscal framework that ensures the long-term sustainability of effective programs and services.

Maranguka builds on the existing NSW Government policy initiatives, including those from Department of Premier and Cabinet Strategic Coordination Group in Bourke and the Department of Aboriginal Affairs OCHRE (opportunity, choice, healing, responsibility and empowerment) strategy.

In terms of implementation, Maranguka draws on the Collective Impact approach as a framework to develop cross sector collaborations focused on improving identified priorities areas.

### **A focus on youth justice**

The first priority for the BACWP and Maragnuka is to reduce Aboriginal contact with the criminal justice system.

Bourke has a large youth population and youth crime has been identified locally as a major problem<sup>3</sup>. Crimes identified with youth include:

- Car related crimes (car theft, stealing from cars and breaking windows)
- Breach of bail
- Property crimes (criminal trespass, break and enter and malicious damage)<sup>4</sup>

ABS data (2011) shows that of a total 223 Aboriginal young people / young adults in the Bourke LGA, 21% (47) were on remand or sentenced. This does not include others in contact with the criminal justice system i.e. those charged and on bail, or those on non-custodial orders. Initial research has shown that the cost of incarcerating the 47 Aboriginal and Torres Strait Islander young people last year was \$2.2 million. Reducing

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<sup>3</sup> Vivian and Schnierer 2010, Factors affecting crime rates in Indigenous communities in NSW: a pilot study in Bourke and Lightning Ridge Community Report November 2010, Jumbunna Indigenous House of Learning University of Technology Sydney, pp. 19

<sup>4</sup> Ibid, 19

the rate of Bourke youth incarceration by 20% would save the NSW Government \$500,000, a proportion of which could be reinvested back into the community.

At the same time, service mapping shows there are over 50 community organisations servicing the area and 40 Police. The problems of service integration have been well documented by the NSW Ombudsman.

To address these high rates of Aboriginal youth incarceration and interaction with the criminal justice system, the BACWP has been looking at best practice, evidence based policy approaches that will deliver outcomes and reverse current incarceration trends. This is what led the Chair of the BACWP, Mr Alistair Ferguson to approach Just Reinvest NSW; the aim being to develop an appropriate justice reinvestment policy framework that would address the specific needs of the Bourke community.

Justice Reinvestment is reflected in Maragnuka as the means to achieve the BACWP goals of:

1. Reduction offending and incarceration of Aboriginal young people, and
2. Creating alternative pathways, building a safer, stronger community.

Maragnuka is operationalized in the community through 'Integrated Action Groups', one of which is Integrated Youth Action and Justice Reinvestment Group. As such, Justice Reinvestment is the starting point of the Maragnuka Proposal.

This level of leadership, proactive engagement with the issue and willingness to try a new way of doing things sets the Bourke community in a good position to innovate.

## D. Bourke's need for support

The community of Bourke needs support in order to reduce youth offending and increase community safety.

For Justice Reinvestment to become a reality in Bourke the NSW Government must commit to reinvesting into Bourke a proportion of the savings generated from the reduction in youth offending and incarceration.

To elicit this commitment the BACWP, Maragnuka, Just Reinvest NSW and others will work together and develop a water-tight Bourke Justice Reinvestment implementation plan. This plan will:

- Articulate a whole-of-community and whole-of-government **common agenda** to reduce youth offending and incarceration and increase community safety
- Spell out the **shared measures** of success
- Explain in detail how the community and the organisations, businesses and agencies operating within Bourke will **align their resources and efforts to achieve the shared measures**. This includes:
  - Determining the optimal mix of best-practice, evidence-based programs and services needed to achieve the shared measures, and
  - Strengthen the capacity of local organisations and agencies to deliver these programs and services

- **Calculate the costs savings** reaped by the NSW Government through the successful implementation of the plan over a period of 5 years and 10 years. This calculation will include the costs of implementation.

This plan will take two years to develop.

In order to develop the Justice Reinvestment Implementation Plan, the Bourke community, the BACWP, and Just Reinvest NSW need support to:

- Engage a **skilled facilitator** to facilitate the development of a whole-of-community and whole-of-government common agenda to reduce youth offending and incarceration and increase community safety
- Resource a **Community Development** role to enrol and support people in the process of change by:
  - Building on the community consultation that has happened to date
  - Recruiting and supporting Champions
  - Creating meaningful way for community members to participate
  - Engaging with key community leaders, individuals and organisations
- Access first-class **data collection, analysis and visualisation** skills
- Access highly respected **economic modelling** skills
- Resource the development and implementation of an effective, engaging and ongoing **communication** plan within the community of Bourke
- Resource some **operating costs and overheads**, such as phone, petrol, printing

Once the Bourke Justice Reinvestment Implementation Plan is developed, the Bourke community, BACWP, Just Reinvest NSW, the Australian Human Rights Commission and others will have a platform from which to engage the NSW Government and advocate for policy change.

## Attachment 1

### Origins and work of Just Reinvest NSW

Just Reinvest NSW evolved from the work of a small group of people with a background in the criminal justice system and/or working with Aboriginal young people. Just Reinvest NSW exists to contribute to the reduction of the over-representation of Aboriginal young people in custody. The purpose of Just Reinvest NSW is to convince the NSW Government to adopt a Justice Reinvestment approach to Aboriginal young people and their communities.

In May 2012, Just Reinvest NSW launched the *Justice Reinvestment for Aboriginal Young People Campaign* ([www.justicereinvestmentnow.net.au](http://www.justicereinvestmentnow.net.au)). There are now at least 20 organisations actively engaged in the staging the Campaign, with many others from various organisations providing support.

Decision-making in Just Reinvest NSW is through the Strategy Development Committee. A core group of people, including Dr Tom Calma AO, Mr Mick Gooda, Ms Marcia Ella-Duncan and Mr Alistair Ferguson, have spoken about and on behalf of the Campaign.

Through its sub-committees, Just Reinvest NSW is active in community and government engagement, and is responsible for a range of activities including organising community events, filming and interviewing young people, running a website, and presenting at conferences.

To date the *Justice Reinvestment for Aboriginal Young People Campaign* has:

- Developed an ongoing dialog with the NSW Government and Ministerial and senior bureaucracy level, and
- Raised public awareness about justice reinvestment (what it is and how it works) and why it should become policy in NSW.



<b>Just Reinvest NSW</b> <i>The Strategy Group</i>	<b>Just Reinvest NSW</b> <i>Champions</i>	<b>Just Reinvest NSW</b> <i>Supporters</i>
<ul style="list-style-type: none"> <li>• Sarah Hopkins and Kate Finlayson, Aboriginal Legal Service NSW/ACT</li> <li>• Kerry Graham</li> <li>• Katherine Wiggins</li> <li>• Zachary Armitage</li> <li>• Ned Cooper</li> <li>• Ashurst Australia</li> <li>• Australian Human Rights Commission</li> <li>• Boxing Clever Pty Ltd</li> <li>• Weave Youth Family &amp; Community</li> <li>• Australian National Council on Drugs</li> <li>• Redfern Aboriginal Medical Service &amp; National Indigenous Drug and Alcohol Committee</li> <li>• Aboriginal Drug and Alcohol Network</li> <li>• Shopfront Youth Legal Centre &amp; Youth Justice Coalition</li> <li>• Public Interest Advocacy Centre</li> <li>• Lifestyles Solutions</li> <li>• National Association of Community Legal Centres</li> <li>• Australians for Native Title and Reconciliation (ANTaR) NSW</li> <li>• Mission Australia</li> <li>• NSW Reconciliation Council</li> <li>• UnitingCare Children Young People and Families</li> <li>• Luke Freudenstein, Superintendent Redfern Local Area Command &amp; Central Metropolitan Regional Sponsor for Aboriginal and Community Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Her Excellency Professor Marie Bashir AC CVO Governor of NSW</li> <li>• Mr Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission</li> <li>• Dr Tom Calma AO, National Coordinator, Tackling Indigenous Smoking</li> <li>• Rt. Hon. Malcolm Fraser, Former Prime Minister of Australia</li> <li>• Mr Bob Debus AM</li> <li>• Prof. Mick Dodson AM, Director, National Centre of Aboriginal Studies, Australian National University</li> <li>• The Hon. Michael Kirby AC CMG</li> <li>• Ms Marcia Ella Duncan, Chairperson, La Perouse Local Aboriginal Land Council</li> <li>• Mr Jack Manning Bancroft, CEO, Australian Indigenous Mentoring Experience (AIME)</li> <li>• Prof. Chris Cunneen, The Cairns Institute, James Cook University</li> <li>• Mr Shane Phillips, Chairman and CEO, Tribal Warrior Association</li> <li>• Mr Phil Naden, CEO, Aboriginal Legal Service NSW/ACT</li> <li>• Ms Tammy Solonec, Director (Chamber 3), Board Member of The National Congress of Australia's First Peoples</li> <li>• Mr Alistair Ferguson, Chairperson, Bourke Aboriginal Community Working Group</li> <li>• Ms Megan Mitchell, National Children's Commissioner</li> <li>• Prof. Ted Wilkes, National Indigenous Drug and Alcohol Committee</li> <li>• Mr Nicholas Cowdery, AM QC, Former NSW Director of Public Prosecutions</li> <li>• Dr Naomi Mayer OAM &amp; Mr Sol Belleair, Redfern Aboriginal Medical Service</li> </ul>	<ul style="list-style-type: none"> <li>• Aboriginal Legal Service NSW/ACT</li> <li>• Australians for Native Title and Reconciliation (ANTaR) NSW</li> <li>• Mission Australia</li> <li>• UnitingCare Children Young People and Families</li> <li>• Youth Justice Coalition</li> <li>• Souths Cares</li> <li>• Mr Alan Cameron AM</li> <li>• Mr Lindon Coombes, Co-Chair, Weave Youth, Family and Community</li> <li>• Mr Adam Goodes, Captain Sydney Swans AFL Team</li> <li>• Aunty Millie Ingram, CEO Wyanga Aboriginal Aged Care Service</li> <li>• Mr Graham West, CEO, St Vincent De Paul Society NSW</li> <li>• The Sydney Institute of Criminology</li> <li>• Dr Chris Sarra, Director, the Stronger Smart Institute</li> <li>• Mr Peter Stapleton, Chair of National Pro Bono Resource Centre, Honorary Board Member of ALS NSW/ACT</li> <li>• Jack Thompson, Actor</li> </ul>