



# Fact Sheet: JR in the USA – Fieldwork Reflections

The Australian Justice Reinvestment Project (AJR Project) is a 2 year ARC funded project which draws together senior researchers across the disciplines of law and criminology to examine justice reinvestment programs in other countries and analyse whether such programs can be developed in Australia.<sup>i</sup>

Chief Investigators Emeritus Professor David Brown, Professor Chris Cunneen, Ms Melanie Schwartz, Professor Julie Stubbs and Research Associate Courtney Young recently travelled to the United States of America, visiting six states in three weeks to examine the implementation of justice reinvestment and investigate the potential for such programs to translate in the Australian context. This fieldwork built on the preliminary investigation David Brown and Melanie Schwartz conducted in November 2013 in a research trip to New York and Washington, interviewing key stakeholders involved in the conceptualisation and development of justice reinvestment.



Chief Investigators Chris Cunneen, Melanie Schwartz, David Brown and Julie Stubbs in NYC

## Sites selected

As at July 2014, at least 30 states across the US are undertaking justice reinvestment on a state level,<sup>ii</sup> and at least 18 counties across 6 states are undertaking justice reinvestment on a local level.<sup>iii</sup> The AJR Project selected a cross section of sites to visit, including both state and local level. State-wide justice reinvestment was examined through visits to Hawaii, South Dakota, Rhode Island, North Carolina, Texas and New York. Local level initiatives were the focus of visits to Mecklenburg County, North Carolina and Travis County, Texas. In New York the team examined a distinctive model of justice reinvestment used within the Department of Probation and visited several innovative programs consistent with the concept of justice reinvestment but which were being undertaken independently.

The following comprises the AJR Project's initial reflections on the progression of justice reinvestment overall and in the locations visited. It is anticipated that forthcoming publications will expand on these reflections and the potential of justice reinvestment in the Australian context.

## Overall

Justice reinvestment has come to mean different things in different contexts. Across the US, many projects at both state and local level are affiliated with the Justice Reinvestment Initiative (JRI) of the Bureau of Justice Assistance.<sup>iv</sup> Other projects exist outside JRI; below we use the labels JR and JRI to make this distinction.

At the state level, for example, especially where spearheaded by the Council of State Governments, JRI tends to emphasise the passage of legislation enshrining general criminal justice reform. The reforms adopted differ across the states reflecting

the different drivers of incarceration, and are shaped by what is politically achievable in each jurisdiction. At the state-level, there is typically no place-based component and, as such, the 'reinvestment' in high-stakes communities contemplated in the original vision of JRI is largely absent. However, worthwhile criminal justice reform is occurring under a justice reinvestment banner. Initiatives at the local level are more likely to take up the particular issues being experienced by a locality. For example, the Travis County local level initiative in Texas focuses on the community-identified need of more stable housing for people caught up in the prison system. Many local-level justice reinvestment programs are still at a relatively early stage and so it is not yet clear the extent to which the classical JR relationship between budgetary savings, decarceration and community reinvestment will play out.

Taking these differences into account, but reflecting also upon commonalities across all the sites visited, the AJR Project has identified six key preconditions for implementing successful justice reinvestment reform. These are bipartisanship, strong leadership, early identification of the right people to engage as stakeholders, substantial buy in from all sectors, ongoing commitment to implementation at the reinvestment phase, and effective community engagement.

Gathering bipartisan support for justice reinvestment was consistently emphasised as an essential preliminary step. Even in traditionally "hardline" states like Texas, there has been strong commitment from both sides of politics for reform. However, while bipartisan support is a necessary precondition, it is not sufficient on its own. In the political sphere, 'buy in' is not adequate to sustain reform. Commitment from key leadership figures needs to be ongoing. For instance, recent developments in Hawaii suggest that JRI may be vulnerable to changes in political leadership while North Carolina and New York seem to have sustained a commitment to justice reinvestment notwithstanding the election of new Governors. Ensuring that the implementation of justice reinvestment was consistent with the agreed intent in any jurisdiction was found to be very challenging

especially as the key people who drove reforms moved on.

Another key focus worthy of emphasis is the development of a community corrections sector that is seen as legitimate, valued and useful. If justice reinvestment reforms keep people out of jail, then they will go into community corrections, and therefore that sector needs to have legitimacy with the public. This is essential in order to successfully translate justice reinvestment from a policy embraced by key stakeholders to a sustainable one, supported by the criminal justice sector and the general population. Many of the justice innovations undertaken as part of JRI are related to probation and or parole. With few exceptions there was little evidence of civil society engagement in JRI.

The importance of an appetite for change was also highlighted in all sites visited. There was general recognition that the criminal justice system was 'broken', ineffective and too costly. In several jurisdictions relevant criminal justice reforms had commenced before the adoption of JRI. South Dakota, Hawaii and North Carolina have embraced justice reinvestment reforms for their adult populations, taking up opportunities for funding and technical assistance available for that purpose, but also have pursued reforms for juvenile justice outside of JRI. Justice reinvestment based policies also have not been embraced uniformly by all sectors of criminal justice. Corrections, community corrections (or their equivalents), and courts were more likely to be involved in justice reinvestment than law enforcement.

## Texas

Melanie Schwartz and Chris Cunneen travelled to Austin, Texas to learn more about both the state-wide justice reinvestment initiative and the programs running under the justice reinvestment banner at the local level, in Travis County. At the state level, Dr Tony Fabelo, Director of the Research Division of the Justice Center, Council of State Governments, gave his insights into the trajectory of JRI in Texas as an early adopter state. This was complimented by discussions with Marc Levin and his team at Right on Crime, and Dr Ana Yanez-

Correa at the Texas Criminal Justice Coalition about the necessity of conservative political support for JR (and strategies for achieving it).

At the county level, the AJR Project was graciously hosted by Cathy McClaugherty, Senior Planner in the Criminal Justice Planning Department of the Travis County Government, who convened a focus group of people involved in the local level justice reinvestment initiative. This included county executives and representatives of elected officials. The team met separately with Ann Howard, the executive director of ECHO, the Ending Community Homelessness Coalition.

The local level justice reinvestment pilot in Travis County centres around inadequate housing as a key driver for incarceration. In association with the Centre for Effective Public Policy and the Urban Institute, the Travis County Community Justice Council convened a Community Consortium, composed of key justice stakeholders (sheriff, courts, prosecution, defense, pretrial services, probation, criminal justice planning), other county and city agencies (city and county health, human services and veterans affairs, county and city management, county purchasing office), as well as community stakeholders (business alliance, health care providers, housing advocates, and the Corporation for Supportive Housing). The Consortium promoted an idea to support people who had been incarcerated by developing supportive housing resources in partnership with Foundation Communities, a social service and housing provider in Austin. Targeting the most frequent users of the jail system, the JRI pilot involves housing former prisoners in Foundation Communities housing, including provision of social services. The Project visited a Foundation Communities housing site with William Brice, Program Director.

## Rhode Island

David Brown and Julie Stubbs travelled to Rhode Island which was one of the early states to adopt JR. They met with a former legislator and the head of the Department of Corrections both of whom were closely involved in the development of JR in that state, and a senior official from Health and Human

Services. Political bi-partisanship and leadership from the Governor and key criminal justice agencies were emphasised as pre-conditions for JR.

Discussion also covered features of JR in Rhode Island such as changes to probation, to facilitate release on parole (remissions, expanding community based treatment services), data to guide planning, the use of risk assessment tools and the desirability of extending JR to community corrections.



Re entry program, Rhode Island

They also met with key staff members from a resource centre for ex-offenders and prisoner re-entry program.

Positive outcomes attributed to JR included several legislative changes, 'good time' (earned remissions) and the closure of a medium security prison. Some concerns were expressed about sustaining JR into the future and the challenges of funding services. A pilot program working with prisoners in custody and providing intensive support on release is currently being trialled.

## North Carolina

In North Carolina, David Brown and Julie Stubbs visited both state-based and local level JR. These programs developed and operate independently although have some similar features. At both levels recognition that the criminal justice system was 'not working' and that change was needed opened the way for JRI.

Mecklenberg County Director of Criminal Justice, Tom Eberly, met with David and Julie and facilitated interviews with the District Attorney, Public Defender, Trial Court Administrator and

Richard Stroker from the Centre for Effective Public Policy.



David Brown, Tom Eberly (Director, Criminal Justice Services), Julie Stubbs and Richard Stroker (Center for Effective Public Policy)

At the county level some changes had already been made to redress acknowledged problems in the criminal justice system before JR was introduced. Two phases of JRI have been completed, developing an evidence base and further proposals for change. Funding is being sought to implement those proposals. Challenges for local level JRI arise from the multiple levels of government involved in criminal justice, and thus the need for collaboration, and because savings do not necessarily flow back to the organisation that has incurred the initial costs. The significance of a neutral player (e.g. Centre for Effective Public Policy, Council of State Governments) to provide data analysis and policy advice was stressed. Among promising developments already in place is a supported accommodation project for chronically homeless people who were frequently jailed.

At the state level, David and Julie met with David Guice, Commissioner of Corrections, several senior officials from his department, the Director of Community Supervision and Professor James Markham, an academic adviser to the JRI program. The Commissioner had been a legislator at the time that JRI was adopted in North Carolina and is a leading advocate of JR. Justice reinvestment is seen as the guiding principle for the Department of Corrections. Much of the discussion focused on evidence based programming, risk assessment, correctional programs and improving probation supervision. The need for leadership and bi-partisan political support was stressed.

## Hawaii

Justice Reinvestment in Hawaii has some novel features. It was introduced in part in response to lobbying by a community justice coalition, emphasises victim restitution and in consequence is strongly supported by some victims' advocates, and it works in conjunction with an innovative court, Hawaii's Opportunity Probation with Enforcement (HOPE) court which was established prior to JRI.



Courtney Young and Julie Stubbs undertook interviews with Kat Brady, a key member of the community coalition who had encouraged the adoption of JR in Hawaii, academics including Professor Meda Chesney-Lind, Dr RaeDeen M. Keahiolalo-Karasuda who has expertise on Native Hawaiian criminal justice issues, the Executive Director of Crime Victim Compensation Commission and Judge Steve Alm of the HOPE court. They also observed the court in session. The

### [Home to the HOPE Court, Honolulu](#)

court focuses on providing positive and negative consequences for probationers, and has the discretion to impose short prison sentences for breaches, or to terminate probation early for those performing well.

Interviewees emphasised the value of data to inform policy, the challenges of implementation, and keeping implementation true to the legislative intent. The role of the Governor and political leadership was emphasised as crucial to sustaining change. Concerns were raised by some that civil society and the Native Hawaiian community weren't included 'at the table' to decide on reforms and shape implementation. It was also noted that some positive developments underway in the juvenile justice sector in Hawaii were consistent with, but developed without reference, to JR.

## South Dakota

David Brown and Chris Cunneen travelled to South Dakota and met with Governor Dugaard and members from the original Criminal Justice Initiative Working Group, Senator Tieszen, Governor's Chief Counsel Jim Steward and State Court Administrator Greg Sattizhan. They also met



**Left: Governor Dugaard with CIs David Brown and Chris Cunneen. Right: CI Chris Cunneen and Senator Tieszen**



with Sheriff Kevin Thom who has responsibility for the jail and local law enforcement. Led by Governor Dugaard, South Dakota began implementing legislative reforms in 2013, focused on substance abuse, probation and targeted sentencing practices.

A pilot program on parole supervision for Native Americans is also underway. Over-representation of Native Americans in state prisons is a significant issue, for example 60% of the women's prison population is Native American. Three of the nine tribal governments in the state have joined the trial. Process, coordinated planning and data analysis were identified as critical attributes of JRI in South Dakota, which lead to the identification of central issues and facilitated legislative reform. The interviewees were united in their emphasis on bi-partisanship and engaging with key stakeholders across the criminal justice system who were prepared to work together.

## New York

The team examined a diverse range of innovative approaches to criminal justice in New York, involving several levels of government and the philanthropic sector.

They met with leading officials from the New York City Department of Probation which has adopted

justice reinvestment to guide its work, and they visited the South Bronx probation office to meet its director and observe their innovative work on re-entry programs under the NeON program.

Members of the team also met with a key criminal justice adviser to the New York City mayor and visited the Harlem Community Justice Center to examine court innovation. The court's success highlights the significance of genuine community engagement.



**At Harlem Community Justice Center: Melanie Schwartz, David Brown, Christopher Watler (Project Director, Harlem Community Justice Centre) and Courtney Young**

They met with people from VERA foundation who are assisting states, including South Dakota, to implement justice reinvestment, and are evaluating the Rikers Island juvenile justice program which is funded by social impact bonds. Their meeting with Emily Tow Jackson demonstrated the role of the philanthropic sector in initiating and funding strategic developments in criminal justice policy; the Tow Foundation<sup>vi</sup> has facilitated systemic reform in the Connecticut juvenile justice system and is currently working on proposals for reforms for juvenile justice in New York. The AJR Project team's interviews in New York provided insights into promising reforms and practices under the umbrella of JR (or JRI), but also others that, while consistent with key tenets of JR, are taking place unconnected to JR. It also included the potential of public-private partnerships in the criminal justice arena.

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<sup>i</sup> For more information on the Australian Justice Reinvestment Project please visit our website [www.justicereinvestment.unsw.edu.au](http://www.justicereinvestment.unsw.edu.au)

<sup>ii</sup> Current states, under the auspices of CSG: Alabama, Hawaii, Idaho, Kansas, Michigan, North Carolina, Ohio, Pennsylvania, West Virginia, Washington, Nebraska. Past states under the auspices of CSG: Arizona, Connecticut, Indiana, Nevada, New Hampshire, Oklahoma, Rhode Island, Texas, Vermont, Wisconsin. Council of State Governments Justice Center, *Justice Reinvestment* (2014) <http://csgjusticecenter.org/jr/>; Current states under the auspices of VERA: Arkansas, Delaware, Georgia, Kentucky, Louisiana, South Carolina. VERA *Justice Reinvestment Initiative* (2013) <http://www.vera.org/project/justice-reinvestment-initiative>; additional states include Mississippi, Oregon, South Dakota, BJA, *Justice Reinvestment Initiative* [https://www.bja.gov/programs/justicereinvestment/jri\\_sites.html](https://www.bja.gov/programs/justicereinvestment/jri_sites.html).

<sup>iii</sup> Under the auspices of CJI: New York, New York, Yolo County, California, The City and County of San Francisco, California, Santa Cruz County, California, Lane County, Oregon, Alachua County, Florida, Allegheny County, Pennsylvania and Johnson County, Kansas. Crime and Justice Institute Community Resources for Justice, *Justice Reinvestment Initiative (JRI)* (2014) [http://www.crj.org/cj/entry/project\\_justicereinvest](http://www.crj.org/cj/entry/project_justicereinvest); Under the auspices of CEPP: Milwaukee, Wisconsin, Charlottesville, Virginia, Delaware County, Ohio, Grant County, Indiana, Yamhill County, Oregon, Denver, Colorado, Eau Claire, Wisconsin, King County, Washington, Mecklenburg County, North Carolina, Travis County, Texas, The Center for Effective Public Policy *Justice Reinvestment* (2014) <http://cepp.com/justice-reinvestment>; and Multnomah County Oregon, which is funded by the Oregon Criminal Justice Commission, Partnership for Safety and Justice, *Justice Reinvestment in Multnomah County* (2013) <http://www.safetyandjustice.org/files/Multnomah%20County.pdf>.

<sup>iv</sup> BJA, *Justice Reinvestment Initiative* (2014) <https://www.bja.gov/programs/justicereinvestment/index.html>.

<sup>v</sup> Susan B Tucker and Eric Cadora, 'Justice Reinvestment' (2003) 3 *Ideas for an Open Society* 2. [http://www.opensocietyfoundations.org/sites/default/files/ideas\\_reinvestment.pdf](http://www.opensocietyfoundations.org/sites/default/files/ideas_reinvestment.pdf).

<sup>vi</sup> The Tow Foundation, *Juvenile Justice Initiative* <http://towfoundation.org/juvenile-justice-initiative/>.