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Considering the Need for Congruence in Closing the Gap, Target 10: Reducing High Rates of Adult Aboriginal Incarceration

Abstract

The federal and Western Australia (WA) state governments have made a national commitment to reducing high rates of Aboriginal adults held in incarceration, using, respectively, justice reinvestment and bureaucratic inclusion of Aboriginal representatives and organisations. This aspiration is also being pursued by an Aboriginal team who seek to establish a place-based Aboriginal justice support service in a WA regional town. The proposed service is underpinned by a combination of justice reinvestment and restorative justice principles and aims to use peer support workers who will effectively increase community agency in justice matters. This article examines congruence between federal, state and local initiatives to achieve Target 10 through the lens of the Aboriginal team's efforts to deliver a place-based service. The article determines that the multi-level efforts are not intersecting in their corresponding efforts to achieve Target 10 and will likely result in failure or frustration. The article concludes with the recommendation of creating congruence in communication and dialogue to increase the likelihood of reduced Aboriginal incarceration rates in regional settings.

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I pay my respects to the Aboriginal and Noongar peoples of the South West whose experiences, yarns and wisdom have influenced this article. Our gratitude goes to the peer reviewers whose commentary improved this article.

Ethics Approval Statement

Ethics approval is not required. The material reported in this article documents the experiences of the authors of the article.

Keywords

Closing the Gap, Target 10, Congruency, Aboriginal Incarceration, Justice Reinvestment, Restorative Justice, Peer Support Worker

In 2020, the federal and Western Australia (WA) state governments made a commitment to Closing the Gap, Target 10, by 2031, that is, to reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent (Commonwealth of Australia, 2024). The federal government aims to reach this outcome largely through its National Justice Reinvestment Program (NJRP) which emphasises a community-led, place-based preventative approach to reducing justice involvement. A desktop review of the six WA recipients of federal funding indicates that such funding has been awarded mostly to consortiums who have well established administrations and pools of professionals to address, either directly or indirectly, the needs of clients (Commonwealth of Australia, 2024). Relevantly, as will be discussed, none have been awarded to a place-based Aboriginal organisation in the southwest region of WA.

As for the WA state government, its approach is paradoxical. The government has long used punitive penal policies which are instrumental in maintaining high rates of Aboriginal incarceration (Kelly & Tubex, 2015).¹ Harding (1992) reported that in 1991, the rate of imprisonment was over 120 per one hundred thousand as compared to the national rate of 81.4 (p. 73). After a review of crime rates, penal policy, sentencing considerations and sentencing alternatives, he argued that “[WA] needs to change the ethos of sentencing in this State and to cap its prison population” (p. 92). That recommendation has evidently not been heeded. From 30 June 2023 to 30 June 2024, the WA’s imprisonment rate of Aboriginal adults increased from 3,605 to 4,364 prisoners per 100,000 Aboriginal adult population as compared to the national rate which has increased from 2,266 to 2,559 prisoners per 100,000 Aboriginal and Torres Strait Islander adult population (ABS, 2024). These figures suggest an ongoing linkage between racial profiling and penal populism (Tubex et al., 2015; Blagg, 2008). The Productivity Commission (2025) indicates that the state’s performance to reduce imprisonment rates is worsening against the target.

¹ In this article “Aboriginal” is used to refer to Aboriginal people in Western Australia.

To reach its commitment to Target 10, the WA state government has launched a whole-of-government approach to deliver “sustained, structural reductions to the adult prisoner population” by “improving the effectiveness of rehabilitation and reintegration activities, diverting offenders away from custodial sentences, and enhancing the measurement and evaluation of Aboriginal outcomes” (Western Australian Government, 2022, p. 61). This aspiration is to be undertaken through collaboration with various state-based agencies and engaging key Aboriginal stakeholders, including the Aboriginal Justice Advisory Council (Western Australian Government, 2024a). The government also aims to support the development of diversified Aboriginal Community-Controlled Organisations (ACCOs) peak organisations and increase their involvement in the design and delivery of services to Aboriginal people (Western Australian Government, 2024b).

Meanwhile, a group of Aboriginal people and the authors of this article have worked towards and produced an establishment plan for a community-driven, place-based approach to reducing high rates of Aboriginal incarceration in the pseudonymously named Hurt Town, situated in the southwest region of WA. Over time, we (referred hereafter as “the team”) introduced our restorative justice project, which we had originally designed to address the needs of Aboriginal prisoners, to our community. We thereafter yarned² extensively with other resident Noongar people who are marginalised, vulnerable and disempowered, even within the context of Aboriginal agencies. In taking their direction, we resolved to set up an Aboriginal community justice service to deliver preventative and interventionist responses underpinned, respectively, by culturally and locally relevant adaptations of justice reinvestment and restorative justice. The service would employ Aboriginal peer workers who, with training, would use their lived experience of the criminal justice system (CJS) to support, encourage and guide individuals vulnerable to engagement with that system (Anderson, 2023).

² Yarning refers to an Aboriginal way of respectfully engaging in a conversation that involves the sharing of one’s own stories and the creation of new knowledge.

This article examines the status of congruence between the multilevel efforts to achieve Target 10 through the lens of our team's efforts to design and establish an Aboriginal community justice service in a WA regional setting. The concept of congruence refers to a state of alignment or consistency; it implies that there is mutual communication and coordination between parties and a shared knowledge directed to achieving desired outcomes. In this article the concept is used to elucidate the lack of congruence between the three approaches taken by federal, state and local actors. The investigation opens with an interpretation of cultural and social life in Hurt Town which explains why large numbers of particularly male members of Noongar families across the generations are serving prison sentences. It then documents how goals were formulated and plans devised, how grant applications were made to the National Justice Reinvestment Program, and what our team's response was to our unsuccessful bid to have our project funded. The article concludes with commentary on the need for increased congruence between the three sets of actors to achieve a reduction in high rates of Aboriginal incarceration.

Cultural and Social Life

The region in which Hurt Town is situated was originally occupied by extended Noongar family groups with a senior male at its head (Tilbrook, 1983). When conflict occurred, consistently wise and dedicated Elders and the community would work to quickly resolve disputes for the good of all. Their decisions were rooted in lore which was linked to kinship and mutual obligation and sharing and reciprocity: an arrangement which served to keep social order and codes of morality across five millennia (Palmer, 2016). Noongar culture and social organisation, however, was impacted severely in the 19th century by European encroachment and the decimation of the Aboriginal population from mistreatment and introduced diseases (Tilbrook, 1983). Remnant populations of Noongar men were subsequently requisitioned to develop pasturelands and engage in timber production (Hodson, 1993). The discovery of coal in the late 19th century added to their economic and social marginality, a condition that has been retained for generations. The lucrative and often

volatile industry has been worked almost exclusively by non-Aboriginal intensely masculinist men into the 21st century (Frances, 2014).

Against the background of the White Australia Policy, the WA 1905 Aborigines Act emerged, laying the basis for development of a repressive and coercive state control over Aboriginal people. The 1905 Act, with subsequent amendments, remained in place until 1963. Under the guise of protection, two key imperatives of the 1905 Act were operationalised: the removal of mixed-race children from their families who were to be acculturated and assimilated into Anglo-Australian society, and the segregation of Aboriginal people from the broader non-Aboriginal population (Haebich & Delroy, 1999). In the south west region, many of the stolen children were placed into missions and other institutions. Regarding Hurt Town, Aboriginal families, including remaining children, were consigned to living in tents on its perimeter. They were denied education and medical care, excluded from jobs and could not move to another area without the approval of a *Protector* – usually the local policeman, who could exercise a wide range of powers supported by the courts.

In 1967, a Commonwealth Referendum was held to amend the Federal Constitution to allow Aboriginal people to be counted in the census as Australians. The referendum also gave the Commonwealth the power to legislate for Aboriginal affairs, which until that time had been the sole responsibility of the states. In 1972, the WA state government officially ended its stolen generation policies. Young men and women, who as children had been taken from their families, were returned carrying deep-seated traumas of separation from family and abuses experienced in the missions (Haebich, 2000). At the same time, the government reorganised the way it controlled Aboriginal peoples. The Department of Community Welfare was formed with an extensive network of inherited children's institutions to manage the care and placement of Aboriginal children. Thereafter, "separation of Aboriginal children from their families through mainstream child welfare and juvenile justice processes continued at rates far higher than for the white community"; procedures that were regularly put into operation in Hurt Town (see discussion below; Haebich, 2000, p. 527). The Aboriginal Affairs Planning Authority was also created, resulting in a state housing integration

program. In Hurt Town, government funding was awarded to Noongar people to build six homes on its outskirts, but the original plan was not adequately funded causing unrest among Noongar families, and no succession plans were put in place for continuing the project (Boobadtj, 2023).

In the late 1980s, neoliberalism and penal populism emerged across Western countries to create a new set of difficulties for Aboriginal people in Hurt Town. Neoliberalism is a political ideology which emphasises markets and individual choice as a means for ensuring economic and social wellbeing. From an Aboriginal perspective, it denies relational holism (as valued by families), which stands outside of, or in opposition to, a market model of social interactions (Findlay, 2008). As a corollary, neoliberalism blames Aboriginal individuals for their circumstances while ignoring the historical and political factors that have grievously impacted them (Poirier et al., 2022). Penal populism is a political strategy that uses punitive justice narratives to gain electoral support and win elections to assert the belief that more severe penalties will lead to less crime (Findlay, 2008). In the early 1990s, the WA state government began utilising penal populism as exemplified in increased use of mandatory sentencing, harsher responses to parole breaches, and remand for repeat offenders; the accumulation of which has driven the rise in numbers of Aboriginal prisoners (Tubex et al., 2015; Spivakovsky, 2016). The belief in the veracity of penal populism has as well worked to dismiss the capacity of Aboriginal peoples to make decisions about the issues facing their communities, and damage or destroy culturally relevant alternative justice approaches (Kelly & Tubex, 2015; Anderson, accepted).

During the 1980s, while living on the margins of Hurt Town's mining community, largely populated by European migrants who fostered hypermasculinity, many Noongar men who had been stolen struggled with the hurt of general and personal traumas and abuses (Frances, 2014; Boobadtj, 2023). Some expressed their defiance of the status quo on the football field, resulting in a few notable players. Some sought to alleviate their poverty through gambling and their pain through heavy consumption of alcohol. By the early 1990s, previously available insecure seasonal work had been replaced by heavy machinery, while a

downturn in the fortunes of the coal mining industry amplified their economic disadvantage. All these factors fuelled resentment, frustration and anger, with this toxic mix resulting in lateral violence; a form of violence that stems from internalised oppression and historical trauma (Whyman et al., 2024). Consequently, high numbers of men received lengthy often decades-long prison sentences (e.g., murder, sexual assault, physical assault); others were serially incarcerated for minor offences (e.g., disorderly conduct, drink driving).

In the mid-1990s period of widespread economic adversity, some Noongar men began engaging in illegitimate work, that is, “poverty dealing” (drug supply), selling substances to Aboriginal others who partially use them to alleviate pain and depression (Gray, et al., 2008, p. 758; Boobadtj, 2023). The work, however, resulted in some dealers being arrested, sentenced and incarcerated, leading to further family fracture. Many children and, later, grandchildren, who had an incarcerated male progenitor, ended up in the child welfare system and the juvenile justice system. Research shows that these progenies have an increased risk of antisocial behaviour and imprisonment, mental and physical health issues, substance use, academic difficulties and social marginalisation or exclusion (Roettger, Lockwood & Dennison, 2019). Meanwhile, illegitimate work and substance abuse is ongoing across three generations as are compounding adversities, including incarceration. Concern is now being extended to the incoming fourth generation, which is now being born (Boobadtj, 2023).

Prison Life

The regional prison is sometimes referred to as “Little Hurt Town”, such is its history for locking up Hurt Town’s Noongar men. Today, they are imprisoned in conditions that are overcrowded and without requisite staffing and infrastructure, shortcomings that are slightly ameliorated by a few Aboriginal prison support officers (OICS, 2024a).

In-prison Rehabilitation

In WA, 30.3% of Aboriginal prisoners are on remand, that is, unsentenced; a status which excludes them from access to mandated rehabilitation programming and other constructive activities (OICS, 2024a, 2024b). The statistic contrasts significantly with the

wider regional Aboriginal population of circa 3 per cent (WA Primary Health Alliance, 2023). Despite the recommendations of the 1989 Royal Commission into Aboriginal Deaths in Custody that prison be the punishment of last resort, it is widely recognised that it is being used more often as the initial response to offending, that is, they are not accorded opportunities to be remanded in the community (Rynne & Cassematis, 2015). Meanwhile, the lack of meaningful engagement in the prison leaves remandees at risk of being bored, frustrated and susceptible to using illicit substances, making it more unsettling for the prison population and more difficult for staff to manage (OICS, 2024a).

As for sentenced Aboriginal prisoners, they, alongside their non-Aboriginal counterparts, are assessed for and expected to undertake criminogenic or clinical treatment programming. These programs have been adapted from a variety of Northern American rehabilitation programs designed for young white males (Spivakovsky, 2016). The lack of recognition of cultural heterogeneity, however, significantly impacts rehabilitation outcomes (Day, 2021; Anderson, 2020, 2022). These treatment programs largely focus on an individual prisoner's deficits or inadequacies, making it difficult for Aboriginal prisoners to manage their continually questioned identities, which, further, are not merely individual but relational in scope (Shepherd et al., 2014; Anderson, 2022). From a critical perspective these programs do not attend the ongoing consequences of transgenerational marginalisation and trauma resulting from dispossession of lands and displacement from families (Atkinson et al., 2014), higher rates of substance use (AIHW, 2023), psychological distress (Heffernan et al., 2012; AIHW, 2023). Moreover, and in addition to an apparent lack of evidence for programmatic efficacy and adequacy, there is a broad argument that the prison rehabilitation project cannot succeed in a prison-industrial complex which has flow-on effects in recidivism (Day, 2021; Jones & Guthrie, 2016). High recidivism rates contribute significantly to Aboriginal overrepresentation in prison; 76% of all sentenced Aboriginal prisoners had a known prior imprisonment (ABS, 2024).

Reintegration Services

The regional prison hosts transitional services which assess and respond to the re-entry needs of paroled prisoners. The services include sourcing identification, accessing Centrelink and making referrals to release support services, which are responsible for accommodation (where available), family issues, transport, and general case management. While considered crucial for addressing high rates and high costs of reoffending, they mostly rely on prisoners to opt-in and are overstretched (Tubex et al., 2020). Significantly, only 20% of Aboriginal prisoners seek parole, meaning they are released without structured support and, hence, are at a high risk of being reimprisoned (Tubex et al., 2020). Reasons for not gaining or seeking parole, include lack of opportunity to access culturally relevant rehabilitation, education and re-entry services and not meeting parole conditions (Tubex, Rynne & Blagg, 2020; Jones, 2019; Apted, Hew & Sinha, 2013). Furthermore, research shows that Aboriginal peoples require a different approach to transitional services because of the unique needs of Aboriginal peoples, particularly in regional communities (Tubex, 2021; Tubex, Rynne & Blagg, 2020). Not only are there cultural values and obligations to the extended family and broader community to be considered, but concerns must also be addressed “relating to service referrals and exiting custody practices; the health needs of people leaving prison; housing instability and homelessness; and the need for long-term funding stability and strong evaluation frameworks” (Tubex, 2021, p. 87).

Principles of Action

The proposal for an Aboriginal community justice service in Hurt Town for individuals vulnerable to involvement in the CJS has been influenced by principles of restorative justice and justice reinvestment. These approaches to justice have capacity to reduce recidivism rates and improve community outcomes (Lawler, Boxall & Dowling, 2025; Fulham et al. 2023; Tonry, 2022; Marchetti, 2019; Rietman, 2017;). The following section defines the concepts and makes a brief comment about their relationship.

Restorative Justice

Restorative justice emerged during the 1970s in the United States as an alternative approach to the court process, focusing initially on victim-offender mediation programs. This form of justice drew inspiration from four main sources: Aboriginal justice/teachings, faith communities, the prison abolition movement, and the alternative dispute resolution movement (Leung, 1999). The community-based justice process brings together stakeholders in crime and wrongdoing to collectively identify and address harms, respond to needs and obligations, and enable healing and putting things as right as possible (Zehr, 2015). Restorative justice recognises the influence of Aboriginal cultures on its development insofar as this original form has long been a favoured means for resolving conflict and restoring communal relationships. In the present era, restorative justice provides an avenue for opening the justice system to greater Aboriginal control. It is an opportunity to reconstruct the justice system with different processes, different values and different sets of accountabilities (Anderson, 2022; Cunneen, 2006). Restorative justice was introduced to WA in the early 1990s, but the WA state government with its preference for penal punitiveness has long thwarted implementation (Anderson, accepted; Steels, 2007). It has, however and very recently, revised its position on restorative justice, implementing limited practices but in a way that domesticates it as another sentencing tool of its current system (Wood & Suzuki, 2016; Dünkel, Horsfield & Păroşanu, 2015).

Justice Reinvestment

The idea of justice reinvestment originated in the United States in the early 2000s (Tucker & Cadora, 2003). Its objective is to reduce rates of incarceration by investing funds drawn from the prison budget into communities that produce large numbers of offenders with the aim of resourcing community solutions to community level problems (Clear, 2011). In Australia, key scholar-advocates, recognising an urgent need to respond to high rates of Aboriginal incarceration, encouraged the federal government to become involved in the justice field via justice reinvestment (Stubbs, 2014). In 2023, the federal government launched the National Justice Reinvestment Program (NJRP), effectively challenging the

long-held view that justice is the responsibility of the states. While the federal use of justice reinvestment does not rely on reducing prison budgets, it does emphasise a place-based approach which coheres with Aboriginal prioritisation of Aboriginal governance particularly in regional, rural and remote areas (Australian Government, 2025; Brown et. al., 2016).

Conceptual Relationship

Justice Action (2012) defines the conceptual relationship between restorative justice and justice reinvestment as follows: effective use of restorative justice processes can displace resources from the prison systems, enabling them to be put into the community. Justice reinvestment transfers resources from the CJS into the source area of the problems, although in the case of the federal government response there is no redirection of public funding. Moreover, Maruna (2011) argued that “[t]he JR literature is infused with restorative concepts throughout, although interestingly the “restorative” term is generally avoided. ...There is a reason for this. Without adopting the logic of restorative justice and situating itself in this wider, possibly more radical framework, JR simply does not make sense” (p. 666). Thus, justice reinvestment gives license to the federal government to be involved in the justice field but does not offer an alternative in community-based restorative justice; an approach to justice that would challenge the WA state government’s preference for penal punitive policies which contribute directly to high rates of Aboriginal incarceration.

Development of an Aboriginal Community Justice Service

This section reports on the evolution of the idea for an Aboriginal community justice service in Hurt Town.

Prison Programming

Between 2017-2020, Noongar prisoners, and Elders and I designed and delivered an in-prison Aboriginal restorative justice program, *Journey Ways* (Anderson, 2020, 2022). The voluntary program is based on the premise that Noongar offenders have experienced both sides of harm. They are burdened by intergenerational trauma and disadvantage, resulting from historical racist policies that have undermined their value system, the combination of which are significant causal factors in their own offending (Behrendt & Kelly, 2008). The

program provides culturally safe conditions in which participants work through inherited, experienced and committed harms. It uses pan-Aboriginal beliefs, restorative justice principles and mainly Noongar narratives and practices to repair values and identities, attend hurts and pains, and find strengths needed for moving forward. The program is mostly staffed by Aboriginal facilitators and Elders who are typically connected to Hurt Town; connections that assist with flows of information between prisoners and families and which provide informal support for prisoners' eventual re-entry.

In 2020, *Journey Ways* was cancelled by the WA Department of Justice without explanation (Anderson, 2022). After a two-year battle, the program was reinstated, although not without ongoing difficulties relating to opaque departmental processes (e.g., accessing timely permissions for facilitators) and having to constantly manage the logistical difficulties of operating in a deteriorating prison system. In short, the lack of active support from the Department for this community-driven, place-based initiative is diminishing the dynamism, development, and sustainability of the program (Anderson, accepted, 2022).

Opportunities

Nevertheless, the two-year hiatus presented opportunities. Our team established an Aboriginal not-for-profit organisation, and began yarning about how Aboriginal restorative justice practices could assist individuals and families to reduce CJS contact. In October 2022, we hosted an event in Hurt Town, featuring Dr. Brian Steels who spoke about how the Aboriginal community in Roebourne, WA, had planned to set up a community-based restorative justice project (Steels, 2007). The Roebourne project was not supported by the WA state government. Nevertheless, participants were keen to have a similar project in Hurt Town; encouragement which led to our 2023 venture that considered how Aboriginal justice could be understood and delivered locally. Over five sessions, our team and 10-12 Noongar participants explored and yarned about various justice concepts (i.e., Aboriginal lore, Australian law, restorative justice, peer support work). Participants, among other things, voiced their distrust of the police and discontent at being cast aside when family members

became involved in the CJS, while indicating a desire to exercise their own agency in justice matters in an Aboriginal community justice service.

Service Plan

Our next challenge was to produce a detailed establishment plan of how an Aboriginal community justice service could operate.

Our team determined that the service would require a two-pronged approach, using complementary preventative and interventionist components. The preventative component would operate out of Hurt Town's Aboriginal centre and employ local Aboriginal people as peer workers; that is, those who have lived experience and experiential knowledge of social impediments (e.g., incarceration) from which they give informal and personal support (Anderson, 2023, 2021). Peer workers, colloquially known as Elders or mentors, are well placed to assist people who have endured multiple forms of deprivation and significant barriers, and who fall through the gaps of service provision (Cebulla et al., 2004; Mead, Hilton & Curtis, 2001). They would be guided by a voluntary Elders advisory group, receive training and undertake studies in community services, and be supported by a paralegal whose role is to oversee the engagement, operations and performance of the service with the CJS (i.e., police, courts, prison). They would be well-positioned to initiate productive relationships with clients, given they are likely to know *who's who* and *what's happening* in and across families. Strategies of engagement would include personal outreach, via an afterhours mobile service, and provide an open door at the Centre. Such connections would draw on an existing bank of trust and familiarity; assets which are key to working in Aboriginal communities (Tubex, 2021). The service with a background in strong relationships would contribute to maintaining client engagement, mitigating recidivist risk, and empowering connections with professional and governmental services.

The interventionist component of the plan would aim to improve communication and access to support when vulnerable individuals become involved in the CJS. In the event of arrest or court appearance, the Elder liaison, with the assistance of the paralegal and permission from the offender, would seek to negotiate a restorative justice intervention with

the police and courts. Where granted, and with preparation, a Community Circle, facilitated by select Elders and mentors, would bring together offenders, victims and their respective supporters to resolve or settle issues resulting from crime. In these Circles, wrongful actions are handled with the full integrity and knowledge of the group. They further produce agreements to assist with repairing harm and building normative lives. Where required by police or courts, reports are made, documenting details, including who attended, what has been agreed and how that agreement will be monitored. It is envisaged, for example, that the court could impose a temporary cessation of proceedings, enabling peer workers, clients and their families time to turn things around. The interventionist component would also extend to addressing family and random violence (i.e., feuding). Facilitators would be trained in using strategies such as informal problem solving, reinvigorating cultural codes of conduct, developing safety plans, and, where necessary, linking clients or family members to child protection authorities, police, medical practitioners and counsellors.

The detailed establishment plan included the following elements: purpose of service, making the case for Hurt Town, service background, service as culturally responsive, service model, service activities, staffing requirements, governance, stakeholder engagement, equipment and systems, operational processes, service outcomes, marketing and promotion, client satisfaction and participation.

Funding

The Aboriginal community justice service establishment plan served as partial preparation for a NJRP grant application. Accessing funding is paramount to launching the service, especially given that most team members as potential peer workers and facilitators have little capacity to expand their voluntary contribution. Indeed, the service has an additional aim in providing secure employment.

Our application was underpinned with NRJP core concepts of community-driven and place-based and was fleshed out in condensed details drawn from the establishment plan. The most difficult aspect of responding to the criteria was its framing as a justice reinvestment project without losing sight of the restorative justice component needed for

stemming the flow of vulnerable individuals' involvement in the CJS. Our team viewed the two justice approaches as mutually supportive and capable of operating interactively; together, they would be more effective in addressing the complicated reality that Hurt Town presents. We sought and received support letters from local Aboriginal Elders and organisations, a government authority, criminal justice and legal service representatives and two scholar-facilitators of restorative justice. (We did approach Hurt Town's local government representative and local member of parliament but support was not forthcoming.) A chartered accountant, who has significant experience working with Aboriginal not-for-profit organisations, produced a comprehensive budget. It was a massive volunteer effort.

Failure and Protest

We submitted our first grant application in January 2024. We were not successful.

Feedback

We requested and received generalised feedback. The following is an abridged version of the feedback received from the NJRP panel.

The Panel were impressed with the strong cultural and collaborative elements of your application, but the application could have focused more on how the key elements of justice reinvestment will be incorporated into your approach. A key element of justice reinvestment is a systems approach – this means that communities, services and providers join up in a coordinated way. Furthermore, the Panel did not consider the application demonstrated value for money. Future applications should ensure the amounts in your budget breakdown are consistent with industry standards.

Reply

We were encouraged by the Panel's acknowledgement of the 'cultural and collaborative elements' of our application but discouraged by their assessment of how justice reinvestment might work in Hurt Town. Our team agreed that a fixed notion of this systems approach, which relies heavily on interactions between agencies at state, regional and local levels to solve complex problems, would not be feasible for reasons as discussed below.

Thereafter, we recrafted our application, lodging it in the second round of funding. We were not successful.

In our second submission, we made the case for a dynamic and flexible interpretation of justice reinvestment – an approach that does not take from the high-spending CJS budget, nor from a forecasted \$1 billion spend on a new prison (WA State Budget 2024-25; Schlicht & Levin, 2025). In Hurt Town, there is a paucity of service organisations, most of which are managed by non-Aboriginal people and are stretched and time-poor. (An exception is the Aboriginal medical service which provides a once-a-week clinic.) Nonetheless, we did garner interest in our project from local and regional police and Legal Aid WA, working relationships which are imperative for addressing Closing the Gap, Target 10.

A very few Aboriginal services are available in the nearby regional city but CJS vulnerable individuals in Hurt Town commonly lack access to transport when needed. More broadly, service organisations rely on clients to seek out professionals and access their objective advice. Aboriginal people, however, face barriers to access, including, long waiting times; service not available at the time required; dislikes of service/professional or is embarrassed/afraid; feel service would be inadequate, does not trust service provider; and discrimination/not culturally appropriate (AIHW, 2025, s. 3.14). Moreover, when they do engage, they can find professionals' language to be incomprehensible, lacking in local knowledge, and irresponsive to their immediate needs (Anderson, 2021).

The lack of accessible, sufficient and responsive service agencies in and adjacent to Hurt Town is further frustrated by a key shortcoming of justice reinvestment's systems approach. Aboriginal people in regional and remote areas, especially those with criminal histories, continue to experience exclusion from the table where decisions are made about their lives. This is made evident in Hurt Town as demonstrated in the Voice referendum voting rate of 18%; against 81% (AEC, 2023). The overwhelming majority of the town's inhabitants imply that they are not willing to accord agency to the Aboriginal minority. (Nb: In Hurt Town: the non-Aboriginal population is 89%, the Aboriginal population 4%, the

ambiguous status is 7%.) Indeed, at every stage of the development of the project, participants sought to exercise greater control over their lives, and specifically with regard to the CJS. They repeatedly indicated their frustration at being excluded from the justice process, especially when individual family members become involved in the system. They agreed that an Aboriginal community justice service could give them some agency to address their difficulties.

Given the actual barriers to implementing a systems approach in Hurt Town, we sought to overcome them creatively and innovatively. Justice reinvestment and restorative justice enable the exercise of agency within communities but these approaches, particularly the preventative approach, are also extended through networking. Networking is a type of informal structure that is put into operation by individuals who are tied socially, usually by shared interests and, in many cases, values, attitudes and aspirations (Johnston, 2009). By operating a community-informed place-based structure, peer workers can respond spontaneously and flexibly to clients through personalised encounters to provide reassurance of support, explore immediate needs, present options for problem-solving and assist in determining priorities. They, thereafter, can extend clients' connections by using those that they themselves have made with individuals, charities, services and businesses in the town and region. These supported social networks are pathways on which CJS vulnerable individuals can access a broad range of resources, including familial, communal, charitable, professional and governmental services. In the latter two cases, connections are facilitated by peer workers, who, acting as intermediaries between clients and bureaucratised services, assist with overcoming structural barriers and communication difficulties, and provide personal support and practical assistance (Anderson, 2021).

As for the NJRP criticism levelled at our funding request, we undertook a thorough review of the proposed budget in consultation with our accountant. We felt that it was commensurate and proportional to the requirements of the program and represented good value for money. We considered the nominated wages were commensurate with industrial standard awards and that the level of administrative support required was justified. Given the

uniqueness of the proposed program there are no similar programs against which we could benchmark funding requirements.

Our second grant application was not successful and no feedback was forthcoming.

Moving Forward

This article makes the argument that there is a lack of congruence between the federal government, the WA state government and our local team about how to achieve Target 10. The federal government, having newly involved itself in the justice field, has adapted justice reinvestment principles to meet its commitment. In facilitating this approach, it has maintained a fixed understanding of how community-driven, place-based initiatives are to be delivered. The WA state government continues to exercise its preference for penal punitiveness as evident in its willingness to make large budget allocations to maintain burgeoning prison populations. On the other hand, it seeks to reduce that growth through improvements to rehabilitation, reintegration and through diversionary measures in collaboration with Aboriginal stakeholders and organisations. While it may be early days, these reforms are yet to reveal themselves in the south west region or stem the tide on the worsening rates of Aboriginal incarceration against the target. Our Aboriginal organisation has worked in Little Hurt Town and Hurt Town to, respectively, design and deliver an in-prison restorative justice program and to undertake preliminary consultations, design and document an Aboriginal community justice service. The initiatives are attuned to what has been said and asked for by marginalised Noongar people in a regional setting. Using our program as a case study, we argue that our endeavours have not attracted adequate state support and federal funding. Evidence from our experience in effect, found that each strand of effort made by the three sets of actors are conflicted and, hence, likely to flail or fail because of a lack of communication and collaboration. These conclusions are consistent with other research findings (Gillespie, Cosgrave & Malatzky, 2022; Amery, 2017; Hunt, 2013; Vaughan, 2011; Smith, 2007).

Accomplishing congruence will require a significant increase in communication and coordination of actions between federal and state governments and with Aboriginal actors in

regional settings whose life chances are dependent on reducing family members' involvement in the CJS. Practically, it will require engagement between the three sets of actors on the ground, not least of all because voluntary initiatives have few if any resources for travelling elsewhere. In these contexts, external decision makers and local actors, ideally supported by native title representative agencies,³ will need to participate in genuine face-to-face dialogue to produce a shared knowledge of what is happening and what is required to address deep-rooted justice issues. One issue that needs to be addressed is the impact of the WA state government's use of penal punitiveness on multi-level aspirations to reduce high rates of Aboriginal incarceration. Such yarning is likely to lead to restoring the integrity of the justice reinvestment approach which of necessity takes money from the prison budget and reinvests it in social and physical infrastructure in high crime areas like that of Hurt Town. Such meetings will also likely consider the need for governments to lift political, bureaucratic and funding constraints on community-based restorative justice. This approach to justice has reparative benefits in addressing root causes of crime and providing healing of people and relationships, leading to reductions in crime and incarceration rates. Otherwise, it is inconceivable that the federal and WA state governments will meet their commitment to Target 10.

Ultimately, congruence demands wide sweeping attitudinal change. It would require federal and state actors to be less directive and more facilitative, that is, they would need to work with local Aboriginal communities, encouraging and fostering active and thoughtful involvement in the changes required of all stakeholders. It would also require attitudinal change for the local communities, Aboriginal and non-Aboriginal: a combination of community engagement, collaboration and focused actions would be needed to address ongoing exclusionary forces and conditions that continue to contribute to CJS involvement. For at the end of the day, mutual communication and coordination of actions between parties

³ The South West Aboriginal Land and Sea Council (SWALSC) operates as the central services corporation for the South West Native Title Settlement. This settlement is the largest in Australian history, affecting an estimated 40,000 Noongar people, encompassing approximately 200,000 square kilometres in WA's south-west, and has a financial worth of approximately \$1.3 billion.

and a shared knowledge of local conditions with those most affected is far more likely to yield a judgement that resembles the overall Closing the Gap strategy and its objective in reducing high rates of Aboriginal incarceration.

Epilogue

Our team has endeavoured to maintain the impetus of our service proposal, devising and delivering a training program (8 sessions) which provided basic skills for facilitating peacemaking (within community) and Community Circles (between community and CJS). Two facilitators now volunteer their time at the local Court house to voluntarily assist individuals engaged in the CJS. Nevertheless, the Aboriginal centre out of which the justice service had intended to be delivered has been seriously damaged by an arson attack. The illegal trade of drug supply continues as does its damaging consequences. As for Hurt Town, it is currently transitioning away from the coal industry. Significant WA state government funding is available to transition the existing workforce, very few of whom are Aboriginal people.

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